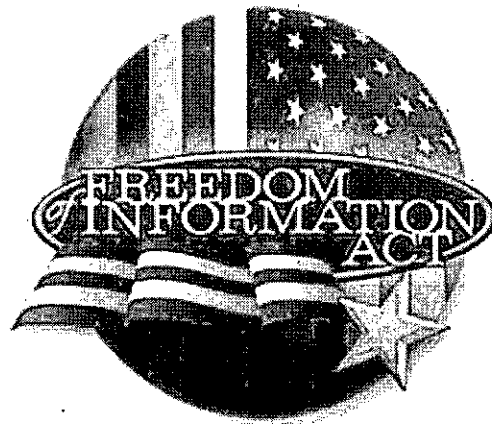


**FREEDOM OF INFORMATION
AND
PRIVACY ACTS**

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

VOLUME 3

SECTIONS 1-13



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VOLUME III

SECTION 1-13

*Manual of
Investigative
Operations
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U.S. Department of Justice
Federal Bureau of Investigation

MANUAL OF
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SECTION 1. FEDERAL CRIMINAL LAW

1-1 GENERAL DEFINITIONS

EFFECTIVE: 10/24/85

1-1.1 United States

The term, "United States," as used in Title 18 in a territorial sense, includes all places and waters, continental or insular, subject to the jurisdiction of the United States, except the Canal Zone. (18 U.S.C. 5)

EFFECTIVE: 10/24/85

1-1.2 Department

"Department" means one of the executive departments enumerated in Section 1 of Title 5, unless the context shows that such term was intended to describe the executive, legislative, or judicial branches of the Government. (18 U.S.C. 6)

EFFECTIVE: 10/24/85

1-1.3 Agency

"Agency" includes any department, independent establishment, commission, administration, authority, board or bureau of the United States or any corporation in which the United States has a proprietary interest, unless the context shows that such term was intended to be used in a more limited sense. (18 U.S.C. 6)

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1-1.4 Special Maritime and Territorial Jurisdiction of the
United States | (See MIOG, Part I, 7-3, 45-1.1 and 45-5;
Part II, 1-1.10.) |

As used in Title 18, this phrase includes the following:

"(1) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

"(2) Any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, or any of the waters connecting them, or upon the Saint Lawrence River where the same constitutes the International Boundary Line.

"(3) 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.

"(4) Any island, rock, or key containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States.

"(5) Any aircraft belonging in whole or in part to the United States, or any citizen thereof, or to any corporation created by or under the laws of the United States, or any State, Territory, District, or possession thereof, while such aircraft is in flight over the high seas, or over any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

"(6) Any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of Objects Launched into Outer Space, while that vehicle is in flight, which is

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from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the vehicle and for persons and property aboard.

"(7) Any place outside the jurisdiction of any nation with respect to an offense by or against a national of the United States.

"(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States." (18 U.S.C. 7)

EFFECTIVE: 02/11/97

1-1.5 Obligation or Other Security of the United States

The term, "obligation or other security of the United States," includes all bonds, certificates of indebtedness, national bank currency, Federal Reserve notes, Federal Reserve bank notes, coupons, United States notes, Treasury notes, gold certificates, silver certificates, fractional notes, certificates of deposit, bills, checks, or drafts for money, drawn by or upon authorized officers of the United States, stamps and other representatives of value, of whatever denomination, issued under any Act of Congress, and cancelled United States stamps. (18 U.S.C. 8)

EFFECTIVE: 10/24/85

1-1.6 Vessel of the United States

The term, "vessel of the United States," as used in Title 18 means a vessel belonging in whole or in part to the United States, or any citizen thereof, or any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof. (18 U.S.C. 9)

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EFFECTIVE: 10/24/85

1-1.7 Interstate Commerce

The term, "interstate commerce," as used in Title 18 includes commerce between one State, Territory, Possession, or the District of Columbia and another State, Territory, Possession, or the District of Columbia. (18 U.S.C. 10)

EFFECTIVE: 10/24/85

1-1.8 Foreign Commerce

The term, "foreign commerce," as used in Title 18 includes commerce with a foreign country. (18 U.S.C. 10)

EFFECTIVE: 10/24/85

1-1.9 Foreign Government

The term, "foreign government," as used in Title 18, includes any government, faction, or body of insurgents within a country with which the United States is at peace, irrespective of recognition by the United States. (18 U.S.C. 11)

EFFECTIVE: 10/24/85

1-1.10 Assimilative Crimes Statute

Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in 18 U.S.C. 7 (see paragraph 1-1.4 above), is guilty of any act of 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. (18 U.S.C. 13)

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EFFECTIVE: 10/24/85

1-1.11 Citation of Code Section

Complaints filed before U.S. Magistrates for violations of Title 18, U.S.C., should refer to the revised section of the code as follows: "Title 18, U.S.C., Section (no.) _____."

EFFECTIVE: 10/24/85

1-1.12 Definition of Stolen or Counterfeit Nature of Property for Certain Crimes (See MIOG, Part I, 15-1.1.1, 15-3.1, 15-3.2, 26-1.9, 26-4.5, 52-1.5, 87-2.1.1, 87-2.1.3, 87-2.2.1, 87-2.2.2, 87-2.3.1, 87-2.3.2, 87-4.4, 91-3.10, 103-1.5, 198-2.8, and 1-1.12.1 through 1-1.12.5 below.)

Whenever it is an element of an offense in Title 18 that:

"(1) any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated; and

"(2) the defendant knew that the property was of such character;

such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated. . . . For purposes of this section, the term 'official representation' means any representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer." (Title 18, U.S.C., Section 21).

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Section 552

Section 552a

(b)(1)

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(j)(2)

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(b)(7)(C)

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(b)(7)(F)

(k)(4)

(b)(4)

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(b)(6)

(k)(7)

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1-1.12.4 Establishing other Elements of Federal Offenses with Title 18, USC, Section 21 (See MIOG, Part II, 1-1.12.)

(1) The scope of section 21 casts a broad net, encompassing a number of Title 18 offenses, many of which require proof of interstate or foreign travel. Others require, for example, a showing that property belongs to the government (Title 18, USC, Section 641) or was part of an interstate shipment (Title 18, USC, Section 659). Prior to the enactment of section 21, if the government had charged a defendant with the substantive offense of receiving stolen goods, it had to prove that the defendant knew the goods were stolen and that the goods crossed a state or United States boundary. (Title 18, USC, Section 2315.) Under the new statute, it is clear that proof of the first element (knowledge that the property is stolen) can be accomplished by undercover representation that the property was "stolen." But there is no provision in the text of the statute for satisfying the interstate or foreign travel requirement merely through representation.

(2) Since Congress expressly provided for representation of only one element, it seems clear that it intended to retain the status quo with respect to the other elements of proof. This interpretation requires proof that the goods actually cross a state or United States boundary after being stolen or represented as such.

EFFECTIVE: 10/23/95

1-1.12.5 Conspiracy and Title 18, USC, Section 21 (See MIOG, Part II, 1-1.12.)

(1) With respect to inchoate crimes and conspiracy, section 21 appears to have no impact, because a conspiracy charge can be maintained regardless of whether the property was stolen or merely represented as stolen. It is possible then that a conspiracy charge could be maintained where property which is represented as stolen is also represented as having traveled in interstate commerce under circumstances where two or more of the targets agree to commit the illegal act, i.e., if the jurisdictional nexus can be supplied by evidence that the defendants had agreed to receive goods that they believed were both stolen and transported interstate. SEE UNITED STATES V. ROSE, 590 F.2d 232, 235-36 (7th Cir. 1978) (jurisdictional nexus established where defendants plotted to steal property in Arizona and have it transported

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to Illinois, but unwittingly recruited undercover Agents to commit the robbery and transport the property, so neither theft nor interstate transport occurred), CERT. DENIED, 442 U.S.929 (1979); cf. UNITED STATES V. ROSA, 17 F.3d 1531, 1544-46 (2d Cir.) (jurisdictional nexus supplied because goods defendants purchased, believing they were stolen, had in fact traveled across state lines, and alternatively because at least one member of the conspiracy believed that the goods had traveled interstate), CERT. DENIED, 115 S. Ct. 221 (1994).

(2) Given the various circumstances which may suffice to supply the federal jurisdictional predicate for a conspiracy, charging a conspiracy as well as the substantive violation can enhance the potential for obtaining a conviction. Of course, the Chief Division Counsel and the appropriate United States Attorney's office should be consulted in each case when developing undercover scenarios and evaluating prosecutorial strategies. In addition, FBIHQ approval should be obtained pursuant to the Attorney General's Guidelines on FBI Undercover Operations when circumstances so require.

EFFECTIVE: 10/23/95

1-2 FEDERAL CRIMES

All federal crimes are statutory; there are no federal common law crimes.

(1) Felony

A felony is any offense punishable by death or imprisonment for a term exceeding one year. Additionally, felonies have been divided into five classifications:

(a) Class A - maximum penalty of death or life imprisonment;

(b) Class B - maximum penalty of 25 years or more in prison;

(c) Class C - maximum term of imprisonment of 10 or more years, but less than 25 years;

(d) Class D - maximum term of imprisonment of five years or more, but less than 10 years;

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(e) Class E - maximum term of imprisonment of more than one year, but less than five years.

A person or an organization convicted of a felony offense may also be fined the greatest of (1) the amount specified in the law setting forth the offense; (2) twice the pecuniary gain or loss caused by the offense or \$250,000 (\$500,000 in case of a corporation).

(2) Misdemeanor

Any other offense is a misdemeanor. However, misdemeanor offenses have also been classified as follows:

(a) Class A - maximum term of imprisonment of more than six months, but not exceeding one year;

(b) Class B - maximum term of imprisonment of six months, but more than 30 days;

(c) Class C - maximum term of imprisonment of 30 days, but more than five days;

(d) Infraction - five days or less, or if no imprisonment is authorized.

A person convicted of a misdemeanor that resulted in the loss of human life may be fined up to \$250,000, or in the case of an organization, \$500,000. The maximum fine for persons convicted of other misdemeanors is \$100,000 (\$200,000 for organizations). The penalty for an infraction may include a fine of up to \$5,000 for individuals and \$10,000 for an organization.

(3) Under Title 18, USC, Section 3401, a U.S. Magistrate, under certain circumstances, may try persons accused of, and sentence persons convicted of, misdemeanors committed within the district in which the U.S. Magistrate presides.

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1-3 PARTIES TO CRIME

(1) Principal

A person who commits an offense against the United States or aids, abets, counsels, commands, induces, or procures its commission, is punishable as a principal. Likewise, a person who willfully causes an act to be done which if directly performed by him/her or another would be an offense against the United States, is punishable as a principal. (Title 18, USC, Section 2) This section makes clear the intent of Congress to punish as a principal one who puts in motion or assists in the illegal enterprise or causes the commission of an indispensable element of the offense by an innocent agent or instrumentality, even though he/she intentionally refrained from the direct act constituting the completed offense.

(2) Accessory After the Fact

Any person, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his/her apprehension, trial or punishment is an accessory after the fact. Punishment for an accessory is less severe than that of a principal. (Title 18, USC, Section 3)

(a) Classification of an offense involving an accessory is the same as the substantive offense.

(b) Character of offense should be shown as:
"(Substantive Offense) - Accessory After the Fact."

(c) Copies of reports to FBIHQ should be the same as in the case of the substantive offense.

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1-4 STATUTE OF LIMITATIONS

The statute of limitations operates from the time a crime is actually committed until the time an indictment is returned or an information is instituted. An indictment or information stops the running of the statute of limitations although the accused may not be in custody or tried for some time thereafter.

(1) Capital Offense

An indictment for any offense punishable by death may be found at any time without limitation. (Title 18, USC, Section 3281)

(2) Noncapital Offense

Unless otherwise expressly provided by law, no person shall be prosecuted, tried or punished for any offense, not capital, unless the indictment is found or the information is instituted within five years next after such offense shall have been committed. (Title 18, USC, Section 3282)

(3) Fugitive

No statute of limitations shall extend to any person fleeing from justice. (Title 18, USC, Section 3290)

(4) In all investigations, particularly if the defendant is a fugitive, employees should give due regard to the statute of limitations and request U.S. Attorneys to secure indictments or file informations within the five-year period in order to avoid this plea as a bar to prosecution of the defendant.

(5) Extension of Statute of Limitations for Certain Terrorism Offenses (Title 18, USC, Section 3286):

"Notwithstanding section 3282, no person shall be prosecuted, tried or punished for any offense involving a violation of section 32 (aircraft destruction), section 36 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2331 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction),

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or section 2340A (torture) of this title or section 46502, 46504, 46505 or 46506 of title 49, unless the indictment is found or the information is instituted within eight years after the offense was committed."

(a) The above shall not apply to any offense committed MORE than five years prior to the date of the enactment of this act (September 13, 1994).

(b) For clarification regarding the statute of limitations pertaining to FBI counterterrorism extraterritorial investigations PRIOR to the passage of this legislation, the DOJ has advised the following:

1. MURDER - The statute of limitations will expire EIGHT years from the occurrence of the offense in cases in which U.S. nationals were MURDERED abroad IF the murder occurred five years PRIOR to September 13, 1994, AND DOJ has determined that the specific case is a violation of Title 18, USC, Section 2331. There is NO statute of limitations in cases where a U.S. national was murdered ON THE DATE OF THE PASSAGE OF THIS ACT (September 13, 1994).

2. ATTEMPTED MURDER OR CONSPIRACY TO MURDER - DOJ advised that the statute of limitations will expire FIVE years from the anniversary of the offense in cases of ATTEMPTED murder of a U.S. national outside the United States if the attempted murder occurred FIVE years prior to September 13, 1994.

EFFECTIVE: 02/14/97

1-5 MISPRISION OF A FELONY

It is a federal offense punishable by a fine or imprisonment of not more than three years, or both, for a person, having knowledge of the actual commission of a felony cognizable by a court of the United States, to conceal and not make known as soon as possible this fact to a judge or other person in civil or military authority under the United States. (Title 18, USC, Section 4)

(1) Classification of a misprision violation is the same as the substantive offense.

(2) Character of offense should be shown as:

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"(Substantive Offense) - Misprision of Felony."

(3) Copies of reports to FBIHQ should be the same as in
the case of the substantive offense.

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SECTION 2. FEDERAL RULES OF CRIMINAL PROCEDURE

2-1 IN GENERAL

The Federal Rules of Criminal Procedure (FED.R.CRIM.P.) govern the procedure in all criminal proceedings in the Federal courts; and, whenever specifically provided in one of the rules, to preliminary, supplementary, and special proceedings before United States Magistrates and at proceedings before state and local judicial officers.

EFFECTIVE: 08/21/87

2-2 VENUE (RULE 18)

Except as otherwise permitted by statute or by the FED.R.CRIM.P., prosecution shall be had in a district in which the offense was committed. The court shall fix the place of trial within the district with due regard to the convenience of the defendant and the witnesses.

EFFECTIVE: 08/21/87

2-3 UNITED STATES MAGISTRATE (USMAGIS)

USMAGIS's are appointed by the judges of each Federal district court in such numbers and at such locations as the Judicial Conference of the United States may determine.

EFFECTIVE: 08/21/87

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2-3.1 Duties

The chief duties of the USMAGIS's are to:

- (1) Receive complaints concerning crimes against the United States.
- (2) Issue warrants of arrest, search warrants, summonses, and subpoenas.
- (3) Conduct proceedings at the initial appearance and preliminary examination of an arrested or summoned person to determine whether there is probable cause to hold him/her for further criminal process, and conduct removal hearings under Rule 40.

(4) Appoint counsel under the Criminal Justice Act of 1964 for arrested persons who are unable to retain counsel of their own; admit arrested persons to bail under the Bail Reform Act of 1984 (Title 18, USC, Sections 3141-3156); and commit to jail those who fail to make bail.

(5) Try misdemeanor cases pursuant to Title 18, USC, Section 3401 when specially designated by the district court and if the accused files a written consent to be tried by the magistrate that specifically waives trial, judgment and sentencing by a judge of the district court. In all cases resulting in conviction, an appeal may be taken to a judge of the district court of the district in which the offense was committed.

EFFECTIVE: 08/21/87

2-4 STATE MAGISTRATES

Title 18, USC, Section 3041 provides that "for any offense against the United States, the offender may, by any justice or judge of the United States, or by any United States magistrate, or by any chancellor, judge of a supreme or superior court, chief or first judge of common pleas, mayor of a city, justice of the peace, or other magistrate, of any state where the offender may be found, and at the expense of the United States, be arrested and imprisoned or released . . . as the case may be, for trial before such court of the United States as by law has cognizance of the offense." Thus, for purposes of Rules 3, 4, and 5, FED.R.CRIM.P., state officials included in the foregoing statute have the same authority as a USMAGIS. State

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officials, however, may not conduct preliminary proceedings under Rule 40, |FED.R.CRIM.P. |

EFFECTIVE: 08/16/82

2-5 COMPLAINTS (RULE 3)

The complaint is a written statement of the essential facts constituting the offense charged. It shall be made upon oath before a magistrate. The latter term, "magistrate," as noted, includes a |USMAGIS, | a judge of the United States, and a state or local judicial officer, authorized by Title 18, USC, Section 3041 to perform the functions prescribed in Rules 3, 4, and 5. Probable cause must be shown in the complaint or in an affidavit to be filed with the complaint. References to "complaint" used in this and related paragraphs should be understood to embrace the affidavit filed with the complaint.

EFFECTIVE: 08/16/82

2-5.1 Authorization of U.S. Attorney (USA)

Special Agents shall obtain prior authority from the USA or an Assistant USA (AUSA) before filing a criminal complaint. If Agents are uncertain as to the Bureau's investigative jurisdiction, they should confer with the SAC before filing a complaint. Agents shall not urge prosecution or suggest that no prosecution be undertaken; nor shall they express an opinion as to the advisability of entering a nolle prosequi in any case investigated by the Bureau. The determination as to whether the case will be prosecuted is a function of the USA or an official of the Department of Justice when such decisions are reserved by the Department. The function of SAs of the FBI is to conduct thorough investigations of cases in a legal and ethical manner and carry through to a logical conclusion. Generally, any information desired by the USA in connection with a case investigated by SAs of this Bureau should be furnished upon his/her request. If in doubt, request FBIHQ advice.

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2-5.2 Re-presentation of Cases

Special Agents shall not re-present cases to the USAs when they once have declined prosecution unless new evidence has been developed. In the event the Department instructs or if other reasons exist justifying a re-presentation of a case to the USA, only the SAC or the designated Assistant SAC (ASAC) will be authorized to make such a re-presentation of the case to the USA. This rule shall not be interpreted so as to interfere with full and complete discussions between SAs and the USAs concerning cases over which the latter has jurisdiction.

EFFECTIVE: 08/16/82

2-5.3 State Prosecutions

Criminal investigations conducted by the FBI are designed to obtain evidence for prosecution in Federal court and not in state or local courts. When Agents discuss cases with the USA or his/her assistant, it is expected that such will be done with sufficient aggressiveness to ensure the Bureau's interests are fully protected. The FBI does not have the manpower to investigate violations which are later prosecuted in other than Federal courts. During presentations of cases to USAs, it is expected that the amount of time and effort expended by FBI personnel will be made known in its proper perspective. Consideration can then be given to this factor by the USA prior to deciding whether he/she will decline prosecution in favor of handling by local authorities. Be aware that if a case is investigated by the FBI and prosecuted in local court, additional Agent time and expense may well be lost if Bureau personnel are called on to testify in state court.

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2-5.4 Authority for Issuance of Warrant

The |USMAGIS's| have authority to issue warrants or summonses for any person charged with a felony or misdemeanor if: (a) a complaint under oath is filed containing sufficient facts, (b) to constitute a Federal offense, and (c) to satisfy the |USMAGIS| that probable cause exists for the issuance of a warrant. Any citizen may act as complainant, but in such cases, |USMAGIS's| will rarely issue a warrant without first securing the approval of the USA.

EFFECTIVE: 08/16/82

2-5.5 Notification to Special Agent in Charge (SAC)

The SAC shall be notified immediately when complaints are filed. This notification should be set forth by memorandum in the usual case. A copy of every complaint and of any affidavit filed with the complaint by an Agent is to be obtained and filed as serials in the field office case file. Where efforts to have process issued are unsuccessful, for any reason, this fact should be reported.

EFFECTIVE: 08/16/82

2-6 WARRANT OF ARREST OR SUMMONS (RULE 4)

EFFECTIVE: 08/16/82

2-6.1 Forms of Warrant

There are two forms of warrants for the arrest of Federal law violators. The Magistrate's Warrant is issued by the |USMAGIS| based upon a complaint. A Bench Warrant is issued by the clerk of the U.S. District Court following the return of an indictment or the filing of an information on order of the district judge.

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2-6.2 Issuance of Warrant or Summons

If it appears from the complaint, or an affidavit or affidavits filed with the complaint, that there is probable cause to believe that an offense has been committed and that the defendant has committed it, a warrant for the arrest of the defendant shall issue to any officer authorized by law to execute it. The finding of probable cause may be based upon hearsay evidence in whole or in part. Warrants should be addressed to "Any United States Marshal or any other authorized officer." Upon the request of the attorney for the Government, a summons instead of a warrant shall issue. More than one warrant or summons may issue on the same complaint. If a defendant fails to appear in response to a summons, a warrant shall issue. If an indictment is returned by the grand jury or an information, supported by oath and establishing probable cause, is filed, the court shall issue a warrant for each defendant named upon the request of the USA. The court or the USA may request the issuance of a summons instead of a warrant.

EFFECTIVE: 08/28/91

2-6.3 Execution

(1) Arrest warrants shall be executed by a marshal or by some other officer authorized by law. The warrant may be executed at any place within the jurisdiction of the United States. Therefore, when a warrant has been issued and is still outstanding, it is not necessary to file another complaint and obtain another warrant in another jurisdiction for the same offense. The warrant shall be executed by the arrest of the defendant. The officer need not have the warrant in his/her possession at the time of the arrest but, upon request, he/she shall show the warrant to the defendant as soon as possible. If the officer does not have the warrant in his/her possession at the time of arrest, he/she shall then inform the defendant of the offense charged and of the fact that a warrant has been issued. When time will permit and the successful arrest of subject will in no way be jeopardized, the arresting Agent should have the warrant of arrest in his/her possession in order that the same may be exhibited to the subject upon request.

(2) A summons may be served at any place within the jurisdiction of the United States. The summons shall be served upon a defendant by delivering a copy to him/her personally, or by leaving it at his/her dwelling house or usual place of abode with some person of

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suitable age and discretion then residing therein, and by mailing it to the defendant's last known address. Summonses should not be served by Bureau Agents except upon FBIHQ authority.

EFFECTIVE: 08/28/91

2-7 PROCEEDINGS BEFORE THE MAGISTRATE (RULE 5)

EFFECTIVE: 08/28/91

2-7.1 Initial Appearance (See MIOG, Part I, 88-5.2; Part II, 2-11.4.1, 11-1.4; and Legal Handbook for Special Agents, 3-5.)

Except as provided below, the arrested person shall be taken without unnecessary delay before the nearest available federal magistrate or, in the event that a federal magistrate is not reasonably available, before a state or local judicial officer authorized by Title 18, USC, Section 3041. That procedure need not be followed if the person is arrested under a warrant issued upon a complaint that charges only a violation of Title 18, USC, Section 1073 (UFAP), the arrested person is transferred without unnecessary delay to the custody of appropriate state or local authorities in the district of arrest, and the government attorney in the originating district moves promptly for the dismissal of the UFAP complaint. (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.) If a person arrested without a warrant is brought before a magistrate, a complaint shall be filed forthwith which shall comply with the requirements of Rule 4(a) with respect to the showing of probable cause. A personal, telephone, or electronic presentation of the complaint setting forth probable cause for the magistrate must occur within 48 hours following a warrantless arrest if the arrestee is detained and an initial appearance cannot be held within that 48-hour period.

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EFFECTIVE: 05/10/96

2-7.2 Misdemeanors

If the charge against the defendant is a misdemeanor triable by a USMAGIS under Title 18, USC, Section 3401, the USMAGIS shall proceed in accordance with the Rules of Procedure for the Trial of Misdemeanors Before U.S. Magistrates. If the charge against the defendant is not triable by the USMAGIS, the defendant shall not be called upon to plead.

EFFECTIVE: 08/28/91

2-7.3 Statement by Magistrate

The magistrate shall inform the defendant:

(1) Of the complaint against him/her and of any affidavit filed therewith.

(2) Of his/her right to retain counsel and of his/her right to request the assignment of counsel if he/she is unable to obtain counsel (followed by appointment of counsel where the arrested person requests counsel and has been unable to obtain counsel - Criminal Justice Act of 1964). The magistrate shall allow the defendant reasonable time and opportunity to consult counsel.

(3) Of the general circumstances under which he/she may secure pretrial release - Bail Reform Act of 1984 (Title 18, USC, Sections 3141-3156). The magistrate may set such conditions as are appropriate to assure the defendant's presence at subsequent judicial proceedings and to assure the safety of any other person or the community. If no condition or combination of conditions would reasonably assure the appearance of the defendant as required and the safety of any other person and the community, after a hearing the magistrate may order the detention of the person prior to trial. To assist in determining eligibility for pretrial release, the magistrate may receive information provided by or through the chief pretrial services officer of the district. Agents contacted by pretrial services officers for information relative to the defendant's pretrial release should record in the investigative file all such information provided.

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(4) That defendant is not required to make a statement and that any statement made by defendant may be used against him/her.

(5) Of defendant's right to a preliminary examination.

EFFECTIVE: 08/21/87

2-7.4 Waiver of Preliminary Examination

A defendant is entitled to a preliminary examination, unless waived, when charged with any offense other than a petty offense, which is to be tried by a judge of the district court. If the defendant waives preliminary examination, the magistrate shall forthwith hold defendant to answer in the district court. If the defendant does not waive the preliminary examination, the magistrate shall schedule a preliminary examination. Such examination shall be held within a reasonable time but, in any event, not later than 10 days following the initial appearance if the defendant is in custody and no later than 20 days if defendant is not in custody, provided, however, that the preliminary examination shall not be held if the defendant is indicted or if an information against the defendant is filed in district court before the date set for the preliminary examination. With the consent of the defendant and upon a showing of good cause, taking into consideration the public interest in the prompt disposition of criminal cases, time limits specified in this rule may be extended one or more times by a Federal magistrate. In the absence of such consent by the defendant, time limits may be extended by a judge of the United States only upon a showing that extraordinary circumstances exist and that delay is indispensable to the interests of justice.

EFFECTIVE: 08/21/87

2-7.5 Custody Pending Hearing

If the arrested person is to be held for a preliminary examination or for the district court and he/she cannot furnish bond, he/she is incarcerated until presented before the |USMAGIS| or the U.S. District Court.

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EFFECTIVE: 08/16/82

2-8 PRELIMINARY EXAMINATION (RULE 5.1)

The preliminary examination is an adversary hearing, the purpose of which is to determine if there is probable cause for holding the accused to await the action of the U.S. District Court. Witnesses testify under oath and are subject to cross-examination. The hearing is usually before a USMAGIS.

EFFECTIVE: 08/16/82

2-8.1 Role of Special Agent

Special Agents of the Bureau in practice are frequently present at such preliminary examinations before USMAGIS's in cases which they have investigated. It sometimes occurs they are requested by the USMAGIS to put on the Government's witnesses and to cross-examine the defendants. However, the USA or his/her assistant is the proper person to represent the Government at such preliminary examinations. Under no circumstances shall such Agents examine witnesses at these hearings. When it is impossible for the USA or his/her assistant to be present, the USMAGIS will usually conduct the hearing or arrange to question the witnesses himself/herself in order to ascertain the facts in the case.

EFFECTIVE: 08/16/82

2-8.2 Discharge

If from the evidence it appears that there is no probable cause to believe that an offense has been committed or that the defendant committed it, the USMAGIS shall dismiss the complaint and discharge the defendant. The discharge of the defendant shall not preclude the Government from instituting a subsequent prosecution for the same offense. If a USMAGIS discharges a defendant, this is not, is noted, a bar to further prosecution. A hearing before a USMAGIS does not constitute jeopardy.

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EFFECTIVE: 08/16/82

2-8.3 Finding of Probable Cause

If from the evidence it appears that there is probable cause to believe that an offense has been committed and that the defendant committed it, the USMAGIS shall forthwith hold him/her to answer in district court. The finding of probable cause may be based upon hearsay evidence in whole or in part. The defendant may cross-examine witnesses against him/her and may introduce evidence in his/her own behalf.

EFFECTIVE: 02/11/97

2-8.4 Objections to Evidence

Objections to evidence on the ground that it was acquired by unlawful means are not properly made at the preliminary examination. Motions to suppress must be made to the trial court as provided in Rule 12.

EFFECTIVE: 08/16/82

2-9 GRAND JURY (RULE 6)

EFFECTIVE: 08/21/87

2-9.1 Purpose

The function of the grand jury is to decide if there is sufficient and probable cause for trying the defendant in court. It makes this determination based on evidence presented by the USA or AUSA in an ex parte proceeding. The grand jury operates under the direction and guidance of the U.S. District Court. Generally, only witnesses for the prosecution testify before the grand jury.

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EFFECTIVE: 08/21/87

2-9.2 Persons Present

Only the USA or an assistant, the witness under examination, interpreters when needed, and, for the purpose of taking the evidence, a stenographer or operator of a recording device may be present while the grand jury is in session. No person other than the jurors may be present while the grand jury is deliberating or voting.

EFFECTIVE: 08/21/87

2-9.3 Disclosure

A grand juror, interpreter, stenographer, operator of a recording device, typist, attorney for the Government, or other Government personnel designated by the attorney for the Government shall not disclose matters occurring before the grand jury.

EFFECTIVE: 08/21/87

2-9.4 Exceptions (See MIOG, Part II, 2-9.5, 2-9.5.1, 2-9.7;
MAOP, Part II, 9-9.)

Exceptions to the foregoing rule are where disclosure:

(1) is ordered by the court preliminarily to or in connection with a judicial proceeding;

(2) is permitted by the court at the request of defendant upon showing that grounds may exist to dismiss the indictment because of matters occurring before the grand jury;

(3) is made to an attorney for the government for use in the performance of his/her duty;

(4) is made to such government personnel (including personnel of a state or subdivision of a state) as are deemed necessary by an attorney for the government to assist an attorney for

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the government in the performance of his/her duty to enforce federal criminal law;

(5) is made by an attorney for the government to another federal grand jury; and

(6) is permitted by a court at the request of an attorney for the government, upon a showing that such matters may disclose a violation of state criminal law, to an appropriate official of a state or subdivision of a state for the purpose of enforcing such law.

EFFECTIVE: 07/12/95

2-9.5 Limitation of Use (See MIOG, Part II, 2-9.5.1, 2-9.7, 23-6.6.5; MAOP, Part II, 2-4.4.16, 9-9.)

Pursuant to Federal Rule of Criminal Procedure 6 (e) (3) (A) (ii) (the Rule), FBI and other government personnel to whom disclosure is made under MIOG, Part II, 2-9.4 above may not use grand jury material thus disclosed for any purpose other than assisting the attorney for the government in the performance of his/her duty to enforce federal criminal law. Grand jury secrecy continues indefinitely, regardless of whether there is an indictment, unless the material becomes a matter of public record, such as by being introduced at trial. Because of the severe limitations on the use of information that is obtained by the use of a grand jury subpoena, whenever possible, alternatives to the grand jury subpoena, such as administrative subpoenas, search warrants, witness interviews, and electronic surveillance should be considered as a method of obtaining evidence, especially if future civil sanctions are likely. The following requirements are necessary because of the Rule's mandate of secrecy.

(1) Disclosure of grand jury material cannot be made within the FBI for unrelated investigations unless a government attorney has determined that such disclosure to a particular investigator is needed to assist that attorney in a specific criminal investigation. The ability of government attorneys to freely share grand jury material with other government attorneys for related or unrelated criminal investigations does not extend to investigators without case specific authorization from the government attorney. Therefore, grand jury material cannot be entrusted to a general system of records, freely accessible to individual Agents acting on

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their own. (See MAOP, Part II, 2-4.4.4 and 2-4.4.16.)

(2) In the event that a government attorney authorizes the disclosure of grand jury material in the possession of the FBI for use in an unrelated federal criminal matter, such approval should be documented in the appropriate grand jury subfile(s). That documentation will, of course, be in addition to any necessary supplementation to the government attorney's Rule 6(e) disclosure letter and/or to the internal disclosure list.

(3) Grand jury information cannot be used for civil cases or noncriminal investigations without a court order. The U.S. Attorney's Office (USAO) should be consulted immediately for precautionary instructions if the possibility arises that grand jury material will have application in civil law enforcement functions (e.g., civil RICO or civil forfeiture). There are very limited exceptions that allow government attorneys to use grand jury materials or information in civil matters (e.g., civil penalty proceedings concerning banking law violations). However, these exceptions do not automatically apply to investigative personnel. Therefore, any similar use of grand jury information by the FBI must be approved by the government attorney.

(4) Disclosure cannot be made without a court order for use in noncriminal investigations such as background, applicant, or foreign counterintelligence (unless in the prosecutive stage and the use is authorized as outlined above).

(5) The Rule allows a government attorney to disclose grand jury material to state and local authorities so that they can provide assistance to that attorney in enforcing federal criminal law. The same rules apply as with disclosure to federal officers. A court order is required in order for a government attorney to make a disclosure of grand jury material relative to a state law violation. The Rule contains no specific provision concerning disclosure to foreign officials. The USAO should be consulted with regard to the possibility of such a disclosure pursuant to a treaty, or with a court order upon a showing of particularized need preliminary to a judicial proceeding. (See MAOP, Part II, 9-3.1.3.)

(6) Personnel of the government who are preparing a response to a Freedom of Information Act or Privacy Act request may properly access grand jury material under the Rule because they are considered to be assisting the grand jury attorney by ensuring against any improper disclosure.

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EFFECTIVE: 10/16/96

2-9.5.1 Matters Occurring Before the Grand Jury

(1) There can be no routine dissemination of matters occurring before the grand jury, unless such dissemination comes within the exceptions enumerated in MIOG, Part II, 2-9.4 and detailed further in MIOG, Part II, 2-9.5 above (see MAOP, Part II, 9-9). There is no uniform legal definition of what constitutes matters occurring before the grand jury except for what is generally referred to as "core" grand jury material. The two other categories of matters occurring before the grand jury are documents created independent of the grand jury but obtained by grand jury subpoena, and data extracted from records obtained by grand jury subpoena.

(2) Core grand jury material includes the following:

- (a) Names of targets and witnesses
- (b) Grand jury testimony
- (c) Grand jury subpoenas
- (d) Documents with references to grand jury testimony (including summaries and analyses)
- (e) Documents that clearly reveal their connection to the grand jury process
- (f) Other material that reveals the strategy, direction, testimony, or other proceedings of a grand jury

(3) The need for secrecy with regard to documents created independently, and later obtained by grand jury subpoena, has been viewed in several ways by federal courts. Because of the lack of uniformity of interpretation by the courts concerning subpoenaed business records and Rule 6(e), all such grand jury subpoenaed documents should be treated as 6(e) material.

(4) Information extracted from business records that were obtained by grand jury subpoena is often used to facilitate investigations. Some of that type of data is, by a statute or case law, subject to the Rule. In other cases, the determination of

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whether data must be considered subject to the Rule depends on the case law and local practice in the federal districts.

(a) Information extracted from grand jury subpoenaed financial records subject to the Right to Financial Privacy Act of 1978 (Title 12, USC, Section 3420) must be treated as grand jury material "unless such record has been used in the prosecution of a crime for which the grand jury issued an indictment or presentment" (See MIOG, Part II, 23-6.6.5.)

(b) With the approval of the U.S. Attorney's Office (USAO), information from subpoenaed telephone records may be disclosed for use in unrelated federal criminal investigations in those districts where such material is not considered a "matter occurring before a grand jury." If the USAO approves generally of this procedure, such information may be used in unrelated CRIMINAL investigations without authorization from a government attorney in each instance. However, to prevent disclosures (such as in the civil context) which might constitute an abuse of the grand jury's coercive powers, subpoenaed telephone records should be memorialized only in a database or other system of records dedicated exclusively for use in federal criminal investigations. Therefore, any system of records, such as general indices or the Criminal Law Enforcement Application (CLEA), which is accessible by the general FBI population for civil or other noncriminal purposes, is not a suitable repository for business records or information, including telephone data, subpoenaed by a federal grand jury. (See 2-9.7.)

(c) Except for the information described in (b) above, both grand jury subpoenaed documents and the information extracted from them may be memorialized only in databases or other systems of records that are accessible only by those assisting the attorney for the government in the specific criminal investigation to which the documents or information relate.

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2-9.5.2 | Physical Evidence and Statements

Physical evidence and statements of witnesses may be matters occurring before the grand jury:

(1) | Physical evidence provided pursuant to or as a result of grand jury process is a matter occurring before the grand jury whether or not such evidence is presented to the grand jury. Physical evidence provided voluntarily (not pursuant to or in lieu of a grand jury subpoena) is not a grand jury matter irrespective of whether such evidence was previously or is thereafter presented to the grand jury.

(2) | Statements of witnesses obtained pursuant to, or as a result of, grand jury process are matters occurring before the grand jury irrespective of whether such witnesses testified before the grand jury or are not required to testify. Voluntary statements of witnesses made outside of the grand jury context (not pursuant to or in lieu of a grand jury subpoena) are not grand jury matters irrespective of whether the witness previously testified or will thereafter testify before the grand jury.

EFFECTIVE: 07/12/95

2-9.6 | Documentation of Disclosures of Grand Jury Material

Rule 6 (e) (3) (B) requires that when a federal prosecutor makes a disclosure of grand jury material to government investigators and other persons supporting the grand jury investigation, he/she must promptly provide the district court, before whom was impaneled the grand jury whose material has been so disclosed, with the names of the persons to whom such disclosure has been made, and certify that he/she has advised such persons of their obligation of secrecy under the Rule. In order to document the certification required by the Rule, government attorneys often execute and deliver to the court a form, normally referred to as a "Certification" or "Rule 6(e) letter." A copy of this document should accompany grand jury material in the FBI's custody.

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EFFECTIVE: 07/12/95

2-9.6.1 Documentation of Internal Disclosures of Grand Jury
Material

Practical considerations often require Agents assisting government attorneys to seek additional assistance in the SAME investigation from others within the FBI. In many districts, support personnel and supervisors of case Agents need not be routinely included in the list provided to the court. In lieu of a Rule 6(e) letter from the U.S. Attorney's Office (USAO) containing an exhaustive list of names of FBI personnel, an FBI record of additional internal disclosures is to be maintained by the case Agent in order to establish accountability. Use of this "internal certification" procedure should be authorized by the appropriate USAO. The internal form should record the date of disclosure as well as the identity and position of the recipient. Such internal disclosures, of course, may be made only in support of the same investigation in which a federal prosecutor has previously issued a Rule 6(e) letter. In addition, the internal record should reflect that all recipients of grand jury materials were advised of the secrecy requirements of Rule 6(e). Whenever practicable, recipients should be listed prior to disclosure.

EFFECTIVE: 07/12/95

2-9.7 Storage of Grand Jury Material (See MIOG, Part II,
23-6.6.5; MAOP, Part II, 9-9.)

As detailed above in MIOG, Part II, 2-9.3 through 2-9.5, the grand jury rule of secrecy requires that the FBI cannot make or allow unauthorized disclosure of grand jury material. Material and records obtained pursuant to the grand jury process frequently are stored in FBI space. Unauthorized disclosures of grand jury material entrusted to FBI personnel should be reported to the appropriate government attorney, who must, in turn, notify the court. In order to protect against unauthorized disclosure, grand jury material must be secured in the following manner:

- (1) It must be marked with the following warning: "GRAND

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JURY MATERIAL - DISSEMINATE ONLY PURSUANT TO RULE 6(e)."

(2) Access to grand jury material must be limited to authorized persons, i.e., those assisting an attorney for the government in a specific criminal investigation (see MIOG, Part II, 2-9.5), and when not in use must be placed in a subfile which is locked in a container with a combination lock, the combination of which is known only by such authorized persons. The combinations are to be changed annually. Absent chain-of-custody considerations, subfiles need not be kept in an evidence or bulky exhibit room, and may be entrusted to an Information Management Assistant or Evidence Control Technician if their names are placed on the internal certification list. (See MAOP, Part II, 2-4.4.4, 2-4.4.16, and 2-5.1.)

(3) FD-302s and other internal documents that contain grand jury information must be prepared on removable diskettes that are placed in secure storage when not in use. The hard copies must be kept in the grand jury subfile. (See MAOP, Part II, 10-13.8; Correspondence Guide-Field, 2-11.4.10.)

(4) Documents containing grand jury information cannot be placed in manual or automated record systems that can be accessed by persons who are not on the disclosure list. A nondisclosure warning on the documents, or an electronic tagging warning, is not sufficient protection for grand jury information. Such information must be kept only in files to which access is properly restricted. (See MIOG, Part II, 2-9.5.1.)

(5) Transmittal to other field offices of documents containing grand jury material must be by registered mail (or other traceable courier such as Federal Express approved by the Security Programs Manager). Couriers and other personnel employed in these services will be unaware of the contents of the material transmitted due to the wrapping procedures specified below; and therefore, do not require a background investigation for this purpose. The names of persons who transport the material need not be placed on a disclosure list, but the lead office must provide the case Agent in the originating office with a list of the names of personnel in the lead office to whom disclosure is made. Those names are to be added to the internal certification list at the originating office.

(6) Grand jury material which is to be transmitted outside a facility shall be enclosed in opaque inner and outer covers. The inner cover shall be a sealed wrapper or envelope which contains the addresses of the sender and the addressee authorized

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access to the grand jury material. The inner cover shall be conspicuously marked "Grand Jury Information To Be Opened By Addressee Only." The outer cover shall be sealed, addressed, return addressed and bear no indication that the envelope contains grand jury material. When the size, weight or nature of the grand jury material precludes the use of envelopes or standard packaging, the material used for packaging or covering shall be of sufficient strength and durability to protect the information from unauthorized disclosure or accidental exposure.

(7) When the government attorney, in consultation with the Security Programs Manager (SPM), determines the greater sensitivity of, or threats to, grand jury material necessitate a more secure transmission method, the material may be transmitted by: U.S. Postal Service registered mail, return receipt requested; an express mail service, approved for the transmission of national security information; or hand carried by the cognizant government attorney or his or her designated representative.

(8) Grand jury material containing classified national security information must be handled, processed and stored in accordance with Title 28, Code of Federal Regulations, Part 17. Grand jury material containing other types of sensitive information such as federal tax return information, witness security information and other types of highly sensitive information that have more stringent security requirements shall be stored and protected pursuant to the security regulations governing such information and special security instructions provided by the organization originating the information.

(9) Original documents that were obtained through the grand jury process should be returned to the attorney for the government or, with the government attorney's permission, to the owner if there is no indictment or the prosecution has concluded (see MAOP, Part II, 2-4.4.4 and 2-4.4.16).

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2-9.8 Requests for Subpoenas in Fugitive Investigations

The Department of Justice has advised that it is a misuse of the grand jury to utilize the grand jury as an investigative aid in the search for a fugitive in whose testimony the grand jury has no interest. Therefore, grand jury subpoenas for witnesses or records should not be requested in FBI fugitive investigations. There are, however, limited situations in which courts have recognized that grand jury efforts to locate a fugitive are proper. These situations are described below.

(1) The use of grand jury process to locate a fugitive is proper when the grand jury is interested in hearing the fugitive's testimony. Thus if the grand jury seeks the testimony of the fugitive in the investigation of Federal criminal violations before it, it may subpoena other witnesses and records in an effort to locate the fugitive witness. However, interest in the fugitive's testimony must not be a pretext. The sole motive for inquiring into the fugitive's location must be the potential value of fugitive's testimony. A subpoena for the fugitive witness must be approved by the grand jury before seeking to subpoena witnesses or records to locate the fugitive. Further, it is not proper to seek to obtain grand jury testimony from any witness, including a fugitive, concerning an already returned indictment. Thus it would not be proper to seek to locate a fugitive for the purpose of having fugitive testify about matters for which an indictment has already been returned, unless there are additional unindicted defendants to be discovered or additional criminal acts to be investigated through the testimony of the fugitive. Current policy on "target" witnesses must be observed. Grand jury subpoenas for witnesses and records aimed at locating a fugitive witness who is a target of the grand jury investigation will be approved only where a target subpoena already has been approved by the responsible Assistant Attorney General.

(2) Use of the grand jury to learn the present location of a fugitive is proper when present location is an element of the offense under investigation. On adequate facts, the present location of a fugitive might tend to establish that another person is harboring fugitive, or has committed misprision, or is an accessory after the fact in the present concealment of the fugitive. However, this justification could be viewed as a subterfuge if the suspected harbinger or the person potentially guilty of misprision or as an accessory were given immunity in the grand jury in order to compel his/her testimony about the location of the fugitive. In order to ensure the proper use of investigations for harboring, misprision, and accessory after the fact based on acts of concealment, the U.S.

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Attorneys must consult with the Department of Justice prior to initiating grand jury investigations for these offenses. With regard to escaped Federal prisoner and bond default matters, the present location of a fugitive is not relevant evidence in a grand jury investigation as these offenses address the circumstances of a prior departure from a known location. The fugitive's present location is not a relevant factor as it is in harboring or misprision investigations. Inasmuch as unlawful flight to avoid prosecution cases are, as a rule, not prosecuted and cannot be prosecuted without written authorization from the Attorney General or an Assistant Attorney General, any effort to use the grand jury in the investigation of such cases shall be preceded by consultation with the Department of Justice and by written authorization to prosecute from the Assistant Attorney General in charge of the Criminal Division.

EFFECTIVE: 08/21/87

2-10 INDICTMENT AND INFORMATION (RULE 7)

EFFECTIVE: 08/21/87

2-10.1 Definitions

An indictment is a written accusation against one or more persons of a crime presented to and proffered upon oath or examination by a grand jury legally convoked. An information is an accusation, in the nature of an indictment, filed by a USA supported by oath or affirmation showing probable cause.

EFFECTIVE: 02/11/97

2-10.2 Nature of Crime

Any capital offense must be prosecuted by indictment. A felony is also prosecuted by indictment unless indictment is waived in which case it may be prosecuted by information. Any other offense may be prosecuted by indictment or by information.

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EFFECTIVE: 08/21/87

2-10.3 Waiver of Indictment

A felony may be prosecuted by information if the defendant, after he/she has been advised of the nature of the charge and of his/her rights, waives in open court prosecution by indictment.

EFFECTIVE: 10/22/84

2-10.4 Advice by Agents

All Agents should advise persons whom they arrest of the provisions of the preceding paragraph (Rule 7b, FED.R.CRIM.P.), after the defendant has indicated his/her guilt and has signed a confession. If a defendant indicates a desire to waive an indictment, that desire should be promptly brought to the attention of the responsible Assistant United States Attorney (AUSA). The Agent should record both the defendant's intent to waive indictment and the fact the AUSA was advised in a memorandum to the investigative file and in the prosecutive status portion of the prosecutive report.

EFFECTIVE: 10/22/84

| 2-10.5 | Deleted |

EFFECTIVE: 10/22/84

2-11 ARREST IN DISTRICT OTHER THAN DISTRICT OF PROSECUTION
(RULE 20; RULE 40)

EFFECTIVE: 10/22/84

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2-11.1 Place of Arrest

An offender who has committed a Federal violation in one judicial district (district of prosecution) may be located and arrested in a different judicial district (district of asylum).

EFFECTIVE: 10/22/84

2-11.2 Disposition in District Asylum

Under certain conditions, the prosecution may proceed in the district of asylum. (Rule 20).

EFFECTIVE: 10/22/84

2-11.2.1 Where Indictment or Information Pending

A defendant arrested, held, or present in a district other than that in which an indictment or information is pending against him/her may state in writing that he/she wishes to plead guilty or nolo contendere, to waive trial in the district in which the indictment or information is pending, and to consent to disposition of the case in the district in which he/she was arrested, held, or present, subject to the approval of the USA for each district. Upon receipt of the defendant's statement and of written approval of the USAs the clerk of the court in which the indictment or information is pending shall transmit the papers in the proceeding or certified copies thereof to the clerk of the court for the district in which the defendant was arrested, held, or present, and the prosecution shall continue in that district.

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2-11.2.2 Where Indictment or Information Not Pending

A defendant arrested, held, or present in a district other than the district in which a complaint is pending against him/her may state in writing that he/she wishes to plead guilty or nolo contendere, to waive trial in the district in which the warrant was issued, and to consent to disposition of the case in the district in which he/she was arrested, held, or present, subject to the approval of the USA for each district. Upon receipt of the defendant's statement and of written approval of the USAs and upon the filing of an information or the return of an indictment, the clerk of the court for district in which the warrant was issued shall transmit the papers in the proceeding or certified copies thereof to the clerk of the court for the district in which the defendant was arrested, held, or present, and the prosecution shall continue in that district. When the defendant is brought before the court to plead to an information filed in the district where the warrant was issued, he/she may at that time waive indictment as provided in Rule 7, and the prosecution may continue based upon the information originally filed.

EFFECTIVE: 10/22/84

2-11.3 Commitment to Another District (Rule 40)

The following procedures apply as to a person arrested in a district other than that in which the prosecution is pending, when the prosecution is to proceed in the district where the prosecution is pending.

(1) Prompt Appearance - A person arrested in a district other than the district of prosecution shall be taken without unnecessary delay before the nearest available federal magistrate.

(2) Preliminary Proceedings - Preliminary proceedings shall be conducted in accordance with Rules 5 and 5.1, FED.R.CRIM.P. The magistrate shall advise the accused of those rights specified in Rule 5 (see paragraph 2-7.3, supra) and of the provisions of Rule 20 (see paragraph 2-11.2, supra).

(3) Accused Held to Answer - The accused shall be held to answer if, from the evidence produced during the preliminary examination, the magistrate determines there is probable cause; or, if no preliminary examination is held, because an indictment has been returned or an information filed (see paragraph 2-7.4, supra) or

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because the accused elects to have the preliminary examination conducted in the district of prosecution, the accused shall be held to answer upon a finding that he/she is the person named in the information, indictment, or warrant.

(4) Production of Warrant - If the accused is held to answer, he/she shall be held to answer in the district court in which prosecution is pending, upon production of a warrant or a certified copy thereof.

(5) Transmittal of Papers - In connection with the above proceedings, Agents in the district of prosecution should immediately request the United States Marshal to forward certified copies of the necessary papers to the USA in the district where the arrest occurred and should so notify the USA in the district of prosecution. These documents, however, should not be transmitted through Bureau field offices.

(6) Notification - When the papers described in the preceding paragraph have been forwarded, the SAC in the district of prosecution will immediately notify the office covering the district of asylum.

EFFECTIVE: 02/14/97

2-11.3.1 Arrest of Probationer

If a person is arrested for a probation violation in a district other than the district of supervision, he/she shall be taken without unnecessary delay before the nearest available Federal magistrate. The magistrate shall order the probationer held to answer in the district court of the district having probation supervision upon production of certified copies of the probation order, the warrant, and the application for the warrant, and upon a finding that the person arrested is the person named in the warrant.

EFFECTIVE: 02/08/80

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2-11.3.2 Failure to Appear

Whenever a warrant is issued because of the failure of the person named therein to appear as required pursuant to a subpoena or the terms of release, and the person is arrested in a district other than that in which the warrant was issued, the person arrested shall be taken before the nearest available Federal magistrate without unnecessary delay. Upon production of the warrant or a certified copy thereof, and upon a finding that the person arrested is the person named in the warrant, the magistrate shall hold the person to answer in the district in which the warrant issued.

EFFECTIVE: 02/08/80

2-11.4 Custody of Prisoners in a District of Asylum

EFFECTIVE: 10/25/89

2-11.4.1 Custody by U.S. Marshal

Upon written request of an SA, the U.S. Marshal in the district of asylum is authorized to take custody of a prisoner even though U.S. Marshal has not received the warrant or other court papers from the district of prosecution. U.S. Marshal is likewise authorized to take the accused before the nearest available Federal magistrate for commitment to jail, pending receipt of the necessary papers. The written request to the Marshal is to be signed by the SA, and will include the name of the person arrested, the Federal charge upon which subject is being held, the district in which prosecution is pending, and a statement as to whether or not directions have been given for the forwarding of the warrant to the Marshal having custody of the prisoner.

EFFECTIVE: 10/25/89

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2-11.4.2 Use of Form FD-351

Form FD-351 may be used to request the Marshal to assume custody of a prisoner. Since the form also provides space for details of the process issued, a copy of the FD-351 may be sent to the USA and the USM for information and necessary action.

EFFECTIVE: 10/25/89

~~2-11.4.3 Marshal Unable to Assume Custody~~

If, due to emergency circumstances, the Marshal is unable to comply with a request to assume custody, the SA should maintain custody and if circumstances dictate, provide the necessary transportation and ensure initial appearance of the prisoner before the magistrate.

EFFECTIVE: 10/25/89

2-12 FUGITIVES LOCATED IN FOREIGN COUNTRIES; EXTRADITION

EFFECTIVE: 10/25/89

2-12.1 Notification to USA

|As soon as it appears likely that a fugitive may be located in a foreign country, you should notify the prosecutor, either the U.S. Attorney or the local prosecutor in unlawful flight cases, that he or she should contact the Office of International Affairs (OIA), Criminal Division, U.S. Department of Justice, promptly. In addition, as soon as such an arrest appears likely, you are to notify the substantive division at FBIHQ, with copy to the Office of Liaison and International Affairs, so that FBIHQ may notify OIA. |

EFFECTIVE: 10/25/89

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2-12.2 Request for Arrest and Extradition

FBI employees have no authority to request foreign officials to arrest and extradite fugitives who are wanted for violations of the laws of the United States. Requests for the arrest and extradition of such fugitives must be forwarded to the Attorney General by the USA in whose district the prosecution is pending. Departmental regulations require the USAs to furnish the Attorney General with certain information and certified papers for use in effecting the arrest and extradition of foreign fugitives.

EFFECTIVE: 10/25/89

2-12.3 Information Furnished the USA

FBI employees should be prepared to furnish certain information to the USA in order for USA to institute the formal steps necessary to extradite a fugitive from a foreign country. Information which the USA may require includes:

- (1) Evidence that an arrest warrant, if one is outstanding, cannot be executed in the United States because of the flight of the accused to a known locality in a foreign country;
- (2) Evidence for presentation to the surrendering government sufficient to make out a strong case against the accused, such a case as would justify the committal of the accused under the laws of the United States;
- (3) Full name of the accused, together with any assumed names;
- (4) Physical description of the accused;
- (5) Place and address in the foreign country where the accused can be found;
- (6) Date of indictment, if an indictment has been filed;
- (7) Description of the offense or offenses charged;
- (8) Date of the commission of the offense and the place where committed.

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EFFECTIVE: 10/25/89

2-12.4 Investigations to Locate Fugitives

FBI employees who are conducting investigations as to the whereabouts of fugitives in foreign countries have no authority to employ attorneys or other persons to represent the United States and interested officials and attorneys of a foreign country should be informed to this effect.

EFFECTIVE: 01/31/78

2-12.5 Deportation Proceedings

In deportation proceedings FBI employees should consult the USA in whose district the prosecution is pending and the USA into whose jurisdiction the subject would be deported before making official allegations in the foreign country alleging that the fugitive is an alien to that country, a citizen of the United States, and a person who should be deported. Employees also should consult the nearest American consul stationed in the foreign country and keep him advised of developments in any deportation proceedings.

EFFECTIVE: 01/31/78

2-12.6 Evidence of Fugitive's Citizenship

In all cases in which the apprehension of a fugitive is desired in a foreign country, FBI employees should collect and forward to the appropriate USA evidence of the citizenship of the person whose arrest is desired. Naturalization papers and birth or baptismal certificates duly notarized or certified by the proper authorities constitute evidence of citizenship.

EFFECTIVE: 01/31/78

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SECTION 3. ADMISSIBILITY OF EVIDENCE IN CRIMINAL CASES

3-1 INTRODUCTION

(1) The Federal Rules of Evidence (FED.R.EVID.), a uniform code of evidence approved by the Supreme Court and enacted into law by Congress, with amendments, govern proceedings in the Federal courts and before U.S. Magistrates in criminal and civil cases. There are 62 Rules set forth under 11 main Articles. State rules of evidence have no application at Federal criminal trials.

(2) Except for a general rule on privileges which applies to all stages of a case, the Rules do not apply to such proceedings as the issuance of arrest warrants, search warrants, or criminal summonses; preliminary examinations; grand jury proceedings; or bail, sentencing, probation, and extradition proceedings.

(3) The Rules do not incorporate principles of the Fourth, Fifth, and Sixth Amendments to the Constitution, and the judicial interpretation thereof, affecting the admissibility of evidence obtained by Special Agents through means such as search and seizure, interrogation of persons in custody, and eyewitness identification procedures.

EFFECTIVE: 08/16/82

3-2 NECESSITY FOR RULES OF EVIDENCE

In our adversary trial system, the issues in a case are decided on facts presented to the jury. When a defendant is charged with a crime, the facts in issue are (1) the elements of the statute as alleged in the indictment and denied by his/her plea of not guilty, and (2) the facts which he/she may allege in defense denied by the prosecution. All matters of law are decided by the judge, e.g., whether an item of evidence is admissible, and all matters of fact are decided by the jury, e.g., what weight and credibility is to be given to the evidence. The judge also decides facts upon which the admissibility of evidence may depend e.g., whether a witness whose former testimony is offered in evidence is "unavailable" under the former-testimony exception to the hearsay rule. The judge is not limited by the rules of evidence in passing upon such preliminary questions. Every element necessary to constitute the crime charged against the defendant must be proved beyond

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a reasonable doubt.

EFFECTIVE: 08/16/82

3-3 RELEVANCY

(1) The fundamental principle of the law of evidence is that of relevancy. "Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

(2) All relevant evidence is admissible except as otherwise provided by: (a) the Constitution, e.g., the search and seizure exclusionary rule based on the Fourth Amendment; (b) Act of Congress, e.g., Title 47, USC, Section 605 dealing with interception of wire or radio communications; (c) other rules prescribed by the Supreme Court, e.g., the "Mallory Rule" excluding statements elicited during detention in violation of Rule 5(a) of the Federal Rules of Criminal Procedure (FED.R.CRIM.P.); and (d) the FED.R.EVID.

(3) The test to be applied in determining the relevancy of an item of evidence is its connection by reason of logic, experience, or science with the facts to be proved in the case. Evidence showing the defendant's motive, preparation, opportunity to commit a particular crime, or his/her threats to the victim of the crime, or attempts to destroy incriminating evidence is relevant. A fact not immediately relevant to the facts in issue may become so, e.g., a prior inconsistent statement affecting the credibility of a witness.

(4) The principle of relevancy emphasizes the need during investigation of a clear understanding of the elements of the crime involved. Agents should develop all evidence which can reasonably be obtained to prove such elements. This is necessary since the FBI has the responsibility of furnishing the USA or the Department of Justice all evidence bearing on any contemplated prosecution. The defense that may be interposed by the defendant is generally not known in advance.

(5) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

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(6) Evidence of a person's character or a trait of his/her character is not admissible for the purpose of proving that he/she acted in conformity therewith on a particular occasion, except:

(a) Evidence of a pertinent trait of his/her character offered by an accused, or by the prosecution to rebut the same.

(b) Evidence of a pertinent trait of character of the victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor.

(c) Evidence of the character of a witness for truthfulness or untruthfulness to attack or support his/her credibility.

(7) Evidence of other crimes is not admissible to prove the character of a person in order to show that he/she acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

(8) In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation or by testimony in the form of an opinion. On cross-examination, inquiry is allowable into relevant specific instances of conduct. In cases in which character or a trait of character of a person is an essential element of a charge or defense, proof may also be made of specific instances of his/her conduct.

(9) Evidence of the habit of a person or the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.

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3-4 GENERAL TYPES OF EVIDENCE

Evidence may be classified in several ways; e.g., according to its form, or according to the way it tends to prove a fact.

(1) According to its form, evidence is testimonial, documentary, or real. Testimonial evidence, the most common type, consists of the oral assertions of witnesses. Documentary evidence consists of the words, figures, or other symbols conveying information set down on a writing, recording, or photograph. Real evidence consists of tangible things involved in a case, such as physical objects or substances.

(2) According to the way it tends to prove a fact, evidence is either direct or circumstantial. It is direct when it immediately establishes the very fact to be proved. It is circumstantial when it establishes other facts so relevant to the fact to be proved that they support an inference of its existence. Thus, if a defendant is charged with murder on a Government reservation and a witness testifies that he/she saw the defendant stab the victim, the evidence is direct. If a witness testifies that he/she saw the defendant running from the scene of the stabbing, or that he/she had seen the defendant purchase a knife of the kind used in the killing the day before the crime, the evidence is circumstantial. In an ITSMV case, the testimony of the owner of an automobile that he/she saw the defendant steal his/her car is direct evidence as it establishes the theft of the car which is an element of the statute. If a used car dealer testifies that the defendant tried to sell this car to him/her at a low price, the evidence is circumstantial.

(3) Direct and circumstantial evidence are equally admissible. Circumstantial evidence may present problems of relevancy where direct evidence does not, but circumstantial evidence is not inferior to direct evidence and may be more persuasive than it.

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3-5 JUDICIAL NOTICE

(1) Judicial notice is the process by which a court accepts a relevant fact as true without evidence thereof. A judicially noticed fact must be a fact which is not subject to reasonable dispute in that it is either (a) generally known within the territorial jurisdiction of the trial court or (b) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. An example of judicially noticed fact would be: the time of sunset on a certain date as determined by the records of the U.S. Department of Commerce National Weather Service. In a criminal case, the court instructs the jury that it may, but is not required to, accept as conclusive any facts judicially noticed.

(2) In investigations in which it appears pertinent to establish facts as part of the case which may fall within this rule, Agents should not assume that such facts need not be proven. Where facts may fall within this rule, consideration should be given to discussing with the USA the necessity for investigation. As to the taking of judicial notice of matters of foreign law, see Rule 26.1 of the FED.R.CRIM.P.

EFFECTIVE: 08/16/82

3-6 PRESUMPTIONS

(1) A presumption is a standardized inference which permits, but does not require, the jury to accept the existence of a presumed fact, e.g., once a conspiracy is shown to exist, it is presumed to continue until an affirmative act of termination. A presumption is not evidence but a way of dealing with evidence. It acts to shift the burden of producing evidence to the contrary to the party against whom it operates. Congress has created various presumptions by statute to lessen the burden of proof upon the prosecution. For example, the Selective Service Act provides that it is unlawful to possess a draft card not lawfully issued to the holder with intent to use it for the purpose of false identification. It further provides that the possession of such a card is deemed sufficient evidence to establish such an intent unless the defendant explains his possession to the satisfaction of the jury. Because of its relationship to the burden of proof, the impact of a presumption is potentially great. Generally, a statute creating a presumption is constitutional if there is a natural and rational evidentiary relation, in accordance with the experience of mankind, between the fact proved and the one presumed.

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EFFECTIVE: 08/16/82

3-7 WITNESSES

EFFECTIVE: 06/15/81

3-7.1 Competency

(1) In General - A witness is said to be competent when |he/she| is qualified to testify under the law. The Rules contain a broad general provision that every person is competent to be a witness except as otherwise provided in the code. The only persons so specifically designated as not being competent are (a) the judge presiding at the trial and (b) a member of the trial jury. By reason of this broad general provision, the specific grounds of immaturity, mental incapacity, religious belief, and conviction of crime on which persons were disqualified as witnesses at common law are abolished. The common law incompetency of the parties in a case, their spouses, and other persons having an interest in the outcome of the trial are likewise abolished.

(2) Requirement of Personal Knowledge - A witness may not testify unless evidence is introduced sufficient to support a finding that |he/she| has personal, i.e., firsthand knowledge of the matter. Although a lay witness must have had an opportunity to observe, and must have actually observed a matter, a witness testifying as an expert is allowed to express opinions on facts made known to |him/her| at or before a hearing of which |he/she| does not have personal knowledge. The cross-examination of a witness is limited to the subject matter of |his/her| direct examination and matters affecting |his/her| credibility. Leading questions are not to be used on the direct examination of a witness except to develop |his/her| testimony but ordinarily are permitted on cross-examination.

(3) |The common law rule that one spouse is disqualified from testifying against the other has been abolished. Today, a husband or wife may testify for or against his or her spouse, so long as the testifying party chooses to so testify. The abolition of this "adverse spousal testimony" privilege leaves undisturbed the right of a husband or wife to prevent the testimonial disclosure of confidential communications made in the privacy of the marital relationship (the

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| husband-wife privilege). See Section 3-8.3, infra. |

(4) Handwriting - The admitted or proved handwriting of any person is admissible, for purposes of comparison, to determine genuineness of other handwriting attributed to such person by statute 28 U.S.C. 1731.

EFFECTIVE: 06/15/81

3-7.2 Impeachment of Witnesses

(1) The credibility of a witness may be attacked by any party, including the party calling him/her. Thus, the traditional rule against impeaching one's own witness is abandoned under the Rules.

(2) The credibility of a witness may be attacked or supported by evidence in the form of reputation or opinion, but subject to limitations. The evidence may refer only to character for truthfulness or untruthfulness, and evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation, evidence or otherwise.

(3) Specific instances of the conduct of a witness for the purpose of attacking or supporting his/her credibility, other than conviction of crime, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness concerning his/her character for truthfulness or untruthfulness, or concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

(4) The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of his/her privilege against self-incrimination when examined with respect to matters which relate only to credibility.

(5) For the purpose of attacking the credibility of a witness, evidence that he/she has been convicted of a crime is admissible, within limitations, if elicited from him/her or established by public record during cross-examination, but only if the crime was punishable as a felony and the court determines that the probative value of admitting the evidence outweighs its prejudicial effect to the defendant, or if the crime involved dishonesty or false statement

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regardless of the punishment.

EFFECTIVE: 06/15/81

3-7.2.1 Duty to Disclose Potential Impeachment Material Regarding
Government Employee/Witnesses

(1) FBI Agents and other investigative personnel are obligated to inform prosecutors with whom they work of potential impeachment information prior to providing a sworn statement or testimony in any criminal case.

(2) The failure of the prosecution to disclose evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution. *BRADY v. MARYLAND*, 373 U.S. 83 (1963). Impeachment evidence, which is any evidence that may impact on the credibility or reliability of a witness, can also be *BRADY* material. *GIGLIO v. UNITED STATES*, 405 U.S. 83 (1972). Moreover, the failure of the defendant to request favorable evidence does not leave the government free of obligation. *UNITED STATES v. AGURS*, 427 U.S. 97 (1976). Regardless of the request, favorable evidence is material, and constitutional error results from its suppression by the government, "if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *UNITED STATES v. BAGLEY*, 473 U.S. 667 (1985). Additionally, if the failure to disclose the evidence "undermines confidence" in the verdict, it must be disclosed. *KYLES v. WHITLEY*, 115 S.Ct. 1555, 1556 (1995). The prosecutor has a duty to learn of any favorable evidence known to others acting on the government's behalf, including the police. *Id.* at 1567.

(3) When a federal prosecutor identifies an agency employee as a potential witness or affiant in a specific criminal case or investigation the employee must disclose potential impeachment material known to them. This duty includes those instances when there is no specific request from the prosecutor.

(4) Generally, the term "potential impeachment material" includes, but is not limited to, the following:

(a) specific instances of conduct, or misconduct, that may be used to question a witness's credibility or character for truthfulness; (b) evidence in the form of opinion as to reputation

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about a witness's character for truthfulness; (c) prior inconsistent statements; and (d) information that may be used to suggest that a witness is biased.

(5) | Because the duty to learn of potential impeachment material lies with the prosecution, a prosecutor may also request that the employee-witness' agency review the employee's personnel files for potential impeachment information. When an individual prosecutor determines that it is necessary to request potential impeachment information from the employee-witness' agency, the prosecutor should notify the designated requesting official, who in turn is authorized to request potential impeachment information from the employee-witness' agency official, the CDC.

(a) Each U.S. Attorney's Office is required to designate a requesting official to serve as point of contact to receive potential impeachment information from agencies. Also the requesting official is required to inform the agency official (CDC) of relevant case law and court practices and rulings that govern the definition and disclosure of impeachment information in that district.

(b) The agency official within the FBI is the CDC for the division in which the investigation or case is pending. In certain instances outlined below, the Investigative Law Unit (ILU) of the Office of the General Counsel (OGC) will be responsible for conducting the review of some personnel files in lieu of the CDC. However, the CDC will still be responsible for disclosing the information located by OGC to the requesting official/prosecutor.

(6) | FBI Plan for Review and Disclosure

(a) All requests from a requesting official/prosecutor for potential impeachment information should be in writing, and should be directed to the CDC. Upon receiving a request from the requesting official/prosecutor, the CDC should ensure that all relevant personnel (67 classification) and/or administrative files (263 classification and 66 classification) for the employee-witness are identified and reviewed to determine whether the files contain any potential impeachment information.

(b) All FBI employee-witness' personnel and related administrative files maintained in the field division where the employee-witness is located should be reviewed. If the CDC is aware of additional related files at FBIHQ or elsewhere, not maintained by the field division, but which could contain potential impeachment

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information, the CDC should ensure that those files are also reviewed.

(c) When the employee-witness is located in a division other than where the investigation or case is pending, the CDC should request that the CDC in that division conduct a review of the employee-witness personnel files.

(d) FBIHQ review of some employee-witness personnel files will be required where the employee was previously assigned to FBIHQ. The field division personnel files in that instance may only begin at the time the employee was assigned to that division; therefore, the bulk of that employee's personnel file may be maintained at FBIHQ. Thus, where the employee-witness is located at FBIHQ or has previously been assigned to FBIHQ, the CDC should request that the employee-witness' personnel files be reviewed by FBIHQ. The ILU, OGC, will be responsible for conducting FBIHQ reviews.

(7) When the CDC makes a request for FBIHQ to conduct a review of an employee-witness' personnel file, or requests a review by a CDC in another division, the following information should be included in the written request:

(a) The full case name and/or docket number;

(b) The name, address, telephone and facsimile number of the requesting official;

(c) The official Bureau name and Social Security Account Number for each employee whose file is to be reviewed;

(d) The results (summary or documents with appropriate redactions) of the file review conducted by the CDC, if any;

(e) Any additional or specific requests provided by the requesting official concerning the review;

(f) Copies of any relevant court rules or orders governing the request; and

(g) Any additional facts or circumstances that might be relevant to the requested review.

(8) After the review has been conducted, the CDC should

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notify the requesting official, in writing, that the review has been conducted and should advise the requesting official of the following:

(a) Substantiated allegations - any finding of misconduct that reflects upon the truthfulness or possible bias of the employee, including a finding of lack of candor during an administrative inquiry;

(b) Criminal charges - any past or pending criminal charge brought against the employee;

(c) Pending investigations or allegations - any credible allegation of misconduct that reflects upon the truthfulness or possible bias of the employee that is the subject of a pending investigation; and

(d) Unsubstantiated allegations - allegations that are not credible, and allegations that have resulted in exoneration.

Allegations of misconduct that are not credible, cannot be proved, or result in the exoneration of an employee-witness are rarely considered to be impeaching material. However, the duty to learn of potential impeachment material lies with the prosecutor, and the prosecutor's ultimate burden is to ensure that all BRADY/GIGLIO material has been provided to the defendant. Therefore, the policy requires that such allegations that reflect upon the truthfulness or bias of the employee, to the extent maintained by the FBI, be provided to the prosecutor under the following circumstances:

1. When it is required by a court decision in the district where the investigation or case is being pursued;
2. When, on or after the effective date of this policy:
 - a. the allegation was made by a federal prosecutor, magistrate judge, or judge; or
 - b. the allegation received publicity;
3. When the requesting official and the agency official agree that such disclosure is appropriate, based upon exceptional circumstances involving the nature of the case or the role of the agency witness; or
4. When disclosure is otherwise deemed

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appropriate by the agency.

NOTE: The CDC is required to advise the prosecuting office, to the extent determined, whether any of the aforementioned allegations were found to be unsubstantiated, not credible, or resulted in the employee's exoneration. When there is uncertainty as to whether information is of potential impeachment value, the CDC should consult with the OGC. However, in general, such uncertainty should be resolved in favor of disclosure to the requesting official.

(9) A copy of any written allegation relating to truthfulness or possible bias that is made against an FBI employee by a federal prosecutor or judge, or that receives publicity, should be retained in order to comply with this policy. If there is no written allegation or information, the CDC should make a notation of the information that comes to his/her attention in the appropriate personnel or administrative file.

(10) In order to ensure that special care is taken to protect the confidentiality of unsubstantiated allegations and the privacy interests and reputations of agency employee-witnesses, the CDC should request that all information and documentation that was not disclosed to the defense be expeditiously returned to the CDC. Prosecuting offices, however, are permitted to keep motions, responses, legal memoranda, court orders, and internal office memoranda or correspondence, in the relevant criminal case file.

(11) In order to ensure that all disciplinary and related information is reviewed, each CDC should develop and implement a plan whereby the CDC is notified in a timely manner of new or pending disciplinary matters concerning employee-witnesses. The CDC in the division where the investigation or case is pending is also responsible for ascertaining and notifying the requesting official of any additional information that becomes available until a prosecution is concluded.

(12) Supervisory personnel should familiarize themselves with any potential impeachment material in an employee's personnel file and consider that information when making investigative assignments that may result in that employee becoming an affiant or testifying in court.

(13) When information or documentation is provided to a prosecutor, the prosecutor should share that information only on a need-to-know basis with co-counsel or other appropriate supervisory personnel within the prosecutor's office. Before the information or

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documentation is shared or provided to either a court or defense counsel, the prosecuting attorney should be requested to promptly advise the CDC who provided the information of the prosecutor's intent to disclose the information. Additionally, the CDC or other agency officials communicating with the Assistant United States Attorney should make the employee aware of the decision to disclose information from his or her personnel file.

(14) Before disclosing an allegation that has not resulted in (a) a FINDING of misconduct reflecting upon the truthfulness or possible bias of the employee, or (b) a criminal charge against the employee, the prosecutor should be requested to seek an EX PARTE, IN CAMERA review and decision by the court regarding whether such information must be disclosed to defense counsel. Whenever such information is released to the defense, the prosecuting attorney should, unless clearly inappropriate, seek a protective order from the court limiting the use and further dissemination of the information and requiring the return of government documents reflecting the information.

(15) | Deleted |

(16) | Deleted |

EFFECTIVE: 02/21/97

3-7.3 Refreshing Memory of Witnesses

(1) Generally, the memory of a witness may be refreshed before trial or while he/she is on the stand at trial. If a witness uses a writing to refresh his/her memory for the purpose of testifying either while testifying or before testifying, if the court in its discretion determines it is necessary in the interests of justice, an adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness. If it is claimed that the writing contains matters not related to the subject matter of the testimony, the court examines the writing in camera, excises any portions not so related, and orders delivery of the remainder to the party entitled thereto. If the prosecution elects not to comply, the court strikes the testimony or declares a mistrial. Thus, the production of writings used by a witness while testifying is required; but it is discretionary with the court as to whether writings used by a witness to

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refresh his/her memory before trial will be produced.

(2) This rule is expressly made subject to Rule 17(h), FED.R.CRIM.P., and Rule 26.2, FED.R.CRIM.P., and items falling within its purview are producible only as provided by its terms. Rule 26.2, FED.R.CRIM.P., applies to statements relevant to the testimony of all witnesses in criminal cases and does not require that the statement be consulted for purposes of refreshment before or while testifying; whereas this evidentiary rule is not limited to statements relevant to witness testimony, applies to all cases, and requires that the writing be consulted for purposes of refreshment while or before testifying.

EFFECTIVE: 08/16/82

3-7.4 Prior Statements of Witnesses

(1) Generally, if a witness testifies to material facts at a trial and has previously made a statement concerning such facts before trial, he/she may be examined concerning them. The prior statement is admissible to impeach his/her credibility when it is inconsistent with his/her testimony, or to support his/her credibility, if attacked, when the statement is consistent with his/her testimony. An attack upon the credibility of a witness by proof that he/she has previously made statements inconsistent with his/her present testimony is the most frequently employed method of attack.

(2) In examining a witness concerning a prior statement made by him/her, whether written or not, the statement need not be shown nor its contents disclosed to him/her at that time, but on request the same is shown or disclosed to opposing counsel.

(3) Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny it and the opposite party is afforded an opportunity to interrogate him/her thereon, or the interests of justice otherwise require; in other words, an impeaching statement must first be shown to the witness before it can be proved by extrinsic evidence.

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3-7.5 Court Witnesses and Exclusion of Witnesses

(1) The court may call witnesses and interrogate them, and all parties may cross-examine them.

(2) At the request of a party the court orders witnesses excluded so that they cannot hear the testimony of other witnesses. The Rules, however, do not authorize exclusion of a party who is a natural person, or a person whose presence is shown by a party to be essential to the presentation of his/her case, or an officer or employee of a party which is not a natural person designated as its representative by its attorney. It has been held that an officer who has been in charge of an investigation may be allowed to remain in court despite the fact that he/she will be a witness.

EFFECTIVE: 08/21/87

3-8 PRIVILEGES

EFFECTIVE: 08/21/87

3-8.1 In General

(1) Under the general rule on privileges, the privilege of a witness is governed by the principles of the common law as they may be interpreted by Federal courts in the light of reason and experience, except as otherwise required by the Constitution, Act of Congress, or Supreme Court rules.

(2) At common law certain persons by virtue of their relationship with a defendant cannot testify to confidential communications, either oral or written, obtained as a result of this relationship. The courts recognize the necessity for a free exchange of information between such persons and protect the relationship through adherence to the privilege rule. Privilege under this rule means that a witness cannot be forced to disclose any communication based on the confidential relationship. A privilege ordinarily can be waived by the person holding it. The following types of witnesses should be considered with respect to this rule.

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EFFECTIVE: 08/21/87

3-8.2 Attorney and Client

Communications either oral or written between an attorney and client in the course of their professional relationship are considered privileged, the privilege belonging to the client. The privilege attaches only to communications needed to obtain legal services. The rule is designed to secure the client's freedom of mind in committing his/her affairs to the attorney's knowledge. The client is entitled to have the attorney honor the privilege even though the relationship has ceased. Communications between an attorney and client about a crime or fraud to be committed in the future are not privileged. The privilege under this rule may be waived by the client alone although the lawyer can claim the privilege on behalf of his/her client. A client's identity or occupation will not ordinarily qualify as confidential information, but the privilege has been held to protect a client's address from disclosure.

EFFECTIVE: 08/21/87

3-8.3 Husband and Wife

(1) Confidential communications, oral or written, between husband and wife are considered privileged and cannot be disclosed through the testimony of either spouse in the absence of a waiver. For example, a wife cannot be permitted to testify as to her husband's perjury confessed to her by the husband in the confidence of their marital relationship. All communications in private between spouses are presumed to be confidential. Either spouse is precluded from disclosing such communications, the basis for the privilege being the protection of marital confidence regarded as essential to this relationship. The one possible exception to the rule is communications between husband and wife relating to offenses against her, a wife being competent to testify against her husband in such cases. The privilege generally extends only to confidential communications, i.e., it does not extend to acts which would not have been performed but for the marital relationship.

(2) The legal relationship of husband and wife must exist at the time of the communication and, thus, a communication made before marriage, or after the marriage has terminated, is not privileged. The privilege of communications occurring during the marriage is not affected

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by the death or divorce of either spouse. Communications by either spouse in the presence of third persons not intended to be confidential are not considered privileged.

EFFECTIVE: 08/21/87

3-8.4 Informants

The identity of an informant is privileged. The Government holds the privilege and, generally, is not required to disclose his/her identity. The privilege is founded upon the public interest in effective law enforcement. Citizens are to be encouraged to inform the Government of crime. The privilege, however, is not absolute and the public interest is balanced against the defendant's right to prepare his/her defense and to a fair trial. For example, disclosure may be required where the informant was a participant in the crime charged, or where the defendant's participation was the result of entrapment by the informant. In situations where the court requires disclosure and Government withholds, the court will dismiss the case. The privilege may arise not only at trial but at a proceeding to determine probable cause, e.g., in arrest and search situations. Where probable cause is established by evidence apart from the informant's information, the court may or may not require disclosure.

EFFECTIVE: 08/21/87

3-8.5 FBI Files and Records

The files and records of the FBI and official information in the possession of employees are considered privileged under Departmental Order 919-80, dated 12/18/80, which prohibits the production of such records, or the disclosure of information therefrom, or other official information in possession of employees under subpoena duces tecum, order, or otherwise without approval of an appropriate Department official or the Attorney General. This regulation is based on statutory authority contained in Title 5, USC, Section 301. (D. O. 919-80 set forth in MIOG, Part II, Section 6.)

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3-8.6 Other Privileges

Most state courts by statute recognize a privilege as to communications between physician and patient, with exceptions, and also as to communications between a member of the clergy and penitent. These privileges did not exist at common law and have not been created by Federal statute. However, Federal courts have recognized a privilege for a confession-like statement to a member of the clergy without the assistance of any statute. Several states, by statute, grant a privilege to journalists to withhold their sources of information and also to accountants, but these privileges have not been recognized by Federal statute. The First Amendment to the Constitution does not accord a news person a privilege against appearing before a grand jury and answering questions as to either the identity of his/her news source or information he/she received in confidence.

EFFECTIVE: 08/21/87

3-9 OPINIONS AND EXPERT TESTIMONY

(1) If a person is testifying as a lay witness and not as an expert witness, his/her testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on his/her perception and (b) helpful to a clear understanding of his/her testimony or the determination of a fact in issue. Thus, an ordinary witness may express an opinion provided it is based upon his/her firsthand knowledge and is helpful in resolving issues. The law prefers testimony to concrete rather than abstract facts, and a detailed account to a broad assertion. Examples of opinions which are generally allowed are: That a person appeared nervous, intoxicated, weak, or sick; as to what a person appeared to be doing; as to a condition, e.g., that a floor was slippery; handwriting; the speed of a moving vehicle; and the value of a person's own property.

(2) If scientific, technical or other specialized knowledge will assist the jury to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise.

(3) The facts or data upon which an expert bases his/her opinion or inference may be those perceived by or made known to him/her at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the

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subject, the facts or data need not be admissible in evidence.

(4) An expert witness may testify in terms of opinion or inference and give his/her reasons therefor without prior disclosure of the underlying facts or data, unless the court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

(5) The court may on its own motion or on the motion of any party enter an order to show cause why expert witnesses should not be appointed by the court and may request the parties to submit nominations. An expert witness is not appointed by the court unless he/she consents to act. He/She is subject to cross-examination by each party, including the party calling him/her as a witness.

EFFECTIVE: 08/21/87

3-10 HEARSAY

EFFECTIVE: 08/16/82

3-10.1 In General

(1) Hearsay is simply defined as evidence based on something a witness has heard someone else say rather than on what he/she has himself/herself seen or experienced. Thus, if a witness testifies that he/she heard another person say "The defendant shot the victim," or if he/she produces a letter so stating sent to him/her by that other person, such evidence is hearsay. Technically, hearsay is defined as a statement, other than one made by the declarant while testifying at a trial or hearing, offered in evidence to prove the truth of the matter asserted. A "statement" is defined as an oral or written assertion, or nonverbal conduct of a person if it is intended by him/her as an assertion. A "declarant" is defined as a person who makes a "statement." A declarant who makes an out-of-court statement is a witness and, thus, must have had firsthand knowledge.

(2) The testimony of a witness is evaluated in terms of his/her perception, memory, narration, and sincerity. Ideally, a witness is required to testify orally to the relevant facts of which he/she has personal knowledge, under oath, confronting the defendant, in the presence of the jury with his/her demeanor under its

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scrutiny, and subject to cross-examination by the adversary party. The general principle, therefore, is that hearsay evidence is not admissible. In this regard the Rules provide that hearsay is not admissible except as provided by the FED.R.EVID. or by other rules prescribed by the Supreme Court pursuant to statutory authority, e.g., Rule 4(a) of the FED.R.CRIM.P. on affidavits to show grounds for issuing warrants, or by Act of Congress.

(3) Despite the desirability of giving testimony under ideal conditions, the law does not demand that they be attained in all situations. Thus, while it excludes hearsay generally as it is admittedly not equal in quality to testimony of the declarant on the stand, rather than lose it completely it allows hearsay in under certain circumstances believed to give it some particular assurance of credibility diminishing the risk of untrustworthiness and in the interests of justice.

(4) The Rules provide for two distinct classes of exceptions to the hearsay rule.

(a) The first class deals with situations where the availability of the declarant is regarded as immaterial - the hearsay statements in the 23 individual exceptions within this class being deemed to possess circumstantial guarantees of trustworthiness sufficient to justify nonproduction of the declarant in person even though he/she may be available.

(b) The second class, which consists of 4 specific exceptions deals with situations where the unavailability of the declarant is made a condition to the admission of the hearsay statement. Unavailability includes situations in which the declarant is unable to be present or to testify because of death, physical or mental illness; when he/she persists in refusing to testify despite a court order to do so; when he/she is exempted on the ground of privilege; when he/she testifies to a lack of memory; or when he/she is absent and the proponent of his/her statement is unable to procure his/her attendance by process or other reasonable means, or in the case of statements under belief of impending death, statements against interest, and statements of personal or family history he/she is unable to procure his/her attendance or testimony, e.g., through deposition, by such means. A declarant is not unavailable as a witness if his/her exemption, refusal, claim of lack of memory, inability or absence is due to the procurement or wrongdoing of the proponent of his/her statement for the purpose of preventing the witness from attending or testifying.

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EFFECTIVE: 08/16/82

3-10.2 Hearsay Exceptions - Availability of Declarant Immaterial

EFFECTIVE: 08/16/82

3-10.2.1 Present Sense Impression

A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

EFFECTIVE: 08/16/82

3-10.2.2 Excited Utterance

A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

EFFECTIVE: 08/16/82

3-10.2.3 Then Existing Mental, Emotional, or Physical Condition

A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed.

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3-10.2.4 Recorded Recollection

A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in witness' memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.

EFFECTIVE: 03/08/79

3-10.2.5 Records of Regularly Conducted Activity

A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, or diagnosis, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit. (28 U.S.C. 1732)
Absence of entry in such records is admissible to prove the nonoccurrence or nonexistence of such matters.

EFFECTIVE: 03/08/79

3-10.2.6 Financial Records of a Customer

Customers' records in possession of a financial institution (broadly defined) may be obtained by the FBI only in accordance with the provisions of the Right to Financial Privacy Act of 1978 or through the issuance of a Federal Grand Jury subpoena. (See MIOG, Part II, 23-6)

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||3-10.2.7| Public Records and Reports

Records, reports, statements, or data compilations, in any form, of public offices or agencies, Federal or non-Federal, setting forth (a) the activities of the office or agency, or (b) matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel, or (c) in civil actions and proceedings and against the Government in criminal cases, factual findings, i.e., nonevaluative and nonopinion reports, resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness. Records of vital statistics in a public office are admissible. The absence of a public record is also admissible.

EFFECTIVE: 03/08/79

||3-10.2.8| Judgment of Previous Conviction

Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused.

EFFECTIVE: 03/08/79

||3-10.2.9| Reputation as to Character

Reputation of a person's character among his/her associates or in the community.

EFFECTIVE: 03/08/79

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||3-10.2.10| Miscellaneous

Records of religious organizations; marriage, baptismal, and similar certificates; family records; records of documents affecting an interest in property; ancient documents; market reports; learned treatises; reputation concerning personal or family history; and others, are likewise specifically made admissible under this class of exceptions.

EFFECTIVE: 03/08/79

3-10.3 Hearsay Exceptions - Declarant Unavailable

EFFECTIVE: 03/08/79

3-10.3.1 Former Testimony

Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

EFFECTIVE: 03/08/79

3-10.3.2 Statement Under Belief of Impending Death

In a prosecution for homicide or in a civil action or proceeding, a statement made by a declarant while believing that |his/her| death was imminent, concerning the cause or circumstances of what |declarant| believed to be |his/her| impending death.

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3-10.3.3 Statement Against Interest

A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject declarant to civil or criminal liability, or to render invalid a claim by declarant against another, that a reasonable person in that position would not have made the statement unless they believed it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

EFFECTIVE: 03/08/79

3-10.3.4 Statement of Personal or Family History

(1) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or

(2) A statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

EFFECTIVE: 03/08/79

3-10.4 Statements Which Are Not Hearsay

Prior statements by a witness and admissions by a party-opponent are not considered to be hearsay under the Rules although they literally fall within the definition of hearsay.

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3-10.4.1 Prior Statement by Witness

(1) A statement is not hearsay if the declarant testifies at a trial or hearing and is subject to cross-examination concerning the statement and the prior statement is inconsistent with his/her testimony and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition. If the declarant admits that he/she made the prior statement and that it was true, he/she adopts the statement. If he/she denies having made the statement, or admits having made it but denies its truth, the prior statement is admissible as substantive evidence.

(2) Thus, in keeping with the modern view of the hearsay rule, when a witness testifies to material facts and the opponent can prove that the witness has previously made statements under oath inconsistent with his/her present testimony, the previous statements are admissible as substantive evidence.

(3) Also, a statement is not hearsay if the declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is consistent with his/her testimony and is offered to rebut an express or implied charge against him/her of recent fabrication or improper influence or motive. Prior consistent statements traditionally have been admissible to rebut such a charge, but under this rule are substantive evidence.

EFFECTIVE: 08/21/87

3-10.4.2 Admission by Party-Opponent

(1) Generally, an admission is a statement by a party of the existence of a fact relevant to the case but inconsistent with the position the party takes at the time of trial. The Rules provide, in part, that a statement is not hearsay if the statement is offered against a party and is (a) his/her own statement, the classic example of an admission, or (b) a statement of which he/she manifested his/her adoption or belief in its truth, or (c) a statement by a coconspirator of a party during the course and in furtherance of the conspiracy, or (d) a statement by a person authorized by the party to make a statement concerning the subject, or (e) a statement by the party's agent or servant concerning a matter within the scope of his/her agency or employment, made during the existence of the relationship.

(2) No guarantee of trustworthiness is required in the case

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of an admission by a party because |his/her| responsibility is considered sufficient to justify its reception in evidence against |him/her|. Admissions by a party-opponent include confessions, i.e., a confession is a species of admission. In a criminal case, a confession constitutes a direct acknowledgment by the defendant of |his/her| guilt of the crime charged against |him/her|, whereas an admission is an acknowledgment by the defendant of certain facts which tend, together with other facts, to establish |his/her| guilt. As a narrative of the defendant's personal conduct a confession stands somewhat apart from an admission, calls for separate treatment, and special rules are applicable to it. Generally, a confession is admissible in evidence if it is satisfactorily shown that the defendant, in keeping with the traditional doctrine, made it voluntarily without inducements; and, if in keeping with the constitutional guarantees, the confession was not obtained in violation of the defendant's rights to remain silent and to have the assistance of counsel.

(3) If a statement is made by another person in the presence and hearing of a party containing assertions of fact which if untrue, the party would under all the circumstances naturally be expected to deny, |his/her| failure to speak has traditionally been receivable against |him/her| as an admission. These "tacit admissions" are received with caution, however, when they occur in the course of criminal investigation. The courts have surrounded them with various restrictions and safeguards, and the constitutional Miranda Rule serves to circumscribe them.

(4) As a matter of substantive law, the acts and declarations of one conspirator occurring while the conspiracy is in progress and in its furtherance are provable against another conspirator as acts for which the latter is criminally responsible. The declarations of one conspirator may also be proved against another conspirator as representative admissions to prove the truth of the matter asserted. The existence of the conspiracy must be proved independently to justify the admission of the declarations. Admissions made after the termination of the conspiracy are excluded.

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3-10.5 Hearsay Within Hearsay

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statements conforms with an exception to the hearsay rule provided in these rules. Thus, in multiple hearsay situations, where the objections attaching to simple hearsay are even more involved, each of the out-of-court statements must satisfy the requirements of some exception to the hearsay rule.

EFFECTIVE: 08/21/87

3-10.6 Attacking and Supporting Credibility of Declarant

When a hearsay statement, or a statement of a coconspirator of a party, has been admitted in evidence, the credibility of the declarant may be attacked, and if attacked may be supported, by any evidence which would be admissible if the declarant had testified as a witness. Evidence of a statement or conduct by the declarant at any time, inconsistent with his/her hearsay statement, is not subject to any requirement that he/she may have been afforded an opportunity to deny or explain. If the party against whom a hearsay statement has been admitted calls the declarant as a witness, the party is entitled to examine him/her on the statement as if under cross-examination. Thus, the credibility of a hearsay declarant may be attacked and supported as though he/she had in fact testified. The credibility of a coconspirator may also be attacked or supported as in the case of a hearsay declarant even though the statement of a coconspirator of a party is not hearsay under the Rules.

EFFECTIVE: 08/21/87

3-11 CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS

(1) The evidentiary doctrine governing the admissibility of the contents or terms of a written document was formerly called the "best evidence rule." Aimed at preventing inaccuracies and fraud by requiring the production of the original document itself, the best evidence rule was essentially related to writings. Modern techniques of recording, however, have expanded methods of storing data, e.g., by computers, photographic systems, and other developments. The instant rule applies to these expanded methods of recording facts as well as to traditional writings.

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(2) Under the Rules an "original" of a writing or recording is the writing or recording itself, any counterpart intended to have the same effect, a photograph or its negative or print, or a computer printout. Thus, a carbon copy of a sales ticket or any print from the negative of a photograph is deemed to be an "original" for the purposes of this rule. A "duplicate" is a counterpart produced by techniques which accurately reproduce the original, e.g., produced by the same impression as the original or from the same matrix. In large measure, a duplicate is given the status of an original, e.g., a bank microfilm record of checks cleared.

(3) The general rule is that in order to prove the contents of a writing, recording, or photograph, the original writing, recording, or photograph is required, except as otherwise provided by the Rules or by Act of Congress. When a witness merely identifies a photograph or motion picture as a correct representation of events which he saw, however, this rule does not apply since it does not constitute an effort to prove the contents of the picture but is solely to use the picture to illustrate the witness' testimony. On the other hand, this rule does apply to an automatic photograph of a bank robbery as the photograph is used to prove its contents and has independent probative value.

(4) A duplicate is admissible to the same extent as an original unless a question is raised as to the authenticity of the original or it would be unfair in the circumstances to admit it.

(5) The original is not required, and other evidence of the contents of a writing, recording, or photograph is admissible if all originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith; or no original can be obtained by judicial process; or at a time when an original was under the control of the party against whom offered, he was put on notice that the contents would be a subject of proof and he does not produce the original; or the writing, recording, or photograph is not closely related to a controlling issue. Under the foregoing circumstances, secondary evidence of the contents, with no degrees, is admissible.

(6) Contents of writings, recordings, or photographs may be proved by the testimony or deposition of the party against whom offered or by his written admission without accounting for the nonproduction of the original. The contents of public records, if otherwise admissible, may be proved by certified copies or testified to be correct by a witness who has compared it with the original. The contents of voluminous writings, recordings, or photographs which cannot conveniently be examined in court may be presented in the form of a chart, summary, or

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calculation, but the originals or duplicates shall be available for examination by other parties and the court may order that they be produced in court.

(7) The identity and address of the person in possession of admissible writings, recordings, or photographs who can properly produce and identify them should always be ascertained and included in an investigative report. It should likewise be shown exactly what writings are to be produced voluntarily or under subpoena duces tecum.

EFFECTIVE: 08/21/87

3-12 IDENTIFICATION OR AUTHENTICATION OF REAL AND DOCUMENTARY EVIDENCE

(1) Real evidence, often called physical or demonstrative evidence, consists as noted of tangible things. Its variety is legion. It may constitute direct evidence, e.g., the jewelry stolen in a robbery; or circumstantial evidence, e.g., the latent fingerprint of the defendant lifted from the doorknob of the burglarized room. It may have played an active role in the crime, e.g., the fatal weapon in a murder case; or it may be employed for illustrative purposes, e.g., the photograph, chart, or model used to clarify trial testimony. Documentary evidence consists of words and figures set down on a writing, recording, or photograph, such as a letter, report, book of account, memorandum, or bank deposit slip. A document may be private or public in character.

(2) Before items of real and documentary evidence can be admitted in evidence, they must be identified or authenticated in some manner. They do not prove themselves. They must be shown to be what they are purported to be. For example, an article of clothing found at the scene of a crime cannot constitute relevant evidence against the defendant unless his ownership or previous possession of it is shown. A document purporting to be from the defendant relied upon to establish an admission by him, has no probative value unless it is shown that he authored it. This condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims. Compliance with the requirements of identification or authentication, however, does not assure the admission of an item of real or documentary evidence into evidence since other rules of evidence may bar its admissibility.

(3) The requisite identification or authentication of real and documentary evidence may consist, for example, of the testimony of

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a witness that he was present at the time and place when narcotics were taken from the defendant and, accounting for their custody through the period until trial including laboratory analysis, that the narcotics in court are those taken from the defendant. It may be the testimony of a witness who was present at the signing of a document in issue. It may consist of nonexpert opinion as to the genuineness of handwriting based on familiarity with the handwriting not acquired for purposes of the trial, or comparison by expert witnesses. A voice may be identified by opinion based upon hearing it at any time under circumstances connecting it with the alleged speaker.

(4) Prima facie authentication is accorded to certain documents and, accordingly, extrinsic evidence of authenticity as a condition precedent to admissibility is not required. Self-authenticating documents include domestic public documents, under seal or not under seal, foreign public documents, certified copies of public records, official publications, e.g., statutes and court reports, newspapers and periodicals, and writings acknowledged before a notary public. This presumptive authentication does not preclude evidentiary challenge to the genuineness of such documents. Although a newspaper may be received in evidence as authentic, the question of authority and responsibility for items therein contained remains open.

(5) To insure that items of real evidence will be admissible, it is essential that they be properly identified by the Agent when they are found, e.g., at a crime scene; that he make notes describing the evidence at that time and the way it was marked; that it is packaged carefully and the container properly identified; and that a chain of custody and a record thereof is maintained from the time of discovery to the time of the trial. This complete and rigorously adhered-to system of identification and custody negates the possibility of substitution, alteration, and tampering of real evidence and insures its admission at trial.

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3-13 CONSTITUTIONAL SAFEGUARDS

(1) Constitutional safeguards, such as the protection against unlawful searches and seizures secured by the Fourth Amendment, the protection against self-incrimination secured by the Fifth Amendment, and the protection against denial of the right to the assistance of counsel at a critical stage in the prosecution secured by the Sixth Amendment must be borne in mind at all times during the course of investigation to ensure that evidence is obtained legally. Any evidence obtained in violation of constitutional rights is inadmissible.

(2) Agents are expected to be familiar with the FED.R.EVID., the basic doctrines of which should be considered in all investigations, whether criminal or civil. Likewise, these Rules must be considered in preparation of both investigative and prosecutive summary reports.

(3) All reasonable precautions must be taken to ensure that evidence obtained by Agents is admissible.

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SECTION 4. JUVENILES AND JUVENILE DELINQUENCY ACT

4-1 GENERAL STATEMENT

EFFECTIVE: 02/22/88

4-1.1 Purpose of Act

The Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93-415, Title 18, USC, Sections 5031-5042 (hereinafter Act), and its pertinent legislative history, recognize that juvenile delinquency is primarily a concern of the states. The Act places virtually all juvenile cases in state courts and establishes limited, definable circumstances for the exercise of Federal jurisdiction. The discussion below outlines the procedures which govern the handling of juveniles in the Federal courts.

EFFECTIVE: 02/22/88

4-2 SPECIFIC PROVISIONS OF THE ACT

EFFECTIVE: 02/22/88

4-2.1 Definitions

(1) Juvenile - A person who has not attained his/her 18th birthday. For purpose of proceedings and disposition, a juvenile is a person who has not attained his/her 21st birthday. (See LHBSA, 3-16.1.)

(2) Juvenile Delinquency - The violation of a federal law by a person prior to his/her 18th birthday which would have been a "crime" if committed by an adult or a violation by such person of Title 18, USC, Section 922(x) (juvenile's possession, sale, delivery, or transfer of handgun and/or handgun ammunition).

(3) Federal Juvenile Judge - United States District Judge

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(U.S.D.J.)

(4) Federal Juvenile Court - United States District Court (U.S.D.C.). The Act allows the court to be convened at any time or place within the judicial district and permits proceedings in the judge's chambers.

EFFECTIVE: 10/01/97

4-2.2 Arrest Procedure

The standard pre-arrest procedures applicable to adults (discussion with USA, filing of complaint, issuance of warrant) also govern arrests of juveniles. After arrest, however, the Act imposes several additional responsibilities on the arresting Agents.

EFFECTIVE: 02/22/88

4-2.2.1 Advice of Rights

The arresting Agents should immediately advise the arrested juvenile of his/her "legal rights" in language comprehensible to the juvenile. The rights found on the standard Miranda form, FD-395, appear to meet this requirement. However, inasmuch as no interview will be conducted (see 4-2.2.5 below), it will not be necessary to obtain a waiver signature from the juvenile at this time.

EFFECTIVE: 02/22/88

4-2.2.2 Notification of USA and Juvenile's Parents

(1) The Act requires the arresting Agent to immediately notify the USA and the juvenile's parents, guardian, or custodian of such custody. The parents, guardian, or custodian must also be notified of the juvenile's rights and the nature of the alleged offense.

(2) Because of the affirmative duties these provisions place on an arresting Agent, it can be anticipated that defendants will challenge the Bureau's compliance with the Act. Thus, it is necessary

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that separate FD-302s be prepared to clearly demonstrate that (a) the juvenile was advised of his/her rights, (b) the USA was notified, (c) the parent(s), guardian, or custodian was notified, and (d) the juvenile was taken before a magistrate (see discussion in 4-2.2.6 below).

EFFECTIVE: 08/21/87

4-2.2.3 Fingerprinting and Photographing

The Act forbids fingerprinting and photographing a juvenile unless he/she is to be prosecuted as an adult, or the trial judge consents. Fingerprinting and photographing of a juvenile shall be done whenever a juvenile has been found guilty of committing an act which if committed by an adult would be a felony that is a crime of violence or a violation of Title 21, USC, Section 841 (manufacturing, distributing, dispensing of controlled substances or possession with intent to do same), section 952(a) (importation of controlled substances), section 955 (possession of controlled substances on board vessels arriving in or departing from United States) or section 959 (manufacture or distribution of controlled substances for purposes of unlawful importation). Because usually it will not be known at the time of arrest whether the arrestee will be prosecuted as an adult or handled as a juvenile offender, Agents are not to fingerprint or photograph a juvenile without consent of the judge.

EFFECTIVE: 08/21/87

4-2.2.4 Press Releases

The Act also prohibits making public either the name or picture of the juvenile. A press release is permissible concerning the arrest of a juvenile if carefully worded to contain no identifying information.

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4-2.2.5 Interviews of Juveniles

A juvenile is not to be interrogated for a confession or admission of his/her own guilt, or even an exculpatory statement between the time of his/her arrest for a Federal offense and his/her initial appearance before the magistrate who advises him/her of his/her rights. Information volunteered by the arrested juvenile concerning his/her own guilt will be recorded in the Agent's notes for use in subsequent proceedings, and clarifying questions may be asked as necessary to make certain what the juvenile intends to say. The volunteered statement may be reduced to writing if such action does not involve any delay in the juvenile's appearance before the magistrate. The juvenile may, however, be questioned concerning the guilt of someone else if such questioning does not cause any delay in bringing him/her before the magistrate. These notes apply only from and after an arrest of a juvenile, as defined by Federal law for a Federal offense. They do not apply when the juvenile is still a suspect for a Federal offense under arrest by state or local officers on a state or local charge. The latter type situations do not come within the terms of the Act.

EFFECTIVE: 08/21/87

4-2.2.6 Initial Appearance Before Magistrate (See MIOG, Part II, 4-2.2.2; LHBSA, 3-16.2 (3).)

Bureau Agents must take the arrested juvenile before a magistrate forthwith. The magistrate must release the juvenile to his/her parents or guardian (or other responsible party) unless the magistrate determines that detention is necessary to secure the juvenile's timely appearance before the court, or to ensure the juvenile's safety or that of others. This determination can be made only after a hearing at which the juvenile is represented by counsel.

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4-2.3 Detention

(1) The Act requires detention in certain types of facilities whenever possible. It also contains an absolute bar to detention in facilities where regular contact with adults results. Consequently, local juvenile facilities must be utilized whenever available. Local jail facilities approved by the Bureau of Prisons may be utilized when the more appropriate local juvenile facilities are not available, but only if the juvenile will have no regular contact with adults and insofar as possible, with adjudicated delinquents. If such a facility is not available locally, the juvenile must be released or transported to such a facility.

(2) Each office will ascertain through the United States Marshal the locations of those detention facilities within the field office territory which meet the criteria of this section and make such information available to all Agents assigned to the field office on a current basis. When suitable detention facilities are more conveniently located within the territory of an adjoining field office, such facilities should be used whenever possible.

EFFECTIVE: 02/22/88.

4-2.4 Prosecution

(1) Certification - Once a juvenile has been taken into federal custody, or arrested by local authorities for an act which also constitutes a federal crime, a decision must be reached on the question of whether to prosecute the juvenile in state or federal court. As previously noted in paragraph 4-1.1, supra, the Act has the effect of placing most juvenile cases in state court. Thus, in order to pursue the case federally, the USA must file papers in U.S. District Court certifying that his/her investigation and research have determined that (a) the case is one of exclusive federal jurisdiction, or (b) the state has concurrent jurisdiction but the local prosecutor refuses to prosecute, or (c) the state does not have programs and services adequate for the needs of the juvenile, or (d) the offense charged is a crime of violence that is a felony or is a violation of Title 18, USC, Section 922(x) or 924(b), (g), or (h) (firearms offenses); Title 21, USC, Section 841, 952(a), 953, 955, 959, 960(b)(1), (b)(2), or (b)(3) (controlled substance offenses); and that there is a substantial federal interest in the case or offense. Federal jurisdiction always lies if the case involves an offense committed within the special maritime and territorial jurisdiction of

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the United States and the maximum authorized term of imprisonment does not exceed 6 months. Without the existence of one of these grounds, a court of the United States cannot proceed against a juvenile and the juvenile must be surrendered to the appropriate state authorities.

(a) With regard to (1) (c), it is the responsibility of the Chief Probation Officer to conduct a study of the state juvenile facilities in his/her district to determine whether there are programs and services adequate for the needs of juveniles.

(b) The certification procedure is to be begun after the arrest process has been completed. If the juvenile is arrested in a distant district, he/she may be removed to the district of prosecution pursuant to Rule 40, FED.R.CRIM.P., before certification inasmuch as the USA in the district of prosecution is the only party who can determine whether one of the factors in (1) above exists which can invoke federal jurisdiction.

(2) Prosecution/Motion to Transfer to Adult Court - After proper certification has been made and the case has been accepted in federal court, the decision must be made whether to handle the defendant as a juvenile or transfer the matter to adult court. The Act shows a strong preference for proceeding as a juvenile. A juvenile action is commenced by the USA filing an information in the appropriate district court, in chambers, or otherwise.

(a) A transfer to adult court can be initiated by either (1) a written request of the juvenile, upon advice of counsel, or (2) the USA filing a motion to transfer (Motion to Proceed Against the Juvenile as an Adult). A motion to transfer may be filed: (1) where the offender was 15 years or older when the alleged act was committed if (a) the act would be a felony that is a crime of violence if it had been committed by an adult or if (b) the act is an offense under Title 18, USC, Section 922(x), 924(b), (g), or (h), or Title 21, USC, Section 841, 952(a), 955, or 959; or (2) where the offender was 13 years or older when the alleged act was committed if (a) the crime of violence is an offense under Title 18, USC, Section 113(a)(1) (assault with intent to commit murder), (a)(2) (assault with intent to commit any felony), or (a)(3) (assault with a dangerous weapon with the intent to do bodily harm), 1111 (murder), or 1113 (attempt to commit murder or manslaughter) or if (b) the crime is an offense under Title 18, USC, Section 2111 (robbery), 2113 (bank robbery), 2241(a) (aggravated sexual abuse), or 2241(c) (sexual act with a minor under 12 years or an attempt to do so), and is committed while the juvenile offender is in possession of a firearm. In addition, the court must find, after a hearing, that such a transfer

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would be in the interest of justice. Transfer to adult status is mandatory when a juvenile of 16 years or older, who has a prior conviction or adjudication of an act which if committed by an adult would be one of the above-described offenses, allegedly commits a similar offense or an offense which would be a felony if committed by an adult and that involves the use, attempted use, or threatened use of physical force, or is an offense under Title 18, USC, Section 32 (destruction of aircraft or aircraft facilities), 81 (arson), 844(d), (e), (f), (h), or (i) (offenses involving explosives), or 2275 (firing or tampering with vessels).

(b) To assure uniformity in those cases in which adult prosecution is desired, the USA must obtain authority from the Department of Justice before filing a motion to transfer to adult court. The juvenile will be afforded a hearing on this motion at which he/she has the right to be assisted by counsel. The judge must make findings of fact on the juvenile's age, background, nature of the offense, extent of juvenile's intellectual development, etc., before ruling on the motion to transfer. In addition, the judge must consider the extent to which the juvenile played a leadership role in an organization or influenced others to take part in criminal activity involving the use or distribution of controlled substances or firearms. Statements made by the juvenile in connection with a transfer hearing shall not be admissible at a subsequent criminal prosecution in adult court.

(3) Trial - If the juvenile is not proceeded against as an adult, the USA shall proceed by information for the alleged act of juvenile delinquency. The Act provides that the delinquency trial must take place within 30 days from the date the juvenile was placed in custody or the information shall be dismissed with prejudice, e.g., unless the delay was caused or consented to by the juvenile or his/her attorney, or would be in the interest of justice in the particular case. This provision is inapplicable if the juvenile is not detained (in custody). The juvenile trial can take place at any place within the district and will be tried by the judge (delinquency matters are not tried by a jury) in chambers or otherwise.

(4) Prosecution/Disposition - If the juvenile is adjudicated delinquent by the judge, a separate dispositional hearing must be held within 20 days after the adjudication. At this hearing the judge may (a) suspend the adjudication of delinquency; (b) place the juvenile on probation; (c) commit him/her to the custody of the Attorney General; or (d) enter an order of restitution. The maximum term of probation or commitment shall not extend beyond the juvenile's 21st birthday or the maximum term which could have been imposed on an

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adult, whichever is sooner, unless the juvenile is between 18 and 21 years old at the time of disposition, in which case the maximum shall not exceed the lesser of three years or the maximum term which could have been imposed on an adult convicted of the same offense. The term of commitment for a juvenile, who if convicted as an adult would be convicted of a Class A, B, or C felony, shall not exceed five years.

EFFECTIVE: 10/01/97

4-2.5 Use of Juvenile Records

After the USA has filed an information initiating juvenile delinquency proceedings against a Bureau subject, any information or records in possession of the Bureau shall not be disclosed, directly or indirectly, unless authorized by the Act. This limitation applies to records obtained or prepared in the discharge of an official duty by an employee of the court or the FBI. Exceptions to this rule are set forth below:

- (1) Inquiries from the judge, USA, or defense counsel;
- (2) Inquiries from another court of law;
- (3) Inquiries from an agency preparing a presentence report for another court;
- (4) Inquiries from law enforcement agencies where the request for information is related to the investigation of a crime or a position within that agency;
- (5) Inquiries, in writing, from the director of a treatment agency or the director of a facility to which the juvenile has been committed by the court;
- (6) Inquiries from an agency considering the person for a position immediately and directly affecting the national security; and
- (7) Inquiries from any victim of such juvenile delinquency, or if the victim is deceased from the immediate family of such victim, related to the final disposition of such juvenile by the court.
- (8) Whenever a juvenile has on two separate occasions

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been found guilty of committing an act, which if committed by an adult would be a felony crime of violence or an offense under Title 21, USC, Section 841, 952(a), 955 or 959, or whenever a juvenile has been found guilty of committing a single act after his/her 13th birthday, which if committed by an adult would be an offense under Title 18, USC, Section 113(a)(1), (a)(2), or (a)(3), 1111 or 1113, or, while the juvenile is in possession of a firearm, an offense under Title 18, USC, Section 2111, 2113, 2241(a) or 2241(c), the court shall transmit to the Criminal Justice Information Services Division the information concerning the adjudications, including name, offenses, sentences, court, dates of adjudication and notice that the proceedings were juvenile delinquency adjudications.

The limitations on disclosure apply to any juvenile records in possession of the Bureau, including arrest data, such as fingerprints and photographs. However, the records of a juvenile transferred for adult prosecution, or submitted to the FBI under the circumstances described in subparagraph (8) above, may be disseminated in the manner applicable to adult offenders.

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SECTION 5. THE SPEEDY TRIAL ACT

5-1 GENERAL PROVISIONS

(1) The Speedy Trial Act, Title 18, USC, Sections 3161-3174, governs the time periods under which the government must file formal charges and be prepared to try an accused.

(2) ~~The Act requires that an information or indictment be~~ filed within 30 days from the date on which a person is arrested or served with a criminal summons. If the charge is a felony and no grand jury has been in session during the 30-day period, the time may be extended an additional 30 days.

(3) Upon a not guilty plea, the Speedy Trial Act requires the trial to commence no sooner than 30 days nor later than 70 days from the date of the public filing of the information or indictment or the defendant's first court appearance in the district where the charges are pending, whichever is later. The 70-day period may be extended by periods of excludable delay specified in the statute.

EFFECTIVE: 02/14/97

5-1.1 Sanctions in the Act

The failure to file an information or indictment against an arrested individual within the required period shall result in dismissal of the charge, possibly with prejudice. Failure to bring a defendant to trial within the specified time period will permit a defendant to move to have the indictment or information dismissed. Again, the judge may dismiss with prejudice.

EFFECTIVE: 08/21/87

5-2 EFFECT ON INVESTIGATIVE OPERATIONS

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EFFECTIVE: 08/21/87

5-2.1 Arrest by State Authorities

(1) The arrest of a potential Federal defendant by state or local authorities on state charges does not activate the Act. However, if the state arrest is at the behest of Federal authorities it is likely to be viewed as an attempt to subvert the Act and the time limits would date from the time of the state arrest.

(2) If state authorities make a good faith arrest on state charges and later turn the defendant over to Federal authorities, the statute will begin to run when the state authorities turn the defendant over to Federal custody.

EFFECTIVE: 08/21/87

||5-2.2| Issuance of Search Warrant for the Person

In investigating nonviolent offenses in which suspects can be expected to have evidence on their person (e.g., - gambling matters), consideration should be given to seizing the evidence under the authority of a search warrant rather than incident to the suspect's arrest. The issuance and execution of a search warrant for the person of a suspect does not activate the Act.

EFFECTIVE: 08/21/87

5-3 COMPLIANCE WITH THE ACT

EFFECTIVE: 08/21/87

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5-3.1 Inform U.S. Attorney When Arrest Made

Agents should ensure that the U.S. Attorney is informed promptly of all Bureau arrests. This is to avoid the situation in which a Bureau fugitive or defendant is arrested on or near the last day in which a grand jury is in session. Because the Act requires prompt indictment after arrest, failure to advise the U.S. Attorney about the arrest might result in an inability to present the case to the grand jury within the specified time limits.

EFFECTIVE: 08/21/87

5-3.2 Timely Preparation of Reports

Agents should ensure that reports are complete and promptly submitted to the U.S. Attorney. All significant developments in an investigative matter, such as the unavailability of an essential witness, should be brought to the U.S. Attorney's attention without delay.

EFFECTIVE: 08/21/87

5-3.3 Filing of Complaints

Agents should seek the authority of the U.S. Attorney prior to filing a complaint. Premature arrests of Bureau subjects might unnecessarily invoke the Speedy Trial Act.

EFFECTIVE: 08/21/87

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SECTION 6. COURT APPEARANCE AND TESTIMONY OF AGENTS

6-1 DEPARTMENTAL ORDER, REGULATIONS, AND LEGISLATION

EFFECTIVE: 07/27/81

6-1.1 Production or Disclosure in Federal and State Procedures

Source: Attorney General Order No. 919-80, 45 Fed. Reg. 83210, as codified in Chapter I, Subpart B, Section 16.21 et seq., Title 28, Code of Federal Regulations. This order prescribes procedures with respect to the production or disclosure of material or information in response to subpoenas or demands of courts or other authorities, except Congress, in state and Federal proceedings.

EFFECTIVE: 07/27/81

6-1.2 Chapter I, Part 16, Title 28, Code of Federal Regulations

"Section 16.21 Purpose and Scope.

"(a) This subpart sets forth procedures to be followed with respect to the production or disclosure of any material contained in the files of the Department, any information relating to material contained in the files of the Department, or any information acquired by any person while such person was an employee of the Department as a part of the performance of that person's official duties or because of that person's official status:

"(1) in all federal and state proceedings in which the United States is a party; and

"(2) in all federal and state proceedings in which the United States is not a party, including any proceedings in which the Department is representing a government employee solely in that employee's individual capacity, when a subpoena, order, or other demand (hereinafter collectively referred to as a 'demand') of a court or other authority is issued for such material or information.

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"(b) For purposes of this subpart, the term 'employee of the Department' includes all officers, and employees of the United States appointed by, or subject to the supervision, jurisdiction, or control of the Attorney General of the United States, including U.S. attorneys, U.S. marshals, U.S. trustees and members of the staffs of those officials.

"(c) Nothing in this subpart is intended to impede the appropriate disclosure, in the absence of a demand, of information by Department law enforcement agencies to federal, state, local and foreign law enforcement, prosecutive, or regulatory agencies.

"(d) This subpart is intended only to provide guidance for the internal operations of the Department of Justice, and is not intended to, and does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States.

"Section 16.22 General prohibition of production or disclosure in federal and state proceedings in which the United States is not a party.

"(a) In any federal or state case or matter in which the United States is not a party, no employee or former employee of the Department of Justice shall, in response to a demand, produce any material contained in the files of the Department, or disclose any information relating to or based upon material contained in the files of the Department, or disclose any information or produce any material acquired as part of the performance of that person's official duties or because of that person's official status without prior approval of the proper Department official in accordance with Sections 16.24 and 16.25 of this chapter.

"(b) Whenever a demand is made upon an employee or former employee as described in subsection (a) of this section, the employee shall immediately notify the United States Attorney for the district where the issuing authority is located. The responsible United States attorney shall follow procedures set forth in Section 16.24 of this chapter.

"(c) If oral testimony is sought by a demand in any case or matter in which the United States is not a party, an affidavit, or, if that is not feasible, a statement by the party seeking the testimony or by his attorney, setting forth a summary of the testimony sought and its relevance to the proceeding, must be furnished to the responsible United States attorney. Any authorization for testimony

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by a present or former employee of the Department shall be limited to the scope of the demand as summarized in such statement.

"(d) When information other than oral testimony is sought by a demand, the responsible United States attorney shall request a summary of the information sought and its relevance to the proceeding.

"Section 16.23 General disclosure authority in federal and state proceedings in which the United States is a party.

"(a) Every attorney in the Department of Justice in charge of any case or matter in which the United States is a party is authorized, after consultation with the 'originating component' as defined in Section 16.24(a) of this chapter, to reveal and furnish to any person, including an actual or prospective witness, a grand jury, counsel, or a court, either during or preparatory to a proceeding, such testimony, and relevant unclassified material, documents, or information secured by any attorney, or investigator of the Department of Justice, as such attorney shall deem necessary or desirable to the discharge of the attorney's official duties, provided, such an attorney shall consider, with respect to any disclosure, the factors set forth in Section 16.26(a) of this chapter, and further provided, an attorney shall not reveal or furnish any material, documents, testimony or information when, in the attorney's judgment, any of the factors specified in Section 16.26(b) exists, without the express prior approval by the Assistant Attorney General in charge of the division responsible for the case or proceeding, the Director of the Executive Office for United States Trustees (hereinafter referred to as 'the EOUST'), or such persons' designees.

"(b) An attorney may seek higher level review at any stage of a proceeding, including prior to the issuance of a court order, when the attorney determines that a factor specified in Section 16.26(b) exists or foresees that higher level approval will be required before disclosure of the information or testimony in question. Upon referral of a matter under this subsection, the responsible Assistant Attorney General, the Director of EOUST, or their designees shall follow procedures set forth in Section 16.24 of this chapter.

"(c) If oral testimony is sought by a demand in a case or matter in which the United States is a party, an affidavit, or, if that is not feasible, a statement by the party seeking the testimony or by the party's attorney setting forth a summary of the testimony sought must be furnished to the Department attorney handling the case or matter.

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"Section 16.24 Procedures in the event of a demand where disclosure is not otherwise authorized.

"(a) Whenever a matter is referred under Section 16.22 of this chapter to a United States Attorney or, under Section 16.23 of this chapter, to an Assistant Attorney General, the Director of the EOUST, or their designees (hereinafter collectively referred to as the 'responsible official'), the responsible official shall immediately advise the official in charge of the bureau, division, office, or agency of the Department that was responsible for the collection, assembly, or other preparation of the material demanded or that, at the time the person whose testimony was demanded acquired the information in question, employed such person (hereinafter collectively referred to as the 'originating component'), or that official's designee. In any instance in which the responsible official is also the official in charge of the originating component the responsible official may perform all functions and make all determinations that this regulation vests in the originating component.

"(b) The responsible official, subject to the terms of paragraph (c) of this section, may authorize the appearance and testimony of a present or former Department employee, or the production of material from Department files if:

"(1) there is no objection after inquiry of the originating component;

"(2) the demanded disclosure, in the judgment of the responsible official, is appropriate under the factors specified in Section 16.26(a) of this chapter; and

"(3) none of the factors specified in Section 16.26(b) of this chapter exists with respect to the demanded disclosure.

"(c) It is Department policy that the responsible official shall, following any necessary consultation with the originating component, authorize testimony by a present or former employee of the Department or the production of material from Department files without further authorization from Department officials whenever possible, provided that, when information is collected, assembled, or prepared in connection with litigation or an investigation supervised by a division of the Department or by the EOUST, the Assistant Attorney General in charge of such a division or

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the Director of the EOUST may require that the originating component obtain the division or the EOUST's approval before authorizing a responsible official to disclose such information. Prior to authorizing such testimony or production, however, the responsible official shall, through negotiation and, if necessary, appropriate motions, seek to limit the demand to information, the disclosure of which would not be inconsistent with the considerations specified in Section 16.26 of this chapter.

"(d) (1) In a case in which the United States is not a party, if the responsible U.S. attorney and the originating component disagree with respect to the appropriateness of demanded testimony or of a particular disclosure, or if they agree that such testimony or such a disclosure should not be made, they shall determine if the demand involves information that was collected, assembled, or prepared in connection with litigation or an investigation supervised by a division of this Department or the EOUST. If so, the U.S. attorney shall notify the Director of the EOUST or the Assistant Attorney General in charge of the division responsible for such litigation or investigation, who may:

"(A) authorize personally or through a Deputy Assistant Attorney General, the demanded testimony or other disclosure of the information if such testimony or other disclosure, in the Assistant or Deputy Assistant Attorney General's judgment or in the judgment of the Director of the EOUST, is consistent with the factors specified in Section 16.26(a) of this chapter, and none of the factors specified in Section 16.26(b) of this chapter exists with respect to the demanded disclosure;

"(B) authorize, personally or by a designee, the responsible official, through negotiations and, if necessary, appropriate motions, to seek to limit the demand to matters, the disclosure of which, through testimony or documents, would not be inconsistent with the considerations, specified in Section 16.26 of this chapter, and otherwise to take all appropriate steps to limit the scope or obtain the withdrawal of a demand; or

"(C) if, after all appropriate steps have been taken to limit the scope or obtain the withdrawal of a demand, the Director of the EOUST or the Assistant or Deputy Assistant Attorney General does not authorize the demanded testimony or other disclosure, refer the matter, personally or through a Deputy Assistant Attorney General, for final resolution to the Deputy or Associate Attorney General, as indicated in Section 16.25 of this chapter.

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"(2) If the demand for testimony or other disclosure in such case does not involve information that was collected, assembled, or prepared in connection with litigation or an investigation supervised by a division of this Department, the originating component shall decide whether disclosure is appropriate, except that, when especially significant issues are raised, the responsible official may refer the matter to the Deputy or Associate Attorney General, as indicated in Section 16.25 of this chapter. If the originating component determines that disclosure would not be appropriate and the responsible official does not refer the matter for higher level review, the responsible official shall take all appropriate steps to limit the scope or obtain the withdrawal of a demand.

"(e) In a case in which the United States is a party, the Assistant Attorney General or the Director of the EOUST responsible for the case or matter, or such persons' designees, are authorized, after consultation with the originating component, to exercise the authorities specified in Section 16.24(d) (1) (A)-(C) of this chapter, provided that, if a demand involves information that was collected, assembled, or prepared originally in connection with litigation or an investigation supervised by another unit of the Department, the responsible official shall notify the other division or the EOUST concerning the demand and the anticipated response. If two litigating units of the Department are unable to resolve a disagreement concerning disclosure, the Assistant Attorneys General in charge of the two divisions in disagreement, or the Director of the EOUST and the appropriate Assistant Attorney General, may refer the matter to the Deputy or Associate Attorney General, as indicated in Section 16.25(b) of this chapter.

"(f) In any case or matter in which the responsible official and the originating component agree that it would not be appropriate to authorize testimony or otherwise to disclose the information demanded, even if a court were so to require, no Department attorney responding to the demand should make any representation that implies that the Department would, in fact, comply with the demand if directed to do so by a court. After taking all appropriate steps in such cases to limit the scope or obtain the withdrawal of a demand, the responsible official shall refer the matter to the Deputy or Associate Attorney General, as indicated in Section 16.25 of this chapter.

"(g) In any case or matter in which the Attorney General is personally involved in the claim of privilege, the responsible official may consult with the Attorney General and proceed in accord

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with the Attorney General's instructions without subsequent review by the Deputy or Associate Attorney General.

"Section 16.25 Final action by the Deputy or Associate Attorney General.

"(a) Unless otherwise indicated, all matters to be referred under Section 16.24 by an Assistant Attorney General, the Director of the EOUST, or such person's designees to the Deputy or Associate Attorney General shall be referred (1) to the Deputy Attorney General, if the matter is referred personally by or through the designee of an Assistant Attorney General who is within the general supervision of the Deputy Attorney General, or (2) to the Associate Attorney General, in all other cases.

"(b) All other matters to be referred under Section 16.24 to the Deputy or Associate Attorney General shall be referred (1) to the Deputy Attorney General, if the originating component is within the supervision of the Deputy Attorney General or is an independent agency that, for administrative purposes, is within the Department of Justice, or (2) to the Associate Attorney General, if the originating component is within the supervision of the Associate Attorney General.

"(c) Upon referral, the Deputy or Associate Attorney General shall make the final decision and give notice thereof to the responsible official and such other persons as circumstances may warrant.

"Section 16.26 Considerations in determining whether production or disclosure should be made pursuant to a demand.

"(a) In deciding whether to make disclosures pursuant to a demand, Department officials and attorneys should consider:

"(1) Whether such disclosure is appropriate under the rules of procedure governing the case or matter in which the demand arose, and

"(2) Whether disclosure is appropriate under the relevant substantive law concerning privilege.

"(b) Among the demands in response to which disclosure will not be made by any Department official are those demands with respect to which any of the following factors exist:

"(1) Disclosure would violate a statute, such as the

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income tax laws, 26 U.S.C. 6103 and 7213, or a rule of procedure, such as the grand jury secrecy rule, F.R.Cr.P., Rule 6(e),

"(2) Disclosure would violate a specific regulation;

"(3) Disclosure would reveal classified information, unless appropriately declassified by the originating agency,

"(4) Disclosure would reveal a confidential source or informant, unless the investigative agency and the source or informant have no objection,

"(5) Disclosure would reveal investigatory records compiled for law enforcement purposes, and would interfere with enforcement proceedings or disclose investigative techniques and procedures the effectiveness of which would thereby be impaired,

"(6) Disclosure would improperly reveal trade secrets without the owner's consent.

"(c) In all cases not involving considerations specified in subsections (b) (1)-(6) of this section, the Deputy or Associate Attorney General will authorize disclosure unless, in that person's judgment, after considering subsection (a) of this section, disclosure is unwarranted. The Deputy or Associate Attorney General will not approve disclosure if the circumstances specified in subsection (b) (1)-(3) of this section exist. The Deputy or Associate Attorney General will not approve disclosure if any of the conditions in subsections (b) (4)-(6) of this section exist, unless the Deputy or Associate Attorney General determines that the administration of justice requires disclosure. In this regard, if disclosure is necessary to pursue a civil or criminal prosecution or affirmative relief, such as an injunction, consideration shall be given to:

"(1) the seriousness of the violation or crime involved,

"(2) the past history or criminal record of the violator or accused,

"(3) the importance of the relief sought,

"(4) the importance of the legal issues presented,

"(5) other matters brought to the attention of the Deputy or Associate Attorney General.

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"(d) Assistant Attorneys General, United States attorneys, the Director of the EOUST, United States trustees, and their designees, are authorized to issue instructions to attorneys and to adopt supervisory practices, consistent with this subpart, in order to help foster consistent application of the foregoing standards and the requirements of this subpart.

"Section 16.27 Procedure in the event a Department decision concerning a demand is not made prior to the time a response to the demand is required.

"If response to a demand is required before the instructions from the appropriate Department official are received, the responsible official or other Department attorney designated for the purpose shall appear and furnish the court or other authority with a copy of the regulations contained in this subpart and inform the court or other authority that the demand has been or is being, as the case may be, referred for the prompt consideration of the appropriate Department official and shall respectfully request the court or authority to stay the demand pending receipt of the requested instructions.

"Section 16.28 Procedure in the event of an adverse ruling.

"If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with Section 16.27 of this chapter pending receipt of instructions, or if the court or other authority rules that the demand must be complied with irrespective of instructions rendered in accordance with Sections 16.24 and 16.25 of this chapter not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall, if so directed by the responsible Department official, respectfully decline to comply with the demand. See United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951).

"Section 16.29 Delegation by Assistant Attorneys General.

"With respect to any function that this subpart permits the designee of an Assistant Attorney General to perform, the Assistant Attorneys General are authorized to delegate their authority, in any case or matter or any category of cases or matters, to subordinate division officials or U.S. attorneys, as appropriate."

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It should be noted that the above regulations do not apply to requests for information under either the Freedom of Information or Privacy Acts.

EFFECTIVE: 07/27/81

6-1.3 Exception To Chapter I, Part 16, Title 28, Code of Federal Regulations

(1) Whenever a demand is made upon an employee or former employee of the Department for the production of material, or the disclosure of information pertaining to investigations supervised and/or reviewed by the Civil Rights Division, the employee shall immediately notify the USA for the district from which the demand has been issued. The U.S. Attorney shall immediately contact the Deputy Assistant Attorney General of the Civil Rights Division who shall refer the matter to the appropriate Section Chief for review of the information whose disclosure is sought. If the Section Chief approves a demand for the production of material or disclosure of information, he or she shall so notify the USA and such other persons as circumstances may warrant.

(2) If the Section Chief does not authorize disclosure he or she shall notify the Assistant Attorney General of the Civil Rights Division or a designated Deputy Assistant Attorney General, who may:

(a) Authorize personally the demanded testimony or other disclosure of the information if such testimony or other disclosure, in the Assistant or Deputy Assistant Attorney General's judgment is consistent with the factors specified in 28 C.F.R. Section 16.26(a) of this part and none of the factors specified in 28 C.F.R. Section 16.26(b) exists with respect to the demanded disclosure; or

(b) Authorize negotiations and, if necessary, appropriate motions, to seek to limit the demand to matters, the disclosure of which would not be inconsistent with the considerations specified in 28 C.F.R. Section 16.26, and otherwise to take all appropriate steps to limit the scope or obtain the withdrawal of a demand; or

(c) If, after all appropriate steps have been taken to limit the scope or obtain the withdrawal of a demand, the Assistant or Deputy Assistant Attorney General does not authorize the demanded

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testimony or other disclosure, refer the matter, for final resolution to the Deputy or Associate Attorney General, as indicated in 28 C.F.R. Section 16.25.

EFFECTIVE: 07/27/81

6-1.3.1 Instructions For Handling Demands In Civil Rights Cases

Upon receipt of a demand for production of material, or disclosure of information pertaining to a civil rights investigation, immediately notify the USA for the district in which the demand arose. Notify FBIHQ, Criminal Investigative Division, Attention: Civil Rights Unit, by an appropriate communication of receipt of the demand, the results of your contact with the USA and all pertinent factors you believe appropriate for consideration in reaching a resolution to the demand. A copy of the demand, if possible, should be forwarded with your initial communication. This information will be furnished to the Civil Rights Division (CRD), DOJ, for their final determination which generally will be communicated directly to the USA. You will be notified by FBIHQ of the action taken by the CRD. In all instances, keep FBIHQ appropriately advised of all developments concerning each such demand.

EFFECTIVE: 01/09/84

6-1.4 Jencks Act, Rule 26.2, Federal Rules of Criminal Procedure (FED.R.CRIM.P.)

The Jencks Act, originally enacted in 1957 and contained in Title 18, USC, Section 3500, provides for the production of statements of Government witnesses. The statute was broadened in 1980 and 1983, moved to FED.R.CRIM.P., and now provides that after any witness other than the defendant testifies on direct examination at a pretrial suppression hearing or in a Federal criminal trial, the court, upon motion of a party who did not call the witness, shall order the attorney for the Government or the defendant and his/her attorney, as the case may be, to produce, for the examination and use of the moving party any statement of the witness that is in their possession and that relates to the subject matter concerning which the witness has testified.

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EFFECTIVE: 01/09/84

6-1.4.1 Matter Deemed Irrelevant

The statute affords the Government an opportunity to object to the production of an entire statement if portions do not relate to the testimony of the witness. The court may excise such parts before delivery of the statement to the defendant.

EFFECTIVE: 01/09/84

6-1.4.2 Noncompliance by the Government

If the United States elects not to comply with a production order, the court may strike from the record the testimony of the witness, or may in its discretion declare a mistrial.

EFFECTIVE: 08/16/82

6-1.4.3 Definition of Statement

The term "statement" as used in Rule 26.2, |FED.R.CRIM.P.,| is defined as follows:

(1) A written statement made by the witness and signed or otherwise adopted by him/her;

(2) A stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by the witness and recorded contemporaneously with the making of an oral statement;

(3) A statement, however taken or recorded, or a transcription thereof, if any, made by the witness to a grand jury.

EFFECTIVE: 08/16/82

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6-1.4.4 Review by FBI

Before trial, it is the responsibility of the Agent most familiar with the case to review carefully all statements and reports which are to be delivered to the USA and which may be the subject of a motion under Rule 26.2, FED.R.CRIM.P. If any document contains material which is privileged or confidential, or which might disclose the identity of confidential informants or confidential investigative techniques, this fact should be clearly expressed to the USA in writing.

EFFECTIVE: 08/16/82

6-1.4.5 National Security Cases

Documents having a national security aspect will be reviewed by FBIHQ. The field office will be advised as to what may be delivered to the USA.

EFFECTIVE: 08/16/82

6-1.4.6 Prompt Delivery to the USA

All statements and reports should be delivered to the USA in sufficient time for him/her to review such materials before trial. Any FBI employee directed by the court to deliver these documents should advise that they are in the possession of the USA.

EFFECTIVE: 08/16/82

6-1.4.7 Advice to FBIHQ - Problem Cases

Should it appear that the position taken by the judge, USA, or other person with respect to any phase of the production of documents is of present or potential concern to the Bureau, FBIHQ should be advised under the caption of the case as quickly as the urgency of the matter requires. Such problems include: (1) failure to properly use and safeguard the documents and return them to the FBI when no longer needed for court purposes; (2) any tendency by the USA to produce unnecessary material or failure to advise the court of

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those parts of the documents which should be excised before surrender to the defense; (3) any fact indicating that a defendant who has received statements of prosecution witnesses before they testify has injured or threatened a witness or otherwise attempted to obstruct justice by making the witness unavailable or by making witness change his/her testimony.

EFFECTIVE: 08/21/87

6-1.4.8 Government Agent as Witness

Reports of Government Agents appearing as witnesses in Federal criminal trials, which contain summaries of information given to them by other persons, constitute prior statements made by a witness. To the extent that the reports relate to the Agent-witness' direct testimony, they are producible under Rule 26.2, FED.R.CRIM.P. Thus, where the Agent testifies concerning admissions or other statements made to Agent by a defendant, that part of Agent's report which reflects interview with the defendant, including Agent's own impressions is producible. However, if the same report also reflects statements made by persons other than the defendant, the part dealing with these latter matters should be deleted prior to production, since these are matters about which the Agent will not have testified because of the hearsay rule. This same procedure should be followed if the Agent, who testifies as a witness, is not the Agent who wrote the report, but the report is based upon Agent's notes as well as the notes of the Agent who prepared it and checks it for accuracy before it is submitted. In such cases, the report will be in effect the joint statement of both Agents.

EFFECTIVE: 08/21/87

6-1.4.9 Investigative Notes

Generally an oral statement by a witness is recorded contemporaneously on Form FD-302, and this form will be producible under Rule 26.2, FED.R.CRIM.P., once the witness has testified. In some jurisdictions, the Government may also be required to produce the investigative notes of the Agent who interviewed the witness and prepared the FD-302. Accordingly, Agents are required to retain all interview notes in the 1-A portion of the investigative file. (See also, Legal Handbook for Special Agents, Section 7-13.)

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EFFECTIVE: 08/21/87

6-2 CRIMINAL TRIALS IN BUREAU CASES WHERE BUREAU FILES ARE
SUBPOENAED

EFFECTIVE: 08/21/87

6-2.1 Statements of All Witnesses, Such as FD-302s

(1) These statements are controlled by the USA. (See Paragraph 6-1.4, supra.) Before trial, review all documents of this type pertinent to case and deliver to USA before the trial, except for those having national security aspect. Documents of the latter type will be reviewed at FBIHQ and the field will be advised what may be furnished. In other cases review shall be by SAC, ASAC, or Agent most familiar with the case.

(2) If any document contains material which is privileged or confidential, or which might disclose identity of confidential informant or confidential investigative technique, make that fact known clearly to USA in writing.

(3) Any Bureau witness or employee directed by the court to deliver these documents should courteously advise that they are in the possession of the USA.

(4) Should it appear that the position taken by the judge, USA, or other person with respect to any phase of the production of documents is of present or potential concern to the Bureau, FBIHQ should be advised under the caption of the case as quickly as the urgency of the matter requires. Such problems include: (a) failure to properly use and safeguard the documents and return them to the FBI when no longer needed for court purposes; (b) any tendency by the USA to produce unnecessary material or failure to advise the court of those parts of documents which should be excised before surrender to the defense; (c) any fact indicating that a defendant who has received statements of prosecution witnesses before they testify has injured or threatened a witness or otherwise attempted to obstruct justice by making the witness unavailable or by making witness change his/her testimony.

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EFFECTIVE: 07/14/88

6-2.2 Other Bureau Files, Manuals, Recordings, Etc.

(1) Upon receipt of a demand for other Bureau documents the employee on whom the demand is made will bring it immediately to the attention of the Principal Legal Advisor (PLA), or if absent, to a Legal Advisor for handling. The USA in the district where the demand was issued shall be immediately notified of receipt of the demand.

(2) The PLA is authorized to exercise the responsibilities of the originating component as defined in Paragraph 6-1.2, supra. (See 28 CFR 16.24.) If the PLA concurs with the USA that disclosure of the document(s) subject to the demand should be made and none of the factors cited in Paragraph 6-1.2, supra, (see 28 CFR 16.26 (b)) or other relevant considerations are present, i.e. the Privacy Act, see Paragraph 6-4, infra, no communication with FBIHQ is necessary. Record the response to the demand, together with all documents relating thereto under the 197 classification.

(3) If the PLA disagrees with the USA as to the appropriateness of disclosure, or if both agree that disclosure should not be made, refer the matter to FBIHQ, Office of the General Counsel, by appropriate communication consistent with the exigencies of the circumstances for resolution with the Department of Justice (DOJ). Your communication should set forth in detail the nature of the demand and your objections thereto. Request the USA to appear with the employee on whom the demand is made. If the court declines to defer a ruling until instructions are received from the DOJ, the employee on whom the demand is made shall respectfully decline to produce as set forth in Paragraph 6-1.2, supra. (See 28 CFR Sections 16.27 and 16.28.)

EFFECTIVE: 09/09/94

6-3 AGENT OR EMPLOYEE TESTIMONY GENERALLY: FEDERAL
PROSECUTIONS

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EFFECTIVE: 07/14/88

6-3.1 Subpoena or Request to Testify

On receipt of request from USA or issuance of subpoena for appearance of an Agent from another field office in any Federal case, SAC of office of appearance should direct communication to office of assignment of Agent setting forth all available details. SAC of office to whom Agent is assigned should be satisfied that presence of Agent is necessary and should record SAC's views by notation on incoming communication, or if request is oral, by memorandum to the file. The above also applies to non-Agent employees. (See MAOP, Part II, 2-3.3.1, regarding indexing requirements.)

EFFECTIVE: 07/14/88

6-3.2 Advice to USA

Agents must advise the appropriate USA handling important cases in which statute of limitations will run shortly, or cases of great public interest, of fact that subpoena has been issued and that Agent must comply.

EFFECTIVE: 05/25/90

6-3.3 While Waiting to Testify

If Agent or employee has arrived in field office of testimony but his/her presence is not immediately necessary as a witness, SAC should assign work to him/her provided there is no interference with appearance as witness or departure after testimony.

EFFECTIVE: 05/25/90

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6-3.4 Cooperation of USA

USAs should advise SAC of impending subpoena. Secure USA's cooperation in such matters.

EFFECTIVE: 05/25/90

6-3.5 Agent at Counsel Table

If SAC is satisfied that such action is justified, SAC is authorized to approve request by USA that Agent sit at counsel table during trial. If the request involves an Agent assigned to a field office other than that in which trial occurs, SAC in whose territory trial is being held and who approves request must ensure that SAC to whom Agent is assigned is appropriately advised.

EFFECTIVE: 05/25/90

6-3.6 Delay of Trial

Office of prosecution is responsible for notification when trial is being delayed. Communication advising of delay in trial must specifically state whether Bureau personnel are prospective witnesses. If FBI witness is assigned to FBIHQ, direct communication to appropriate FBIHQ division and state name and title, if known, of witness. Include all information so that action at FBIHQ can be taken without file check or search for previous communications. If witness needed at later date, so state and show date needed, if known. Every communication to Bureau showing a delay in trial of a Bureau case must state the specific reason for the delay.

EFFECTIVE: 05/25/90

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6-3.7 Manner of Testifying

Agent, or other employee testifying, must describe official status with the Federal Bureau of Investigation, such as Special Agent. Give all testimony clearly, modestly, and without bias, prejudice, emotion, exaggeration, or misrepresentation. Speak distinctly so that the court, jury, counsel, and spectators may hear. Avoid testimony not relevant to prosecution. To prevent prejudice to the rights of the accused during the trial, Agents or other employees testifying in the case should avoid unnecessary contact or conversation with jurors or witnesses and should be aware of the possible existence of an order issued by the court prohibiting communications among witnesses during the course of the trial. Such orders, often referred to as sequestration orders, are within the province of a judge, federal or state; and FBI employees must comply with the provisions of such orders in cases in which they are testifying.

EFFECTIVE: 09/11/97

6-3.8 Requests for Documents While Testifying

If documents are those covered by 6-1.4, supra, and are in the hands of USA, courteously advise court that USA has possession. If directed to produce any other Bureau file, report, or official document, refer to and follow instructions set forth in Paragraph 6-2.2, supra.

EFFECTIVE: 05/25/90

6-3.9 Testimony of FBI Laboratory Division Employees

(1) Mark communication concerning witness appearance of these employees for the attention of the appropriate sections of the Laboratory Division.

(2) Under certain circumstances where the expert findings are negative and where funds are available under state, local and Federal criminal codes, the defense may be required to bear the expense for travel and expert witness fees of Laboratory Division

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employees. You should immediately forward any such requests to the appropriate sections of the Laboratory Division.

EFFECTIVE: 09/24/93

6-4 CIVIL TRIALS IN BUREAU CASES

Refer to and follow instructions set forth in Paragraph 6-2.2, supra. The Privacy Act, 5 USC 552a, generally prohibits disclosure of information from FBI records systems about an individual, retrievable by the individual's name or other identifier, to a third party or another agency without the written consent of the individual. 5 USC 552a(b) identifies eleven exceptions to the above nondisclosure rule. The Act contains both civil and criminal penalties for violation thereof. Disclosure to those demands originating with local, state or other Federal law enforcement authorities may be made pursuant to Section 552a(b)(3) of the Act, the "routine use" exception, or they may fall within the Section 552a(b)(7) exception for unconsented disclosure. However, certain demands, primarily those involving civil litigation to which the United States is not a party, will raise Privacy Act considerations where the demand seeks information concerning an individual other than on whose behalf the demand was issued. Although Section 552a(b)(11) of the Act provides for disclosure "pursuant to the order of a court of competent jurisdiction," limited case law and departmental policy state that a subpoena does not meet the requirements of subsection (b)(11) since it is not signed by a judge and is always subject to being quashed or modified by a court. In such circumstances, the Privacy Act considerations will be brought to the attention of the USA with a request that a court order for disclosure be required prior to compliance. If the USA does not concur with this requirement, promptly notify FBIHQ, Office of the General Counsel, for resolution.

EFFECTIVE: 09/09/94

6-5 STATE AND MILITARY CRIMINAL TRIALS

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EFFECTIVE: 08/16/82

6-5.1 Statements of All Witnesses, Such as FD-302s

(1) Department policy concerning requests for production of FD-302s and FBI Laboratory reports in state courts is that such requests will be honored where (a) the document is one which we would be required to produce under Rule 26.2, |FED.R.CRIM.P., |or otherwise if the case were in Federal Court; (b) the document is of a type produced under the law of that state, and (c) no overriding policy consideration, such as national security, opposes granting the request.

(2) Requests of this type may be anticipated where both the Bureau and state or military officers have investigated the same act.

(3) In each case, state and military, the PLA is to advise the USA and handle pursuant to Paragraph 6-2.2, supra. In the event a demand calls for the appearance of the Director, without making provision for an authorized representative as a substitute, developments should be monitored closely and reported as they occur. It is of extreme importance to quash such subpoenas or to arrange for a substitute whenever possible.

EFFECTIVE: 08/16/82

6-5.2 Other Bureau Files, Manuals, Recordings, Etc.

Handle as directed under Paragraph 6-2.2, supra.

EFFECTIVE: 08/16/82

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6-5.3 Agent or Employee Testimony Generally: State, Local,
Military Prosecutions

On receipt of a subpoena, demand, or request for testimony, the employee upon whom the demand is made will promptly notify the PLA, or if absent, a Legal Advisor, of the demand. The USA will be immediately notified of receipt of the demand. If the PLA and the USA agree that disclosure may be made, i.e., none of the factors cited in Paragraph 6-1.2, supra, (see 28 CFR 16.26(b)) or other relevant considerations are present, no communication with FBIHQ is necessary. Record the nature of the testimony furnished by memorandum, together with all documents relating thereto, in the substantive case file from which the demand arose. If the PLA disagrees with the USA as to the appropriateness of disclosure, or if both agree that disclosure should not be made, refer the demand to FBIHQ by appropriate communication consistent with the exigencies of the circumstances for resolution with the Department. Your communication to FBIHQ should set forth in detail the nature of the demand and your objections thereto. Request the USA to appear with the employee on whom the demand is made. If the Court or other authority declines to defer a ruling until instructions are received from the Department, the employee on whom the demand is made shall respectfully decline to testify as set forth in Paragraph 6-2.2, supra.

EFFECTIVE: 08/16/82

6-6 STATE CIVIL TRIALS

Handle requests for both documents and testimony as directed in Paragraphs 6-2.2, 6-4 and 6-5.3, supra.

EFFECTIVE: 08/16/82

6-7 ADMINISTRATIVE HEARINGS AT WHICH DEPARTMENT OF JUSTICE IS
NOT REPRESENTED BY U.S. ATTORNEY OR OTHER ATTORNEY

EFFECTIVE: 08/16/82

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6-7.1 Statements of All Witnesses, Such as FD-302s

Rule 26.2, FED.R.CRIM.P., requires, in part, that statements of witnesses for the prosecution, made to the Government before trial, be made available to the defense for cross-examination after the witness has testified in a criminal case. The Department of Justice has advised, however, that the same practice will be followed in administrative hearings. Except for unusual cases, which should be brought immediately to the attention of FBIHQ, Office of the General Counsel, field offices will take no action until there is an actual demand for the statement of a witness to be used in an administrative hearing. On such demand, take the following action:

(1) Advise requesting agency that question of making these documents available must be resolved with the USA. Advise USA promptly.

(2) Obtain from requesting agency a detailed statement, in nature of witness sheet, showing anticipated testimony of witness on whom FD-302 is requested.

(3) Find in field office files the FD-302 which represents the first recording of witness' report to FBI.

(4) Advise USA of testimony anticipated and of that information contained in the FD-302, if any, which you believe should be excised as irrelevant or privileged.

EFFECTIVE: 09/09/94

6-7.2 Other Documents of Any Kind

| Handle pursuant to Paragraph 6-2.2 supra. |

EFFECTIVE: 07/27/81

6-7.3 Testimony of FBI Personnel

| Follow same procedure as in Paragraph 6-5.3, supra. |

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EFFECTIVE: 07/27/81

6-8 ADMINISTRATIVE HEARINGS AT WHICH DEPARTMENT OF JUSTICE IS
REPRESENTED BY U.S. ATTORNEY OR OTHER ATTORNEY

EFFECTIVE: 07/27/81

6-8.1 Statements of All Witnesses, Such as FD-302s

| Handle pursuant to Paragraph 6-2.2, supra. |

EFFECTIVE: 07/27/81

6-8.2 Other Documents of Any Kind

| Handle pursuant to Paragraph 6-2.2, supra. |

EFFECTIVE: 07/27/81

6-8.3 Testimony of FBI Personnel

| Handle pursuant to Paragraph 6-5.3, supra. |

EFFECTIVE: 07/27/81

6-9 HABEAS CORPUS PROCEEDINGS IN FBI CASES

EFFECTIVE: 07/27/81

| 6-9.1 | Deleted |

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EFFECTIVE: 07/27/81

6-9.2 Responsibility of SAC

It is the responsibility of each SAC to insure immediate notification of his office regarding the filing of habeas corpus proceedings in cases investigated by the FBI. Where such proceedings are filed, FBIHQ must be immediately advised of all pertinent facts and developments. Copies of petitions for writs of habeas corpus and other pleadings and briefs in such proceedings must be immediately obtained and forwarded to FBIHQ. It is the responsibility of each SAC to take appropriate action to insure the complete refutation of all false allegations of mistreatment, misconduct, or otherwise on the part of Agents which may be raised in such proceedings. The official court records in each instance must clearly show a thorough and complete refutation of such false allegations.

EFFECTIVE: 07/27/81

6-9.3 Refutation of False Allegations

Whenever, during the course of a trial in either Federal or state courts, derogatory statements or false allegations of misconduct, brutality, or other illegal treatment are made against Agents of the FBI, immediate steps are to be taken by the Agents present through the U.S. Attorney or state prosecutor to ensure a complete refutation on the official court record of such false statements or allegations. Agents in attendance at such trials should immediately advise the SAC of the field office where the case is being tried of the facts concerning such derogatory statements and false allegations. It is the responsibility of the SAC to determine and ensure that all false statements and allegations are adequately refuted on the official court records and to promptly advise FBIHQ of all pertinent facts and circumstances.

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6-10 OTHER TRIALS AND HEARINGS

If testimony or documents are subpoenaed or requested for any trial or hearing of a type different from those listed above, such as a Federal trial for a criminal offense within the jurisdiction of another agency, advise USA promptly and adapt from instructions above the procedures appropriate to the case. If in doubt, consult Office of the General Counsel, FBIHQ.

EFFECTIVE: 09/09/94

6-11 OTHER REQUESTS - MISCELLANEOUS

When a request for information from Bureau files is received through a medium other than a court order or a subpoena, the person or organization requesting information from FBI files should be informed that Bureau files are confidential and information contained therein can be disclosed only pursuant to regulations of the Attorney General. The provisions of Attorney General Order No. 919-80 do not prohibit the dissemination of information gathered by the FBI to other concerned law enforcement, prosecutive, or regulatory agencies. (See Paragraph 6-1.2, supra.)

EFFECTIVE: 05/26/89

6-12 SUBPOENAS DIRECTED TO FBIHQ

(1) Under ordinary circumstances, subpoenas directed to FBIHQ, including those addressed to the Director by name or title and those addressed to other FBIHQ personnel, will be delivered by Deputy U.S. Marshal to the Washington Metropolitan Field Office (WMFO). Where subpoenas are accepted, immediately notify the interested division and Office of the General Counsel at FBIHQ so appropriate action may be taken. Where the Director is sued in his individual capacity in a civil action, and such civil action alleges matters arising out of his official conduct as Director of the FBI, the General Counsel - Office of the General Counsel has been authorized by appointment to accept service on behalf of the Director.

(2) If a subpoena is delivered to FBIHQ rather than WMFO, subpoena is accepted by Office of the General Counsel.

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(3) Subpoenas from Congressional Committees are accepted by WMFO if served there, or by Office of the General Counsel if served at FBIHQ. In either event, the division having jurisdiction of subject matter takes immediate action to secure facts and refers the matter with any necessary recommendations to the Attorney General or Deputy Attorney General.

(4) No supervisor shall accept a subpoena calling for appearance of a field office employee in a court proceeding. Should a Deputy U.S. Marshal attempt to leave a subpoena for such an employee, advise him/her of the office to which the employee is presently assigned.

EFFECTIVE: 09/09/94

6-13 OTHER CONTACTS WITH JUDICIAL OFFICIALS REGARDING PENDING CASES

Occasionally the FBI will obtain information regarding a case in litigation which should be brought to the attention of the court in which the case is pending. Examples include allegations regarding jury tampering, perjury and coercion of a witness. When this is required, care should be taken that it be accomplished in a way which avoids any appearance that the FBI is attempting to improperly influence the administration of justice. If at all possible, a Government attorney should convey the information to the court. If the case is in Federal court, the appropriate attorney would normally be from the local USA's office. If the case is pending in state court, then a local prosecutor should probably be utilized to convey the information, but the action should still be coordinated with the USA's office. In no event should FBI employees have contact with court personnel regarding a pending case unless a Government attorney is present. If for any reason it is believed that the above instructions cannot or should not be complied with, FBIHQ should be contacted for guidance.

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6-14 BRIEFING MATERIAL PREPARED FOR PRESENTATION OUTSIDE THE
FBI

Briefing material prepared for presentation outside the FBI or testimony by Bureau officials should include the name and initials of the senior Bureau official approving the material and the date it was prepared. Additionally, divisions responsible for the preparation of the material are required to maintain records reflecting the source of the information used in the preparation of the briefing material and the names of the individuals who drafted the material.

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SECTION 7. INTERVIEWS

7-1 USE OF CREDENTIALS FOR IDENTIFICATION | (See Legal Handbook
for Special Agents, 7-17.) |

Credentials shall be exhibited to all persons interviewed
by Special Agents so there will be no doubt concerning the
organization with which they are connected.

EFFECTIVE: 01/30/97

7-2 THOROUGHNESS, PRECAUTIONS, TELEPHONIC AND USE OF
INTERPRETERS

EFFECTIVE: 01/08/79

7-2.1 Thoroughness and Precautions During Interviews | (See
LHBSA, 7-2.1.) |

(1) When interviewing subjects and suspects,
consideration should be given to including questions as to the
knowledge on the part of the interviewee of previous crimes of a type
similar to the one currently being investigated. The objective is to
develop information concerning other unsolved violations.

(2) In the interrogation of subjects and suspects of
Bureau investigations, all Agents should be most meticulous not to
DISCLOSE DIRECTLY OR INDIRECTLY CONFIDENTIAL INFORMANTS OR
CONFIDENTIAL SOURCES OF INFORMATION. Questions or references to
papers and files may enable an intelligent subject to fix the source
of our information.

(3) During an interview with a witness, suspect, or
subject, Agents should under no circumstances state or imply that
public sentiment or hostility exists toward such person. If, during
an interview with a witness, suspect, or subject, questions are raised

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by such persons, or if anything transpires which gives reasonable grounds to believe that subsequently such questions or incident may be used by someone in an effort to place an Agent or the Bureau in an unfavorable light, an electronic communication regarding such questions or incident should be immediately prepared for the SAC. The SAC is responsible for promptly advising FBIHQ and the USA of such questions or incident and FBIHQ must be promptly informed of all developments.

(4) Agents are not acting as practicing attorneys and under no circumstances should legal advice be given or an attempt made to answer legal questions. Agents who are attorneys should not deliberately make known their legal training. If an Agent who is an attorney is questioned regarding his/her legal training, Agent should state that he/she is an attorney but that he/she is not in a position to give legal advice or answer legal questions. Agents should not interview subjects, subsequent to the initial interview, to determine what plea subject will make on arraignment. If a USA should make such a request, USA should be informed of FBIHQ instructions.

EFFECTIVE: 12/20/96

7-2.2 Telephone Interviews

Interviews and investigations by telephone are highly undesirable. However, in those few instances in which a substantial saving of time would be effected and the necessary information can be fully obtained, the use of the telephone may be justified. The SAC must personally approve the use of the telephone to conduct interviews and investigations in every instance.

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7-2.3 Use of Interpreters

When subjects cannot converse in English adequately, make arrangements to have interpreter present. Use Bureau personnel if available in same or adjacent office. Otherwise, qualified interpreters from other U.S. intelligence or enforcement agencies may be used. If none of foregoing available, consider use of sponsor or close relative of subject for exploratory interview, leaving way open for reinterview with qualified interpreter if all questions cannot be resolved. If qualified interpreter is necessary and is not available, request FBIHQ assistance.

EFFECTIVE: 01/08/79

7-3 REQUIRING FBIHQ AUTHORITY

FBIHQ authority to interview is required before interviews are conducted in the following instances:

- (1) The individual to be interviewed is prominent and/or controversial and suspected of a crime and/or the investigation may receive extensive media coverage.
- (2) The individual is an employee of the news media who is suspected of a crime arising out of the coverage of a news story or while engaged in the performance of his/her duties as an employee of the news media. Attorney General authority is also needed. (See MAOP, Part II, 5-7, for further information.)
- (3) Refer to FCIM, Part I, 0-2.5 for FCI investigations.
- (4) In other matters, the need for FBIHQ authority is set forth in the guidelines dealing with a particular type of case.
- (5) Whenever a question arises as to whether or not FBIHQ authority must be obtained prior to an interview, it should be resolved in favor of contacting FBIHQ.

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7-4 ONE VS TWO AGENT INTERVIEW OF SECURITY SUBJECT

Safety, security, sensitivity and good judgment are considerations in evaluating necessity for two Agents to conduct interview of any subject in all types of security investigations. SACs have responsibility and option of deciding when two Agents should be present during any interview of this nature. Safety of Specials Agents should be first priority in any evaluation in this regard.

EFFECTIVE: 01/08/79

7-5 EVALUATION OF AN INTERVIEW

An interview cannot be considered thorough unless the account thereof shows the basis for allegations or other pertinent information furnished by the source during the interview. Only with the benefit of these important details can the information be fully and properly evaluated. Statements or allegations may not be accepted without inquiring of the source as to how source acquired such information, or as to the basis for beliefs or opinions he/she might express. If his/her information is based on hearsay, an effort must be made to identify the original source and to interview that source if feasible to do so. In this regard, consideration must be given to protection of the identity of confidential Bureau informants or sources when necessary. When details as to the basis for allegations made or the identity of original sources if disseminated outside the FBI would tend to reveal the identity of an individual whose identity should be protected, that fact should be called to attention and those details furnished by cover page(s). For example, A furnishes the New York Office pertinent information, orally or in writing, which A said he/she received from B. The body of New York's report must clearly show that A cannot personally attest to the accuracy of the information, but that he/she received it from another individual; however, B should not be named in the body of a report unless the New York Office knows there is no objection to the disclosure of B's name. Whether B is identified by name or not, the body of the report must contain any available description of B to permit an evaluation of the information being reported. These requirements are applicable to interviews of all types, including established FBI sources or informants, subjects, suspects, and witnesses, and to all types of Bureau investigations. Written statements by informants are not to be considered an exception. The basis for statements attributed to established sources and confidential informants need not be set out in investigative reports provided informants' statements or

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channelizing|electronic communications|specifically show the information is based on personal knowledge of the informant. If it is not of informant's personal knowledge, the investigative report must show the basis for informant's statements. Any deviation from these requirements should be called to FBIHQ's attention and fully justified. Failure to comply without sufficient justification will be considered a substantive error for which administrative action will be considered.

EFFECTIVE: 12/20/96

7-6 INTERVIEWING COMPLAINANTS AND SUBJECTS OF CRIMINAL INVESTIGATIONS

EFFECTIVE: 10/23/86

7-6.1 Interviews of Complainants

(1) Complainants who have transmitted information to FBIHQ by letter and who have been advised that they would be interviewed in the field must be interviewed promptly and appropriate advice submitted to FBIHQ. Delay in handling the interview must be reported to FBIHQ.

(2) Complainants who have communicated with field offices must be interviewed promptly when they have been advised that an Agent would interview them.

EFFECTIVE: 10/23/86

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7-6.2 Subjects of Criminal Investigations

(1) In interviews with subjects and suspects, consideration is to be given to the solution of crimes other than the one which is presently being investigated.

(2) In such interviews, the disclosure of the identity of confidential informants and confidential sources of information must be avoided.

(3) In interviewing subjects of criminal investigations where the possibility exists the subject may have evaded payment of income taxes or there is an apparent irregularity relating to the payment of income taxes, consideration should be given to inquiring of the subject as to whether he/she filed an income tax return for the pertinent period and where it was filed. Such an inquiry should not be made where there is a possibility that it will prejudice our case. If any information of interest to the Internal Revenue Service, Treasury Department, is obtained as a result of such an inquiry, it should be promptly referred to the local office of the Internal Revenue Service, and to FBIHQ in a form suitable for dissemination.

EFFECTIVE: 10/23/86

7-7 DEVELOPMENT OF DEROGATORY INFORMATION DURING INTERVIEWS

Derogatory data developed through interviews of witnesses and other sources must be completely approved or disproved and accurately and factually established as applicable to the person under investigation. The danger of relying upon information obtained from one source is obvious and vigorous steps must be taken to further develop such cases through evidence obtained through other sources and from various investigative techniques. Beware of being misled by circumstantial evidence and guard against incomplete interviews or overeager witnesses who deviate from telling what they actually know to what they erroneously feel the FBI is desirous of obtaining.

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7-8 IDENTIFICATION OF SUSPECTS

Identification of suspects by witnesses interviewed should be in crystal-clear, unmistakable language, showing exact basis for such identification, and corroboration should be developed for same wherever possible. Make certain that when suspects are identified in a lineup the identification is from independent knowledge and recollection of the facts by the witnesses, and not from the witnesses' mere association with the suspect with a photograph of the suspect previously exhibited to the witnesses. There is no "margin of error" allowed the FBI for mistaken identifications. Obtain a signed statement whenever it is possible in those instances in which a witness, who would or could subsequently testify, makes a positive identification of a subject from a photograph or by personal observation. Investigators may wish to utilize Form FD-747, Photo Spread Folder, to display the photographs. If witness refuses to provide a signed statement, so indicate in the report.

EFFECTIVE: 02/20/90

7-9 INTERVIEWS INVOLVING OR RELATING TO COMPLAINTS

EFFECTIVE: 02/20/90

7-9.1 Complaints Received at the Field Office

Complaints must be handled by the SAC, ASAC, or supervisory staff in all offices which do not have an authorized complaint desk. If the information in the complaint will result in publicity or if FBIHQ may be interested, FBIHQ should be advised promptly.

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7-9.2 Complaints in Person or by Telephone

(1) The employee receiving the complaint must complete Form FD-71 immediately. However, the preparation of the complaint form is not necessary in those instances in which, immediately upon receipt of the complaint, an electronic communication (EC) is sent out the same day to another field office or FBIHQ setting forth the essential facts of the complaint. FD-71 is a letter-size preinserted carbon white form or an FD-71 macro made up so that the name and aliases of the subject, address, character, name of the complainant, address, phone number, personal or telephonic, date and time, subject's description, facts, and name of employee receiving the complaint can be entered and the results of the indices check can be shown.

(2) The index must be checked immediately regarding names of complainant (unless complainant is a known or established source) and subject. The SAC must indicate action to be taken. Proper consideration must be given to all persons who contact field offices either telephonically or personally whether as complainants or visitors. Such contacts must be handled courteously and promptly and there must not be any improper, indifferent, or arrogant treatment of such contacts.

EFFECTIVE: 06/12/97

7-9.3 Complaints By Letter

(1) Concerning a matter not within the jurisdiction of the FBI but within the jurisdiction of some other Federal investigating agency, acknowledge the letter of the complainant to the proper agency. (Form FD-342 may be used to transmit anonymous letters.) If complaint concerns a matter handled by Department of Labor under Labor-Management Reporting and Disclosure Act 1959, advise complainant in acknowledgement that the matter has been referred to the USA for appropriate action. Immediately upon referral to USA include information in an LHM and forward to FBIHQ.

(2) Incoming communications must be acknowledged promptly, except where SAC deems otherwise.

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EFFECTIVE: 01/31/78

7-9.4 Complaints Critical of the FBI or Its Employees

(1) Complaints received critical of employees or the FBI must be thoroughly investigated and promptly reported to FBIHQ.

(2) Upon receipt of a critical complaint about the FBI from a public official which necessitates an inquiry to ascertain the facts prior to acknowledging the communication, the SAC, or in his absence whoever is acting for him, must promptly call the public official, acknowledge receipt of the communication, state that a prompt inquiry is being initiated to ascertain the facts, and that as soon as all the facts are secured the SAC will be in touch with the complainant. If there is any question in the mind of the SAC, or whoever is acting for him, as to the propriety of this, immediately communicate with the appropriate official of FBIHQ so that the matter can be resolved.

EFFECTIVE: 01/31/78

7-9.5 Legal Requirements of the Privacy Act of 1974 (Title 5, USC, Section 552a)

When conducting an interview for any purpose, the interviewing Agent must always bear in mind the provisions of the Privacy Act, i.e., information collected must be: (1) relevant and necessary to accomplish a purpose of the Bureau; (2) authorized to be accomplished by statute or Executive Order of the President (or by the Constitution).

Additionally, the information collected must be accurate, relevant, timely, and complete; and, if describing how an individual exercises a right guaranteed by the First Amendment to the Constitution, the collection and maintenance of the information must be pertinent to and within the scope of an authorized law enforcement activity.

For a more detailed explanation of these provisions, refer to Section 190-5 of this Manual.

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SECTION 8. DESCRIPTIONS OF PERSONS

8-1 POLICY FOR DESCRIPTION OF PERSONS

(1) The best available descriptions of all subjects, suspects and all victims shall be included in the first reports written after the descriptions are obtained, and supplemented later. When a subject, suspect or victim is interviewed, a complete description must be obtained and recorded. No word or phrase is to be used in descriptions in any report or communication which can be regarded as objectionable or offensive by any race, creed, or religious sect. The following or similar phrases should not be used: "Jewish Accent," "Polish Jew," "Irish Catholic," "English Methodist," etc.

(2) There are three possible ways in which Agents may obtain physical descriptions:

(a) From the records of other agencies.

(b) From personal observation and/or interview of the person. Where possible, a description should always be obtained.

(c) From other individuals who know or have seen the person. Considerable assistance can be given to individuals in obtaining descriptions from them by one thoroughly familiar with all the items to be considered in compiling a physical description.

EFFECTIVE: 05/28/85

8-1.1 Specific Descriptive Items

EFFECTIVE: 05/28/85

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8-1.1.1 Names and Aliases

(1) The person should be asked |his/her| full name, first, middle and last, and requested to spell each name completely.

(2) The person should be asked if |he/she| has ever been known under any other name.

(3) Initials are not generally considered as aliases unless the circumstances of a particular case so indicate.

(4) All nicknames should be obtained and included.

EFFECTIVE: 05/28/85

8-1.1.2 Sex

The sex of the person described should always be designated as certain names carry both a feminine and masculine connotation.

EFFECTIVE: 05/28/85

8-1.1.3 Race

EFFECTIVE: 05/28/85

8-1.1.4 Age

(1) The date and place of birth should be obtained.

(2) If not obtained from the person described, it may be obtained from state records, baptismal records, family Bibles, etc.

EFFECTIVE: 05/28/85

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8-1.1.5 Residences

- (1) The present address of the person should be obtained.
- (2) Obtain former residences and approximate dates in connection therewith.
- (3) If no present address indicated, the residence most regularly frequented; e.g., father's address.

EFFECTIVE: 05/28/85

8-1.1.6 Height

The most accurate method of obtaining height is from actual measurement. However, in many instances this method is not possible. In this case an approximate height of person will suffice.

EFFECTIVE: 01/31/78

8-1.1.7 Weight

(1) If available, the person should be weighed and appropriate consideration should be given to allow for clothing. In the absence of being able to weigh the person, an approximate weight should be included in the description.

EFFECTIVE: 01/31/78

8-1.1.8 Build

Extra large, large, medium, slender, stocky, short, heavy, obese, etc.

EFFECTIVE: 01/31/78

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8-1.1.9 Hair

(1) Color: Black, brown (dark, medium, light, chestnut), red (auburn, carrot top), sandy, blond, grey (iron grey, mixed grey, silver), white.

(2) Texture: Fine, coarse, kinky, curly, wavy, straight.

(3) Quantity: Thick, thin, bald (describe type of).

(4) Style: Parted on left, right or middle, pompadour, unkept, Afro, etc.

(5) Hairline: Pointed, straight, rounded.

EFFECTIVE: 01/31/78

8-1.1.10 Forehead

(1) Slope (profile view): Receding, medium, vertical, prominent or bulging.

(2) Height: Low, medium, high.

(3) Width: Narrow, medium, wide.

(4) Peculiarities: Wrinkles (horizontal, vertical, or combined).

EFFECTIVE: 01/31/78

8-1.1.11 Eyes

(1) Color: Blue, grey, hazel, green, brown, maroon, black.

(2) Size: Small, large.

(3) Peculiarities: Protruding, sunken, shortsighted, squinted, blinking, cross-eyed, wide set, close set, long lashes, cataract, watery, bloodshot, whites discolored, scars on whites of eyes, wears glasses, or contact lenses.

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(4) Eyebrows: Color differs from hair, heavy, arched, united, oblique upward, oblique downward.

EFFECTIVE: 01/31/78

8-1.1.12 Nose

(1) Line (profile): Straight, concave, hooked, Roman, sinuous.

(2) Base: Horizontal, upward, downward.

(3) Projection: Small, medium, large.

(4) Length: Short, medium, long.

(5) Bridge curve: Flat, medium, recessed or deep.

(6) Width of bridge: Wide, medium, narrow.

(7) Width of base: Wide, medium, narrow.

(8) Peculiarities: Crushed, twisted, dilated nostrils, pointed, bulbous.

EFFECTIVE: 01/31/78

8-1.1.13 Mouth

(1) Size: Wide, medium, narrow.

(2) Shape: Habitually open, corners elevated or depressed, tightly closed.

(3) Lips: Long upper, short upper, thin, thick, upper prominent, lower prominent or pendent, pouting.

EFFECTIVE: 01/31/78

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8-1.1.14 Chin

(1) Profile view: Projecting or prominent, receding, vertical, pointed, long, short, double chin, flabby throat.

(2) Front view: Wide, square, round, dimple, cleft, bulbous.

EFFECTIVE: 01/31/78

8-1.1.15 Teeth

Protruding upper or lower, irregular, gold visible, some missing, stained, decayed, false, buck.

EFFECTIVE: 01/31/78

8-1.1.16 Ears

(1) Size: Large, medium, small.

(2) Shape: Rectangular, oval, round, triangular.

(3) Position on head: Low or high.

(4) Slope (profile): Vertical, receding.

(5) Slope (full-faced): Protruding, medium close set.

(6) Upper rim: Large, small, medium, flat.

(7) Lower rim: Large, small, medium, flat.

(8) Lobe: Long, medium, short, wide, pointed, rounded, descending, no lobes or squared.

EFFECTIVE: 01/31/78

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8-1.1.17 Neck

Short, long, thin, thick, prominent Adam's apple, goiter, prominent jaws.

EFFECTIVE: 01/31/78

8-1.1.18 Head

(1) Shape: Area above ears large, area above ears small, back of head bulges, back of head flat, top of head flat, top of head pointed, small for body, large for body.

(2) Angle: Holds head to the right or to the left, forward or backward.

EFFECTIVE: 01/31/78

8-1.1.19 Face

(1) Complexion: Pale, fair, medium, dark, light brown, medium brown, dark brown, sallow, ruddy, pock-marked, pimpled, freckled, weather-beaten, swarthy, tanned.

(2) Shape: Round, square, oval, long, broad, heart-shaped, prominent cheek bones, sunken cheeks, flabby, drawn, bony.

(3) Expression: Meditative, dull, nervous, stern, scheming, smiling, suffering, frightened, sad, distorted, innocent, vivacious.

EFFECTIVE: 01/31/78

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8-1.1.20 Voice

- (1) Quantity: Soft, low, loud, harsh.
- (2) Quality: Refined, vulgar, foreign accent, lisp, stuttering, stammering, throaty, husky, southern accent, effeminate.
- (3) Rate of speech: Rapid, slow, precise.

EFFECTIVE: 01/31/78

8-1.1.21 Legs and Hands

Short, medium, long, skinny, fat, straight, knock-kneed, bowlegged, right or left handed, amputee, etc.

EFFECTIVE: 01/31/78

8-1.1.22 Gait

Trudging, energetic, swaying, light, graceful, calm and leisurely, long steps, short steps, stiff, pigeon-toed, waddles, slew-footed, clubfooted.

EFFECTIVE: 01/31/78

8-1.1.23 Education

Illiterate, noticeably poor English, noticeably good English, grammar school, high school, business school, night school, college, apparently well-educated.

EFFECTIVE: 01/31/78

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8-1.1.24 Scars

(1) Scars, particularly on the face and hands, should be fully described as to location, shape, size, and color.

(2) Moles, warts, cysts, blackheads, tattoos.

EFFECTIVE: 01/31/78

8-1.1.25 Peculiarities

(1) Peculiarities of any type are most important in the description of persons.

(2) Peculiarities, such as mannerisms, habits, impressions, regardless of how seemingly unimportant should be included.

(3) The following should be considered under peculiarities: senile, invalid, paralytic, feeble-minded, deaf, dumb, totally blind, deformities, amputations.

EFFECTIVE: 01/31/78

8-1.1.26 Occupation

The specific occupation should be stated in all instances.

EFFECTIVE: 01/31/78

8-1.1.27 Marital Status

(1) The status of a person should be stated as married, single, divorced, separated, widow, widower, or common-law.

(2) If married, the full and complete name of the wife, including the maiden name, should be set forth when known.

(3) Information as to the date and place of the marriage, including the name of the minister who performed the ceremony, should

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be included if possible.

(4) If divorced, the time, place, and the grounds should be obtained.

EFFECTIVE: 01/31/78

8-1.1.28 Close Relatives

(1) The names and addresses of close relatives should be obtained when possible. Close relatives are parents, spouse, brothers and sisters, and adult offspring. Special instances, such as more distant relatives who occupy same residence as applicant, will require broadening of this definition.

(2) Where pertinent, list close friends and associates.

EFFECTIVE: 01/31/78

8-1.1.29 Nationality

(1) The nationality or extraction of the individual being described may sometimes be very important.

(2) The country of birth should be obtained.

EFFECTIVE: 01/31/78

8-1.1.30 Fingerprint Classification

This should be set forth whenever known.

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8-1.1.31 FBI or Police Number

These numbers should be set forth whenever they are available.

EFFECTIVE: 01/31/78

8-1.1.32 Social Security Number

This number should be included when available. (See MIOG, I, 190-8.1(2).

EFFECTIVE: 01/31/78

8-1.1.33 Other Identifying Numbers

Alien registration number, military service number, driver's license number, etc., should be set forth when known.

EFFECTIVE: 01/31/78

8-1.1.34 Identification Record Showing Source

The source for descriptive data will be furnished, if necessary, for clarification, such as former address which only sets forth street and city or state. The source which furnished the fingerprint, for example, Police Department, Albany, N.Y., will be identified and, if additional clarification is necessary, that agency can be contacted.

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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)

(b)(7)(A)

(d)(5)

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(b)(7)(B)

(j)(2)

(b)(3)

(b)(7)(C)

(k)(1)

(b)(7)(D)

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(b)(5)

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- 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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SECTION 10. RECORDS AVAILABLE AND INVESTIGATIVE TECHNIQUES

10-1 INTRODUCTION

(1) The following information is being provided as a reference for investigative personnel seeking additional data and/or the location of individuals who are the subjects of FBI investigations. This information is presented in two parts, Records Available and Investigative Techniques.

(a) Records Available are those documents which may assist in either compiling a necessary profile (either of a group, an individual or a business enterprise), or will assist in locating subjects, suspects, witnesses or victims.

(b) An Investigative Technique is a method by which an activity is conducted (Title III) or information placed (stop notice) which may aid in the identification or location of a subject or in the gathering of evidence.

(2) The use of any of these records or investigative techniques must be in accord with legal and ethical investigative procedures. In many cases, the obtaining of records or use of an investigative technique must be authorized by the SAC, Department of Justice, Attorney General or court order. If any doubt exists as to what the correct procedure is, the appropriate supervisory personnel must be consulted. It should be additionally noted that the information contained in this section is not all-inclusive regarding records or investigative techniques available.

(3) As the various items appear, there will be either a reference to another section in this manual or to another manual, an explanation of what the technique is or simply a listing of the record. Additional record information is available in Part II, Section 19 of this manual titled, "Location of Other Government, Industrial, and Organizational Records."

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10-2 RECORDS AVAILABLE

[REDACTED]
Biographic Directories
[REDACTED]
[REDACTED]

City Directory
Closed and Pending Files
Court System
[REDACTED]

Department of Veterans Affairs
[REDACTED]

Field Office Special Services List
[REDACTED]
[REDACTED]

Government Agencies
[REDACTED]

Identification Records (FD-9)
[REDACTED]

Interstate Identification Index
[REDACTED]

Maps

Marriage Records

Merchant Marine

Military Departments

Motor Vehicle Department
[REDACTED]

National Auto Theft Bureau

Newspaper Library
[REDACTED]

PD Checks
[REDACTED]
[REDACTED]

Probation and Parole Offices

Public Libraries
[REDACTED]
[REDACTED]

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Schools and Colleges
Social Security Records
Sources of Information Index
Street Guide
Surveillances

Telephone Directory

Unemployment Agencies, Federal and State

b2, b7E

Voter Records

EFFECTIVE: 05/25/90

10-3 INVESTIGATIVE TECHNIQUES (See MIOG, Part II, 21-23
(25).)

Artist Conceptions	see MIOG, Part II, 13-24
Crime Scene Searches	see MIOG, Part II, 13-6.4
Check Circulars	see MIOG, Part II, 21-25
Circular Letters	see MIOG, Part II, 21-24
Computer Assistance or Automatic Data Processing	see MIOG, Part II, 10-4
Interstate Identification Index (III)	see MIOG, Part II, 10-5
Consensual Monitoring	see MIOG, Part II, 10-10
Electronic Surveillance (ELSUR)	see MIOG, Part II, 10-9
Evidence -	
Racketeering Records Analysis	see MIOG, Part II, 13-20
Collection, Identification and Preservation of Physical Evidence	see MIOG, Part II, 13-6.4.7

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Collection of Evidence in Rape Cases see MIOG, Part II, 13-8.2.5

Fluorescent Powders and Other Marking Materials see MIOG, Part II, 13-15.2

Plastic Cast Impression of Stamped Numbers in Metal see MIOG, Part II, 13-13.3.1

Restoration of Obliterated Markings see MIOG, Part II, 13-14.2

(10)

Shoe/Tire Tread Cast and Lifts see MIOG, Part II, 13-19

Hypnosis see MIOG, Part II, 10-12

Identification Orders see MIOG, Part II, 21-25

Informants see MIOG, Part I, 137

Investigative Information Services Data Bases For Use In Investigations see MIOG, Part II, 10-17

Mail Covers see MIOG, Part II, 10-6

National Crime Information Center see MAOP, Part II, 7

Pen Registers see MIOG, Part II, 10-10.7

Photographic Examinations see MIOG, Part II, 13-7.6

Photographic Surveillances see MIOG, Part II, 13-7.5

Polygraph Examinations see MIOG, Part II, 13-22

Stop Notices see MIOG, Part II, 10-7

Surveillance Techniques see MIOG, Part II, 9

Telephone Toll Records see MIOG, Part II, 10-8

Title III Coverage see MIOG, Part II, 10-9.10

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Criminal Matters	see MIOG, Part II, 10-11
Wanted Flyers	see MIOG, Part II, 21-25
Wanted or Flash Notices on Fingerprint Cards	see MIOG, Part II, 14-15.5

EFFECTIVE: 07/25/97

10-4 COMPUTER ASSISTANCE OR AUTOMATIC DATA PROCESSING (See
MIOG, Part II, 10-3.)

The Investigative Automation Support Section of the Information Resources Division assists the field in investigative matters: (1) involving computer or data processing personnel; (2) where there are voluminous records that require sequencing, comparison or calculations; (3) requiring assistance in the wording of subpoenas for computer records; or search warrants for searching of computer installations, etc. More detailed information regarding computer services available to you is set forth in Part II, 16-10, of this manual.

EFFECTIVE: 06/01/94

10-5 INTERSTATE IDENTIFICATION INDEX (III) (See MIOG, Part II,
10-3; MAOP, Part II, 7-4.1.)

(1) The III allows on-line accessibility of criminal arrest records through the use of your NCIC computer terminal. The III maintains index records which contain personal descriptive data of the subject of the criminal history record. The location of the data base(s) which stores the criminal history record is also part of the Index. Records available through the III include: subjects arrested with dates of birth 1956 or later and all individuals arrested for the first time on or after 7/1/74, regardless of their dates of birth and selected older records converted to the automated system for certain fugitives and repeat offenders.

(2) Detailed instructions for conducting name searches

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and record retrievals are set forth in Part 10 of the NCIC OPERATING MANUAL. The state control terminal officer within your state can respond to any questions or problems you might have concerning the operation of your NCIC computer terminal.

(3) All field offices are encouraged to use III in their daily operations.

(4) If no record is located through the III File, check with the FBI Criminal Justice Information Services Division since it maintains over 10 million additional records not available through III.

EFFECTIVE: 05/13/96

10-6 MAIL COVERS

EFFECTIVE: 03/09/81

10-6.1 United States Postal Service (USPS) Regulations

(1) USPS regulations governing mail covers are codified in Title 39, Code of Federal Regulations (CFR), Section 233.2 and designate the Chief Postal Inspector to administer all matters governing mail cover requests by law enforcement agencies. Except for national security mail covers, the Chief Postal Inspector may delegate any or all such authority to the Regional Chief Postal Inspectors. In addition, all Postal Inspectors in Charge and their designees are authorized to order mail covers within their districts in fugitive and criminal matters.

(2) USPS regulations state that a mail cover may be requested to locate a fugitive, to obtain information regarding the commission or attempted commission of a crime, or to protect the national security.

(3) For mail cover purposes, a "mail cover" is defined by USPS as the process by which a record is made of any data appearing on the outside cover of any class of mail matter, (the FBI may not request a check of the contents of any class of mail); a "crime" is defined as the commission or attempted commission of an act punishable

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by imprisonment for a term exceeding one year; a "fugitive" is any person who has fled from the United States or any state, territory, the District of Columbia, or possession of the United States, to avoid prosecution for a crime or to avoid giving testimony in a criminal proceeding.

(4) No mail covers shall include matter mailed between the mail cover subject and subject's known attorney-at-law. However, the mere fact that a subject has retained an attorney will not defeat a mail cover. A mail cover may be used but mail between the subject and subject's attorney shall not be included. Mailed matters between the subject and subject's attorney are protected.

(5) Excepting fugitive cases, no mail cover shall remain in force when the subject has been indicted for any cause. If the subject is under investigation for further criminal violations, a new mail cover order must be requested consistent with USPS regulations. A mail cover on an indicted subject who is not a fugitive is still possible under certain conditions. Although not available for crimes for which the subject has been indicted, a mail cover may be used as an investigative tool to investigate the subject's other crimes. As to fugitives, a mail cover is available for the offense for which indicted and other crimes.

(6) Excepting mail covers ordered upon subjects engaged, or suspected to be engaged, in any activity against the national security, or activity violative of any postal law, no mail cover order shall remain in force for more than 30 days. At the expiration of such period or prior thereto, the requesting authority may be granted additional 30-day periods under the same conditions and procedures applicable to the original request. No mail cover shall remain in force longer than 120 days unless personally approved for further extension by the Chief Postal Inspector. In all requests for mail covers to extend beyond 120 days, the requesting authority must specify the reasonable grounds that exist which demonstrate the mail cover is necessary for one of the stated purposes.

(7) No officer or employee of the USPS other than the Chief Postal Inspector, Postal Inspectors in Charge or their designees are authorized to order mail covers. Under no circumstances shall a postmaster or postal employee furnish information, as defined in paragraph (3), to any person except as authorized by the Chief Postal Inspector, Postal Inspector in Charge or their designees.

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EFFECTIVE: 03/09/81

10-6.2 Policy

(1) SAC approval must be obtained before a mail cover request is submitted to the USPS. SACs are authorized to request mail covers, with the exception of those involving National Security cases, from the USPS. See policy in Part II, 10-6.3.2 concerning mail covers involving National Security cases.

(2) In criminal matters, requests for mail covers should be submitted when it can be shown that use of the technique would be logical, resourceful, appropriate, and when the use of the technique is in conformance with all regulatory requirements and guidelines including the Attorney General's Guidelines on General Crimes, Racketeering Enterprises, and Domestic Security/Terrorism Investigations. When requesting authorization to utilize a mail cover, consideration should be given to whether the information sought can be obtained in a timely and effective manner by less intrusive means. Further, in recognition that use of a mail cover raises possible First Amendment concerns, care should be taken to ensure use of the mail cover will be confined to the immediate needs of the investigation, particularly when considering a mail cover to be placed on an individual who is not the subject of a criminal investigation.

(3) The SAC should review and approve all requests for mail covers and should review and approve all requests for continuation of existing mail covers.

(4) The SAC should conduct frequent checks as to the productivity of mail covers after being placed into effect.

(5) Cases are not to be closed until the mail cover has expired or has been withdrawn. SAC must be notified if request for mail cover is not approved by the USPS, which notification shall include a statement of the reasons given by the postal authorities for not approving the mail cover request.

(6) Information obtained as a result of a mail cover in fugitive or criminal cases should be reported in the cover pages.

(7) Requests for mail covers should not be submitted in preliminary criminal inquiry investigations. ("The Attorney General's Guidelines on General Crimes, Racketeering Enterprises, and Domestic

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Security/Terrorism Investigations," effective 3/21/83.)

(8) A mail cover index is to be maintained by the Administrative Officer/Office Services Manager. 3- by 5-inch cards, FD-57, may be filed alphabetically or by street address and should reflect the following:

- (a) Name and address of person whose mail is covered
- (b) Fugitive or criminal case
- (c) File number of case
- (d) Date when placed
- (e) Identity of Agent handling
- (f) City
- (g) Duration of mail cover

(9) After the mail cover has been discontinued, the mail cover index card is to be destroyed.

EFFECTIVE: 05/09/95

10-6.3 Requesting Approval

EFFECTIVE: 05/09/95

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10-6.3.1 Fugitive or Criminal Cases

(1) In recommending a mail cover in a FUGITIVE OR CRIMINAL CASE, submit a memo to the SAC advising that a mail cover is being requested from the district Postal Inspector in Charge covering the area where the mail cover is to be placed.

(2) This memo must also include the following information:

(a) Brief background of the case.

(b) A statement setting forth the reasons that the use of a mail cover is logical, resourceful and appropriate.

(c) Identity and complete mailing address of the person whose mail is to be covered.

(d) Location of the district Postal Inspector in Charge to be utilized.

(e) The federal statute and maximum possible penalty involved.

(f) Whether the person whose mail is to be covered is under indictment in connection with the matter under investigation.

(g) Whether the person whose mail is to be covered is known to have retained an attorney and, if so, the attorney's name.

(h) In fugitive cases, whether the fugitive is under indictment in connection with the matter under investigation.

(i) In fugitive cases, whether the fugitive is known to have obtained an attorney and, if so, the attorney's name.

(3) Your request to the appropriate district Postal Inspector in Charge must be written or confirmed in writing.

(4) In fugitive and criminal cases, mail covers may be placed initially for 30 days' duration and may be extended on request to the district Postal Inspector in Charge for additional 30-day periods up to a total of 120 days. If an extension of the mail cover beyond this 120-day period is desired, submit the request for an extension to the appropriate USPS authority. Any request for extension beyond 120 days must clearly set forth any specific

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reasonable grounds that exist which demonstrate the mail cover is NECESSARY.

(5) SAC approval is required when requesting that confidential arrangements be made to initiate a particular mail cover. The period of days of the mail cover must be specified, but a particular date should not be.

(6) When emergency authority is needed to establish a mail cover, USPS regulations state that the appropriate Postal Inspector in Charge, or that Inspector's designee may act upon an oral request, to be confirmed by the requesting authority in writing within two business days. However, the USPS will release no information until an appropriate written order is received.

EFFECTIVE: 05/09/95

10-6.3.2 National Security Cases

(1) As noted above, USPS regulations state that a mail cover may be requested to protect the national security. For mail cover purposes, "to protect the national security," is defined by USPS as protecting the United States from any of the following actual or potential threats to its security by a foreign power or its agents: (i) an attack or other grave hostile act; (ii) sabotage, or international terrorism; or, (iii) clandestine intelligence activities.

(2) All mail covers in national security cases must be approved personally by the Director of the FBI or, in Director's absence, by the Acting Director on Director's behalf. If the individual on whom the mail cover is to be placed is a United States person, Attorney General approval is also required.

(3) All correspondence concerning national security mail covers should be transmitted "BY LIAISON" and addressed as follows:

Chief Postal Inspector
U.S. Postal Service
475 D'Enfant Plaza, Southwest
Washington, D.C. 20260
Attention: Legal Liaison Branch

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(4) The name and address of the individual or establishment on which the mail cover is to be placed must be unclassified. A statement such as "For the purpose of placing the mail cover, the above-captioned individual's name and address are considered unclassified," will suffice.

(5) In these national security cases, when the field is recommending to FBIHQ that a mail cover be requested, complete information concerning the name and address of each individual or organization to be covered, including ZIP code, should be supplied. Set forth information similar to that outlined above for criminal cases, including any information concerning known attorneys of record and any information as to whether or not the subject is under indictment. Requests for approval of national security mail covers will require more detailed explanations and must stipulate and specify the reasonable grounds that exist which demonstrate the mail cover is necessary to protect the United States from an actual or potential threat to its national security.

(6) If the request for a mail cover in a national security case is approved by FBIHQ, arrangements for implementing the mail cover will be handled by FBIHQ.

EFFECTIVE: 02/16/89

10-7 STOP NOTICES

EFFECTIVE: 06/10/88

10-7.1 Definition

A stop notice is a request to be advised if an individual or property comes to the attention of any organization or a member thereof.

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10-7.2 Placement of Stops

The form utilized for placement of stops is an FD-56, a 3- by 5-inch card. This should record the date a request is made of a particular law enforcement agency, [REDACTED] etc. This form should not be prepared if information has previously been furnished NCIC unless a reason exists otherwise. If so, it should be indicated on FD-56. The office placing the stop should prepare the FD-56 and route to the office of origin (OO) by letter or as an enclosure to another communication setting forth the results of investigation. This communication should include the name of the Agent placing the stop and with whom the stop was placed.

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EFFECTIVE: 06/10/88

10-7.3 Indexing Stops

(1) The requesting and placing offices are required to record in their automated indices each name and/or item of property which is documented in a stop notice while the stop notice is in force (subject or reference record). The miscellaneous part of the index record should contain the same information as included on the FD-56.

(2) The Office of Origin (OO) will file the FD-56 in the manual general index except when FBIHQ is OO. If FBIHQ is OO, the office placing the stop will maintain the FD-56 in its manual general index. The FD-56 will be filed with the manual general index before the letter group "A" led by a separator marked "STOP NOTICES" and sequenced in proper numerical order (Classification, Case, Serial). If the stops were placed by a written communication, only one card is needed even though more than one item was listed. When stops have been placed with FBIHQ or by another field office, no cards (FD-56s) are necessary.

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10-7.4 Removal of Stops


(1) It is the direct responsibility of the OO to remove all stops on individuals or property when a determination has been made that they are no longer needed. Stop cards are to be reviewed quarterly to remove obsolete cards and to discontinue unnecessary stops.



(2) Mechanics of removing stops - Office of origin will forward, via routing slip, FD-56 to office which placed stop advising stop should be removed. Notation will be made on appropriate serial in file indicating name of employee and date stop removed after which FD-56 will be destroyed. Office of origin should be advised of removal of a stop by the office which placed the stop.

EFFECTIVE: 06/10/88

10-7.5 Types of Stops

EFFECTIVE: 06/10/88

10-7.5.1 

Stop notices are placed by letter to 


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EFFECTIVE: 06/10/88

10-7.5.2 Immigration and Naturalization Service (INS)

These stops (INS Lookout Notices) are placed by use of the FD-315 form. The original FD-315 must be signed by the approving field supervisor and sent directly to INS as indicated on the form. INS will not place stops on U.S. citizens since it has no statutory authority over U.S. citizens.

(1) INS stops are of necessity never classified. The stop names and identifiers are available on lists or electronically in

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areas open to travelers.

(2) INS regulations state that other Federal agencies may request the posting of lookouts. These requests for stops must meet the INS criteria for posting unless there are outstanding warrants of arrest, [REDACTED]

[REDACTED] FBI investigative activity does not usually meet INS criteria for posting lookouts.

b7E per INS

(3) The INS Stop System consists of three parts: (a) The INS "National Automated Immigration Lookout System" (NAIIS), an automated telecommunications network records system; (b) The "INS Lookout Book" printed with one-line lookout records, updated and distributed once every calendar month; and (c) A 90-day temporary emergency lookout system posted electronically by INS Central Office, or by local FBI Border Offices.

(4) [REDACTED]

[REDACTED] INS stops will be posted until the subject's ninetieth birthday.

b7E per INS

(5) Instructions for Completing FD-315 - Instructions are printed on the reverse of the FD-315 form. One subject should appear on a single form with additional names or aliases listed alphabetically on that form. Do not use spelling variations. Only actual names used by subject or those names for which subject is known to have identification should be submitted. One birthday only should be used. If the subject is considered armed and dangerous, suicidal or having physical or mental problems, the caution block should be checked (x'd) and this information should be explained under "Miscellaneous."

The FD-315 lists [REDACTED]

(a) [REDACTED]

(b) [REDACTED]

(c) [REDACTED]

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(6) Emergency INS Border Stops - A teletype can be forwarded to INS Headquarters requesting an emergency INS stop. In addition, border FBI offices may place stops with INS at a local level along the Canadian and the Mexican borders. In order to handle such stops these offices must be provided with: identity; description; photograph, if available; approximate time subject expected and mode of travel. Emergency stops should be placed selectively when all of the above items are not available. In addition, when it becomes apparent these stops will extend beyond 90 days, an FD-315 should be sent to INS, Washington, D.C.

(7) ~~Cancellation and Amending of INS Stops~~ - It is incumbent upon the requesting office to place and cancel stops. The FD-315 should also be used to amend or provide additional pertinent information developed on subject. In all cases the FD-315 should be used and the proper action is to be indicated. Stops are cancelled automatically by INS at the end of the period indicated. Note: the maximum time an INS stop can be in effect by submission of an FD-315 is five (5) years. If no cancellation date is shown on the FD-315, INS will place the stop for a maximum of one (1) year. The requesting office should be on the alert to renew these stops if required.

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[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

EFFECTIVE: 04/08/96

10-8 STORED WIRE AND ELECTRONIC COMMUNICATIONS AND
TRANSACTIONAL RECORDS ACCESS

Title 18, USC, Section 2703, sets forth the procedural requirements that the Government must meet in order to obtain access to electronic communications in storage and related transactional records, including telephone toll records.

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10-8.1 Contents of Electronic Communications in Electronic Storage

The statute draws a distinction between contents of electronic communications that have been in storage for 180 days or less, and those that have been stored for a longer period of time. This distinction is based on the belief that while the contents of a message in storage should be protected by Fourth Amendment standards, as are the contents of a regularly mailed letter, to the extent that the record is kept beyond six months, it is closer to a business record maintained by a third party for its own benefit and, therefore, deserving of a lesser standard of protection. A distinction is also made for contents of electronic communication in a remote computing service.

(1) 180 days or less - A governmental entity may require the disclosure by a provider of electronic communication service of the contents of an electronic communication that is in electronic storage in an electronic communications system for 180 days or less, only pursuant to a warrant issued under the Federal Rules of Criminal Procedure or equivalent state warrant (Title 18, USC, Section 2703(a)).

(2) More than 180 days - For contents of an electronic communication that has been stored for more than 180 days, a governmental entity may use any of three alternative means of access, depending on the notice given to the subscriber, or customer. The government may, without providing any notice to the subscriber, obtain a state or federal search warrant based upon probable cause (Title 18, USC, Section 2703(b)(1)(A)). If the government chooses to give notice to the subscriber, it may obtain access to the records by using either a grand jury, administrative, or trial subpoena authorized by a federal or state statute (Title 18, USC, Section 2703(b)(1)(B)(i)), or a new statutory court order based upon specific and articulable facts showing that there are reasonable grounds to believe that the contents of stored electronic communications are "relevant and material to an ongoing criminal investigation" (Title 18, USC, Section 2703(b)(1)(B)(ii) and (d)). This court order, like a court order for a pen register or trap and trace, may be obtained from a "court of competent jurisdiction" which includes "a district court of the United States (including a magistrate of such a court) or a United States Court of Appeals." The required notice may be delayed pursuant to Title 18, USC, Section 2705.

(3) Contents of electronic communications in a remote computing service - Access to the contents of electronic

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communications is governed by Title 18, USC, Section 2703(b) and the means of access available are the same as those mentioned above for communications stored for more than 180 days. However, it is unclear whether communications stored in a remote computing service for less than 180 days are governed by Title 18, USC, Section 2703(a), that is, that such communications can be obtained ONLY by a federal or state search warrant based upon probable cause. The Department of Justice has urged United States Attorneys to argue that government access to the contents of an electronic communication held by a remote computing service does not require a search warrant during the first 180 days. Questions relating to this area should be directed to the Investigative Law Unit, FBIHQ.

EFFECTIVE: 10/23/95

10-8.2 Access to Transactional Information

(1) Telephone Records (See MIOG, Part II, 21-23(9).)

(a) Criminal and Civil Matters - Access to telephone billing records and other transactional records (not including the contents of communications) is governed by Title 18, USC, Section 2703. Specifically, the disclosure of a record or other information pertaining to a subscriber to a governmental entity is permitted only when the governmental entity:

1. obtains a warrant issued under the Federal Rules of Criminal Procedure or equivalent state warrant;

2. obtains a court order for such disclosure under Title 18, USC, Section 2703(d); or

3. has the consent of the subscriber or customer to such disclosure.

In addition to these methods, an administrative subpoena authorized by a federal or state statute, or a federal or state grand jury, or trial subpoena may be used to obtain basic subscriber information such as: "the name, address, telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber to or customer of such service and the types of services the subscriber or customer utilize(s)." Title 18, USC, Section

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| 2703(c)(1)(C). |

The Department of Justice has, however, advised that it is a misuse of the grand jury to utilize the grand jury as an investigative aid in the search for a fugitive in whose testimony the grand jury has no interest. Therefore, grand jury subpoenas for witnesses or records, including telephone|billing|records, should not be requested in federal fugitive investigations. (See Part II, Section 2-9.8, of this manual for limited situations in which courts have recognized that grand jury efforts to locate a fugitive are proper.) Where the telephone|billing|records being sought are those of a member of the news media, approval of the Attorney General is required. (See MAOP, Part II, Section 5-7.1 entitled "Investigations Involving Members of the Media.")

(b) National Security Cases - See Foreign Counterintelligence Manual, |Introduction, |Section|1. |

(c) Notification to Telephone Subscriber

Criminal and Civil Matters - Many electronic communication service providers of long distance telephone service will automatically notify a subscriber that his/her records have been released to law enforcement unless the SAC certifies that such notification would prejudice an investigation. The certification period is 90 days, after which many electronic communication service providers will automatically notify the subscriber of the release within five days unless there is a recertification. Each recertification extends the nondisclosure period for an additional 90 days. At the conclusion of the final recertification period, the subscriber will, within five days, be notified of the record release. Each SAC must ensure appropriate administrative devices are in effect to provide for the initial certification where required and recertification prior to the termination of the preceding 90-day period where a continuing need for nondisclosure exists.

(2) |On-line Computer Network Records

(a) Records of on-line electronic communications and electronic mail (e-mail) transmissions, when they reveal more than basic subscriber records (see Title 18, USC, Section 2703(1)(c)(C) e.g., the named addressee, the topic of or the forum connected with the communication, etc.), are no longer available to law enforcement agencies pursuant to subpoena. Such information may be obtained only through the use of a court order under Title 18, USC, Section 2703(d), a warrant, or the consent of the subscriber or customer (Title 18,

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USC, Section 2703(c)).

(b) To obtain a 2703(d) court order, the application must state "specific and articulable facts showing that there are reasonable grounds to believe that the contents of, transactional records of, or other information sought regarding stored electronic communications are "relevant and material to an ongoing criminal investigation."

(3) Video Tape Rental or Sales Records

The Video Privacy Protection Act of 1988 amended Chapter 121 of Title 18 "Stored Wire and Electronic Communications and Transactional Records Access" by adding a new section (redesignation of section 2710) governing the disclosure of video tape rental or sales records. It makes the unauthorized disclosure of records by any person engaged in the rental, sale, or delivery of prerecorded video cassette tapes or similar audiovisual materials unlawful and provides an exclusionary rule to prohibit personally identifiable information otherwise obtained from being admissible as evidence in any court proceeding.

(a) The new section defines personally identifiable information as "information which identifies a person as having requested or obtained specific video material or services" The disclosure of this information to law enforcement is permitted only when the law enforcement agency:

1. Has the written consent of the customer; or
2. obtains a warrant issued under the Federal Rules of Criminal Procedure or equivalent State Warrant;
3. a grand jury subpoena;
4. a court order (a court order shall issue only upon prior notice to the consumer/customer).

(b) The disclosure of merely the name, address, and telephone number of customers of a video tape service provider, when the information being sought does not identify the customer as having requested or obtained specific video materials or services, may be made to law enforcement without compulsory process or the prior opportunity to prohibit such disclosure by the customer.

This type of information was specifically not included in the

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definition of "personally identifiable information" (that type of information protected by the Video Privacy Protection Act of 1988) to allow law enforcement to obtain information about individuals during routine investigations such as neighborhood investigations.

(c) No separate disclosure procedure was provided for National Security cases.

EFFECTIVE: 10/23/95

10-9 ELECTRONIC SURVEILLANCE (ELSUR) PROCEDURES AND REQUIREMENTS

(1) Electronic surveillance is one of the most effective and valuable investigative techniques utilized in both criminal and national security investigative matters. To protect the use of this technique, the administrative and management controls contained in this section will receive the same meticulous oversight as does the informant program. Unless otherwise noted, it will be the responsibility of the case Agent and his/her supervisor to ensure compliance with these instructions. It should be clearly understood that the use of electronic surveillance requires (a) administrative or judicial authorization prior to its use, and (b) contact with the field office ELSUR support employee to coordinate all necessary recordkeeping, and (c) consultation with the Technical Advisor (TA) or a designated Technically Trained Agent (TTA) to determine feasibility, applicable technique, and the appropriate equipment.

(2) The procedures and requirements for ELSUR recordkeeping, control of evidentiary-type materials, and approval for use with regard to national security investigations are addressed in the Foreign Counterintelligence Manual.

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10-9.1 Definitions

- (1) Electronic Surveillance - The aural or other acquisition of the contents of any wire, electronic or oral communication through the use of any electronic, mechanical or other device (Title 18, USC, Section 2510 et seq.).
- (2) ELSUR Indices - An alphanumerical index card system maintained at FBIHQ and each appropriate FBI field office containing the names of all individuals or entities, all locations and all facilities for which electronic surveillance has been sought by the FBI in a court order. It also identifies those individuals who have been participants in a conversation monitored or overheard during the course of an FBI electronic surveillance; and those who own, lease, license, or otherwise hold a possessory interest in property subjected to an electronic surveillance conducted by the FBI.
- (3) ELSUR Cards - 3-x-5-inch cards which comprise the ELSUR indices.
- (4) Principal Cards - 3-x-5-inch cards maintained in the ELSUR indices containing the true name or best-known name of all named interceptees identified in any application filed in support of court authorized Title III electronic surveillance. (See 10-9.12(1).)
- (5) Proprietary Interest Cards - 3-x-5-inch cards maintained in the ELSUR indices identifying the entity(s) and individual(s) who own, lease, license, or otherwise hold a possessory interest in locations subjected to electronic surveillance authorized under Title III.
- (6) Overhear Cards - 3-x-5-inch cards maintained in the ELSUR indices containing the true name or best-known name of individuals (including non-U.S. persons, Special Agents, assets, informants, cooperating witnesses, etc.) who have been reasonably identified by a first name or initial and a last name as having participated in conversations intercepted during the conducting of an electronic surveillance. (See 10-9.10 and 10-10 for further details.)
- (7) Blue ELSUR Index Cards - 3-x-5-inch cards, blue in color, used for preparing Principal, Proprietary Interest and Overhear cards in Title III matters. All ELSUR cards relating to Title III are blue in color.
- (8) White ELSUR Index Cards - 3-x-5-inch cards, white in color, used for preparing Overhear cards in consensual monitoring

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matters.

(9) Source - With regard to ELSUR matters, the word "source" refers to the technique (microphone, telephone, body recorders, etc.) employed to conduct the electronic surveillance. In Title III matters, the "source" is the control number assigned; and in consensual monitoring matters, the "source" will be the control number assigned or the word "consensual."

(10) Title III Electronic Surveillance - The aural or other acquisition of the contents of any wire, electronic or oral communication pursuant to a court order obtained under the provisions of the Omnibus Crime Control and Safe Streets Act of 1968 (Title 18, USC, Section 2510 et seq.) for offenses set forth in Title 18, USC, Section 2516.

(11) Consensual Monitoring - The interception by an electronic device of any wire or oral communication wherein one of the parties to the conversation has given prior consent to such monitoring and/or recording.

EFFECTIVE: 04/24/89

10-9.2 Instructions for Maintaining ELSUR Indices

(1) The FBI has an obligation to totally retrieve the authority, contents and resulting use of material acquired regarding all persons targeted, monitored, or who otherwise hold a possessory interest in property subjected to electronic surveillance by this Bureau. In order to fulfill this obligation, it is the responsibility of each field office to comply with these instructions so that any electronic surveillance can be recalled from the files of the FBI.

(2) Indexing procedures in ELSUR matters will be the same as those set forth in the "Index Guide" which is available in each field office through the File Assistant/ELSUR support employee. All offices utilizing electronic surveillances will maintain one ELSUR index and prepare two copies of the appropriate-type ELSUR card, one for forwarding to FBIHQ and one for inclusion in the field office ELSUR indices. Each card filed in the field office ELSUR indices will be date-stamped to reflect the month, day and year the card was filed. Cards prepared in the name of an individual will be filed in alphabetical order according to the last name. Names of businesses, organizations, etc., will also be filed in alphabetical order.

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Proprietary Interest cards cross-referencing telephone and vehicle identification numbers will be filed in a separate section within the ELSUR indices in numerical order according to the last three digits of the number. Should the last three digits be identical with any already in file, proceed to the next digit to the left. Addresses will be filed according to the name of the street; numbered streets will be spelled out, and in both cases will be filed in alphabetical order in a separate section within the ELSUR indices. In the event an address contains two street names, an appropriate card will be made for filing by each street name.

(3) The ELSUR indices will be maintained in a securely locked cabinet and will operate exclusively under the supervision of the field office ELSUR coordinator or the support employee designated to assist the coordinator. Access to the ELSUR index must be restricted to an absolute need-to-know basis.

(4) In the event any ELSUR index card within the ELSUR indices in any given field division is classified according to existing Executive order instructions to protect information involving national security, the ELSUR index of that field division must be classified at the level of the highest classification of any material contained therein. Any information retrieved as a result of a search of the ELSUR index must be reviewed for proper classification prior to internal FBI dissemination and/or subsequent release.

(5) The assistant ELSUR coordinator will conduct an annual review of the ELSUR indices to locate and correct misfiled cards, duplications, and subsequent overhears. Particular attention will be given to Proprietary Interest cards and Principal cards to ensure each item is complete where necessary. As this review is completed, an index card will be inserted at the front of each drawer within the index and will show the date the review was completed and the initials of the employee who conducted the review.

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10-9.3 Requests for ELSUR Checks

(1) Upon submitting a request to FBIHQ for an electronic surveillance indices check, it is necessary to indicate in each request the reason why the information is being sought, such as whether the sought after ELSUR information will be used for preparation of a Title III affidavit, for an investigative lead, or for other purposes.

(2) Field office personnel handling ELSUR checks should also note that per U.S. Attorney's Manual, Title 9, Section 9-7.000, all requests for search of electronic surveillance records under a defense claim pursuant to Title 18, USC, Section 3504, or Federal Rules of Criminal Procedure, Rule 16, or for other trial-related reasons, must be directed by the Government trial attorney to the Department of Justice, Criminal Division, Attention: Legal Support Unit, Office of Enforcement Operations, Telephone Number FTS [REDACTED] b2
All assertions on behalf of the United States must be made by the Attorney General or Attorney General's designee. In the event a Government trial attorney requests an ELSUR check, the attorney should be advised of the instructions referred to above in the U.S. Attorney's Manual.

EFFECTIVE: 04/18/85

10-9.4 ELSUR Searching Procedures

(1) In connection with White House inquiries, requests under the Freedom of Information/Privacy Acts (FOIPA), discovery motions, U.S. District Court orders, and other lawful motions emanating from the courts, the Department of Justice directs inquiries to FBIHQ regarding possible electronic surveillance coverage of witnesses, defendants, or attorneys involved in Federal court proceedings. In order to accurately respond to such requests, field offices receiving instructions from FBIHQ to conduct a search of the ELSUR index and general office indices should search the name as shown, as well as aliases, variations in spelling, combinations and contractions, the extent of which is determined by the searching employee. All combinations searched must be shown on the incoming communication or an attached search slip so that the extent of the index search is readily apparent.

(2) An individual who has been party to a conversation intercepted by electronic surveillance may frame a request under the

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FOIPA to include a search of the ELSUR indices. Such would require close coordination between FBIHQ and the field division which may have submitted ELSUR indices cards identifiable with the requester.

(3) This process of coordination will generally be initiated by an FOIPA Section airtel to the appropriate field division when the FOIPA request is received for processing. This airtel will request review of field office ELSUR records to determine if the individual monitored is identical to the requester and if there are additional instances of monitoring. FBIHQ ELSUR Index may not have previously alerted the FOIPA Section that the individual was monitored in a consensual or Title III electronic surveillance investigation.

(4) Where the overhear is recent in date, it is possible that the consensual electronic surveillance in question relates to a pending investigation or a covert operation not yet disclosed. The pending character of this investigative matter would not be evident from the FBIHQ ELSUR Index records. This pending status governs FOIPA Section processing of the ELSUR request and the FOIPA Section must be made aware of the status to ensure that the fact of an overhear will not be prematurely disclosed to the requester.

(5) Therefore, in responding to an FOIPA Section airtel relating to consensual monitoring ELSURs, the field division should always advise if the ELSUR coverage in question is still pending or a covert operation not yet disclosed.

(6) The ELSUR index should also be searched for any telephone numbers and addresses provided in the departmental request. All indicated files resulting from the search should be thoroughly reviewed for information relative to electronic surveillance.

EFFECTIVE: 04/18/85

10-9.5 Transmitting ELSUR Material to FBIHQ

(1) ELSUR index cards will be submitted, utilizing Form FD-664. This is a preprinted form directed to the ELSUR Index at FBIHQ. FD-664 requires the submitting field office to fill in blanks on the FD-664 reflecting the exact number of index cards submitted, the exact field office case title and file number and the technique utilized for the ELSUR. An inventory is required on the FD-664 indicating the identity of the ELSUR index cards submitted; therefore, list the name(s), entity(s), address(s), telephone number(s), and

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vehicle identification number(s) indexed on the top line of each card enclosed. Lengthy submissions may be reflected by addenda to the form. Further, the FD-664 may be utilized for noncriminal matters. If utilized for noncriminal matters, the proper classification should be affixed to the form. The original and one copy of the FD-664, as well as accompanying enclosures, will be inserted in a plain brown envelope, sealed and clearly marked:

Director, FBI
ELSUR Index
FBIHQ

and submitted to reach the Bureau within the time frame allotted.

(2) Unless instructed to the contrary, responses to ELSUR surveys and related correspondence will be transmitted to the Bureau by airtel to: Director, FBI, Attention: ELSUR Index. This airtel should be entitled "ELSUR." The original and one copy of the transmittal airtel as well as accompanying enclosures will be inserted in a plain brown envelope sealed and clearly marked: Director, FBI, ELSUR Index, FBIHQ. This airtel will be submitted to reach the Bureau within the time frame allotted the specific type of material being forwarded and within Bureau deadline.

(3) When a court-ordered surveillance is authorized, installed, extended, or when a noncriminal matter installation is made or approved, an FD-664 should be submitted to FBIHQ. This does not preclude submission of a teletype or other expeditious communication to the appropriate substantive investigative section in criminal or noncriminal matters pertaining to emergency authorizations of both court-ordered or noncourt-ordered matters. All communications should be classified according to material contained within the communication. All communications should contain the field office case title and complete file number. Any communications concerning expeditious authorization and/or installation should contain also the name(s) of target(s), address(s) telephone number(s), source number of the installation or consensual monitoring number and dates of authorization, installation, extension and expected termination.

EFFECTIVE: 06/18/87

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10-9.6 Retention of ELSUR Files and Related Records

On January 10, 1980, Judge Harold H. Greene, U.S. District Court, District of Columbia, issued a preliminary injunction to suspend all records destruction programs. Since that time, this order has been modified somewhat; however, these modifications did not include ELSUR materials. Until otherwise advised by FBIHQ, all originals and copies of original tapes, logs, transcripts, records, files and communications reflecting any ELSUR information relating to Title III matters, criminal intelligence matters and consensual monitoring matters will be retained.

EFFECTIVE: 06/18/87

10-9.7 Marking File Cover "ELSUR"

To ensure certain files are retained beyond the established file destruction period, a check mark will be placed on the ELSUR line or "ELSUR" will be stamped on the case file covers of those files containing the "results" or the "products" of electronic surveillance on every current, every preceding, every subsequent and every Sub volume to the file even though the product of the electronic surveillance may have been taken from another file or furnished by another office.

EFFECTIVE: 12/10/93

10-9.8 Preservation of Original Tape Recordings (See MIOG, Part II, 10-9.8.1(1), 10-10.5.1(2)(c); LHBSA, 7-14; FCIM, Introduction, 1-2.6.3(10).)

All original criminal ELSUR-taped recordings will be placed in an FD-504 (Chain of Custody - Original Tape Recording Envelope), sealed and retained in a modified steel wardrobe-type cabinet, security-approved container, or metal file cabinet equipped with a bar-lock device, hasp or other security-approved lock unless, under Title III, the authorizing judge has directed to the contrary. These cabinets are to be housed in a limited or restricted access location to ensure against unauthorized access in order to overcome any claim that the ELSUR tape was altered or distorted while in the

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possession of the FBI and to assure the chain of custody. (See 10-9.6 for current rules regarding the retention of taped recordings. In matters involving national security refer to the Foreign Counterintelligence Manual for instructions regarding the handling of national security taped recordings.)

EFFECTIVE: 12/21/94

10-9.8.1 FD-504 (Chain-of-Custody--Original Tape Recording Envelope) (See Legal Handbook for Special Agents, 7-14.)

(1) ALL original tape recordings (including closed circuit television recordings) maintained as a part of a permanent record of the FBI, as well as those sealed by the U.S. District Judge, should be placed in an FD-504 envelope, maintained as evidence, and stored as instructed above in Section 10-9.8 of this manual.

(2) The procedures for filling out the FD-504 are as follows:

(a) File Number - Enter the substantive case file number to which the tape recording relates and include the 1B (Evidence) number.

(b) Tape Number - Enter the sequential number given the tape recording enclosed.

(c) Agent Supervising Interception - Enter the name of the Agent (or other Bureau employee) who removes the tape from the recording device after the recording is made; or who first receives custody of the original tape after the recording is made and the tape is being surrendered for retention.

(d) Title III Court-Order or FISA Court-Order Control Number: Mark appropriate space to indicate if the ELSUR is authorized under Title III or under the Foreign Intelligence Surveillance Act (FISA) of 1978, and enter the control/symbol number assigned.

(e) Consensual ELSURs - Mark appropriate box to indicate Consensual Monitoring (CM) telephone or nontelephone and any CM number assigned.

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(f) In instances wherein the original tape recording enclosed in an FD-504 envelope is not a court-ordered or consensual ELSUR, mark the appropriate box to identify the origin of the tape enclosed, (i.e., Volunteered Tape-Not FBI ELSUR; Interview; other).

(g) Interception: Date and Place - Enter date and place (city/town and state) where intercept occurred.

(h) Tape Removed From Equipment - Enter date and time the tape was removed from the recording device.

~~(i) Identity of Persons Intercepted, If Known -~~

Enter "See Log" for all court-ordered ELSURs (those authorized under Title III and under the FISA of 1978). For warrantless ELSURs (Consensual Monitoring) enter the true name or best known name of ALL individuals (including the consenting party) identified as having been overheard.

CHAIN OF CUSTODY

(j) Accepted Custody - Signature of the first person accepting custody of the recording (Agent supervising the intercept and/or any others taking custody of the contents of the FD-504).

(k) Released Custody - The released custody column should show the signature of the last person accepting custody and then releasing custody to the next person. The last name exhibited as accepting custody would normally be the individual that places the evidence in the tape storage facility and thus releases custody, by signature, to the tape storage facility for permanent storage. (See Title III Section of the ELSUR Working Guide, page 44).

(3) In sealing the FD-504 envelope, the flap should be moistened, then sealed. The date the envelope is sealed and the initials of the employee sealing the envelope should be affixed on the flap at the point where the end of the flap meets the envelope. Yellow transparent preprinted "evidence tape" should then be placed atop the seam of the flap and overlapping to the other side of each edge of the envelope, as shown in the Title III Section of the ELSUR Working Guide, pages 44 and 45.

(4) In those situations involving interoffice travel and ELSUR usage, i.e., body recorder, ensure original recordings are entered into chain of custody as evidence within 10 days of the receipt of the recording, as required in the Manual of Administrative Operations and Procedures, Part II, Section 2-4.4.4. All original

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tapes are to remain in the field office where first entered as evidence. If tapes are entered into the recordkeeping system of the host office (the office wherein the tape was made), the recordings will remain in the custody of the host office. ELSUR indexing will be done by the office where the tape recordings are entered as evidence, and, if appropriate, host office copies of the recordings will be made and forwarded to other concerned field offices by the custodial offices.

(5) If, during the conduct of an ELSUR, the recording device fails to operate or malfunctions and the tape is found to be blank or contains only portions of the conversation, the tape is to be retained in an FD-504 envelope as described herein.

EFFECTIVE: 10/16/96

10-9.9 Recordkeeping Procedures for ELSUR Information Generated Through Joint FBI Operations

(1) In joint FBI operations with other Federal, state and local law enforcement agencies wherein electronic surveillance is conducted through a Title III installation, the agency which prepares the affidavit, application and order seeking the authority will assume all responsibility for ELSUR indexing and recordkeeping. The fact that the investigation is a joint operation will be stated in the affidavit and application for the court order and will specify which agency is lending support to the other.

(2) Accordingly, if an outside law enforcement agency prepares the affidavit, application, and order in a Title III criminal matter in which the FBI is lending investigative support, that agency is responsible for the proper maintenance of all transcripts and tapes resulting from the Title III installation. In such case, that agency is also responsible for the preparation of electronic surveillance index cards and none would be prepared for inclusion in the FBI electronic surveillance indices.

(3) With regard to consensual monitoring, the agency that obtains authorization for consensual monitoring will assume all responsibility for the necessary ELSUR indexing and recordkeeping. See 10-10.2 or 10-10.3.

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EFFECTIVE: 10/18/88

10-9.10 Electronic Surveillance - Title III Criminal Matters
(See MIOG, Part I, 9-7.2; Part II, 10-3, 10-9.1(6) &
10-10.9.1 (4) (b).)

An FD-669, Checklist-Title III (Criminal Matters) form, is to be executed, serialized and retained in a separate sublettered file to the case file. One form is to be prepared for each application filed in each investigation. Every item contained thereon is to be initialed as completed and, where appropriate, will show the serial number of the communication prepared that ensures the requirement has been met.

(1) Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (Title 18, USC, Sections 2510-2521) provides a legislative basis with carefully constructed controls, requirements, and limitations for the judicial authorization of electronic surveillance techniques in certain major violations, including, but not limited to:

(a) Organized crime activities such as certain gambling offenses, racketeering, extortionate credit transactions and use of interstate commerce facilities in the commission of murder for hire;

(b) Murder, kidnapping, robbery or extortion prosecutable under Title 18, U.S. Code;

(c) Presidential assassination, kidnapping, or assault;

(d) Obstruction of justice;

(e) Interference with interstate commerce by violence or threats of violence;

(f) Interstate transportation of stolen property, theft from interstate shipment, and interstate travel to incite a riot;

(g) Espionage, sabotage, treason and the illegal acquisition or disclosure of atomic energy information; (See (2).)

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- (h) Sexual exploitation of children;
- (i) Interstate transportation or receipt of stolen vehicles;
- (j) Hostage taking;
- (k) Mail fraud;
- (l) Fugitive from justice from an offense described in Title 18, USC, Section 2516(1);
- (m) Certain firearms violations;
- (n) Obscenity;
- (o) See Title 18, USC, Section 2516, for a complete listing of applicable violations.

(2) With respect to the types of investigations listed in item (g) above, which might be the act of an agent of a foreign power, consideration should be given to obtaining electronic surveillance according to the provisions of the Foreign Intelligence Surveillance Act of 1978 (FISA) (Title 50, USC, Section 1801 ET SEQ.). It is generally accepted that the provisions of FISA afford greater security to the government's case, as there are detailed security precautions incorporated into the entire process. While obtaining electronic surveillance pursuant to FISA may be more difficult than a Title III surveillance in those instances where foreign powers may be involved, it should be the preferred method. If electronic surveillance pursuant to FISA is determined to be the preferred method in a particular investigation, concurrence of the USA is not required, as this function will be coordinated by FBIHQ with the appropriate Department of Justice office. (See National Foreign Intelligence Program Manual, Appendix 4-1.2, for procedures in obtaining a FISA court order.)

(3) Title III Applications - Approval Levels

(a) The initial phase in the stringent administrative approval process of Title III applications commences at the field level with the review and approval of the Title III affidavit by field office supervisory personnel, the Chief Division Counsel (CDC) and the concurrence of the respective USA or Strike Force Attorney. Review by the CDC must be documented by completing the "CDC Title III Log/Checklist" for submission along with the

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affidavit to FBIHQ. The CDC in each field office is completely familiar with the statutory and procedural requirements for electronic surveillance, and must be consulted whenever a Title III is being considered.

(b) FBIHQ's responsibilities towards requests for court-ordered electronic surveillances are that of case supervision and executive approval. With regard to executive approval, the management level at which requests for Title III electronic surveillances can be approved is dependent upon the circumstances surrounding the request. FBIHQ has recognized seven specific situations that have been characterized as "sensitive issues." The following five (5) sensitive issues or circumstances require the approval of a Deputy Assistant Director or higher from the Criminal Investigative Division (CID) or National Security Division (NSD) as appropriate:

1. applications requesting Title III interceptions based upon "relaxed specificity" (i.e., applications in which the requirement to specify those facilities from which, or the place where, the communication is to be intercepted has been eliminated--so called "roving" interceptions) under provisions of Title 18, USC, Section 2518(11) (a) and (b);

2. situations involving significant privilege issues or First Amendment concerns (e.g., attorney-client privilege or other privileged conversations, or interception of news media representatives);

3. situations involving significant privacy concerns (e.g., interceptions of conversations in a bedroom or bathroom, etc.);

4. applications concerning Domestic Terrorism, International Terrorism, or Espionage cases;

5. in any other situation deemed appropriate by either the Assistant Director, CID, or Assistant Director, NSD.

The following TWO (2) instances require the approval of the Director or the Acting Director when conducting sensitive Title III applications:

1. "emergency" Title III interceptions (i.e., interceptions conducted prior to judicial approval under provisions found in Title 18, USC, Section 2518(7));

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2. the anticipated interception of conversations of members of Congress, federal judges, high-level federal officials; and high-level state executives and members of a state judiciary or legislature.

ALL requests for electronic surveillance which involve one of the above "sensitive issues" must be reviewed by the Office of the General Counsel (OGC) prior to approval.

NONSENSITIVE Title III applications for electronic surveillance of wire and oral communications and of electronic communications NOT involving ~~digital display paging devices~~ may be approved at the appropriate FBIHQ Section Chief level in the CID.

Title III applications for authorization to intercept electronic communications over a ~~digital display pager~~ do NOT require FBIHQ review and approval, but may proceed with SAC approval. (See MIOG, Part II, 10-10.11.1(2)(b).)

In any instance where there are legal questions/concerns that cannot be resolved through discussions with reviewing officials at the Department of Justice, CID supervisors and/or executives will forward applications involving such issues to OGC for their review, advice and recommendations.

(c) Thereafter, with the approval of the Attorney General, or Attorney General's designee, the USA or the Strike Force Attorney shall apply to a federal judge of a competent jurisdiction for a court order authorizing the interception of communications relating to the specified offenses listed in Title III (Title 18, USC, Section 2516). Judicial control, however, does not cease with the signing of a court order authorizing the interception of communications but continues into the operational phase of the electronic surveillance--installation, monitoring, transcribing and handling of tapes. In addition, a cover electronic communication is to be sent to FBIHQ with a copy of each periodic report prepared for the prosecuting attorney and filed with the court. This report is to be submitted to FBIHQ the same day or next workday after the periodic report is filed with the court.

(d) An EXTENSION order may be sought to continue monitoring beyond the initial 30-day period without a lapse in time. When a break in coverage has occurred, a RENEWAL order may be sought to continue monitoring the same interceptees or facilities identified in the original authorization. The affidavit and application in

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support of an extension or renewal must comply with the same requirements as an original Title III application, including approval of the Attorney General or designee.

Except as explained below, extensions and renewals which occur within 30 days of the original Title III order do NOT require review by FBIHQ. After a lapse of more than 30 days, DOJ requires review by FBIHQ and a memorandum requesting renewed electronic surveillance. There may be situations when particularly unusual circumstances dictate that the FBI adopt an already existing Title III from another federal law enforcement agency. Such a procedure will be approved on a case-by-case basis, and only in exceptional circumstances.

~~Moreover, before the FBI begins or adopts the administration of a~~ Title III pursuant to a court order, the field must obtain FBIHQ approval. Therefore, extensions and renewals within 30 days do NOT require FBIHQ approval ONLY if the Title III in question has already been approved by FBIHQ. In order to ensure compliance with the statutory and procedural requirements, it is imperative that Chief Division Counsel be consulted whenever electronic surveillance is contemplated.

(4) It is essential that the requirements set forth in Title 18, USC, Section 2518, be followed meticulously in the preparation of a Title III application. In addition, it is essential that the following points be covered:

- (a) That the probable cause is current;
- (b) That definite grounds have been established for certifying that normal investigative procedures have been tried and failed or demonstrating why these procedures appear to be unlikely to succeed or would be too dangerous if tried (the courts have made clear that the use of "boilerplate" statements in this respect are unacceptable);
- (c) An attempt has been made to identify the subscriber to the telephone on which coverage is sought, if the name is not that of one of the principals;
- (d) That minimization will be assured, especially when the coverage involves a public telephone booth, a restaurant table, or the like;
- (e) That the premises to be covered are described fully, including a diagram, if possible, in requests for microphone installations (although no surreptitious entries are to be conducted

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for the purpose of obtaining such data), (see 10-9.10(6) below);

(f) That upon consideration of preparing an affidavit for coverage under Title III, the field office forward an electronic communication to FBIHQ, under case caption, setting forth by separate subheading the SYNOPSIS OF OVERALL INVESTIGATION, PRIORITY OF THE INVESTIGATION WITHIN THE DIVISION, ANTICIPATED MANPOWER REQUIREMENTS AND WHAT OUTSIDE SUPPORT, IF ANY, WILL BE NEEDED, a SYNOPSIS OF PROBABLE CAUSE JUSTIFYING TITLE III APPLICATION, the PROSECUTIVE OPINION of the U.S. Attorney, and CHARACTERIZATION OF THE INTERCEPTES;

(g) That a request for an ELSUR search of all office records be submitted, in writing, to the office ELSUR File Assistant (EFA) within 45 days prior to the submission of the affidavit to FBIHQ. The request should identify the substantive case title, to include the violation and field office file number. It should state the request is being submitted in anticipation of Title III ELSUR coverage and list the following: (1) person(s), (2) facility(s), (3) place(s) and, if appropriate, (4) vehicle identification number(s), etc., under consideration in order to identify prior applications. The EFA will conduct a search of the ELSUR Automated Records System (EARS) database requesting "all office records." Only the Principal, Proprietary Interest, and Intercept records contained in the EARS database, which relate to unclassified criminal matters, should be printed in their entirety, attached to the search request, and furnished the requestor. No information relating to court-ordered ELSURs conducted pursuant to the Foreign Intelligence Surveillance Act or information relating to consensual monitorings conducted pursuant to Attorney General Guidelines for FBI Foreign Intelligence Collections and Foreign Counterintelligence Investigations should be printed or provided to the requestor. It is the responsibility of the requestor in the office seeking a new court order to follow up the results of the search. Contact must be made with those offices identified as having filed previous applications to the court to obtain facts required for inclusion in the affidavit being prepared.

(h) Where extension orders are sought naming NEW person(s) (principals/targets), facility(s) or place(s), an ELSUR search must be conducted on the newly added principals/targets, prior to submission of the extension affidavit to the DOJ. Where extension orders are sought naming the same principals/targets, facilities, or places specified in the initial affidavit submitted to FBIHQ, a "recheck" of the EARS will be conducted for the purpose of updating the search. The "recheck" will be conducted for all extensions sought 90 days following the filing of the initial application.

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(i) Requests for ELSUR searches which relate to Title 21, USC violations, must be searched through the Drug Enforcement Administration (DEA), Washington, D.C. This will be accomplished by the FBIHQ ELSUR index for all search requests which relate to 245 violations. The need for an ELSUR search of the DEA records for any other violation must be specifically requested through the office EFA at the time the ELSUR search request is submitted. All pre-Title III ELSUR searches conducted will be transmitted to FBIHQ ELSUR index automatically via the EARS. Headquarters will forward the request to the DEA, Washington, D.C., and provide a response to the requesting office. Appropriate documentation confirming the conduct of all pre-Title III searches must be serialized and filed in the substantive case file or the corresponding ELSUR subfile to the case file. Documentation may be in the form of an electronic communication, teletype, or search slip. Requests for a search of the ELSUR index received from any outside agency or department are to be referred to the ELSUR subunit at FBIHQ.

(5) See Title 18, USC, Section 2518 for a complete listing of the statutory requirements (procedure for interception of Title III);

(6) Where it is necessary, prior to issuance of a court order, to survey property or premises to determine the feasibility of installation of wire or oral communication intercepting devices, or other electronic surveillance devices such as beepers and closed circuit television cameras, the survey shall not exceed lawful activity, i.e., no entry or other intrusion into an area where a reasonable expectation of privacy exists may be made absent consent of the proper party. (See (4) (e) above.)

(7) In matters involving the use of Closed Circuit Television (CCTV) in conjunction with a Title III electronic surveillance, refer also to Part II, Section 10-10.1 & 10-10.9 of this manual.

(8) Roving Interceptions. One of the most significant additions to Title 18, USC, Section 2518 brought about by the Electronic Communications Privacy Act of 1986 concerns the specificity required in the description of the place where, or the telephone over which, electronic surveillance is to be conducted. The original law required that the application for, and the order authorizing, an electronic surveillance request indicate the "particular" facility or place in which the interception was to occur. The new law contains an exception to the particularity requirement and, in effect, allows an

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interception order to target a specific person rather than the specific telephone or premises that person might use. The amendments establish two similar rules to govern the interception of "oral communications" and "wire or electronic communications" where the target facility need not be identified with specificity before the interception order is obtained (Title 18, USC, Section 2518(11)).

(a) With respect to "oral communications," the application must contain a full and complete statement as to why the ordinary specification requirements are not practical. The application must also identify the person committing the offense and whose communications are to be intercepted. The judge must then make a specific finding that the ordinary specification rules are not practical under the circumstances (Title 18, USC, Section 2518(11)(a)). Examples of situations where ordinary specification rules would not be practical include cases in which suspects meet in parking lots or fields or move from hotel room to hotel room in an attempt to avoid electronic surveillance. In such cases, the order would allow law enforcement officers to follow the targeted individual and engage in the interception once the conversation occurs (Title 18, USC, Section 2518(12)).

(b) The provision concerning "wire or electronic communications" is similar to that governing oral communications. The application must specifically identify the person committing the offense whose communications are to be intercepted. The application must also show, however, that the person committing the offense has demonstrated a purpose to thwart interception by changing facilities. In these cases, the court must specifically find that such purpose has been evidenced by the suspect. An example of a situation that would meet this test would be the subject who moves from phone booth to phone booth numerous times to avoid interception (Title 18, USC, Section 2518(11)(b)).

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(c) With respect to both oral and wire or electronic communications, the approval of the Attorney General, Deputy Attorney General, Associate Attorney General, Assistant Attorney General or an Acting Assistant Attorney General is required before a relaxed specificity order is sought. Approval by a Deputy Assistant Attorney General in the Criminal Division, which is authorized for all other interceptions, is not sufficient for this type of application.

(d) The government cannot begin the interception until the facilities from which, or the place where, the communication is to be intercepted is determined by the agency implementing the order (Title 18, USC, Section 2518(12)). Congress also intended that

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the actual interception not commence until the targeted individual begins, or evidences an intention to begin, a conversation. It was not intended that the relaxed specificity order be used to tap a series of telephones, intercept all conversations over those phones, and then minimize the conversations recorded as a result. This provision puts the burden on the investigatory agency to determine when and where the interception is to commence. There is no requirement of notification to the court once the premises or specific phone is identified prior to making the interception; however, a specific place or phone must be identified. Limiting interceptions to specific places once they are determined should satisfy the specificity requirement of the Fourth Amendment.

(e) Obviously, this provision will be a valuable tool in criminal investigations as sophisticated suspects have been quite effective in avoiding electronic surveillance by frequently changing their meeting places and telephones. However, the Fourth Amendment implications involved in this procedure should not be ignored. This is an extraordinary provision and it is the intention of the Department of Justice that it be used sparingly and only in clearly appropriate cases. This provision is not a substitute for investigative footwork; it is not intended that the ordinary showing of probable cause with respect to a specific telephone or location be dispensed with on the theory that the subject is a criminal who engages in criminal conversations wherever he/she goes.

(f) A further consideration, especially in wire or electronic interceptions, is the practical problems faced by the telephone company or other provider of electronic communication services in effecting the interception, complete with leased lines to the government listening post, on extremely short notice. Care has to be exercised to work with the telecommunication companies and to provide them with as much information and notice as possible as far in advance as possible. Telephone companies in particular have expressed great concern about their ability to comply with such orders, which may require action on their part that will strain their ability to assist law enforcement officials in these cases. Congress, at the request of the telephone companies, included a provision in the Act allowing the companies to move the court that has issued a reduced specificity order for the interception of wire or electronic communications to modify or quash the order if the interception cannot be performed in a timely or reasonable manner (Title 18, USC, Section 2518(12)). The key for all concerned is to approach this procedure with care and foresight and to be aware of the practical and legal problems that may arise.

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(9) It is also necessary that the post-execution sealing requirements of Title 18, USC, Section 2518(8)(a) be met. Failure to adhere to this requirement could result in suppression of relevant interceptions in the absence of a satisfactory explanation for any delay in sealing. Agents should therefore be prepared to submit the original recordings of all interceptions to the issuing judicial official for sealing immediately at the conclusion of the period of continuously ordered electronic surveillance. In this context, if there is no break in time between the expiration of the original order and any subsequent extensions, Agents may wait until the expiration of the final extension before fulfilling this requirement.

If any delay in making this delivery is anticipated, the Agent supervising the electronic surveillance should document the causes for this delay, i.e., duplication equipment failure, unforeseen manpower allocation priorities, and notify the supervising Assistant United States Attorney or Strike Force Attorney of the anticipated delay. If the supervising Agent anticipates this delay to be any greater than five days from the expiration date of the continuous electronic surveillance, he/she should, through the supervising attorney, within that five-day period obtain an extension of time in which to fulfill the sealing requirements from the appropriate judicial official.

The timely review of Title III electronic surveillance (ELSUR) tapes, CCTV recordings and consensual recordings is crucial to the overall success of a criminal investigation. This review should take place as soon as possible. This is especially true in "crisis" situations, generally defined as "life or death" matters. In those situations, Title III tapes, CCTV recordings and consensual recordings must be reviewed as quickly as possible from the time of the intercept. Pertinent conversations in "crisis" situations must be brought to the attention of supervisory personnel immediately. In all other situations defined as "noncrisis" matters, the tapes should be reviewed promptly, as deemed necessary based upon the exigencies of the investigation. To ensure adherence to this policy, it is incumbent upon the supervisory personnel to establish and follow a systematic policy providing for the appropriate review (articulated above) of all tapes.

(10) Title 18, USC, Section 2518 (5) provides for a 30-day time limitation on Title III interceptions of wire, oral and electronic communications. The 30-day time limitation shall commence at the time and date that the Title III monitoring equipment is activated, regardless of when an actual communication is first intercepted. If the monitoring equipment is not activated within ten days of the signing of the Title III court order, however, the 30-day

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time limitation begins with the eleventh 24-hour period after the order is signed.

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10-9.11 Emergency Provisions, Title III Criminal Matters

(1) In regard to the interception of wire communications or oral communications in which a reasonable expectation of privacy exists, or electronic communications, the Department will generally recognize no exception to their requirement that a warrant first be obtained. However, if an emergency situation exists wherein time does not permit following the warrant process and such electronic surveillance is believed crucial, the Attorney General, Deputy Attorney General, or the Associate Attorney General, under the authority of Title III (Title 18, USC, Section 2518 (7)), can authorize electronic surveillance prior to obtaining a court order. This means, of course, that no SAC or FBIHQ official has the authority on his/her own to authorize interception of wire, oral, or electronic communications, even under emergency circumstances where a human life is in jeopardy. Title 18, USC, Section 2518 (7), which contains the specific requirements for emergency authorization, provides as follows:

"Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that--

"(a) an emergency situation exists that involves--

"(i) immediate danger of death or serious physical injury to any person,

"(ii) conspiratorial activities threatening the national security interest, or

"(iii) conspiratorial activities characteristic of organized crime, that requires a wire, oral, or electronic communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained, and

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"(b) there are grounds upon which an order could be entered under this chapter to authorize such interception, may intercept such wire, oral, or electronic communication if an application for an order approving the interception is made in accordance with this section within forty-eight hours after the interception has occurred, or begins to occur. In the absence of an order, such interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier. In the event such application for approval is denied, or in any other case where the interception is terminated without an order having been issued, the contents of any wire, oral, or electronic communication intercepted shall be treated as having been obtained in violation of this chapter, and an inventory shall be served as provided for in subsection (d) of this section on the person named in the application."

(2) During normal working hours a field office seeking emergency Title III authorization should advise the appropriate unit of the Criminal Investigative Division (CID), FBIHQ, telephonically of such request, and contemporaneously facsimile a concise written statement of the facts, circumstances and probable cause supporting the request for interception as well as emergency authority. During weekend, holiday, or nighttime hours, requesting field offices should direct emergency Title III telephonic and facsimile communications to the CID duty supervisor who will advise the appropriate CID substantive Unit or Section Chief of the request. The substantive unit will be the point of contact for the field requesting the emergency Title III request and will maintain a log, during normal working hours, pertaining to the progress of the authorization process. During off hours, weekends, and holidays the Emergency Title III request log will be maintained by the CID duty supervisor in the Strategic Information and Operations Center (SIOC).

(3) The grounds upon which an order may be entered (in emergency situations) are limited to violations of those crimes enumerated in Title 18, USC, Section 2516, and to an emergency situation existing that involves immediate danger of death or serious physical injury to any person, conspiratorial activities threatening the national security interest, or conspiratorial activities characteristic of organized crime.

(4) The phrase "conspiratorial activities . . . characteristic of organized crime" is not defined in either the statute or the legislative history. Therefore, what activity meets this definition must be considered on a case-by-case basis. It is

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noted that DOJ has in the past demonstrated a willingness to consider authorizing emergency electronic surveillance on the basis that participants were members of an organized crime group in the traditional sense that the term has been applied. It would seem that, at a minimum, there would have to be evidence of two subjects (exclusive of informants and undercover operatives) conspiring to commit some violation enumerated in Title 18, USC, Section 2516.

(5) With regard to the phrase "conspiratorial activities threatening the national security interest," both the statute and the legislative history are devoid of any definition. Requests from the field for emergency Title III authority may in some cases be examined at FBIHQ to determine any possible applicability that the above statutory language may have to the activity in question. In some cases a determination may be made that the application for electronic surveillance can more appropriately be made under the emergency provisions of the Foreign Intelligence Surveillance Act (Title 50, USC, Section 1805 (e)).

(6) Since Section 2518(7) requires that a written application for electronic surveillance be received by the court from which authorization is being sought within 48 hours after the interception has occurred or begins to occur, preparation of the affidavit should commence contemporaneously with the telephone/facsimile request to FBIHQ. The affidavit should be transmitted by facsimile to FBIHQ as expeditiously as possible to allow for necessary processing by FBIHQ and DOJ, and submission to the appropriate court within the statutory time limit. Field offices may provide assistance to local USAs' offices without facsimile facilities by transmitting the application and proposed order over field office facilities to FBIHQ. These documents will be handcarried along with the affidavit to the DOJ. In accordance with DOJ policy, written application will be made to a court for an order approving the interception, whether or not the interceptions obtained are determined to be fruitful from an evidentiary standpoint. In the event that the need for electronic surveillance evaporates following authorization but prior to the installation and activation of the technical equipment, the submission of an affidavit is not necessary. In such cases it will be sufficient to submit an LHM briefly setting forth the fact that a request for emergency electronic surveillance was made, the basis for such request, and the reason why such surveillance became unnecessary.

(7) It should be emphasized that the above-described procedures under which emergency Title III authorization can be obtained do not in any way eliminate the need to comply with the

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requirements of a nonemergency Title III application since one may intercept communications under oral emergency authority only ". . . IF AN APPLICATION FOR AN ORDER APPROVING THE INTERCEPTION IS MADE IN ACCORDANCE WITH THIS SECTION WITHIN FORTY-EIGHT HOURS AFTER THE INTERCEPTION OCCURRED, OR BEGINS TO OCCUR . . ." (Emphasis added). The net effect of the emergency authorization process is that, following receipt of emergency authority, the entire nonemergency process must be undertaken, but within a much shorter period of time (48 hours).

(8) With regard to oral communication (microphone interceptions as opposed to wire interceptions), it is important to note that Title III authority is, by definition (see Title 18, USC, Section 2510 (2)), required when such oral communications are uttered by a person who exhibits a justifiable expectation of privacy. In the absence of such justifiable expectation (e.g., a forcibly occupied building, the residence of a stranger or of a hostage, and similar situations), no Title III court order is necessary for interception of the communications. Prior approval for such interceptions must be obtained in the same manner required for the approval of consensual monitoring of nontelephonic oral communications. Nontelephonic consensual monitoring in criminal matters may be approved by the SAC, except when one or more of the seven sensitive circumstances listed in MIOG, Part II, 10-10.3 (1) is present. Requests for authority to conduct consensual monitoring when the seven sensitive circumstances are present can be approved by the SAC when an emergency situation exists, and must be submitted to FBIHQ for Department of Justice approval in routine situations. (See MIOG, Part II, 10-10.3(9).) A field office desiring to institute microphone surveillance in hostage or other emergency situations where the existence of a justifiable expectation of privacy is in doubt should telephone the request to CID, FBIHQ. (Where possible, such request should recite the opinion and recommendations of the field office Chief Division Counsel.) CID will furnish all known facts and recommendations to Office of the General Counsel (OGC), which will make the final determination regarding the presence or absence of a justifiable expectation of privacy. If OGC determines that there is no justifiable expectation of privacy in the particular situation, CID will orally authorize use of the microphone surveillance. The field office must follow with a teletype reciting the oral authorization given and the facts upon which the authorization was based. The subsequent confirming letter from CID to the DOJ should specifically include the AUSA's opinion, and should state the opinion of OGC with respect to the absence of a justifiable expectation of privacy and the basis for that conclusion. If OGC determines that a justifiable expectation of privacy does exist, Title III authority is, of course, necessary for the microphone

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surveillance.

(9) With regard to microphone surveillance, it is noted that some electronic tracking devices (commonly referred to as "ETDs," "beepers," or homing devices) [REDACTED]

[REDACTED] have incidental microphone capabilities. Although the primary use of such devices may be for their homing capability, the incidental microphone capability of the devices may require that Title III court authorization be obtained prior to their use. SAC may authorize the use of such devices in criminal investigations. (See MIOG, Part II, 10-10.8.)

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(10) Relative to the authority to make emergency entries to install microphones absent a court order. In a situation where there is determined to be a justifiable expectation of privacy, or installation would involve trespass, emergency Title III authority must first be obtained under Title 18, USC, Section 2518 (7). The U.S. Supreme Court held that the power of the courts to authorize covert entries ancillary to their responsibility to review and approve electronic surveillance applications is implicit in the Title III statute. OGC believes that authority for the investigative or law enforcement officer specially designated by the Attorney General (normally the Director) to approve entries to install microphones can logically be derived from the emergency provisions of the statute (Section 2518 (7)), and that this derivation of authority is consistent with the Court rationale. Since FBI policy requires the inclusion of a specific request for surreptitious entry authority in routine Title III affidavits when such entry is necessary, this request, along with the underlying basis, should, of course, appear in the affidavits submitted (within the 48-hour time frame) following emergency Title III authorizations.

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10-9.11.1 Form 2 Report

(1) The Form 2 report, to be submitted by a field office upon completion of Title III ELSUR activity, is a form designed by the Administrative Office of the United States Courts (AOC), and is utilized by the Department of Justice (DOJ) and the AOC to obtain certain specific information relating to the administration of Title III physical activity, (i.e., actual monitoring, physical surveillance, etc., in direct support of the ELSUR) and the results obtained therefrom. Usually in April of each calendar year, the AOC publishes a booklet reporting all Title III activity for the previous calendar year. This report is required by Title 18, USC, Section 2519, of the Omnibus Crime Control and Safe Streets Act of 1968.

(2) FBIHQ, upon notification of the filing of an application for a Title III court order, will, on a case-by-case basis, forward by airtel under the substantive case caption of the field office involved, a prenumbered, precarboned Form 1 and Form 2 packet as provided to the FBI by the AOC. The Form 1 report consists of ply 1 and ply 2 of the packet. The Form 2 report consists of ply 3 and ply 4 of the packet.

(3) Form 2 reports and related correspondence are to be typewritten.

(4) On or before the 30th day following the denial of a Title III court order or the expiration of the authorized period of the order, including all extensions, the designated Special Agent will assist the prosecuting attorney in completing plies 1 and 2 (Form 1 portion of the packet) and items 1 through 6 of plies 3 and 4, (Form 2 portion of the packet) identical on both the Form 1 and Form 2. The Form 1 portion should remain with the prosecuting attorney. The prosecuting attorney shall then be responsible for providing the issuing judge the ply 1 and ply 2 (Form 1) for review, approval, and signature so that the court may forward the Form 1 to the AOC.

(5) Items 6 through 11 of plies 3 and 4 of the Form 2 report are to be completed by the designated Special Agent and not by the prosecuting attorney. Ply 3 of the Form 2 report is to be submitted to FBIHQ 60 calendar days following the termination of a court-authorized Title III. This rule will apply strictly to all Title IIIs, whether denied or granted, routine or emergency, except those authorized during the last 60-day period of the calendar year. Any Title III authorized during the last 60 days of the calendar year or terminating on or before December 31 are to be submitted to FBIHQ no later than five working days following termination of the Title

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III. This submission is to be made regardless of whether or not resource costs (Item 9B) of the installation, basically supplies and other items, are available at the time of submission. The ply 4 portion of the Form 2 is to be submitted appropriately to the prosecuting attorney.

(6) Any Title III expiring before midnight of December 31 should be reported to FBIHQ, telephonically, on the next working day following the termination of Title III activity. Thereafter, the Form 2 should be submitted to FBIHQ within five working days.

(7) In a joint or task force type investigation involving another agency, the agency which is responsible for recordkeeping procedures, as outlined in the MIOG, Part II, Section 10-9.9, shall be responsible for the preparation and submission of the Form 2 (plies 3 and 4 of the packet) in accordance with that agency's established procedures. It will be the responsibility of the designated Special Agent to maintain effective liaison with the responsible agency in order that all necessary statistics, costs, and results are compiled and reported on one Form 2 to be submitted by the responsible agency, if other than the FBI.

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10-9.11.2 Completion of Form 2 Report

The following is a listing of each Section and Subsection set forth on the Form 2 report with an explanation of the information to be entered for each Section/Subsection.

(1) "COURT AUTHORIZING OR DENYING THE INTERCEPT"

The Form 2 shows the above caption as Item 1 and all ply copies of the Forms 1 and 2. The docket number is generally preprinted and is utilized to track the form itself. To properly complete item number one, the full name of the judge signing or denying the Title III court order should be shown, along with the identity of the court to include the exact street address and not a post office box number.

(2) "SOURCE OF APPLICATION"

(a) Subsection 2A "Official Making Application."

This section should be used to show the full name of the official

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making the original application to the court, generally an Assistant United States Attorney. The title of the official making the original application should be shown with his or her telephone number and area code. The county and the agency name should be shown with the exact mailing address, not, Federal Building, with the name of a city and state.

(b) Subsection 2B "Prosecution Official Authorizing Application." The appropriate name to be shown is a DOJ official in Washington, D.C., not a United States Attorney or an Assistant. The word "same" may be shown only if a DOJ official was also the official making the original application, as shown in Subsection 2A.

(3) "OFFENSES (LIST MOST SERIOUS OFFENSE FIRST)"

Enter the offense(s) specified in the Title III order or application for an extension of the order (predicate offenses, i.e., ITSP, TFIS, etc., cited in application). List, in capital letters, and underline the most serious offense first, (only one offense should be underlined). The following controls should be used to determine the most serious offense:

(a) When two or more offenses are specified in the application, the offense with the highest maximum statutory sentence is to be classified as the most serious.

(b) When two of the offenses have the same maximum sentence, a crime against a person is to take priority over a crime against property.

When listing the offenses, a general description such as gambling, narcotics, racketeering, etc., will suffice. DO NOT cite the offense by title and section of the U.S. Code.

(4) "DURATION OF INTERCEPT"

Enter the number of days requested and the date of the application. Use the appropriate box to show whether the application was denied or granted and show the date of the order or denial of the order. If the application was granted with changes, changes should be listed in the column captioned "Granted With These Changes." That is to say, if the judge, the official making the application or the prosecuting attorney authorizing the application differs from those named in Item 1 and 2 above, the new individual should be named and identified by title in this section. Also, if emergency authorization was granted, it should be shown in this section along with the date

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granted i.e., "Emergency Authority 9/1/86." Do not list source numbers or techniques authorized. If insufficient space exists in this section to show all changes, submit on plain bond paper with number of section and title, as an attachment to ply 3 of the Form 2.

(5) "TYPE OF INTERCEPT"

Check the appropriate block(s) and note the specific device if not telephone or microphone.

(6) "PLACE"

Check the appropriate block(s). Be specific as to the business type and other type location, if any.

NOTE: When this portion of the form has been completed, the Form 1 portion (plies 1 and 2) is to remain with the prosecuting attorney who shall then be responsible for providing the form to the issuing judge for review, approval and signature in order for the court to forward the Form 1 to the AOC. The authorizing judge is required to file the Form 1 report with the AOC within 30 days of the expiration of the order, including all extensions.

(7) "INSTALLATION"

Check the appropriate block; only one block should be checked.

(8) "DESCRIPTION OF INTERCEPTS"

Subsections 8A through 8F to be utilized to show:

(a) that date on which the last ELSUR installation was terminated;

(b) the specific number of days the installation was in actual use;

(c) the average frequency of intercepts per day, (rounded off to the nearest number). Divide the "Number of Communications Intercepted," (8E), by the "Number of Days in Actual Use," (8B), i.e., 131 intercepts divided by 29 days equals 4.51 or 5 intercepts per day.

(d) the number of identifiable individuals whose communications were intercepted, (count each person only one time even

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if intercepted more often);

(e) the estimated number of communications intercepted, and

(f) the estimated number of incriminating communications intercepted.

(9) "COST"

(a) Subsection 9A "Nature and Quantity of Personnel Used to Install and Monitor." This section should be utilized to show the exact number of Special Agents (SAs) assigned to physically monitor, log, perform other administrative functions or work in any other capacity, specifically regarding the Title III itself. Also, the specific number of support (clerical) personnel utilized for tape transcription, duplication or other administrative support should be shown in this subsection. SA time should be shown in total number of work days, i.e., "65 Special Agents days." Use the same formulation for support personnel. If a joint operation, other agencies' (either state, local or Federal) personnel time should be shown by number of work days and broken down as above. If three Deputy Sheriffs were utilized for five days, show "15 Deputy Sheriff days." The expended personnel time of other Federal agencies should be listed in the same manner. Do not co-mingle state, local, or Federal time. "Personnel Cost" segment should be left blank. Cost figures will be computed at FBIHQ. Therefore, it is necessary that accurate and specific information be furnished to FBIHQ via this form.

(b) Subsection 9B "Nature of Other Resources (Cost of Installation, Supplies, etc.)." Requires specific cost figures which pertain to the Title III itself. For instance, leased line figures, if available at the time of reporting; equipment or tools necessary for the specific installation(s) and any other supplies, not to include tapes, unless purchased with case funds specifically for this case. This resource cost is to be shown in the block to the right of item 9B marked "Resource Cost." The "Total Cost" figure is to be left blank.

(10) "RESULTS"

This subsection should be executed when results have been obtained. Do not place the words "not applicable" or "N/A" in this subsection. This subsection should be utilized in much the same manner as an FD-515 (Accomplishment Report Form).

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Items 10A through 10D are to be utilized to show:

(a) "Number of Persons Arrested" (or otherwise taken into Federal custody, i.e., pre- or post-indictment summons) & "Arrest Offenses." Enter the total number of persons arrested. Count each person only once regardless of the number of offenses charged. List all offenses charged in the arrests. Again, a general description such as gambling, narcotics, racketeering, etc., will suffice. (Do not enter individual's name and do not use U.S. Code citations.)

(b) "Number of Motions to Suppress." Enter the number of motions to suppress (quash evidence) which were granted, denied and are still pending.

(c) "Number of Persons Convicted" & "Conviction Offenses." Enter the total number of persons convicted as a result of the interception and the offenses, by general description, for which the convictions were obtained. Persons who pled guilty would be counted in this category. Again, count each convicted person only once. (Report upon conviction. Not necessary to await sentencing.)

(d) "Number of Trials Completed." Enter the number of trials resulting from this Title III installation which have been completed. Do not count as a trial any instance where a plea was taken during the trial. Also, do not count any grand jury information such as dismissal of indictment.

(11) "COMMENTS AND ASSESSMENT"

This subsection should be utilized mainly to show if two or more Title III installations are related. This may be shown by inserting the words "related to document number _____." All Form 2s are prenumbered, and the docket number for the related Form 2 should be shown. The remaining sections of item number 11 should be left blank. The prosecutor's signature and date of report are to be left blank. (These blocks are executed by the Attorney General or Attorney General's designee in Washington, D.C., at the time of the Annual Report.)

Retain one copy of the completed Form 2 (ply 3) in a field office control file and one copy in the 1A Section of the substantive case file for supplemental submissions and recordkeeping purposes.

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EFFECTIVE: 06/18/87

10-9.11.3 Submissions of Form 2 Report to FBIHQ

(1) Appropriate administrative controls are to be utilized by field offices to ensure accurate and timely submission of the Form 2. The Special Agent to whom the case is assigned and his/her supervisor are administratively responsible for the Form 2 report. SACs are "responsible" for the accuracy of the content of all Form 2 reports and their timely submission.

(2) The report is to be forwarded by airtel in a plain brown envelope, sealed and clearly marked:

Director, FBI
ELSUR Index
FBIHQ

The airtel will include the following information:

(a) Complete case title and name of Special Agent executing Form 2.

(b) List of principals named in the initial application for the specific Title III. Should principals be added in an extension application, these names are to be listed and identified with the specific extension order, i.e., "1st extension," "2nd extension," etc.

(c) The annual salary of any non-FBI personnel listed in Item 9, Subsection 9A, used to install and/or monitor the Title III.

(d) Should a case be deemed sensitive to the point that any information disseminated outside the FBI or DOJ would compromise the investigation or witnesses, etc., a detailed statement must be made in the airtel relative to the reason why the Form 2 report should not be sent to DOJ for dissemination to the AOC for publication.

(e) The names required in Item "(b)" above are to be listed, in the format as described, on a white 3 X 5 inch card captioned "Principals," followed by the docket number (corresponding to the docket number on the Form 2), and the names of the individuals

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named as principals in the initial application and each extension thereof. This 3 X 5 inch card is to accompany the airtel and Form 2 report submitted to FBIHQ.

EFFECTIVE: 06/18/87

10-9.11.4 Supplemental Form 2 Reports

(1) Supplemental reports pertaining to statistical information called for in Item 10, caption "RESULTS" are included in each calendar year Title III report made by the AOC. The results called for in the supplemental report pertain to Title III ELSUR activity conducted during prior calendar years. Therefore, supplemental reports are to be submitted to FBIHQ as indicated in 10-9.11.3, above and subsequent to the submission of the original Form 2. The supplemental reports are to be submitted to FBIHQ by no later than close of business November 15 of each individual calendar year. Field offices will be reminded of this required submission by annual airtel to all SACs.

(2) If no supplemental information has been developed, that is to say, no further statistical information exists for the case or is forthcoming pertaining to the Title III, field offices are to submit an airtel to FBIHQ setting forth the fact that no supplemental information will be submitted and giving reason, i.e., case closed, trial set for following year, etc.

(3) The November 15 deadline will be extended only in the event statistical information is to be routinely reported by Form 2 within the same calendar year the original Form 2 is submitted. This information could include arrests, convictions (not necessarily to include sentencing), number of trials completed or major seizures prior to the end of the calendar year. Further, if no additional statistics are expected to be reported, the field office should so state in the submitting airtel.

(4) The additional information to be reported should be added to the copies of the previously submitted ply 3 of the Form 2 retained in the 1A section of the substantive case file and the field office designated control file. The form should then be duplicated and forwarded to FBIHQ. A copy of supplemental Form 2 should be retained in the 1A section of the substantive case file and the field office designated control file.

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(5) For further guidance regarding the execution of a Form 2, refer to the "ELSUR WORKING GUIDE," Title III Section, pages 68 and 68.01.

(6) Special Agents preparing Form 2 reports should note the Form 2s are to be prepared and submitted by Special Agents, not Assistant United States Attorneys or other DOJ officials, notwithstanding instructions appearing at the bottom of ply 3 of the Form 2.

EFFECTIVE: 06/18/87

10-9.12 ELSUR Indexing in Title III Criminal Matters

The ELSUR support employee in each field division will index or supervise the indexing and review of all ELSUR cards in Title III matters prior to their submission to FBIHQ. This is to ensure all cards are complete, accurate and in a format specified herein. (For indexing procedures, refer to the "Index Guide" available at each field office through the File Assistant/ELSUR support employee.) In Title III matters, all ELSUR cards will be typewritten. Two original cards will be prepared, one to be forwarded to FBIHQ for inclusion in the FBIHQ ELSUR Index and one to be maintained in the field office ELSUR index. If the information appearing on an ELSUR card is classifiable, the card must be classified in accordance with standard classifying procedures. For indexing purposes, microphone surveillance (MISUR) being utilized in conjunction with either a closed circuit television (CCTV) surveillance or an electronic tracking device will be treated as a microphone surveillance.

(1) Principal Cards - 3-x-5-inch cards maintained in the ELSUR indices containing the true name or best-known name of targets of Title III electronic surveillances. The term "principal" means any individual specifically named in the application furnished the court as being expected to be monitored during the course of the electronic surveillance. Included on the Principal card is the term "Principal Title III"; the control number assigned the source, the Bureau file number, if known; and the field office file number. In Title III matters, Principal cards are prepared on blue index cards and are to be submitted to FBIHQ within ten working days of the date the application is filed with the court regardless of whether or not authorization is granted and whether or not an installation is made or activated. In the event that a new individual(s) is named in an application for an extension or amendment of a court order, ensure

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Principal cards are submitted on the new individual(s).

Example of Principal Card

Principal Title III (Blue 3-x-5-inch index card)

- | |
|------------------------|
| a. SMITH, JOHN |
| b. PRINCIPAL TITLE III |
| c. AL NDNY-1 |
| d. 182-111 |
| e. AL 182-1 |

(2) Proprietary Interest Cards - 3-x-5-inch cards maintained in the ELSUR Index identifying the entity(s) and individual(s) who own, lease, license, or otherwise hold a possessory interest in locations subjected to electronic surveillance. These cards also identify the locations, telephone numbers, vehicle identification number, etc., targeted in the Title III application. Proprietary Interest cards further include the control number assigned the source; the date the surveillance was instituted; space for the date it will be discontinued; Bureau file number if known; and field office file number. Proprietary Interest cards should be prepared in a manner so as to be retrievable by the name of the proprietor(s), the location, and each facility specified in the application. Accordingly, to accomplish this cross-referencing, an appropriate number of these cards should be prepared, interchanging the top three entries in conformity with proper cross-indexing and filing procedures. In Title III matters Proprietary Interest cards are prepared on blue index cards. Where electronic surveillance devices are being installed on a motor vehicle, the vehicle identification number (and not the license number) will appear as item "c." All Proprietary Interest cards are to be submitted to FBIHQ within ten working days of the date the application is filed with the court, regardless of whether or not authorization is granted by the judge and whether or not an installation is made or activated. In the event that a new location or facility is identified in an application for an extension or amendment of a court order, ensure Proprietary Interest cards are submitted reflecting this new or modified information within

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ten working days of the date the application is filed with the court.

(a) Examples of Proprietary Interest Cards for
Telephone Surveillance (TESUR) Coverage in Title III Criminal Matters

1. Proprietary Interest card for filing by
name(s).

- a. SMITH, JOHN
- b. 202-324-3300
- c. 901 Elm Avenue, Room 300
Albany, New York
Holiday Inn
- d. AL NDNY-1
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-000
- h. AL 182-12

2. Proprietary Interest card for filing by
telephone number.

- b. 202-324-3300
- a. SMITH, JOHN
- c. 901 Elm Avenue, Room 300
Albany, New York
Holiday Inn
- d. AL NDNY-1
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. AL 182-12

3. Proprietary Interest card for filing by
address.

- c. 901 Elm Avenue, Room 300
Albany, New York
Holiday Inn
- a. SMITH, JOHN

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- b. 202-324-3300
- d. AL NDNY-1
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. AL 182-12

4. Proprietary Interest card for filing by facility.

- c. Holiday Inn
901 Elm Avenue, Room 300
Albany, New York
- a. SMITH, JOHN
- b. 202-324-3300
- d. AL NDNY-1
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. AL 182-12

(b) Examples of Proprietary Interest Cards for TESUR Coverage in Title III Criminal Matters Wherein More Than One Person Owns, Leases, Licenses, or Otherwise Holds a Possessory Interest in the Property Subjected to the Surveillance

1. Proprietary Interest card for filing by name(s).

- a. SMITH, JOHN
JONES, SARA
- b. 202-324-3300
- c. 901 Elm Avenue
Albany, New York
ABC Trucking Co.
- d. AL NDNY-1
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. AL 182-12

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2. The above card will be filed under the name of SMITH, JOHN and another should be prepared for filing under the name of JONES, SARA.

- a. JONES, SARA
SMITH, JOHN
- b. 202-324-3300
- c. 901 Elm Avenue
Albany, New York
ABC Trucking Co.
- d. AL NDNY-1
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. AL 182-12

3. Proprietary Interest card for filing by telephone number.

- b. 202-324-3300
- a. SMITH, JOHN
JONES, SARA
- c. 901 Elm Avenue
Albany, New York
ABC Trucking Co.
- d. AL NDNY-1
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. 182-12

4. Proprietary Interest card for filing by address.

- c. 901 Elm Avenue
Albany, New York
ABC Trucking Co.

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- a. SMITH, JOHN
JONES, SARA
- b. 202-324-3300
- d. AL NDNY-1
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. AL 182-12

facility.

5. Proprietary Interest card for filing by

- c. ABC Trucking Co.
901 Elm Avenue
Albany, New York
- a. SMITH, JOHN
JONES, SARA
- b. 202-324-3300
- d. AL NDNY-1
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. AL 182-12

(c) Example of Proprietary Interest Card for MISUR
Coverage in Title III Criminal Matters

name.

1. Proprietary Interest card for filing by

- a. SMITH, JOHN
- b. MISUR
- c. 901 Elm Avenue, Room 300
Albany, New York
Holiday Inn
- d. AL NDNY-2
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. AL 182-12

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address

2. Proprietary Interest card for filing by the

- c. 901 Elm Avenue, Room 300
Albany, New York
Holiday Inn
- a. SMITH, JOHN
- b. MISUR
- d. AL NDNY-2
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. AL 182-12

facility.

3. Proprietary Interest Card for filing by

- c. Holiday Inn
901 Elm Avenue, Room 300
Albany, New York
- a. SMITH, JOHN
- b. MISUR
- d. AL NDNY-2
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. AL 182-12

(d) Example of Proprietary Interest Card for MISUR
Coverage Involving a Vehicle in Title III Criminal Matters

name.

1. Proprietary Interest card for filing by

- a. SMITH, JOHN
- b. MISUR
- c. VIN 1A2345RA789
- d. AL NDNY-3
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. AL 182-12

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2. Proprietary Interest card for filing by the
vehicle identification number.

- c. VIN 1A2345RA789
- a. SMITH, JOHN
- b. MISUR
- d. AL NDNY-3
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. AL 182-12

No card for filing under the address is required in matters involving
a motor vehicle.

(e) Example of Proprietary Interest Cards for CCTV
Coverage in Connection With MISUR Coverage

1. Proprietary Interest card for filing by
name.

- a. SMITH, JOHN
- b. MISUR
- c. 901 Elm Avenue, Room 300
Albany, New York
Holiday Inn
- d. AL NDNY-3
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. AL 182-12

2. Proprietary Interest card for filing by the
address.

- c. 901 Elm Avenue, Room 300
Albany, New York
Holiday Inn
- a. SMITH, JOHN
- b. MISUR
- d. AL NDNY-3

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- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. 182-12

3. Proprietary Interest card for filing by the facility.

- c. Holiday Inn
901 East Avenue, Room 300
Albany, New York
- a. SMITH, JOHN
- b. MISUR
- d. AL NDNY-3
- e. Instituted: 11-1-82
- f. Discontinued: (to be filled in later)
- g. 182-1000
- h. 182-12

In most situations when Proprietary Interest cards are prepared, item "f" will not be known. In some situations, items "d" and "e" may not be known. When this information is determined, it should be furnished to FBIHQ, by airtel, or an amended card(s) should be prepared.

(3) Overhear Cards - 3-x-5-inch cards maintained in the ELSUR indices containing the true name or best-known name of all individuals (including non-U.S. persons, Special Agents, assets, informants, cooperating witnesses, etc.) who have participated in conversations intercepted during the conduct of a Title III electronic surveillance. Only one Overhear card is required per source for any individual overheard, regardless of the number of times his/her voice is overheard. If the individual is overheard on more than one source, a separate Overhear card should be submitted to FBIHQ for each source the first time an individual is overheard. As the ELSUR indices maintained at FBIHQ will only contain one Overhear card the first time an individual is overheard on a specific source, it will be the responsibility of the field office to maintain records of all subsequent overhears of that individual over the same source. Accordingly, the field office should enter the date of each subsequent overhear on the card maintained on that individual in the field office ELSUR indices. Overhear cards are only submitted if the identity of the individual overheard is known or a full name is given. In the event that a partial name, code name, nickname or alias overheard

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during an electronic surveillance is positively identified with a specific individual through investigation or further monitoring, an Overhear card is then submitted to FBIHQ. The overhear date will be the earliest date the individual was monitored over that source and all subsequent overhears determined to be identical to that individual should be recorded on the field office ELSUR card. In addition to the name of the individual overheard, Overhear cards contain the date on which the conversation took place; the symbol number assigned to the source; Bureau file number, if known; and the field office file number. In Title III matters, Overhear cards are prepared on blue index cards and submitted to FBIHQ within a reasonable period of time, not to exceed 30 calendar days following the first instance an individual is identified as having been overheard over each different ELSUR installation. All Overhear cards will be submitted to FBIHQ, in accordance with instructions for the submission of ELSUR cards.

Example of Overhear Card in Title III Matters

Overhear Title III, TESUR or MISUR coverage.

- a. SMITH, JOHN
- b. 12-7-81
- c. AL NDNY-1
- d. 182-111
- e. AL 182-1

Any additional information a field office deems necessary for inclusion on any type ELSUR card being forwarded to FBIHQ should be labeled on the card and explained in a brief statement in the FD-664. As an example, an auxiliary office submitting Overhear cards to FBIHQ as the result of an ELSUR conducted at the request of another field office may wish to reflect on the Overhear card the file number of the office of origin. An Overhear card prepared in this manner would appear as follows:

- a. SMITH, JOHN
- b. 12-7-81
- c. AL NDNY-1
- d. 182-11
- e. AL 182-11
- f. OO: BS 182-12

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It would not be necessary for the auxiliary office to prepare copies of the Overhear cards for inclusion in the ELSUR index of the office of origin; to forward a copy of the FD-664 to the office of origin for information purposes is sufficient.

EFFECTIVE: 06/06/86

10-9.13 Marking of Recordings for Identification

See Part II, 16-8.2.3 of this manual.

EFFECTIVE: 09/22/87

10-9.14 Loan of Electronic Surveillance Equipment to State and
Local Law Enforcement Agencies

See Part II, |16-7.3.4| of this manual.

EFFECTIVE: 09/22/87

10-9.15 Submission of Recordings

For instructions regarding the forwarding of tapes to
FBIHQ see Part II, 16-8.2.4 and 16-8.2.8 of this manual, and MAOP,
| Part II, |2-4.4.11. |

EFFECTIVE: 10/16/96

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10-9.16 Transcription of Recordings

(1) FD-652, Transcription Request/Approval Sheet, should accompany each request for transcription of any tape. Include on the FD-652, under "Summary," information describing where the discussion/meeting took place, what the subject of the conversation was, and any other details that would be helpful to the typist in accurately transcribing tape recordings. It is mandatory that the SAC grant approval for all full-text transcriptions and indicate this approval by initialing the appropriate block on FD-652. The final disposition of this form is being left to the discretion of each individual office. They may be disposed of in the same manner as the FD-77 (Dictation Slip). (See MAOP, Part II, Section 10-18.1(4), for use of FD-77.)

(2) For additional instructions regarding the preparation of transcripts of recordings, see Correspondence Guide - Field, Section 2-11.6.

EFFECTIVE: 04/19/91

10-10 CONSENSUAL MONITORING - CRIMINAL MATTERS

EFFECTIVE: 04/19/91

10-10.1 Use of Consensual Monitoring in Criminal Matters

(1) Consensual monitoring is the interception by an electronic device of any wire or oral communication wherein one of the parties to the communication has given prior consent to such monitoring and/or recording.

(2) Title 18, USC, Section 2511 (2)(C), requires consent from one of the parties to the communication to bring the interception within an exception to the general warrant requirement. To document conformance to the requirements of the statute, FBI policy requires that a consent form be obtained from the consenting party. (See MIOG, Part II, 10-10.3(7).)

(3) No exception should be made to executing and properly witnessing the consent form in the situation wherein an informant, cooperative witness (CW), a Special Agent or any other law enforcement

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officer is the consenting party. Additionally, the consent form constitutes an accurate, reliable official record that may be utilized in a court in the event the issue of consent is raised or the administrative procedure needs to be documented to assure the court compliance with Title 18, USC, Section 2511 (2)(C). (See MIOG, Part II, 10-10.3(7).)

(4) Separate control files -- One for telephonic consensual monitoring and another for nontelephonic consensual monitoring (body recorders and/or transmitting devices) should be established in each field office. Documents relative to the authorization and utilization of these techniques should be retained in the appropriate control file. These control files will be for the purpose of the SAC's administrative control and for use during the inspection.

(5) In matters involving the use of Closed Circuit Television (CCTV) in conjunction with the consensual monitoring technique, refer also to Part II, 10-9.10(7) and 10-10.9 of this manual.

EFFECTIVE: 02/28/97

10-10.2 Monitoring Telephone Conversations in Criminal Matters
(See MIOG, Part I, 89-2.11(7), 91-11.3.2(2), 192-14(2);
Part II, 10-9.9(3), 16-7.4.1.)

An FD-670, Checklist - Consensual Monitoring - Telephone (Criminal Matters) form, lists all recordkeeping and operational requirements specified in the MIOG, MAOP, and the "ELSUR Working Guide." This form is available for optional use as a reference and training aid to ensure adherence to all existing Bureau requirements.

(1) SACs may authorize monitoring of telephone conversations in criminal matters for the duration of the investigation. Each authorization should be documented on Form FD-759 (Notification of SAC Authority Granted for Use of CONSENSUAL Monitoring Equipment), and may be granted under the conditions that:

(a) Agents should obtain written consent (for all ELSURs not approved by an appropriate court), as documented by an executed Form FD-472 (Telephone Device Consent), whenever possible; however, oral consent will be acceptable in those instances where the

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consenting party declines to give written consent. When oral consent is obtained, at least two Law Enforcement Officers (one of whom should be an Agent of the FBI) should be present to witness this consent. The fact that the consenting party has declined to give written consent should be recorded on the FD-472. This form should then be executed in all respects with the exception of the consenting party's signature. Once the consent form has been obtained, it will not be necessary to obtain a separate consent form for each instance wherein conversations are to be monitored and/or recorded. It is sufficient if the consent form is signed for each investigation so long as the office has obtained telephonic consensual monitoring authority and the subject matter for which the authority was granted; the consenting party or parties to the interception; and/or the judicial district do not change. This consent form shall remain valid until such time as the consenting party expresses the desire, either orally or in writing, to a Special Agent of the FBI to rescind the consent;

(b) Prior to its initial use, the USA, AUSA, or Strike Force Attorney for the particular investigation in which the monitoring will be utilized should provide an opinion that no entrapment is foreseen and concur with the monitoring and/or recording of the conversation as an investigative technique. This initial concurrence should be confirmed in writing. Whenever a change in parties or circumstances occur, subsequent opinions should be obtained and confirmed in writing. (See MIOG, Part II, 10-10.3 (12).)

(c) Consensual monitoring conducted outside the division in which authorization is obtained requires coordination with and concurrence from the SAC of each division where the monitoring will occur. Such concurrence must be documented in writing by the office of origin if not documented by the lead office in the EC forwarding the recordings to the requesting office.

(d) A separate control file for telephone monitoring should be established in each field office and appropriate documents relative to the authorization and utilization of this procedure should be retained. This control file will be for the purpose of the SAC's administrative control and for review during inspection.

(e) The FD-759 is to be typewritten, completed in its entirety and forwarded as indicated on the copy count of the form within ten working days of the date authority is granted as indicated in Item 5 of the form. In those investigations wherein both telephonic and nontelephonic consensual monitoring authority is granted, SAC approval may be documented on one FD-759. This may be done only when both techniques are being used in the same

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investigative case and all facts required on the FD-759 are the same for both techniques. Any variations in the facts contained on the FD-759 will require two separate FD-759s, such as more than one consenting party or the duration for which the authority is granted for each technique differs, etc. Telephonic consensual monitoring authority is case specific and is not transferrable to any other investigation except when the case file under which the authority was granted is consolidated or reclassified. FD-759s documenting only telephonic consensual monitoring authority need not be forwarded to FBIHQ. (See MIOG, Part II, 10-10.3 (1).)

(2) In cases of extreme sensitivity, SACs should continue to obtain FBIHQ authority for consensual monitoring of telephone conversations. Title III of the Omnibus Crime Control and Safe Streets Act of 1968 specifically exempts consensual monitoring (both telephonic and body recording equipment) from the provisions of the statute.

(3) In certain situations, it may be more effective and efficient to utilize three-way or conference calling in conjunction with approved telephonic consensual monitoring. Once consent forms have been signed and authorization received, three-way or conference calling may be used to make more efficient use of an Agent's time and/or to alleviate the necessity for face-to-face contact with the consenting party, thereby avoiding the compromise of a covert investigation. However, the use of conference calling is not appropriate in all cases. In some instances, it may be desirable for the Agent to be with the consenting party at the time the call is placed in order that the Agent may utilize notes or gestures to provide information and guidance to the consenting party during the course of the call.

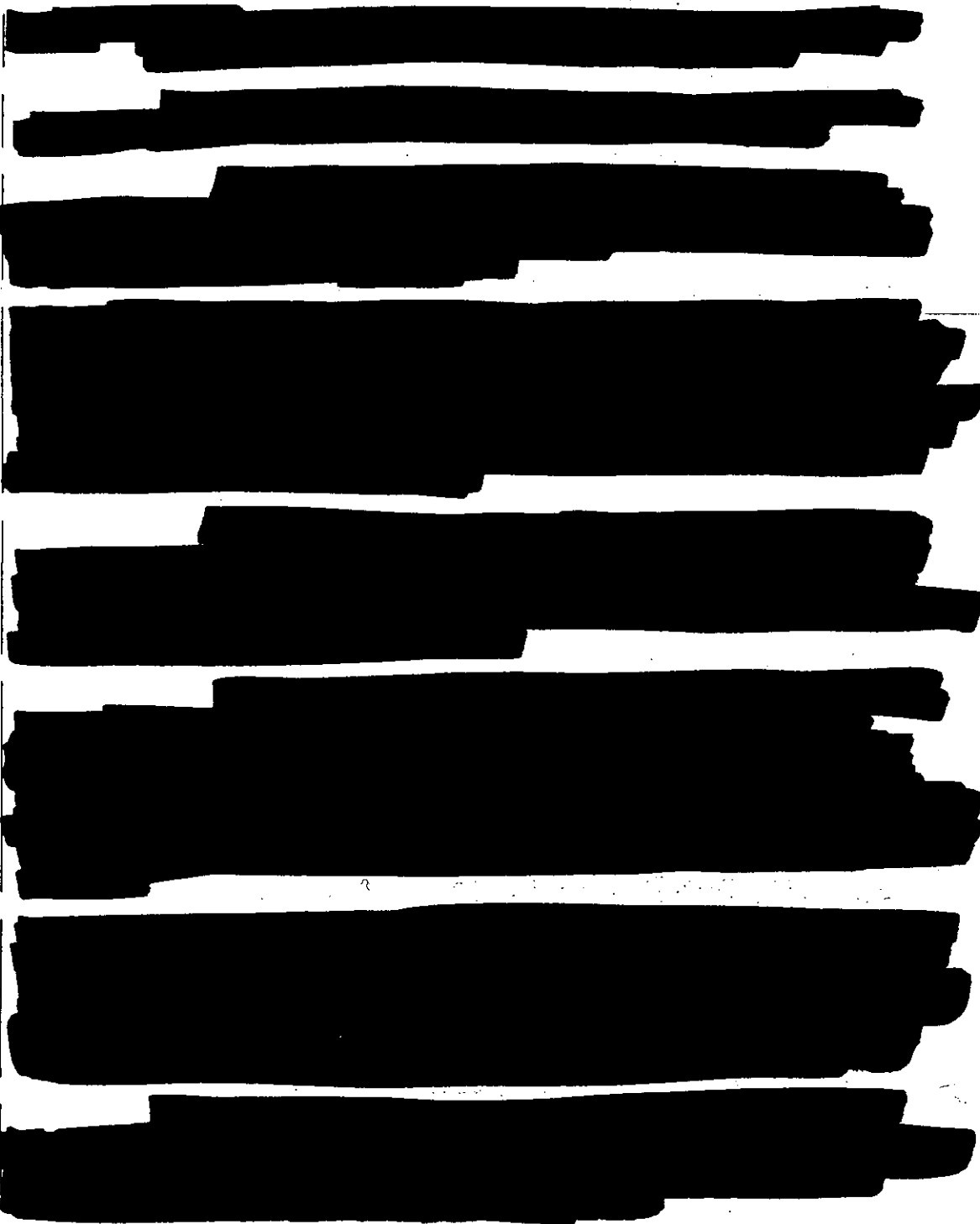
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- Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552

Section 552a

(b)(1)

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(k)(4)

(b)(4)

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(b)(9)

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(b)(6)

(k)(7)

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EFFECTIVE: 05/10/96

10-10.3 Monitoring Nontelephone Communications In Criminal Matters
(See MIOG, Part I, 7-14.6(14), 9-7.2(5), 91-11.3.3,
192-15; Part II, 10-9.9(3), 10-10.9.3(1), 16-7.4.1; &
Legal Handbook for Special Agents, 8-3.3.3(1).)

An FD-671, Checklist - Consensual Monitoring -
Nontelephone (Criminal Matters) form, lists all recordkeeping and
operational requirements specified in the MIOG, MAOP, and the "ELSUR
Working Guide." This form is available for optional use as a
reference and training aid to ensure adherence to all existing Bureau
requirements.

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(1) Nontelephonic Consensual Monitoring (NTCM) in criminal matters may be approved by the SAC, except when one or more of the seven sensitive circumstances is present. Requests for authority to conduct consensual monitoring when any of the seven sensitive circumstances are present will be submitted to FBIHQ for Department of Justice approval in ROUTINE situations, and can be approved by the SAC when an emergency situation exists. EMERGENCY situations are those wherein the monitoring is expected to take place within 48 hours. Emergency authority cannot exceed 30 days and requests for extension will be submitted to FBIHQ for Department of Justice approval. (See (3), (9) and (10).)

SAC approval for routine nonsensitive NTCM usage or for emergency NTCM usage involving sensitive circumstances is to be documented on Form FD-759 (Notification of SAC Authority Granted for Use of CONSENSUAL Monitoring Equipment). The FD-759 is to be typewritten, completed in its entirety and forwarded to the appropriate FBIHQ entities within ten working days of the date authority is granted as indicated in Item 5 of the form. (See MIOG, Part II, 10-10.2 (1) (e).) NTCM authority is case specific and is not transferrable to any other investigation except when the case file under which the authority was granted is consolidated or reclassified.

SAC authority to approve NTCM usage in all but the seven sensitive circumstances may not be redelegated; however, an acting SAC may authorize Agents to conduct routine consensual monitoring, if specifically and individually designated by the SAC to act in his/her stead when the SAC is absent. (See MIOG, Part II, 10-9.11 (8).) The seven sensitive circumstances are as follows:

(a) The interception relates to an investigation of a Member of Congress, a federal judge, a member of the Executive Branch at Executive Level IV or above, or a person who has served in such capacity within the previous two years;

(b) The interception relates to an investigation of any public official and the offense investigated is one involving bribery, conflict of interest, or extortion relating to the performance of his or her official duties. (Public official is defined as an official of any public entity of government including special districts as well as all federal, state, county, and municipal governmental units.);

(c) The interception relates to an investigation of

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a federal law enforcement official;

(d) The consenting or nonconsenting person is a member of the diplomatic corps of a foreign country;

(e) The consenting or nonconsenting person is or has been a member of the Witness Security Program and that fact is known to the agency involved or its officers;

(f) The consenting or nonconsenting person is in the custody of the Bureau of Prisons or the United States Marshals Service; in cases where the individual is in the custody of the Bureau of Prisons or the United States Marshals Service, the field office teletype requesting authorization for use of consensual monitoring devices on a prisoner, or a request for a furlough or extraordinary transfer of a prisoner, must contain the following information in addition to that information set out in 10-10.3 (9):

1. The location of the prisoner;
2. Identifying data concerning the prisoner (FBI number, inmate identification number, social security number, etc.);
3. The necessity for using the prisoner in the investigation;
4. The name(s) of the target(s) of the investigation;
5. Nature of the activity requested (wear consensual monitoring device, furlough, extraordinary transfer);
6. Security measures to be taken to ensure the prisoner's safety if necessary;
7. Length of time the prisoner will be needed in the activity;
8. Whether the prisoner will be needed as a witness;
9. Whether a prison redesignation (relocation) will be necessary upon completion of the activity;
10. Whether the prisoner will remain in the

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custody of the FBI or whether he/she will be unguarded except for security purposes.

The authority of the SAC to approve consensual monitoring when an emergency situation exists does NOT alter the requirement for prior DOJ authorization to use a prisoner who is in the custody of the Bureau of Prisons (BOP), or the United States Marshals Service (USMS). Accordingly, field offices are required to continue coordinating the use of a prisoner, who is the subject of consenting or nonconsenting monitoring, through FBIHQ as set forth in MIOG, Part II, 10-10.3 and 27-16.5.

(g) ~~The Attorney General, Deputy Attorney General, Associate Attorney General, Assistant Attorney General for the Criminal Division, or the United States Attorney in a district where an investigation is being conducted has requested the investigating agency to obtain prior written consent for making a consensual interception in a specific investigation.~~

The presence of one or more of the above seven circumstances requires Office of Enforcement Operations, DOJ approval. Additionally, all requests requiring DOJ approval shall be reviewed and approved by the Chief Division Counsel (CDC) prior to submission of the communication to FBIHQ with the name of the CDC stated in the requesting communication.

(2) The Guidelines also mandate the FBI's obtaining prior authorization from the United States Attorney, Assistant United States Attorney, Strike Force Attorney or any other previously designated DOJ attorney for the particular investigation in which the monitoring will be utilized.

(3) The Director has delegated authority to the SAC to approve NTCM of verbal communications except when the circumstances listed in MIOG, Part II, 10-10.3 (1) above, are present. SACs may authorize NTCM usage for the duration of nonsensitive investigations so long as the circumstances under which the authority was granted (i.e., the subject matter, the consenting party or parties to the interception, and the judicial district wherein monitoring will take place) do not substantially change--the authorization will remain valid. Where such changes are noted, consideration should be given by the SAC to determine whether or not the NTCM authority should continue or new authority obtained. Where new authority is obtained, a new FD-759 must be completed.

(4) Consensual monitoring conducted outside the division

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in which authorization was obtained requires coordination with and concurrence from the SAC of each division where the monitoring will occur. Such concurrence must be documented in writing by the office of origin if not documented by the lead office in the EC forwarding the recordings to the requesting office.

(5) Agents should obtain written consent, documented by an executed FD-473 (Nontelephone Device Consent) form, whenever possible. However, oral consent will be acceptable in those instances where the consenting party declines to give written consent. When oral consent is obtained, at least two Law Enforcement Officers (one of whom should be an Agent of the FBI) should be present to witness this consent. The fact that the consenting party has declined to give written consent should be recorded on the FD-473. This form should then be executed in all respects, with the exception of the consenting party's signature.

(6) Once the consent form has been obtained, it will not be necessary to obtain a separate consent form for each instance wherein communications are to be monitored and/or recorded. It is sufficient if the consent form is signed for each investigation so long as the office is continuing to operate under the same authority and the subjects (target(s) and consenting party) do not change. This consent form shall remain valid until such time as the consenting party expresses the desire, either orally or in writing, to a Special Agent of the FBI to rescind the consent.

(7) No exception should be made to executing and properly witnessing the consent form in the situation wherein an informant, cooperative witness (CW), a Special Agent or any other law enforcement officer is the consenting party. (See MIOG, Part II, 10-10.1 (2) and (3).) The consent form constitutes an accurate, reliable, official record that may be utilized in a court in the event the issue of consent is raised or the administrative procedure needs to be documented to assure the court compliance with Title 18, USC, Section 2511 (2) (c). As in any case involving consensual monitoring, it is essential that the consenting party be present at all times when the monitoring equipment is activated.

(8) SAC or DOJ authority is required in joint operations with nonfederal law enforcement agencies in which FBI nontelephone monitoring equipment will be used. (See MIOG, Part II, 16-7.3.4(2).)

(9) In requesting Department of Justice (DOJ) authority for use of nontelephonic consensual monitoring equipment in routine situations when any of the seven sensitive circumstances listed in

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MIOG, Part II, 10-10.3 (1) exists, it will be necessary to use the following format in the field communication. Only in the Administrative Data portion of this communication should the consenting party be identified (if protection is sought) by symbol number or name. This communication may be furnished directly to the Department: (See MIOG, Part II, 10-9.11(8) & 10-10.3(1)(f), above.)

PURPOSE: Authority is requested to utilize an electronic device to monitor and/or record private communications between _____ and _____ (if appropriate, insert "and others as yet unknown") in connection with a _____ (character) matter.

DETAILS: ~~Begin with a sentence which states that this request~~ requires DOJ approval and identify which of the seven sets of circumstances require such approval. Provide a statement that the Chief Division Counsel, identified by name, has reviewed and approved the communication for legal sufficiency. Describe background of case--reasons why the device is needed and when and where it is needed. Identify the person who is to wear the device or indicate if fixed device is to be used (body recorder, transmitter, Closed Circuit Television (CCTV), other) and where it will be installed (automobile, office, home of consenting party, etc.) and indicate it will only be used when consenting party is present. If a CW or an informant is the person whose identity should be protected, or if an Undercover Agent (UCA) is the consenting party, identify the person as "source." Show, under Administrative Data, the symbol number of the CW or informant, identity of UCA, or name of person whose identity is to be protected. Show, under Administrative Data, the type of device to be used and specifically state that consenting party is willing to testify in court and will execute the FD-473, or will give oral consent which will be witnessed by two law enforcement officers, one of whom should be an Agent of the FBI.

U.S. ATTORNEY'S OPINION: Identify USA, AUSA, or Strike Force Attorney with whom case discussed. Specifically set out USA's opinion regarding entrapment and specifically state USA approves the use of device.

ADMINISTRATIVE DATA: All administrative data should be shown in this section. Here only should the person who is to wear the device be identified (if protection is sought) by name or symbol number or indicate if fixed device.

(10) Where an emergency situation exists involving a sensitive circumstance, prior DOJ authorization is not required. Under such circumstances, the SAC may approve the request; however,

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subsequent DOJ notification is required within five work days and will be handled by FBIHQ upon receipt of the Form FD-759. Emergency authority cannot exceed 30 days and requests for extension will be submitted to FBIHQ for Department of Justice approval. (See (1).)

(11) All offices should ENSURE appropriate administrative controls are established to ensure FBIHQ is advised of the results of the usage of consensual monitoring equipment within 30 days of the expiration of each SAC and/or DOJ authorization. If it is anticipated that an extension of DOJ authority will be needed, ensure that the requesting teletype is received at FBIHQ at least seven days prior to the expiration of authority. Within 30 days of the expiration of each SAC or DOJ authorization and each extension thereof, an FD-621 (NTCM Usage Report), shall be prepared under the substantive case caption including the character of the case, completed in its entirety and forwarded to FBIHQ in an envelope sealed and labeled "Director, FBI, ELSUR Index, FBIHQ."

(12) The initial opinion of the USA, AUSA, or Strike Force Attorney regarding entrapment and concurrence in the use of the technique should be confirmed in writing. Whenever a change in parties or circumstances occurs subsequent opinions should be obtained and confirmed in writing. (See MIOG, Part II, 10-10.2(1)(b).)

EFFECTIVE: 09/17/97

10-10.4 Deleted

EFFECTIVE: 12/16/88

|| 10-10.5 ELSUR Indexing in Consensual Monitoring Matters

The ELSUR support employee in each field division will index, or supervise the indexing of, and review all ELSUR cards in consensual monitoring matters, prior to their submission to FBIHQ. This is to ensure that all cards are complete, accurate and in a format specified herein. (For indexing procedures refer to the "Index Guide" available at each field office through the File Assistant/ELSUR support employee.) In consensual monitoring matters all ELSUR overhear cards will be typewritten. Two original cards will be prepared; one to be forwarded to FBIHQ for inclusion in the FBIHQ

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ELSUR Index, and one to be maintained in the field office ELSUR index. If the information appearing on an ELSUR card is classifiable, the card must be classified in accordance with standard classifying procedures.

(1) Overhear Cards - 3-x-5 cards maintained in the ELSUR indices containing the true name or best-known name of all individuals (including non-U.S. persons, Special Agents, assets, informants, cooperating witnesses, etc.) who have participated in conversations intercepted during the conduct of a consensual monitoring matter. Only one Overhear card is required per source for any individual overheard, regardless of the number of times his/her voice is overheard. If the individual is overheard on more than one source, a separate Overhear card should be submitted to FBIHQ for each source the first time an individual is overheard. As the ELSUR indices maintained at FBIHQ will only contain one Overhear card the first time an individual is overheard on a specific source, it will be the responsibility of the field office to maintain records of all subsequent overhears of that individual over the same source. Accordingly, the field office should enter the date of subsequent overhears on the card maintained on the individual in the field office ELSUR indices. Overhear cards are only submitted if the identity of the individual overheard is known or a full name is given. In the event that a partial name, code name, nickname or alias overheard during an electronic surveillance is positively identified with a specific individual through investigation or further monitoring, an Overhear card is then submitted to FBIHQ. The overhear date will be the earliest date the individual was monitored over that source, and all subsequent overhears determined to be identical to that individual should be recorded on the field office ELSUR card. In addition to the name of the individual overheard, Overhear cards contain the date on which the conversation took place; the control number assigned to the source or the word "Consensual"; the technique ("telephone" or "nontelephone" spelled out); Bureau file number, if known; and the field office file number. In consensual monitoring matters, Overhear cards are prepared on white index cards. All Overhear cards will be submitted to FBIHQ, in accordance with instructions for the submission of ELSUR cards, within a reasonable period of time, not to exceed 30 calendar days following the first instance an individual is identified as having been overheard over each different ELSUR installation.

Examples of Overhear Card in Consensual Monitoring
Matters

(a) Overhear Consensual Monitoring - Telephone

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- a. SMITH, JOHN
- b. 12-7-82
- c. AL CM# 10 (Telephone) or Consensual (Telephone)
- d. 182-111
- e. AL 182-1

(b) Overhear Consensual Monitoring - Nontelephone

- a. SMITH, JOHN
- b. 12-7-82
- c. AL CM# 11 (Nontelephone) or Consensual
Nontelephone)
- d. 182-111
- e. AL 182-1

(2) Any additional information a field office deems necessary for inclusion on any type ELSUR card being forwarded to FBIHQ should be labeled on the card and explained in a brief statement in the FD-664. As an example, an auxiliary office submitting Overhear cards to FBIHQ as the result of an ELSUR conducted at the request of another field office may wish to reflect on the Overhear card the file number of the office of origin. An Overhear card prepared in this manner would appear as follows:

- a. SMITH, JOHN
- b. 12-7-82
- c. AL CM # 12 (Nontelephone) or Consensual
(Nontelephone)
- d. 182-111
- e. AL 182-11
- f. OO: BS 182-12

It would not be necessary for the auxiliary office to prepare copies of the Overhear cards for inclusion in the ELSUR index of the office of origin; to forward a copy of the FD-664 to the office of origin for information purposes is sufficient.

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EFFECTIVE: 12/16/88

10-10.5.1 Administration of ELSUR Records Regarding Informants and Assets

(1) Title 18, USC, Section 3504, allows a claim to be made for disclosure of ELSUR information "...in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, or other authority of the United States...." Discovery motions may be made by a defendant in the proceedings, or on behalf of witnesses, and attorneys providing representation. However, in a motion for disclosure of ELSUR information involving a source who participated in consensual monitoring, a response by the government does not necessarily disclose the identity of the source (consenting party) and/or the confidential nature of the relationship that individual had with the FBI except in situations where a determination is made by the appropriate authority that source disclosure is relevant to the proceedings.

Every effort will be made by FBIHQ through liaison with the Department of Justice to prevent disclosure.

(2) To prevent unwarranted disclosures, the following procedures are to be used when a source is party to a consensual monitoring:

(a) Communications to FBIHQ requesting consensual monitoring authorization are to identify informants or assets by symbol number or other appropriate terminology.

(b) In the execution of the required consent form (FD-472, FD-473), the true name of the consenting party is to be used. When the consenting party is a source, the original of the executed form is to be retained in the evidence section of the source's main file.

(c) On the FD-504 (Chain of Custody-Original Tape Recording) envelope, the true name of the source is to be set forth in the space provided for the entry, "Identity of Persons Intercepted." The completed FD-504 is to be maintained in a limited or restricted access location in full compliance with the instructions set forth in Part II, Section 10-9.8, of this manual.

(d) Neither the true name nor the informant symbol

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number is to be set forth on the FD-192 (Control of General/Drug/Valuable/Evidence) form.

(e) FD-302s, transcripts, etc., pertaining to consensual monitorings are to be prepared and maintained in compliance with the instructions set forth in Part I, Section 137-10 of this manual; Section 2-11.6 through 2-11.6.4 of the Correspondence Guide-Field or in the Introduction, Section 1, of the Foreign Counterintelligence Manual. Because of the nature of consensual monitoring, particularly when a limited number of conversants are involved, strict adherence to these guidelines is essential to protect the identity of the source.

(f) Overhear cards are to be prepared for all reasonably identified participants to a consensually monitored conversation, including the consenting party. For sources, both the FBIHQ and the field office cards are to be prepared for the true name(s) of the individual(s) monitored. Except for required classification markings, as applicable, no additional notations are to be set forth on the cards submitted to FBIHQ to indicate the monitored person is a source or to indicate that there is any unique sensitivity to the consensual monitoring conducted. Such caveats may, however, be placed on the field office ELSUR cards, but must be documented to a specific serial which reflects the need for and duration of special handling.

(g) The airtel to FBIHQ (FD-664) enclosing ELSUR cards for sources is to be prepared and submitted as outlined in Section 10-9.5 above. The names being indexed by each card enclosed will be listed on the FBIHQ copies of the airtel exactly as they appear on the ELSUR cards. Except for required classification markings, as applicable, no additional notations are to be placed on this airtel (FD-664) to indicate the enclosed overhear cards relate to a source. The copy of this communication to be placed in the field office substantive file is to be redacted so as to reflect the symbol number of the source rather than the true name.

(h) ELSUR material is not to be indexed to nor submitted from an informant or asset file. ELSUR indexing is to be done reflecting the field office substantive case file.

(i) For additional instructions regarding informant or asset matters, see also Part I, Section 137, of this manual, or Part 1, Section 5, of the National Foreign Intelligence Program Manual.

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EFFECTIVE: 10/16/96

10-10.6 Use of Consensual Monitoring in National Security Matters

Refer to Foreign Counterintelligence Manual, Appendix 1,
Section IV.F.

EFFECTIVE: 12/05/85

10-10.7 Pen Registers (Dialed Number Recorder) (See MIOG, Part II,
10-3, 10-10.11.3 & 16-7.4.6.)

(1) The Electronic Communications Privacy Act of 1986 (Act), as amended, regulates the use of dialed number recorders and the pen register technique (Title 18, USC, Sections 3121-3127). The Act codifies existing Department of Justice (DOJ) policy of obtaining a court order to authorize the installation and use of a pen register and sets forth the procedure for seeking such an order. It is not necessary to obtain a court order when the telephone user consents to the installation of the pen register device.

(2) Law enforcement agencies are required under Title 18, USC, Section 3121(c) to install and use technology that is "reasonably available" in order to limit the information obtained from a pen register to "the dialing and signalling information utilized in call processing" (only the numbers dialed to reach the called number, not additional numerical messages or codes). Such pen register technology is not now available. When technology is developed, the Engineering Section, Information Resources Division, will acquire and distribute same.

(a) Cell Site Simulators: This provision does not affect DOJ/FBI policy on the use of digital analyzers and cell site simulators. No court order is required to use these devices to acquire cell site data (cellular telephone ESN or MIN, or other facility-identifying information) when obtained without involving the telecommunication carrier or other intermediary. However, a pen register or trap and trace order is needed if these devices are used to obtain numbers dialed to or from a cellular telephone (i.e., call processing information).

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Under Section 3121(c), a pen register order for a cellular telephone is limited to acquiring call processing information. Additional non-content information, such as cellular telephone ESN or MIN, cell site sector information, or other location type information may be considered "a record or other information pertaining to a subscriber" and obtained from a telecommunications carrier pursuant to a court order under Title 18, USC, Section 2703(d), or pursuant to a warrant or consent of the subscriber or customer.

(3) Supervisory personnel are to ensure that the use of the pen register is not substituted for other logical investigations. Prior to requesting that an attorney for the government apply for a pen register order under the Act, the case Agent should submit a memorandum or other appropriate communication, initialed by the supervisor, to the case file and to the pen register control file setting forth the reasons for pen register use and documenting the basis for the statements to be made in the application. If the United States Attorney or Strike Force Chief requires a written request specifying the factual basis for the assertions in the application, copies of the letter may be designated to the above-indicated files in lieu of a separate memorandum. The above instructions apply to all instances wherein a pen register is to be used, whether alone or in conjunction with the interception of wire or electronic communications under the provisions of the Act. A Division Counsel should be consulted if there is any question as to the sufficiency of facts stated or whether the existing facts are stated in a manner which would clearly warrant the assertions made in the application for the order. A copy of each order obtained must be filed in the pen register control file.

(4) Prior to the actual filing of an application for a pen register order, the case Agent is to ensure the availability of equipment within his/her field office. If the equipment is not available from the existing office inventory, then the TA or TTA should be requested to make appropriate contact with the Operational Support Unit, Information Resources Division, to secure equipment. All requests for pen register equipment must be confirmed in writing.

(5) The Act requires the Attorney General to make an annual report to Congress on the number of pen register orders applied for by law enforcement agencies of the Department. DOJ has advised the FBI by memorandum of this requirement and has requested quarterly reports on pen register usage. Court-ordered pen register usage must be reported to FBIHQ within five workdays of the expiration date of any original or renewal order. To satisfy DOJ data requirements and standardize and simplify field reporting, the form airtel captioned

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"Pen Register/Trap and Trace Usage" (FD-712) must be used. If an order is obtained, but no actual coverage of any lines is effected, then no submission is required. These reporting requirements do not apply to pen register usage effected under the provisions of the Foreign Intelligence Surveillance Act.

(6) It should be noted that the same telephone line which carries the electronic impulses signaling the number which has been dialed also carries voice transmissions. Therefore, supervisory personnel must ensure that all FBI and non-FBI personnel operating pen register equipment solely under a pen register order be informed of the above and warned that audio monitoring equipment must never be utilized in connection with pen register coverage of telephone lines.

EFFECTIVE: 10/23/95

10-10.7.1 Emergency Provisions

If an emergency situation exists wherein time does not permit the obtaining of a court order for a pen register, any Deputy Assistant Attorney General or higher Department of Justice official may authorize the installation and use of a pen register prior to obtaining a court order. However, the specific provisions of Title 18, USC, Section 3125, must be satisfied. These provisions state:

(1) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General, or by the principal prosecuting attorney of any state or subdivision thereof acting pursuant to a statute of that state, who reasonably determines that -

(a) an emergency situation exists that involves -

1. immediate danger of death or serious bodily injury to any person; or

2. conspiratorial activities characteristic of organized crime,

that requires the installation and use of a pen register or a trap and

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trace device before an order authorizing such installation and use can, with due diligence, be obtained, and

(b) there are grounds upon which an order could be entered under this chapter to authorize such installation and use may have installed and use a pen register or trap and trace device if, within 48 hours after the installation has occurred, or begins to occur, an order approving the installation or use is issued in accordance with Section 3123 of this title.

(2) In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied or when 48 hours have lapsed since the installation of the pen register or trap and trace device, whichever is earlier.

(3) The knowing installation or use by any investigative or law enforcement officer of a pen register or trap and trace device pursuant to (1) above without application for the authorizing order within 48 hours of the installation shall constitute a violation of this chapter.

In essence, the "emergency" pen register provision mirrors the "emergency Title III" provision found in Title 18, USC, Section 2518(7). However, there are several differences. First, the number of statutorily designated DOJ officials who may approve emergency use of pen register devices in Federal investigations is broadened to include "any Assistant Attorney General, any Acting Assistant Attorney General, or any Deputy Assistant Attorney General." Second, unlike Section 2518(7), the emergency pen register statute does not include emergency situations involving "conspiratorial activities threatening the national security interest." In those rare situations where an "emergency" pen register would be required for use in situations threatening the national security, consideration should be given: (a) to utilizing the emergency provisions of the Foreign Intelligence Surveillance Act of 1978 (FISA), which regulates pen register devices as well as electronic surveillance interceptions in national security investigations, which include criminal espionage cases; or (b) to emphasizing that the situation, although threatening the national security, either involves an immediate danger of death or serious physical injury to any person or that the situation concerns conspiratorial activities characteristic of organized crime (e.g., a terrorist group's plan to bomb a building). Of course, if investigative or law enforcement officers are dealing with the telephone subscriber or customer (user), the customer's consent, as is indicated in Section 3121(b)(3), is sufficient, and a court order need

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| not be obtained. |

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| 10-10.8 Electronic Tracking Devices | (See MIOG, Part I, 7-14.6(15),
9-7.1(2); II, 10-9.11(9), 10-10.11.1.) |

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Electronic tracking devices, [REDACTED]
are called beepers. The two devices must be distinguished from each
other. This section addresses electronic tracking devices. [REDACTED]
[REDACTED] Generally speaking, tracking
devices are specifically excluded from Title III requirements because
of the manner in which they function and the limited privacy
implications related to their use (Title 18, USC, Section
2510(12)(D)). However, in those circumstances where a court order is
required, Title 18, USC, Section 3117 provides for extrajurisdictional
effect. That is, a court order issued by a judge or magistrate may
authorize the use of the device within the jurisdiction of the court
and outside that jurisdiction if the device is installed in that
jurisdiction. The Department of Justice has interpreted this section
to mean that such use is valid outside of the court's jurisdiction
both inside and outside the jurisdiction of the United States.

(1) On Vehicles

(a) A search warrant is not required to install an
electronic tracking device on the exterior of a motor vehicle in a
public place, and the device may be used to monitor the vehicle's
travel over public roads. A person traveling in an automobile on
public highways has no reasonable expectation of privacy in his/her
movements from one place to another. Since no search or seizure is
involved in the use of this technique, no quantum of proof is
necessary to justify its use. Likewise, a search warrant is not
needed to continue to monitor the device after the vehicle enters a
private area, so long as the auto may be visually observed from
adjoining premises. If the vehicle enters a private garage or hidden
private compound, a search warrant should be obtained if monitoring is
to continue.

(b) The same general rule has usually been applied
to the use of tracking devices on aircraft.

(2) Other Personal Property

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(a) Electronic tracking devices often are placed in various types of personal property and then used to monitor the location of the suspect and the property.

(b) Placement of an electronic tracking device inside personal property lawfully accessible to the Government is not a search under the Fourth Amendment. Likewise, monitoring the device while the property is in a public place, or open to visual observation, even though it is on private property, is not a search. However, monitoring the device once it has been taken into private premises not open to visual observation is a Fourth Amendment search which, in the absence of an emergency, requires a search warrant. It is not generally possible at the time of installation of an electronic tracking device to anticipate the route and the destination of the property into which it has been placed; and there exists a risk in any case that monitoring the device while it is located inside private premises will become necessary. Therefore, a search warrant should be acquired prior to the installation and monitoring of the device, unless an emergency exists which renders such acquisition impracticable. The application for the warrant should set forth (1) a description of the object into which the device is to be placed, (2) the circumstances justifying its use, and (3) the length of time for which the surveillance is requested. Because of the variety of situations in which electronic tracking devices may be employed and the need to maintain proper controls over their use, SAC authorization, with documented concurrence of the PLA and the AUSA, is required before such a device is utilized.

EFFECTIVE: 02/27/95

10-10.9 Closed Circuit Television (CCTV) (Video Only) - Criminal Matters (See MIOG, Part I, 9-7.2; II, 10-9.10(7), 10-10.1 (5).)

(1) Department of Justice (DOJ) regulations require that PRIOR AUTHORIZATION be obtained for all CCTV surveillances for law enforcement purposes. The level of such authorization will vary with the circumstances under which this technique will be employed.

(2) Authorization for the use of CCTV does not automatically convey authorization for the use of any other technique

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(e.g., audio monitoring), either by itself or in conjunction with the use of this technique. The use of such additional techniques must be specifically requested at the proper level of authorization; must meet all requirements as set forth in this manual regarding the use of that technique; and must be specifically authorized prior to its use.

(3) A separate control file for CCTV matters should be established in each field office and appropriate documents relative to instructional material, authorization, and utilization of this technique should be retained. This control file will be for the purpose of the SAC's administrative control and for review during inspection.

EFFECTIVE: 05/08/95

10-10.9.1 CCTV Authorization - Criminal Matters (See MIOG, Part I, 9-7.2.)

It should be noted the use of HAND-HELD VIDEO RECORDERS is NOT to be confused with CCTV surveillance wherein the camera is placed in a remote location and generally concealed from view.

(1) For CCTV surveillance of events transpiring in public places, or places to which the public has general unrestricted access, and where the camera can be placed in a public area, or in an area to which the surveillance Agents have nontrespassory, lawful access, delegated FBI officials may independently authorize CCTV surveillance without the need to notify the DOJ either before or after the surveillance.

(2) All CCTV monitoring requires the approval of the SAC, following mandatory legal review and concurrence of the Chief Division Counsel (CDC). The SAC may authorize the use of CCTV for the duration of the investigation under the following circumstances:

(a) the CCTV camera is located in a public area or in a location under the exclusive possession and control of the FBI AND the area to be viewed is an exterior public area or an interior common area absent a reasonable expectation of privacy. Some examples are: (1) the CCTV camera is in a public area AND the area to be viewed is a public street or an exterior door; and (2) the CCTV camera is [REDACTED] AND the area to be viewed is a public hallway in a building or the

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lobby of an apartment building, motel, bank or the like. The CDC should be consulted in all cases involving the nonconsensual monitoring of interior common areas to determine whether any circumstances exist which create an expectation of privacy.

(b) the CCTV camera is located on private premises, but no trespassory entry is required to install the equipment because consent to install has been obtained from a person with a possessory interest in the premises AND the area to be viewed is an exterior public area or an interior common area lacking an expectation of privacy; and

~~(c) in situations where there is nontrespassory or consensual placement of the CCTV camera and the area to be viewed is the interior of private premises or other areas where a reasonable expectation of privacy otherwise exists AND consent has been obtained from a participant in the activity to be viewed.~~

In cases which present sensitive or unusual circumstances the concurrence of the United States Attorney's Office (USAO) should also be obtained. (The opinion of the USAO, if required, shall be confirmed or obtained in writing.)

Before conducting CCTV surveillance outside of the division from which authorization is obtained, Agents must coordinate with and obtain concurrence from the SAC of each division where monitoring will occur. Such concurrence must be documented in writing by the office of origin if not documented by the lead office in the EC forwarding the recordings to the requesting office.

SAC authority to approve CCTV surveillance may not be redelegated. In the SAC's absence, however, individuals designated as "Acting SAC" may exercise the SAC's authority to approve CCTV surveillance under the above circumstances.

(3) Documentation of the above details, brief background concerning the investigation, and the authorization of the SAC must be set forth in the field office ELSUR Administrative Subfile to the substantive case file, with a copy designated for the field office CCTV control file. Form FD-677 (Documentation of SAC Authority for Closed Circuit Television (CCTV) Usage-Video Only) will be used for this purpose. In those cases involving sensitive or unusual questions or circumstances, the substantive desk at FBIHQ is to be notified.

(4) Video Surveillance where there is a Reasonable Expectation of Privacy. A court order is required for the use of CCTV

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in ALL situations where a reasonable expectation of privacy exists either in the place where the camera is to be installed, or in the place to be viewed, and appropriate consent has not been obtained. If judicial authorization is required only for the installation of the camera (e.g., because the surveillance is of a public area or place where the public has unrestricted access, or because consent has been obtained from a participant in the activity to be viewed), prior DOJ approval is not required.

In ALL situations where there is a reasonable expectation of privacy in the area to be viewed and no consent has been granted, a court order and prior DOJ approval is required. CDC review and SAC approval of the CCTV affidavit and the concurrence of the respective AUSA or DOJ prosecutor is required prior to requesting DOJ approval. The application and order should be based on an affidavit that establishes probable cause to believe that evidence of a federal crime will be obtained through the surveillance, and should include:

- (a) a particularized description of the premises to be surveilled;
- (b) the names of the persons expected to be viewed, if known;
- (c) a statement of the steps to be taken to ensure that the surveillance will be minimized to effectuate only the purposes for which the order is to be issued;
- (d) a showing that normal investigative procedures have been tried and found wanting, or are too dangerous to employ; and
- (e) a statement of the duration of the order, which shall not be longer than is necessary to achieve the objective of the authorization, nor in any event longer than 30 days.

1. When CCTV is to be used IN CONJUNCTION WITH Title III aural surveillance, the affidavit supporting the aural surveillance may, if appropriate, also be used to support the video surveillance order. In such cases, DOJ policy requires a separate application and order prepared by the appropriate United States Attorney for the video surveillance, in addition to the usual application and order for aural surveillance.

2. See Part II, Section 10-9.10 of this manual for guidelines regarding Title III electronic surveillance.

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(5) Documentation of Consent

(a) In those situations (i.e., nonpublic areas where a reasonable expectation of privacy exists) requiring the consent of an individual to view and/or video record, by use of CCTV equipment, any activity the consenting party may have, Agents should obtain written consent. This consent should be documented by executing FD-473a (Closed Circuit Television Consent) form whenever possible. However, oral consent will be acceptable in those instances where the consenting party declines to give written consent. When oral consent is obtained, at least two law enforcement officers (one of whom should be an Agent of the FBI) should be present to witness this consent, and the fact that the consenting party has declined to give written consent should be recorded on the FD-473a. This form should then be executed in all respects with the exception of the consenting party's signature.

(b) Form FD-473a should be executed and properly witnessed in all situations requiring consent for use of CCTV equipment, even when the consenting party is an informant, cooperative witness, Special Agent, or any other law enforcement officer. As in any case involving consensual monitoring, it is mandatory that the consenting party be present within the area to be viewed at all times when the CCTV equipment is activated.

(c) Consent should be obtained from both the participant in the activity being viewed and from the person or entity having possessory interest in the location where the equipment is to be placed or mounted, if the two individuals are not the same. Because of a wide variety of circumstances concerning installation of CCTV equipment, the CDC should be consulted in situations where any questions or any unusual circumstances arise.

(6) A substantial modification in either the location where the CCTV camera is to be placed or in the area to be subjected to CCTV surveillance, or a change in the primary subject(s) of the investigation, the anticipated target(s) of the CCTV surveillance, or the consenting party(s) will require separate authorization.

(7) All offices should ensure appropriate administrative controls are established.

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EFFECTIVE: 09/17/97

10-10.9.2 CCTV - ELSUR Records - Criminal Matters

The use of nonaural CCTV (video only) in conjunction with a criminal investigation as outlined above does not constitute an "intercept" as defined in Title 18, USC, Section 2510, and, therefore, is technically not an electronic surveillance. As such:

(1) Absent other types of coverage, ELSUR cards relating to nonaural CCTV coverage are not to be prepared;

(2) Absent other types of coverage, a check mark should not be placed on the ELSUR line on case file covers and the file cover shall not be stamped "ELSUR."

(This situation does not apply to national security matters, as terminology defined by the Foreign Intelligence Surveillance Act of 1978 is different from that defined in Title III.)

EFFECTIVE: 12/10/93

10-10.9.3 CCTV (Audio and Video) - ELSUR Indexing - Criminal Matters

(1) CCTV to be used with the consent of a participant in conjunction with audio monitoring equipment may be handled in the same manner and in the same communication as a request for the consensual monitoring of nontelephone communications. See Part II, 10-10.3 of this manual entitled "Monitoring Nontelephone Communications in Criminal Matters," for procedures attendant to nontelephonic consensual monitoring usage.)

(2) For ELSUR indexing purposes, a microphone surveillance (MISUR) being used in conjunction with a CCTV surveillance will be treated as a MISUR.

(3) See Part II, 10-9.12, of this manual for ELSUR indexing requirements, procedures, and specific examples of principal, proprietary interest, and intercept records in Title III matters. In consensual monitoring matters, refer to Part II, 10-10.5, of this manual for indexing requirements, procedures, and specific

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| examples of | intercept records. |

EFFECTIVE: 05/08/95

10-10.9.4 CCTV - Preservation of the Original Tape Recording

As with all original tape recordings, original CCTV recordings will be properly identified; duplicated, if necessary; placed in an FD-504 (Chain of Custody - Original Tape Recording) envelope; exhibited in the file; and otherwise maintained in accordance with standard instructions dealing with the handling of original tape recordings and the preservation of evidence.

EFFECTIVE: 09/22/87

10-10.10 Tape Recorders

(1) Heavy-duty plant-type recorders and portable single carrying case-type recorders, are usually utilized in court-authorized technical surveillance under Title III or the Foreign Intelligence Surveillance Act. (See Part II, |16-7.3.4, |of this manual relative to loan of this equipment to other law enforcement agencies.) Smaller handheld cassette tape recorders and concealable tape recorders are usually used for consensual monitoring. In either case the necessary authorization outlined in this manual must be obtained prior to their use for these purposes.

(2) Use of tape recorders for the purpose of overt recording of the statements of witnesses, suspects, and subjects is permissible on a limited, highly selective basis only when authorized by the SAC. To ensure the voluntariness of a statement electronically recorded, the following conditions are to be adhered to:

(a) the recording equipment must be in plain view of the interviewee;

(b) consent of the interviewee to the recording must be obtained and clearly indicated on the tape;

(c) the questioning must be carefully prepared so that the tone of voice and wording of the questions do not intimidate

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or coerce; and

(d) recording tapes must not be edited or altered, and the originals must be sealed (in an FD-504, Chain of Custody - Original Tape Recording Envelope) and stored in such a manner as to ensure the chain of custody.

EFFECTIVE: 09/22/87

10-10.11 Radio Monitoring

EFFECTIVE: 09/22/87

10-10.11.1

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Section 552

Section 552a

(b)(1)

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[REDACTED]
ELSUR indexing is required.

EFFECTIVE: 02/14/97

10-10.11.2 Cordless Telephones and Other Types of Radio
Monitoring (See MIOG, Part I, 139-1.1.)

(1) Effective 10/25/94, with the passage of the Communications Assistance for Law Enforcement Act (CALEA), all cordless telephone conversations, including the radio portion of those conversations, are now accorded privacy protection under Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (Title III), Title 18, USC, Section 2510 ET SEQ. Prior to this legislation, the radio portion of many cordless telephone conversations could be monitored without a Title III or FISA court order. As a result of this amendment to Title III legislation, the monitoring of any cordless telephone conversation is subject to the same legal requirements as the monitoring of cellular telephones and traditional land line telephones. In the absence of consent, all such monitoring requires a Title III or FISA court order. For information regarding the investigation and use of unauthorized interceptions, see MIOG, Part I, Section 139 "INTERCEPTION OF COMMUNICATIONS" concerning violations of Title 18, USC, Section 2511.

(2) Certain other radio communications, such as those that are broadcast so as to be readily accessible to the public (AM and FM radio station broadcasts, unencrypted ship-to-shore communications, public safety communications, citizen band amateur and general mobile radio services, and the like) remain unaffected by the CALEA; as before, the interception of such communications does not require a Title III order. See Title 18, USC, Section 2511 (2) (g).

(3) Any additional questions regarding whether a particular device or radio communication is covered by Title III should be directed to the Investigative Law Unit, Office of the

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General Counsel, FBIHQ.

EFFECTIVE: 06/03/96

10-10.11.3 Cellular Telephones

Both the wire and radio portions of a cellular telephone conversation are specifically covered by Title III and a Title III court order must be obtained to intercept cellular communications.

Noncontent information, such as cellular telephone ESN or MIN, cell site sector information, or other location type information may be considered "a record or other information pertaining to a subscriber" and, therefore, obtained from a telecommunications carrier pursuant to a court order under Title 18, USC, Section 2703(d), or pursuant to a warrant or consent of the subscriber or customer.

(1) Cell Site Simulators: No court order is required to use digital analyzers or cell site simulators (known as "triggerfish") to acquire cell site data (cellular telephone ESN or MIN, or other facility-identifying information) when obtained without involving the telecommunication carrier or other intermediary. However, a pen register or trap and trace order is needed if these devices are used to obtain numbers dialed to or from a cellular telephone (i.e., call processing information). (See MIOG, Part II, 10-10.7 "Pen Registers".)

(2) Access Device Fraud: The use of cellular telephones that are altered, or "cloned," to allow a fraudulent theft of service is now an illegal use of an access device under Title 18, USC, Section 1029(a), "Fraud and related activity in connection with access devices." This section specifically prohibits the use of an altered telecommunications instrument, or a scanning receiver, hardware or software, for purposes of obtaining unauthorized access to telecommunications services and defrauding the carrier. Section 1029 is a Title III predicate offense under Title 18, USC, Section 2516(c). Therefore, it allows the use of a Title III to obtain evidence of access device fraud.

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10-10.12 Approval for the Use of Technical Equipment

Technical equipment shipped to field offices does not constitute authority for its use. In criminal matters, SAC, FBIHQ, or Department of Justice authorization is required prior to the use of certain types of electronic surveillance equipment. For the specific authorization required, in criminal matters refer to the appropriate section of this manual relating to the type of equipment being considered for use. In national security matters refer to the Foreign Counterintelligence Manual.

EFFECTIVE: 10/18/88

10-10.13 Technical Collection of Evidence - Safeguarding Techniques and Procedures

(1) Electronic Surveillance techniques must not be compromised by disclosure in correspondence and during judicial proceedings.

(2) Information regarding technical operations, equipment and techniques must not be divulged during testimony, in FD-302s, in Title III affidavits, or in other correspondence directed outside the FBI during the course of an investigation.

(3) This policy should be brought to the attention of all USAs and Strike Force Attorneys and other interested parties so that prosecutions can be planned without the necessity that the Government's case requires this type of disclosure.

(4) Details concerning the safeguarding of techniques and procedures and the testimony of TIAs can be found in Part II, Section 6 of this manual.

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10-10.14 Review by Technical Advisor (TA)

All correspondence concerning technical matters is to be reviewed by the TA or, in his/her absence, a Technically Trained Agent (TTA) prior to being approved by the SAC or other official acting for SAC. The purpose of this requirement is to ensure that requests for technical matters are cleared through the individual in the office having the most current knowledge of equipment availability, equipment capability, technical procedures, and technical policies. The specific duties of the TTA are set forth in Part II, Section 16-7.2.6 of this manual.

EFFECTIVE: 10/18/88

10-10.15 Training for TTAs

(1) The TA will set minimum training requirements for all TTAs in TA's office and ensure that these minimum requirements are met. The minimum requirements will be different from office to office, but will be designed to provide all TTAs with experience in the provision of all aspects of electronic surveillance support.

(2) The SAC must ensure that a program for achieving minimum requirements is established and complied with consistently. The SAC must ensure that all communications, instructions, and SAC memoranda pertaining to technical work and technical equipment must be read and initialed by all active TTAs.

(a) The SAC will provide sufficient time for the TA to implement a program of instruction and training for active TTAs, investigative personnel, and supervisors.

(b) Additional information regarding Technical Training and the Technical Investigative Program can be found in Part II, Section 16-7 of this manual.

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(1) [REDACTED]

[REDACTED]
(2) [REDACTED]

[REDACTED]
(3) [REDACTED]

(4) Expert witnesses are available from the Technical Services Division, FBIHQ, for tape analysis and court testimony regarding authenticity relating to editing and other associated matters. These normally become points of question at pretrial hearings. It is a well-established fact that tape recordings and other technically collected evidence are admissible in court. On the basis of current case law, the Government can introduce tapes solely on the testimony of the Agent(s) who monitors and records the intercept (assuming the Agent can identify the voice(s) and testify to the authenticity of the tape).

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[REDACTED]
Normally, the Agent who signs the application for a court-ordered intercept will be called as a witness at a suppression hearing.
[REDACTED]


(5) If, in an unusual circumstance, the Government's case mandates a disclosure of FBI technical operations, equipment or technique, the problem should be first brought to the attention of the Principal Legal Advisor who will determine the disclosure and the reasons. Alternatives to disclosure will be sought and if no

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resolution is possible which would protect FBI technical concerns, then notification should be made to FBIHQ, Engineering Section, Technical Services Division, so a final decision can be made in conjunction with the appropriate FBIHQ investigative divisions.

(6) Further details as to 

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EFFECTIVE: 01/22/90

10-10.17 Trap/Trace Procedures (See MIOG, Part I, 9-7(7), 91-11.3.2(1), & 192-14(1).)

(1) American Telephone and Telegraph (AT&T), other long line carriers and local operating telephone companies have the capability to identify a telephone number that is calling another specific telephone number through the use of trap and trace devices and procedures. This technique is an internal telephone company operation that can be successfully effected in certain limited circumstances.

(2) The Electronic Communications Privacy Act of 1986 (Act), as amended, regulates the use of this technique (Title 18, USC, Sections 3121-3127). The Act codifies existing Department of Justice (DOJ) policy of obtaining a court order to authorize the installation of a trap/trace device and sets forth the procedure for seeking such an order. It is not necessary to obtain a court order when the telephone user consents to the installation of a trap/trace device.

(3) DOJ and the FBI have reached agreements with AT&T and local telephone companies to follow certain guidelines in applying for and effecting the trap/trace technique. Investigative personnel requiring the use of this sensitive investigative technique should contact the field office Technical Advisor (TA) or a Technically Trained Agent (TTA) for information. Local trap/trace activity will be coordinated by the TTAs in the field office. (See Part II, 16-7.2.6(18) of this manual.)

(4) Supervisory personnel are to ensure that the use of a trap and trace is not substituted for other logical investigative measures. The case Agent should submit a memorandum or other appropriate communication, initialed by the supervisor, to the case file and to the trap and trace control file setting forth the reasons

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for use of the technique and documenting the factual basis for certification to the court that the information likely to be obtained is relevant to an ongoing investigation, or in cases where the legal justification is based upon consent, documenting the consent of the user to the installation. If the United States Attorney or Strike Force Chief requires a written request specifying the factual basis for certification, copies of the letter may be designated to the above-indicated files in lieu of a separate memorandum.

The Chief Division Counsel should be consulted if there is any question as to the sufficiency of facts stated or whether the existing facts are stated in a manner which would justify the certification made in the application for the order. A copy of each order obtained must be filed in the trap and trace control file.

(5) The Act also requires the Attorney General to make an annual report to Congress on the number of trap/trace orders applied for by law enforcement agencies of the Department. DOJ has advised the FBI by memorandum of this requirement and has requested quarterly reports on court-ordered trap/trace usage.

(6) The use of court-ordered trap/trace techniques must be reported by airtel to FBIHQ, Attention: Operational Support Unit, Information Resources Division, within five workdays after the expiration date of each original or renewal order. To satisfy DOJ data requirements, and standardize and simplify field reporting, the form airtel captioned "Pen Register/Trap and Trace Usage" FD-712 must be used.

(7) These reporting requirements do not apply to trap/trace usage effected under the provisions of the Foreign Intelligence Surveillance Act.

(8) American Telephone and Telegraph (AT&T) and other carriers bill the FBI for costs associated with the installation of trap and trace devices and/or the utilization of trap and trace procedures. The cost of this technique varies considerably. The actual cost depends on the number of telephone company offices involved.

(a) Payment of these expenses follows the same guidelines as other areas of confidential expenditures, with SAC having authority to approve up to \$20,000 per case each fiscal year. Any requests over \$20,000 should be directed to FBIHQ, Attention: Operational Support Section, Criminal Investigative Division.

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(b) Upon receipt of the monthly invoice/statement from AT&T, or other telecommunications carrier, FBIHQ conducts a preliminary review of all services that were provided and completed since the last billing period.

(c) Once the preliminary review is completed, a copy of the approved invoice/statement is forwarded with blank Form 6-153 to the appropriate field division which requested the service.

(d) Form 6-153 should be completed by the field division and returned to FBIHQ, Attention: Operational Support Section, Criminal Investigative Division.

EFFECTIVE: 02/14/97

10-10.17.1 Emergency Provisions

If an emergency situation exists wherein time does not permit the obtaining of a court order for a trap and trace, any Deputy Assistant Attorney General or higher DOJ official may authorize the installation and use of trap and trace procedures prior to obtaining a court order. However, the specific provisions of Title 18, USC, Section 3125, must be satisfied. These provisions state:

(1) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General, or by the principal prosecuting attorney of any state or subdivision thereof acting pursuant to a statute of that state, who reasonably determines that -

(a) an emergency situation exists that involves-

1. immediate danger of death or serious bodily injury to any person; or

2. conspiratorial activities characteristic of organized crime, that requires the installation and use of a pen register or a trap and trace device before an order authorizing such installation and use can, with due diligence, be obtained, and

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(b) there are grounds upon which an order could be entered under this chapter to authorize such installation and use may have installed and use a pen register or trap and trace device if, within 48 hours after the installation has occurred, or begins to occur, an order approving the installation or use is issued in accordance with Section 3123 of this title.

(2) In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied or when 48 hours have lapsed since the installation of the pen register or trap and trace device, whichever is earlier.

(3) The knowing installation or use by any investigative or law enforcement officer of a pen register or trap and trace device pursuant to (1) above without application for the authorizing order within 48 hours of the installation shall constitute a violation of this chapter.

In essence, the "emergency" trap and trace provision mirrors the "emergency Title III" provision found in Title 18, USC, Section 2518(7). However, there are several differences. First, the number of statutorily designated DOJ officials who may approve emergency use of trap and trace devices in Federal investigations is broadened to include "any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General." Second, unlike Section 2518(7), the emergency trap and trace statute does not include emergency situations involving "conspiratorial activities threatening the national security interest." In those rare situations where an "emergency" trap and trace would be required for use in situations threatening the national security, consideration should be given: (a) to utilizing the emergency provisions of the Foreign Intelligence Surveillance Act of 1978 (FISA), which regulates pen register/trap and trace devices as well as electronic surveillance interceptions in national security investigations, which include criminal espionage cases; or (b) to emphasizing that the situation, although threatening the national security, either involves an immediate danger of death or serious physical injury to any person or that the situation concerns conspiratorial activities characteristic of organized crime (e.g., a terrorist group's plan to bomb a building). Of course, if investigative or law enforcement officers are dealing with the telephone subscriber or customer (user), the customer's consent, as is indicated in Section 3121(b)(3), is sufficient, and a court order need not be obtained. Use Form FD-472 to document consent.

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EFFECTIVE: 03/23/92

10-11 FBI UNDERCOVER ACTIVITIES - CRIMINAL MATTERS | (SEE MIOG,
PART II, 10-14.1.5.) |

(NOTE: FBI UNDERCOVER ACTIVITIES - FCI MATTERS, SEE FCI
MANUAL.)

The undercover technique is one of the most effective and successful investigative tools the Federal Bureau of Investigation has to investigate crime. As such, it should be protected and used wisely. The conduct of undercover operations (UCOs) is governed by the Attorney General's Guidelines (AGG) on FBI Undercover Operations which were initially approved in 1980 and revised 11/13/92. The FIELD GUIDE FOR UNDERCOVER AND SENSITIVE OPERATIONS which sets forth FBI policies and procedures concerning the conduct of UCOs has been disseminated to the field. The field office undercover coordinator (UCC) and the Undercover and Sensitive Operations Unit (USOU), Criminal Investigative Division, FBI Headquarters, should be consulted regarding specific questions relating to UCOs.

EFFECTIVE: 12/07/93

| 10-11.1 | Deleted |

EFFECTIVE: 10/18/93

| 10-11.2 | Deleted |

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EFFECTIVE: 10/18/93

| 10-11.3 | Deleted |

EFFECTIVE: 10/18/93

| 10-11.4 | Deleted |

EFFECTIVE: 10/18/93

| 10-11.5 | Deleted |

EFFECTIVE: 10/18/93

| 10-11.6 | Deleted |

EFFECTIVE: 08/28/91

10-11.7 | Deleted |

EFFECTIVE: 08/28/91

| 10-11.8 | Moved and Renumbered as 10-16 |

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EFFECTIVE: 08/28/91

| 10-11.9 | Deleted |

EFFECTIVE: 08/28/91

10-12 USE OF HYPNOSIS AS AN INVESTIGATIVE AID

EFFECTIVE: 02/16/89

10-12.1 Approval to Utilize (See MIOG, Part II, 10-3.)

Hypnosis is legally permissible when used as an investigative aid for lead purposes in Bureau cases where witnesses or victims are willing to undergo such an interview. The use of hypnosis should be confined to selective Bureau cases. Upon finding a willing witness or victim, Bureau authority must be obtained from the appropriate Assistant Director (AD) responsible for either the Criminal Investigative Division (CID) or the National Security Division (NSD), who may delegate this authority to their Section Chief designee. The Critical Incident Response Group's (CIRG's) Investigative Support Unit (ISU) functions as a technical resource to the field and must receive copies of all communications pertaining to the use of hypnosis. Set forth in your request for authorization the name of the hypnosis expert you intend to use and a brief summary of the expert's qualifications. You should consider using a psychiatrist, psychologist, physician, or dentist who is qualified as a hypnotist. Those with forensic training are preferred. If there are no qualified or reliable hypnotists available, the ISU should be contacted to obtain the name of a qualified hypnotist nearest your field division. Upon receipt of Bureau authority, the matter must be thoroughly discussed with the USA or Strike Force Attorney in Charge. Include the fact that the case Agent or the SAC's designee will attend the hypnotic session, and advise whether that person is likely to participate in the hypnotic session. The use of hypnosis on a witness must have the concurrence of the Assistant United States Attorney (AUSA) in that district, as well as the approval of the AD, CID or NSD, as appropriate, or their substantive Section Chief designee. You are cautioned that under no circumstances will Bureau personnel

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participate in hypnotic interviews in non-Bureau cases.

EFFECTIVE: 03/21/96

10-12.2 Hypnotic Session

(1) It is recommended that written permission to conduct a hypnotic interview be obtained prior to the interview. This permission should include permission of the witness or victim to have ~~the entire hypnosis session audio or video taped or both.~~

(2) It is important that you either audio or video tape the entire session and any subsequent hypnotic sessions. Video tape, however, is the preferred method of recording these sessions.

(3) When considering the use of hypnosis, one important aspect is the proper prehypnotic explanation of this technique to the witness or victim. Hypnosis is not a product of the power or magic of the hypnotist. The witness or victim is not likely to reveal his or her innermost secrets or lose control of his or her mind. Further, hypnosis itself is not likely to produce any physical or psychological damage to the person hypnotized.

(4) You must also bear in mind that the use of the information obtained through hypnosis cannot be assumed to be necessarily accurate. Careful investigation is needed to verify the accuracy of information obtained during these sessions.

EFFECTIVE: 02/16/89

10-12.3 Role of Case Agent in Hypnotic Session

The case Agent will act as liaison with the hypnotist and will attend the hypnotic session. If the case Agent cannot attend, an SAC-approved designee will handle the duties of the case Agent. It must be clearly understood that the hypnotist is charged with the responsibilities of conducting and supervising the hypnotic session, and must remain physically present throughout the proceedings. With the PRIOR CONCURRENCE AND GUIDANCE of the hypnotist, the case Agent may question the witness or victim under

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| hypnosis, |but will not conduct the hypnotic induction or terminate the hypnotic state. The request for authorization to utilize hypnosis will include the name of the |case Agent or designee|who is acting as liaison.

|The|number of persons actually present at the hypnotic session should be held to a minimum.

EFFECTIVE: 07/17/95

10-12.4 Hypnosis Evaluation

In order to evaluate the efficacy of this technique, a detailed summary describing the results of the hypnotic interview must be forwarded to the Bureau with a copy to |the Critical Incident Response Group's (CIRG's) Investigative Support Unit (ISU).| This summary should specifically include the following items:

- (1) The identification of any significant investigative information obtained through the utilization of this technique.
- (2) Total number of hypnosis sessions to include the length of each session.
- (3) The hypnotic technique utilized to include the manner of recording the interview.
- | (4) The identity of the |case Agent or SAC designee|and the hypnotist.
- (5) Disposition of the case.

EFFECTIVE: 07/17/95

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10-13 VISUAL INVESTIGATIVE ANALYSIS (VIA)

The Visual Investigative Analysis Unit's primary objective is to assist the investigator by graphic analyses of all information and physical evidence (toll records, pen register records, financial records, etc.) related to significant and complex investigations. The VIA Unit utilizes an information management data base to achieve this objective. The data base allows for data retrieval by chronology and/or subject matter. The analytical models derived from this data base include VIA Networking, Link Analysis and Matrix Analysis.

(1) VIA Networking is a case management technique which assists in the planning, coordinating, controlling and analyses of complex investigations. It displays chronological relationships among known and alleged activities related to a crime and the dependent relationship of investigation to those activities. Link Analysis graphically displays individual and organizational relationships among all entities identified during the investigation. It demonstrates these relationships by utilizing various types of lines to illustrate the strength of the relationships, and geometric figures to differentiate persons, places, assets, organizations and other aspects of the investigation. Matrix Analysis, a complementary technique, summarizes factors related to a series of crimes to identify similarities. The analytical models reconstruct the crime and related investigation, and demonstrate the complicity of suspects/subjects. They are supported by written reports that contain observations of the analyst, based on the analysis of available information. The results of the VIA process provide investigative and prosecutive personnel with a basis for developing future investigative and prosecutive strategy.

(2) Should a field office desire Investigative Support Information System (ISIS) support and anticipate using VIA, the VIA assistance should be requested at the same time as the ISIS support. This will allow ISIS and VIA personnel to structure the ISIS data base to make it compatible with the VIA application.

(3) Since the primary objective of VIA is to assist the investigation, requests for VIA assistance should be sent to the VIA Unit, Criminal Investigative Division, as early as possible during the investigation and should include a synopsis of the investigation.

EFFECTIVE: 11/20/90

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10-14 ADVANCE FUNDING FOR INVESTIGATIVE PURPOSES (See MAOP, Part II, 6-11, 6-12, & 6-12.3(3).)

(1) Appropriated funds are available directly from FBIHQ for investigative purposes in situations where the expenditure is of a confidential nature. An advance of funds may be requested to fund confidential case expenditures which cannot be readily supported from the field office draft system. Such expenses include the purchase of evidence such as drugs, payments to cooperating witnesses, and other large nonrecurring items. Advance of funds shall be used to fund all Group I Undercover Operations. NOTE: Group I Undercover Operation advances MAY NOT be used to fund drug purchases or cooperating witness/criminal informant expenses. Field offices may also request an advance of funds for Foreign Counterintelligence Undercover Operations, Special Operations Groups, Off Premise Sites, Special Surveillance Groups, and Show and Buy-Bust requirements.

(2) Once an advance of funds has been received from FBIHQ to fund an investigation, SAC authority to spend funds from the draft system is rescinded. The draft system may no longer be used until all advances have been liquidated or returned and appropriate authority to use the draft system has been obtained.

EFFECTIVE: 12/07/93

10-14.1 Types of Advance Funding Authority

Funds may be requested for the following investigative purposes:

EFFECTIVE: 11/23/87

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10-14.1.1 Case Authority

(1) The SAC has authorization to spend up to \$20,000 per fiscal year for confidential expenditures incurred in connection with any single investigative matter, including Group II Undercover Operations (see paragraph (3) below). SAC authority in the amount of \$20,000 is automatically renewed for each case at the beginning of each succeeding fiscal year, unless advised to the contrary by FBIHQ. If expenditures are projected to exceed SAC authority of \$20,000 during the fiscal year, a request for additional authority must be sent to the appropriate substantive program manager at FBIHQ to request ADDITIONAL AUTHORITY for the amount of expenditures that are anticipated for the remainder of the fiscal year. Each request must include:

- (a) That additional case authority is requested for a specific amount.
- (b) Detailed justification to support the request.
- (c) Total amount spent to date during the investigation, regardless of the source of funds.
- (d) Statement as to the availability of funds in the field office budget. If the balance of available budgeted funds is insufficient to support planned expenditures, the authority request must include a request to reallocate funds from another budget category or a request to supplement the total field office budget.
- (e) Adequacy of the draft system to fund request.
- (f) A deadline by which FBIHQ must respond.
- (g) Wire transfer instructions if expeditious handling is required. Wire transfers less than \$25,000 must be justified.

(2) If additional authority is approved, the date upon which the additional authority was granted MUST be noted on each advance or expense request in excess of \$20,000.

(3) The SAC may approve nonsensitive undercover operations (Group IIs) with maximum cumulative funding of \$40,000 for operational expenses. The SAC may not, however, authorize spending of

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more than \$20,000 in such matters. As explained above, if expenditures are projected to exceed \$20,000 during a fiscal year, a request for additional authority must be made of the substantive program manager at FBIHQ, in conformance with procedures set forth in paragraph (1) above.

EFFECTIVE: 12/07/93

~~10-14.1.2 Informant Payment Authority~~ (See MIOG, Part II, 10-14.1.3, & MAOP, Part II, 6-11.).

An advance of funds may be requested to pay informants for information provided. Payment is based on the value of the information and is approved on a payment-by-payment basis. The SAC is authorized to approve cumulative payments up to \$20,000. Additional payments or individual payments in excess of \$20,000 must be approved at FBIHQ. Requests for authority to make a payment or requests for an advance of funds to make a payment should be directed to FBIHQ and should contain the following:

- (1) Justification for the payment
- (2) Adequacy of the draft system to fund the payment
- (3) Justification of the "emergency" if a wire transfer has been requested.

EFFECTIVE: 12/07/93

10-14.1.3 FCI/Terrorist Informant Authority

An advance of funds may be requested for regular monthly payments to FCI/Terrorist informants for information being provided. Authority for such payments can only be granted by FBIHQ. Requests for authority and advances of funds should be set out as described for Informant Payment Authority in 10-14.1.2 above.

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10-14.1.4 Bribe of Public Officials Authority

Advances may be made for bribe payments. Authority to attempt bribes of public officials should be obtained pursuant to policy defined in Part I, 58-6.6(1) and 194-5.6(1) of this manual. Requests for advances of funds should be made to the substantive desk at FBIHQ, and should contain the following information:

(1) Adequacy of the draft system to provide the bribe money

(2) Justification of the "emergency" if a wire transfer is requested.

EFFECTIVE: 12/07/93

10-14.1.5 Undercover Funding Authority (See NFIPM, Part 1, 7-1.11.)

Request for advance funding for FCI, Group I and Group II Undercover Operations should be made to the substantive desk at FBIHQ. Short-term FCI and Group II Undercover Operations may be funded from the draft system. Larger FCI and Group II cases may use advanced funds if the draft system is insufficient to fund the operation. All Group I Undercover Operations are funded from FBIHQ advances. Authority to conduct undercover operations is discussed in Part II, 10-11, of this manual, "FBI UNDERCOVER ACTIVITIES - CRIMINAL MATTERS." Authority to conduct undercover operations in FCI matters is discussed in the NATIONAL FOREIGN INTELLIGENCE PROGRAM MANUAL (NFIPM).

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10-14.1.6 Show and Buy-Bust Money Funding Authority

(1) Show and Buy-Bust money is available on a case-by-case basis to provide financial credibility for an asset/informant, cooperating witness or Undercover Agent or to consummate a proposed illegal transaction in support of a specific investigative case. Use of these funds does NOT constitute an EXPENDITURE of appropriated funds. Such funds are NEVER to be allowed to become evidence or to leave the care, custody or control of the FBI. They are to be returned to FBIHQ when no longer needed by the case for which their use was originally authorized so that they may be subsequently reissued.

(2) Show funds cannot be deposited into a bank or other financial institution without an exemption from the Attorney General. Upon receipt of an exemption, the funds are to be placed in a federally insured financial institution, unless otherwise authorized, to provide credibility to an operation.

(3) The funds may be used in a display of cash to reinforce the role of an Undercover Agent or to consummate a proposed illegal transaction as part of an arrest (Buy-Bust) scenario.

(4) The SAC may approve the use of up to [REDACTED] for Show purposes or for use in a Buy-Bust situation. The use of more than [REDACTED] must be approved in advance by FBIHQ. b2, b7E

(5) Requests for Show or Buy-Bust funds must specify:

(a) Justification for the use of the funds and the need for Attorney General exemptions for the use of bank account(s),

(b) That the United States Attorney will not require the funds to be retained as evidence,

(c) That the funds will not be allowed to leave the care, custody or control of the FBI, and

(d) Precautions to be taken to ensure the safety of involved personnel and the security of funds to be used.

b2
b7E
(6) Show and Buy-Bust funding requests in amounts of [REDACTED] or less should be sent directly to the attention of the Confidential Services Unit, Accounting Section, Finance Division, (copy to the FBIHQ substantive desk for information) with the personal approval of the SAC or, in SAC's absence, the ASAC.

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(7) All Buy-Bust funding requests and requests for Show money in amounts of more than [REDACTED] should be directed to the substantive desk at FBIHQ.

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EFFECTIVE: 12/07/93

10-14.1.7 Deleted

EFFECTIVE: 05/25/90

10-14.2 Delivery of Advance

Funds can be made available to the field by Department of the Treasury check or, in the case of an emergency, by wire transfer. All advances of appropriated funds are made to specific cases and cannot be commingled with advances for other cases. All requests must be submitted under the investigative case caption with a complete field office file number. The funds may not be deposited in any bank without an exemption from the Attorney General.

(1) Department of the Treasury Check - Once a request for an advance is approved by the substantive desk it takes three working days for the Accounting Section to obtain a check from the Department of the Treasury. The check, which is payable to the SAC, is then forwarded to the field by airtel. Requests should be made far enough in advance to anticipate time for the approval process, acquisition of the check, and delivery by the U.S. Postal Service.

(2) Wire Transfer - An approved request for an advance by wire transfer received by the Accounting Section by [REDACTED] will usually be delivered in the field by [REDACTED]. Requests for wire transfers should contain the following information:

b2,
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(a) Name and address of receiving bank (must be a Federal Reserve System Member Bank)

(b) Name and title of bank contact

(c) Official Bureau name of the Special Agent who will pick up the funds. (See MIOG, Part I, 58-6.6(1) &

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| 194-5.6(1.) |

EFFECTIVE: 12/07/93

10-14.3 Accountability/Vouchering Requirements

When an office requests an advance of funds from FBIHQ the SAC assumes the responsibility for providing adequate resources to safeguard the advance and to account for it in a timely fashion. The field is to verify the outstanding balances of all advances except Show Money as of the last day of each month. The certification will take the form of a Confidential Travel Voucher (SF-1012) and is due at FBIHQ by the tenth day of the following month. A Confidential Travel Voucher is required for each calendar month an advance is outstanding even if no expenditures were made during a given month, because the "no amount" voucher serves to certify the cash balance outstanding at the end of each month.

(1) Physical Responsibility - Funds are advanced to a specific office for use in a specific case. They are tracked by field office file number. The funds advanced for one case or office cannot be utilized by another case or office. The SAC is personally responsible for all advances sent to SAC's division. The advance will remain SAC's responsibility until the funds are returned to FBIHQ or the expenditures of the funds are reported to FBIHQ on a Confidential Travel Voucher with a Blue Slip (FD-37) supported by paid receipts or Agent certifications for each and every expenditure.

(2) Confidential Travel Voucher - All expenditures from advances of appropriated funds are to be vouchered promptly on a Confidential Travel Voucher (SF-1012). Vouchering procedures are described in the CONFIDENTIAL FUNDING GUIDE; however, the following general rules apply:

(a) Expenditures must be vouchered promptly and no less frequently than monthly.

(b) A voucher must be submitted for each calendar month that the advance remains outstanding.

(c) The voucher should represent that calendar month's expenditures.

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(d) The amount reported on line 8 (d) "Balance Outstanding" on the SF-1012 must represent the cash on hand on the last day of the calendar month being reported.

(e) For the purpose of certifying the balance of cash on hand, a voucher must be submitted even for months in which no expenditures were made.

(f) Vouchers are due at FBIHQ by the tenth day of the month following the month being reported.

(g) The Confidential Travel Voucher is supported by a Blue Slip (FD-37) and both must be signed by the SAME approving official, either the SAC or ASAC.

(h) The voucher must be supported by original paid invoices (receipts) or signed certifications for each and every expenditure included in the voucher and listed on the itemization of expenditures.

(i) An Itemization of Expenditures (FD-736) and a Voucher Reconciliation (FD-735) must be attached to the voucher.

(3) Return of Funds to FBIHQ - Advances no longer needed for the case for which they were advanced should be sent back to FBIHQ as soon as possible. They can be returned by check or wire transfer.

(a) Return by Check - Outstanding balances of less than \$25,000 are to be returned by cashier's check payable to the FBI. The check should be attached to the final voucher listing expenditures for the month in which the outstanding funds are being returned. The returned funds should be described (e.g., "return of direct advance," "return of show money," "submission of interest income," "refund of deposit," etc.) in the Voucher Reconciliation (FD-735) attached to the voucher. Costs incurred in purchasing cashier's checks or money orders must be vouchered as expenditures, not deducted from the amount to be remitted.

(b) Return by Wire Transfer - Outstanding balances of \$25,000 or more should be returned to FBIHQ by wire transfer.

1. The funds should be wired from a Federal Reserve System Member Bank through the Treasury Financial Communication System (TFCS) to:

Department of the Treasury - Federal Reserve Bank,

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New York City, Treasury Department Code [REDACTED]
for credit to [REDACTED]

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2. The bank should also be instructed to include in the third party information section of the TFCS funds transfer message format, a description of the return in the following format:

Field office abbreviation and field office file number, name of the remitting Agent and the statement, "Return of outstanding balance of advanced funds." (e.g., "BS 183G-1224, SA John Smith, Return of outstanding balance of advanced funds.")

NOTE: DO NOT include classified file numbers in the TFCS transfer message format.

(4) On the same day the funds are wired, a teletype must be sent to FBIHQ, Accounting Section, Attention: Confidential Services Unit, confirming the wire transfer and describing the type of funds being returned, i.e., return of a direct advance, show money, interest income, or evidence.

(5) The final voucher, listing expenditures for the month in which the outstanding funds are being returned, must be submitted to the Confidential Services Unit, Accounting Section. The returned funds should also be described (e.g., return of advanced funds, show money, etc.) on the Voucher Reconciliation (FD-735) attached to the voucher.

EFFECTIVE: 12/07/93

10-14.4 Field Office Centralized Control System for Advance of Funds

As with all advances to field offices, advances for investigative purposes must be reported to and included in the field office centralized control system for advance of funds. This requires that one copy of the Bureau communication confirming an advance of funds be placed in a 66F- control file captioned "Advance of Funds Control File." In addition, a ledger page must be created for each advance received. The ledger will record the amount received, vouchers submitted against the advance, any funds returned, the date of cash counts, and internal audits. Instructions as to the operation

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of the centralized control system can be found in the MAOP, Part II, 6-12, "Advance of Funds - Centralized Control System."

EFFECTIVE: 12/07/93

10-15 TRACING OF FIREARMS

Firearms that are recovered during and subsequent to FBI investigations and/or other documentary evidence of firearms, both foreign and domestically manufactured, should be traced through the appropriate district office of the Bureau of Alcohol, Tobacco and Firearms (ATF), when possible and consistent with FBI interests. Furnish the type of firearm, including the manufacturer, model, caliber or gauge, barrel length, overall length, serial number, and name and address of interested U.S. Attorney (USA). If certification is needed for court proceedings, this will be furnished directly to the interested USA by ATF, per Part I, Section 4, if this manual, entitled "Firearms Acts."

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[REDACTED]

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[REDACTED]

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10-17

FBI INVESTIGATIVE INFORMATION SERVICES DATA BASES FOR USE
IN INVESTIGATIONS

(1) The FBI has hundreds of investigative information data base services available to its personnel through the Butte Information Technology Center and the Savannah Information Technology Center (ITC). These investigative information support services are useful in all FBI investigations, especially in locating witnesses and fugitives, identifying personal and corporate asset records, and generating lead information. There are Technical Information Specialists (TIS) on site in both centers, 24 hours a day, seven days a week.

(2) The information available is automated and may vary by state according to how it is collected, stored and retrieved. Requests for services from the ITCs may be submitted telephonically or on the Forms FD-809 or FD-809A. The method of request (phone, fax, or mail) and the assigned precedence dictate the priority of the request. The average response time for routing requests is within two days; for priority requests is within 24 hours; and for immediate requests is within two hours. Immediate requests made by telephone are handled at once and the results returned by telephone within minutes. The TIS analysts provide all the information retrieved to the Agent along with a brief synopsis of that information. Attached to each response returned by the ITCs is a reply form (FD-810) for quality assurance and accomplishments. Please ensure that this reply form is returned to the ITCs.

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(3) All field offices have access to and should utilize the "Telephone Application" (on the FBINET), a central repository for telephone subscriber data. The data in the "Telephone Application" should be checked prior to setting leads for telephone-related records.

(4) Field offices should check the ITCs and the FBINET before setting leads to other offices.

(5) The following is a sample of the types of information of data bases currently available through the ITCs:

(a) On-line automated "criss-cross," directory-type information access for information on names of individuals or businesses, telephone numbers and subscriber information, and addresses for a subject or the neighbors of a subject.

(b) CREDIT RECORD HEADER INFORMATION - Credit Record Header information provides SKIP/TRACE, ADDRESS UPDATE, Social Security Account Number (SSAN) information, and other personal or business locator information based on name, social security number, or address information.

(c) ASSET INFORMATION - Information concerning

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[REDACTED]

and news service libraries. Professional licensing information from some states, and deceased SSAN information is also available. Asset information is not available in an automated format for every county in every state.

(d) INFORMATION TO VERIFY SOCIAL SECURITY NUMBERS - Provides information regarding SSANs. A given SSAN can be checked to see if it falls with the range of active account numbers, approximately when it was issued, and from what state.

Information from the Social Security Administration on SSANs that have been reported as deceased, including the name that the SSAN was issued to, the address where the last death benefit was mailed, and the month and year of death.

(e) [REDACTED]

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[REDACTED] This is a very expensive service and should be used prudently so that we may extend the resource to all divisions. b7D

(f) NATIONAL INSURANCE CRIME BUREAU (NICB) - Provides information based on vehicle, fire, property, and casualty insurance claims. Also, information is available on the date and place that a vehicle was manufactured and where the vehicle was first shipped, based on the vehicle identification number. This information is a prerequisite to determine federal jurisdiction for certain offenses such as carjacking. Such information can be obtained in an affidavit form or if necessary, an expert witness from NICB can provide testimony at trial.

(g) NCIC/NLETS/CCH - This is the same service available in all field offices and should still be searched routinely in the field office; however, for offline searches, fugitive investigations, and when specifically requested, the ITCs will have the capability to access this information.

(h) TECS II - Treasury Enforcement Communications System II provides information collected by U.S. Customs Agents, Treasury Agents, and Immigration and Naturalization Service Agents in the course of their investigations. This information can be searched by name and by various identification numbers. Border crossings into the United States may also be searched by individual's name and by vehicle license number or aircraft registration number.

(i) [REDACTED]

(j) SENTRY - Bureau of Prisons on-line information system. Sentry has information on all inmates incarcerated in federal institutions since 1981. Available information includes admissions, transfers, housing, and work histories.

(k) FEDERAL TRADE COMMISSION - TELEMARKETING FRAUD DATABASE - Provides information on complaints received from the National Association of Attorneys General, Telemarketing Fraud Database. This information allows the aggregation and consolidation of complaints nationwide.

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SECTION 11. TECHNIQUES AND MECHANICS OF ARREST

11-1 ARREST TECHNIQUES

EFFECTIVE: 05/10/82

11-1.1 General

(1) It is the responsibility of all SACs to plan arrests carefully and thoroughly. Each arresting operation should be in hands of an experienced Agent on those occasions when there is justifiable reason for SAC not personally participating in arrest.

(2) A person who is being placed under arrest may do one of several things: submit peacefully; attempt to flee; attempt to injure or kill arresting person; commit suicide; effect a rescue by confederates. Arresting party should consist of enough Agents/officers, whenever possible, to cope properly with those or other situations which might arise.

(3) Person arrested should be aware of intention of arresting Agent to deprive him/her of his/her liberty by legal authority. It is the duty and responsibility of arresting Agent to identify himself/herself in a clear, audible voice as a Special Agent of the FBI.

(4) Agents in making arrests are expected to be firm, to take proper precautions for their own safety, and to meet force with sufficient force to subdue any opposition.

(5) No definitive policy can be promulgated on firearms use in arrest situations. Good training and experience in arrest situations must be relied on to provide the proper response when confronted with deadly force situations. There are many situations in which Agent personnel may draw their weapons when making an apprehension and without being confronted with existing deadly force. This is a judgment question, which must be evaluated in terms of the individual or individuals to be apprehended, and the circumstances under which the apprehension is being made.

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EFFECTIVE: 05/10/82

11-1.2 Initial Approach

(1) The first conversation with a person under arrest is extremely important and will enable such person to judge the ability of the Agent at the time of the arrest. A person under arrest should be made to understand that Agents will demand prompt and absolute obedience. Unnecessary conversation should be avoided. It is the responsibility of the arresting Agent to inform a person under arrest of the charges against him/her. The language used in explaining the charge and offense should not be in greater detail than the language appearing in the body of the warrant. Prisoners have been known to use many ruses in an effort to destroy evidence or to effect an escape following their arrest. Prisoners should not be granted personal privileges immediately following arrest and immediate requests for water, cigarettes, and permission to go to the lavatory before being searched should be denied. If, due to the circumstances, prisoners are to be transported long distances, common sense and good judgment should dictate the personal privileges granted.

(2) In making arrests on the street, the approach should always be made from the side or rear when possible. The person to be arrested should be arrested away from intersections and crowds when possible.

Experienced criminals realize that if it is possible for them to break away from an officer and run into a crowd they may effect an escape successfully. Arresting Agents, when appropriate, should wear their badges in such a manner as to display immediately their authority if challenged either by a police officer or a citizen.

(3) When a person is arrested, he/she should not be permitted to move about, unless authorized by arresting Agents. If it is necessary to obtain clothing for a person under arrest, Agents should inquire as to the location of the clothing so that it may be obtained by an Agent. Such clothing should be carefully searched prior to delivery to the prisoner.

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11-1.3 Search of the Person

EFFECTIVE: 05/26/89

11-1.3.1 Preliminary Search

(1) At the time a person is arrested by Agents or voluntarily comes to an office and information is developed from him/her resulting in his/her arrest, such person must be adequately searched for concealed weapons which could be used for committing suicide or attacking another person. The search should be made, as much as reasonably possible, in a way that will not frustrate such person's cooperation with the Agents. It should be remembered, however, that safety is the primary factor and it takes precedence when the subject is not cooperative. Continuous suitable observation and guarding of such persons, dependent upon the circumstances, should be followed.

(2) Sound judgment should be exercised in compliance with (1) above. It may be inadvisable to make a preliminary search of a prominent citizen at the time of his/her arrest in the presence of his/her employees, customers, or friends unless such person is known to be potentially dangerous. Even under these circumstances, however, before transporting such an individual to the nearest U.S. Magistrate, he/she must still be adequately searched for concealed weapons and Agents may consider the privacy of a nearby office or other available area for this purpose. Under no circumstances should an arrested person ever be transported in a Bureau vehicle without being searched for weapons.

(3) The SAC, or in SAC's absence, the ASAC, shall be immediately notified of the presence in an office of any person under arrest or of the presence of any suspect for whom arrest is contemplated.

(4) Information on the law on search and seizure is contained in the Bureau document, "Search of the Person." (See also Legal Handbook for Special Agents, Section 5, captioned "Search and Seizure.")

(5) During the search of an arrested person, caution should be exercised by Agents coming into immediate contact with such individuals. Firearms should be handled in such a manner that will prevent the person under arrest from forcibly gaining possession of

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them.

(6) When an Agent and a cooperating law enforcement officer find it necessary to provide a preliminary search of a person, the Agent should be the searcher.

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11-1.3.2 Final Search and Collection of Evidence

(1) A preliminary search, even though believed to be thorough, cannot be relied upon as being adequate. Where possible, a more thorough final search of an arrested person should be conducted as soon as possible. Under existing Bureau instructions, the final search will usually be conducted in a place of local detention. Wherever possible, Agents should assist local authorities making the final search to ensure thoroughness and the securing of any additional evidence the subject may have on his/her person. In conducting a final search of an arrested person, possibilities of attempting self-destruction, escape, or concealment of additional weapons and evidence should be considered. To search a person thoroughly, his/her clothing should be removed and each article of wearing apparel carefully examined, as well as all portions of his/her nude body. Criminals are known to carry two or more concealed weapons and the finding of one firearm or weapon through a preliminary search may not indicate that the person is disarmed.

(2) While searching for weapons, particular attention should be given pencils and fountain pens which may prove to be tear gas weapons. Care should be exercised in handling this type of weapon which is considered dangerous.

(3) Fugitives very often conceal money on their persons in an effort to smuggle it into prisons or penitentiaries for the purpose of using it as bribes. They are oftentimes very ingenious in this respect and unless a careful search is conducted the money may be overlooked. Money has been concealed in belts; belt buckles; fountain pens; the lining of clothing; in the tongues, heels, and under the innersoles of shoes; in bandages; in artificial limbs; in the bottom of metal containers and matchboxes; in the prisoner's mouth; in the crotch; in pocket flaps; in shoulder padding; in concealed pockets; in outer and inner hat bands; sewed in suspenders; in necktie knots; in cap visors; in wristbands; and fastened to the soles of his/her feet or under the armpits with adhesive tape. Hack saw

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blades have been concealed in shoe soles, coat lapels, and sewed in the back of a vest.

(4) Any article having thickness should be inspected with suspicion and every square inch of a prisoner's clothing and body should be carefully examined.

(5) Such articles as notebooks, newspaper clippings, and keys may be the source of valuable leads. The prisoner should be required to account for all notations and addresses in notebooks or on other articles and should be questioned as to the use of each key.

(6) Evidence and weapons should be displayed to another Agent immediately upon removing them from a prisoner so that both Agents can testify as to their source. Care should be exercised in the handling of large sums of money and, when feasible, should be counted in the presence of the arrested person and one other Agent.

(7) Firearms should not be carelessly unloaded, but the cartridges should be marked and sufficient notations made to enable an Agent to testify as to the exact condition of the gun at the time of its removal.

(8) Serial numbers of firearms obtained in connection with Bureau cases should be searched through the National Crime Information Center (NCIC). Whenever possible, any vehicles, property, currency, securities, traveler's checks, or money orders in possession of an individual arrested in Bureau cases should be searched through NCIC unless the source of the vehicles, property, etc., is known.

(9) Two or more Agents shall conduct the search and a complete descriptive and itemized list in duplicate shall be made of all articles removed from his/her person. Erasures or corrections shall be initialed by the prisoner.

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11-1.4 Transportation of Arrested Persons

(1) Transportation of persons under arrest is primarily the responsibility of the U.S. Marshal's office. It will usually be necessary for Agents to transport persons arrested from the place of arrest to the place of local detention. In certain instances, it may be necessary for the arresting Agents to take an arrested person before the nearest U.S. Magistrate. Particularly this is true where the arrest is made in a city or metropolitan area wherein there is located a U.S. Magistrate. When more than one subject is transported in an automobile, it is desirable to place the subjects in the rear seat of the car. With one subject and two or more Agents, one Agent should ride in the rear seat with the subject. This Agent should be seated directly behind the driver. With only one Agent present and one subject, extreme caution should be taken to ensure the subject is securely handcuffed and closely supervised when placed in the vehicle. The use of the subject's or Agent's belt to secure the handcuffs to the person in front or rear and the use of the seat belt are additional methods of controlling the subject. If any delay is anticipated with regard to transportation of the arrested person or his/her timely appearance before a U.S. Magistrate, it is the responsibility of the arresting Agents to communicate immediately with the SAC for instructions.

(2) When an arrest is made at a considerable distance from a U.S. Magistrate, the U.S. Marshal's office may be unable promptly to transport such arrested person. Each SAC should have a clear understanding with the U.S. Marshal's offices within the office territory concerning the procedure to be followed in such instances and this procedure should be made known to all Agents assigned to the field office.

(3) Care should be taken in all cases in which confessions and signed statements are obtained to avoid any delay in hearings before U.S. Magistrates which would bring the case within the purview of the McNabb and Mallory decisions.

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11-1.5 Handcuffing

| Agents are fully responsible for the welfare and condition of a person once he/she is placed under arrest, and it is required that all arrested persons be handcuffed with hands behind the back, back to back, and double locked. If circumstances necessitate handcuffing with the hands to the front, then the hands must be back to back, and the cuffs must be belted down and double locked. Agents are reminded that handcuffs and other restraining devices are only temporary controls and Agents must maintain a close guard over subjects at all times until they are released to another authority. |

EFFECTIVE: 05/26/89

11-2 PROCEDURES FOR ARREST

EFFECTIVE: 05/26/89

11-2.1 Arrests and Searches

EFFECTIVE: 05/26/89

11-2.1.1 Types of Arrest Warrants

There are two forms of warrants for the arrest of Federal law violators.

| (1) Magistrate's warrant - issued by the USMAGISs | based upon a complaint. |

| (2) Bench warrant - issued by the clerk of the U.S. district courts | following the return of an indictment or the filing of an information | on an order of the district judge.

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11-2.1.2 Authority to Serve Arrest Warrants

(1) While U.S. Marshals are authorized to execute all lawful writs, process, or orders issued under the authority of the U.S. Courts, including criminal warrants, Rules 4(a)(1) and 9(c)(1) of the Federal Rules of Criminal Procedure state arrest warrants also may be executed by some other officer authorized by law. FBI Agents are so authorized.

(2) FBI Agents are authorized and should serve all arrest warrants issued in cases over which the FBI has investigative jurisdiction. While every effort should be made to use only FBI Agents in apprehending subjects for whom an arrest warrant has been issued, based on the exigency of the situation the Special Agent in Charge (SAC) may authorize joint arrests with state and local authorities, U.S. Marshals, or other Federal law enforcement agencies (See Part II, Section 21-28 of this manual). Special concern should be given to the utilization, or at least the alerting, of local authorities in instances where it may logically be anticipated that resistance could be forthcoming from the subject(s) or member of the community. Although the time of notification to local authorities concerning arrests made within their jurisdiction by FBI Agents is being left to the discretion of the SACs, concern must be given to the sensitivity of our associates in local law enforcement to know what is transpiring in their jurisdictions and we must respect their responsibility to the people of their communities.

(3) In executing an arrest warrant, which is accomplished with the apprehension/arrest of the subject, the Agent need not have the warrant in his/her possession at the time of arrest. Upon request, however, he/she should show the warrant to the defendant as soon as possible. If the officer does not have the warrant in his/her possession at the time of the arrest, he/she shall then inform the defendant of the offense charged and of the fact that a warrant has been issued. Where time will permit and the successful arrest of subject will in no way be jeopardized, the arresting Agent should have the warrant of arrest in his/her possession in order that the same may be exhibited to the subject upon request.

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11-2.1.3 Summons and Subpoenas

(1) Summonses should not be served by Bureau Agents or Investigative Assistants except upon authority of FBIHQ.

(2) The summons shall be served upon a defendant by delivering a copy to defendant personally, or by leaving it at defendant's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein and by mailing it to the defendant's last known address.

(3) In situations where it would be clearly advantageous to the outcome of the case for Agents and/or Investigative Assistants to serve subpoenas the SACs are authorized to permit Special Agents and/or Investigative Assistants to serve subpoenas. SACs are to follow such matters closely to ensure judicious use is made of this authority.

EFFECTIVE: 05/26/89

11-2.1.4 Arrests Without Warrants

(1) Authority and Notification -

(a) When the facts and exigency of the situation demands, FBI Agents are authorized to make an arrest without a warrant. If time permits, however, every effort should be made to obtain the approval for such arrest from the SAC and USA.

(b) In situations where good judgment would command that FBIHQ be notified of an office's obtaining authorization to arrest an individual without a warrant, such notification must be given. Otherwise, a timely communication to FBIHQ of such arrest will suffice.

(2) Emergency Situations -

(a) Wherever possible prosecution should be authorized and a warrant issued prior to an arrest. In Bureau cases, in emergency situations, an arrest without warrant may be made for any Federal offense committed in the presence of FBI Agents, or for any felony cognizable under the laws of the United States where there are reasonable grounds to believe that the person to be arrested has committed or is committing such felony. Reasonable grounds or

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reasonable cause is the same as "probable cause."

(b) Where an arrest has been made without prior authorization of prosecution and without a warrant in emergency situations, the USA or in USA's absence the AUSA must be contacted immediately for authorization of prosecution and arrangements made for the hearing before the nearest USMAGIS without unnecessary delay as provided for under rule 5(a) of the Federal Rules of Criminal Procedure.

(3) Misdemeanors - Arrest without warrant in misdemeanors within the Bureau's investigative jurisdiction may be made only where the offense is actually committed in the presence of the FBI Agents.

(4) Instructions Contrary to Bureau Regulations - Where instructions are received from USA or his assistant for arrest and detention of a Bureau subject in any manner contrary to Bureau rules and regulations, such instructions are not to be complied with in absence of FBIHQ authority. On receipt of such instructions, FBIHQ should be promptly advised.

EFFECTIVE: 05/26/89

11-2.1.5 Forcible Entry

In making an arrest Agents have authority to break outer and inner doors of a dwelling if the entry is made in good faith and with reasonable cause to believe that the person to be arrested is within the premises. But notice must first be given of authority and purpose, with a demand for admission, and a refusal.

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11-2.1.6 Search of the Person (See also Legal Handbook for Special Agents, 5-3.5.)

Officers have an unquestioned right to search the person of one lawfully arrested. Anything found, including all documents and papers, may be taken. "The person" includes a package, bag, or satchel being carried. Searches of body cavities are permissible where (a) the searching Agent has probable cause to believe evidence of a crime is concealed in a body cavity, (b) the search of the cavity is made by trained medical personnel using medically sound procedures, (c) a search warrant or court order is obtained unless consent is given or emergency circumstances exist, and (d) only such force as is necessary and reasonable is used to effect the search.

EFFECTIVE: 06/28/94

11-2.2 Custody of Prisoners

EFFECTIVE: 01/31/78

11-2.2.1 Other Than District of Prosecution

(1) Upon the written request of a Special Agent of the FBI, the marshal is authorized to take custody of a prisoner notwithstanding the fact that the warrant or other court papers are not in his possession and to take the arrested person without unnecessary delay before the nearest available U.S. Magistrate to secure a temporary mittimus pending receipt of the outstanding warrant or other court papers. The written request to the marshal is to be signed by a Special Agent and shall include the name of the person arrested, the Federal charge upon which he is being held, and the district in which the warrant is outstanding. It shall also indicate whether or not directions have been given for the forwarding of the warrant to the arresting marshal.

(2) Form FD-351 may be used to request the marshal to assume custody of a prisoner. Since this form also provides spaces for data concerning details of the process issued, a copy of FD-351 may be sent to the USA and the U.S. Magistrate for information and

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necessary action.

(3) If, due to emergency conditions, the marshal is unable to comply with the request of an Agent, the Agent should follow a reasonable course, and if circumstances dictate, handle the necessary transportation or arraignment accordingly.

EFFECTIVE: 01/31/78

11-2.2.2 Property of Prisoner

When a person under arrest is released to the custody of a U.S. Marshal or other law enforcement officer, all property that is to be returned to or accompany such person shall be delivered to the U.S. Marshal or other law enforcement officer in the presence of the person under arrest. An itemized receipt should be obtained. Weapons or property held as possible evidence shall not be released in this manner but shall be disposed of as provided for under existing instructions.

EFFECTIVE: 01/31/78

11-2.2.3 Removal of Prisoner from the Custody of the U.S. Marshal

(1) Removal of prisoner from the U.S. Marshal's custody for interviews when necessary by Agents requires authority of SAC and certification in writing to the U.S. Marshal.

(2) Interviews with prisoners as provided for above should be conducted only when absolutely necessary. Every precaution should be exercised in safeguarding such prisoners interviewed in field offices.

(3) Where prisoners are removed from the custody of the U.S. Marshal under the provisions of this section and transported to some place other than a field office for the purpose of re-enacting the scene of a crime or for the purpose of aiding in the location of a hideout, etc., prior FBIHQ authority is necessary before making a request of the U.S. Marshal's office for the release of the prisoner.

(4) "No agent or employee of the Government or any law enforcement officer shall have the right to remove a prisoner awaiting

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trial from the place of detention without an order of the court or permission from the Bureau of Prisons, except that whenever a United States Attorney or an Agent in Charge of a local office of the Federal Bureau of Investigation of the Department of Justice, duly identified, certifies in writing that a prisoner awaiting trial cannot properly or conveniently be interviewed at the place of detention, and that public interest requires a temporary removal therefrom and requests in writing that such prisoner awaiting trial be brought from the place of confinement to the office of the United States Attorney or to the office of the Federal Bureau of Investigation in the same city, such request shall be honored whenever practicable. In such case the prisoner shall be returned to the place of detention within twenty-four hours after his removal therefrom.

"In the case of such absence from the jail, notice thereof on prescribed Form No. D.C. 4ld should promptly be sent to the United States Marshal for the judicial district in which the jail is located.

"No sentenced prisoner shall be removed without the approval of the Bureau of Prisons."

(5) There is set forth hereafter form D.C. 4ld which should be used as notice to the U.S. Marshal of removal of any Federal prisoner for the purposes mentioned:

REPORT OF TEMPORARY RELEASE OF PRISONER

This is to certify that on _____ at _____ (Hour) at the request of _____ (Name of D.A. or Agent) I removed Federal prisoner _____ from _____ at the office of _____ and returned him the same day at _____ in accordance with the provisions of Circular No. 2676-AA.

(U.S. Marshal or Deputy) _____

(Jud. Dist.) _____

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11-2.3 Miscellaneous

EFFECTIVE: 05/10/82

11-2.3.1 Requests of Incarcerated Subjects

In all cases in which a Bureau subject is incarcerated either prior to or after arraignment and plea, if the subject makes known to an Agent during the course of an interview or otherwise |his/her|desire to be brought before the district court judge or to see a U.S. Marshal, immediate steps should be taken by the Agent to advise the USA or U.S. Marshal of the desires of the subject.

EFFECTIVE: 05/10/82

11-2.3.2 Medical Attention for Bureau Subjects

When any person in Bureau custody complains of sickness or ill health or where such condition is reasonably apparent to Agents present, arrangements should be made to afford such persons medical attention without delay.

EFFECTIVE: 05/10/82

11-2.3.3 Arrest of Foreign Nationals

(1) Within U.S. Territory - In every case in which a foreign national is arrested by the FBI, inform the foreign national that |his/her|consul will be advised of |his/her|arrest unless |he/she| does not wish such notification to be given. If the foreign national does not wish to have |his/her|consul notified, the arresting officer shall also inform |him/her|that if there is a treaty in force between the U.S. and |his/her|country which requires such notification |his/her|consul must be notified regardless of |his/her|wishes and that any necessary notification of |his/her|consul will be made by the USA. In all arrests by the FBI of foreign nationals (including those where the foreign national has stated that |he/she|does not wish |his/her|consul to be notified), the FBI field office shall inform the nearest USA of the arrest and of the arrested person's wishes regarding consular notification.

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(2) Outside U.S. Territory - Agents have no jurisdiction in foreign countries. Within limitations border office Agents may, through liaison with cooperative foreign agencies in adjacent countries, arrange for investigations to be conducted. This should be done in a circumspect manner to avoid any allegation of violation of the sovereignty of the foreign country. Agents cannot be present at the scene of arrests by foreign authorities, participate in or be present during searches incidental to such arrests, accompany foreign officials transporting prisoners, or interview such prisoners except at their place of incarceration in the presence of foreign authorities. Where official business requires more than two days in a foreign country, authority must be obtained from FBIHQ.

EFFECTIVE: 05/10/82

11-3 ROADBLOCKS

EFFECTIVE: 05/10/82

11-3.1 General

(1) Several situations may arise which will require that one or more roads be blocked.

(2) Consider utilization of roadblocks in cooperation with local and state law enforcement agencies in cases in which such action appears to be logical.

(3) The SAC should be cognizant of the state and local laws regarding the utilization of roadblocks. Arrangements should be worked out with pertinent local law enforcement agencies for establishment of roadblocks and for transmission to surrounding local and state police.

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11-3.2 Roadblock Methods

There are set forth below several suggestions as to effective means of blocking roads.

(1) To block roads for the purpose of inspecting automobiles. To block persons who may be leaving a particular area most effectively.

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Wooden barricades and stop signs can be utilized in telling the vehicles to travel in one lane. Several cars should be permitted to pass through one direction and then several from the other direction so that the traffic will not be unduly delayed.

[REDACTED]

(2)

[REDACTED]

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If the car turns around and attempts to turn back, the Agents in the first car can use their car to block the road.

(3) In general, the type of barricade used will depend upon the type of highway, the amount of traffic on it, the surrounding terrain, the character of the persons sought, and the time available.

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[REDACTED]

[REDACTED] (4) [REDACTED]

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(5) Whenever a roadblock is established in which any Bureau personnel are physically present and participate, it is fundamental that the Agents be in charge of such operation and they must make sure that the police or any others participating furnish fuel cooperation. Each SAC will be held personally responsible to see that any such roadblock is complete. In planning a roadblock, definite consideration must be given to providing for the safety of the officers participating and innocent citizens who can logically be expected to run into such a roadblock on the public highway.

EFFECTIVE: 05/10/82

11-4 RAIDS

EFFECTIVE: 05/10/82

11-4.1 SAC Responsibility

(1) When a dangerous assignment arises in which the practical application of firearms might be reasonably anticipated, the SAC must personally take charge. SACs must assume leadership in raids or arrests where firearms might be used and in major cases of great importance even though there is no indication that firearms might be employed. Unless emergency conditions prevent prior notification, the SAC or person acting in his absence must be immediately notified when such a situation arises, before action is taken toward apprehension. FBIHQ should be advised by teletype or telephone of the name of the official who will be in charge of the dangerous assignment. If the SAC or ASAC will not be on the spot in charge, sufficient explanation should be outlined which will indicate the reasons for the inability of the above-named official's participation.

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(2) If a major case is being investigated involving the hot pursuit of fugitives which requires a concentration of Agents, it is incumbent upon each SAC to arrange for 24-hour coverage in the resident agencies in his territory where the activity is such that it can be expected there will be numerous phone calls and contacts from cooperative citizens and other law enforcement personnel. Where necessary, clerks may be utilized to effect such coverage. No such coverage should be initiated without authority from FBIHQ.

EFFECTIVE: 05/10/82

11-4.2 Elements of a Raid

A raid is an offensive type of operation characterized by the suddenness of its delivery. The purpose of conducting raids is usually to apprehend individuals or search premises. No two raids if planned to best advantage will be conducted exactly the same. However, the following elements will characterize well-planned operations of this type:

- (1) Speed.
- (2) Surprise.
- (3) Simplicity.
- (4) Safety of all personnel.
- (5) Superiority of manpower and firepower.

EFFECTIVE: 05/10/82

11-4.3 Planning Raids

EFFECTIVE: 05/10/82

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11-4.3.1 Raid Commander and Responsibilities

(1) Every raid should be carefully planned in advance to ensure the greatest factor of safety to the residing party and innocent bystanders, and to prevent the escape of the persons sought.

(2) One individual designated as a raid commander should be responsible for planning and conducting of the raid, and it is his/her responsibility to see that all members of the raiding party are aware of the parts they are to take in the raid and he/she alone should be charged with the duty of changing plans and issuing orders as the situation may demand.

(3)

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(4)

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EFFECTIVE: 05/10/82

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11-4.3.2 Selection and Composition of the Raid Party

[REDACTED]

(1) [REDACTED]

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(2) [REDACTED]

EFFECTIVE: 05/10/82

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11-4.3.3 Raid Orders

Raid orders are issued by the raid commander who will advise each Agent or officer on the raid of his/her specific duty. He/She will, of course, furnish all of the information available concerning the persons to be apprehended to the members of the raiding party.

EFFECTIVE: 05/10/82

11-4.3.4 Equipment

[REDACTED]

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EFFECTIVE: 11/26/84

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11-4.3.5 Assembly Location

(1)

[REDACTED]

(2)

[REDACTED]

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(3) Since the success of a raid depends upon secrecy and surprise, every effort should be made to avoid having the pre-raid plans and movement come under the scrutiny of outside persons or organizations not immediately involved or associated with the operation.

EFFECTIVE: 11/26/84

11-4.4 Approach to Raid Site

(1)

[REDACTED]

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[REDACTED]

(2)

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EFFECTIVE: 02/20/90

11-4.5 Entering the Place to be Raided

EFFECTIVE: 02/20/90

11-4.5.1 Identification of Raid Party

(1) Raids may begin by a signal from the raid commander to the occupants of the place being raided, advising them of the official identity of the raiding party and requesting their surrender. Sometimes this can be accomplished by a telephone call and in other instances it will be necessary to shout to the occupants of the house from the outside. Many raids of premises, however, are begun by the raid commander, after providing for appropriate outside protection of the premises, approaching the front entrance and demanding entry after making his/her presence and official capacity known.

(2) In any raid the participants should clearly identify themselves as Special Agents of the Federal Bureau of Investigation to all persons in the place being raided and those nearby so that no claim can be made by subjects that they were being hijacked by other gangsters. Identity should be made known verbally by a loud clear statement on the part of the raiding officers that "We are FBI Agents," or "We are Special Agents of the FBI," and by display of badges. Identity of an Agent may not immediately be given under the following circumstances:

(a)

[REDACTED]

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(b)

[REDACTED]

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(c) [REDACTED]

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EFFECTIVE: 02/20/90

11-4.5.2 [REDACTED]

[REDACTED]

EFFECTIVE: 02/20/90

11-4.5.3 [REDACTED]

[REDACTED]

EFFECTIVE: 05/20/94

11-4.6 The Covering Party

EFFECTIVE: 02/20/90

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11-4.6.1 Duties of the Covering Agents

(1) [REDACTED]

(2) When persons are seen emerging from the house, they should be advised of the raiders' identity and called upon to surrender. If, however, they come out of the house shooting, the covering Agents should immediately return fire.

(3) [REDACTED]

(4) [REDACTED]

(5) [REDACTED]

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EFFECTIVE: 02/20/90

11-4.7 Post Raid Responsibilities

EFFECTIVE: 02/20/90

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11-4.7.1 Arrest of Subjects

All persons identified as subjects and subsequently arrested during the course of a raid should be removed from the premises and appropriate security precautions taken to prevent escape or rescue attempts. Subjects are to be properly advised of their rights.

EFFECTIVE: 02/20/90

11-4.7.2 Raid Site Security

[REDACTED]

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EFFECTIVE: 02/20/90

11-4.7.3 Publicity

All raids should be conducted as discreetly as possible and without resulting in undue publicity. The names of participants in a raid should not be disclosed without prior FBIHQ authority. Should anyone be killed during a raid and inquest by local authorities is necessary, arrangements can usually be made for one or two Agents to testify for the entire raiding party.

EFFECTIVE: 01/22/90

11-4.8 Miscellaneous

While participating in a raid, Agents should be alert to the need for "fire discipline" and exercise caution and good judgment when discharging weapons.

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EFFECTIVE: 01/22/90

11-4.9 Photograph of Subjects

Photographs of Bureau subjects should be taken before blank walls with no Bureau equipment, pictures, or other Bureau material showing. The use of identifying numbers or name cards is recommended. The subject's name, description, date photograph taken, office name and case number, and, if known, subject's FBI number should be listed on the reverse side of the photograph. The field office case number must be shown in the "OCA" block on the subject's fingerprint card. Previously, photographs were sent to the Criminal Justice Information Services Division, either separately or attached to the fingerprint card. Photographs are not to be submitted. If a photograph of a Bureau subject is taken, simply check the appropriate block (yes or no) on the back of the fingerprint card indicating whether or not a photograph of the subject is available, and file the photograph in the 1-A section of the field investigative file. Should the Criminal Justice Information Services Division receive a request for the photograph, the requestor will be directed to the appropriate field office. Remember to show the field office investigative file number in the "OCA" block on the fingerprint card as this number will be quoted to agencies desiring the subject's photographs. Juveniles may not be fingerprinted or photographed without the written consent of the court unless the juvenile is prosecuted as an adult. (See Part II, 13-7.1.2 of this manual for further photographing information.)

EFFECTIVE: 04/08/96

11-5 EMERGENCY AND PURSUIT DRIVING

(1) Emergency driving describes the need to move by motor vehicle from one place to another in an expeditious manner in order to respond to exigent circumstances. Pursuit driving refers to the following of a motor vehicle for the purpose of making an apprehension or conducting a surveillance. Both emergency and pursuit driving may require tactics or techniques which increase the risks already inherent in operating a motor vehicle.

(2) FBI vehicles responding to emergency or pursuit

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situations will utilize an adequate warning system, such as a siren, flashing light, or other device required by local statutes where use of such equipment will not defeat the FBI's mission. While employing such devices, drivers of Bureau vehicles during an emergency or a pursuit continue to have a duty to drive with due regard for the safety of others.

(3) In the interest of safety, the following factors should be considered prior to initiating maneuvers or speed which could pose a risk of death or serious injury to participants or third parties:

(a) The seriousness of the offense under investigation including whether the suspect has threatened the life or safety of others or poses a risk to the community in the event of escape.

(b) Variables such as the weather, road conditions, performance capabilities of the vehicles involved, and the presence of pedestrians and other traffic.

The above factors should be communicated to the driver's supervisor as soon as it is practical to do so. If, in the judgment of the driver or the supervisor, the potential risks outweigh the benefits to be derived from continued pursuit or emergency response, such pursuit or response should be terminated. The use of a vehicle or roadblock to effectuate a stop can be considered a seizure under the Fourth Amendment and must be conducted in a reasonable manner and in conformity with FBI policy concerning the use of force as set forth in the Legal Handbook for Special Agents, 3-6.4.

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SECTION 12. FIREARMS

12-1 AUTHORIZATION AND RESPONSIBILITY TO CARRY FIREARMS (See
MAOP, Part II, 2-1.5 & Legal Attache Manual, 2-18.)

|Special Agents (SAs) of the Federal Bureau of
Investigation are authorized|to carry firearms under Title 18, USC,
Section 3052.

EFFECTIVE: 04/07/97

12-1.1 SAC Responsibility

SACs are ultimately responsible for the use and
maintenance of all firearms and related equipment in their respective
divisions. SACs are also responsible for|providing training in
firearms to all personnel authorized to carry weapons on official
duty.| A Principal Firearms Instructor (PFI) will be assigned by the
SAC to manage the|field|firearms|training|program.

EFFECTIVE: 04/07/97

12-1.2 Special Agent (SA) Responsibility (See MAOP, Part I,
1-3.2.)

|SAs are directly responsible for|the appropriate use,
security|and maintenance of|all|firearms and related equipment under
their control.

EFFECTIVE: 04/07/97

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12-2 UTILIZATION OF FIREARMS

EFFECTIVE: 05/20/94

12-2.1 Deadly Force - Standards for Decisions (See MIOG, Part II, 30-3.8 (3); MAOP, Part I, 1-4 (4); LHBSA, 3-6.4 & 4-2.5.) (Formerly at 12-2.1.1)

(1) POLICY TEXT:

(a) DEFENSE OF LIFE - Agents may use deadly force only when NECESSARY, that is, when the Agents have probable cause to believe that the subject of such force poses an imminent danger of death or serious physical injury to the Agents or other persons.

(b) FLEEING SUBJECT - Deadly force may be used to prevent the escape of a fleeing subject if there is probable cause to believe:

1. the subject has committed a felony involving the infliction or threatened infliction of serious physical injury or death, and

2. the subject's escape would pose an imminent danger of death or serious physical injury to the Agents or other persons.

(c) VERBAL WARNINGS - IF FEASIBLE, and if to do so would not increase the danger to the Agent or others, a verbal warning to submit to the authority of the Agent shall be given prior to the use of deadly force.

(d) WARNING SHOTS - No warning shots are to be fired by Agents.

(e) VEHICLES - Weapons may not be fired solely to disable moving vehicles. Weapons may be fired at the driver or other occupant of a moving motor vehicle only when the Agents have probable cause to believe that the subject poses an imminent danger of death or serious physical injury to the Agents or others, and the use of

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deadly force does not create a danger to the public that outweighs the likely benefits of its use.

(3) DEFINITIONS

(a) Deadly Force: Force that is likely to cause death or serious physical injury.

(b) Necessity: In evaluating the NECESSITY to use deadly force, two factors are relevant: 1) The presence of an IMMINENT DANGER to the Agents or others; and 2) The ABSENCE OF SAFE ALTERNATIVES to the use of deadly force. Deadly force is never permissible under this policy when the sole purpose is to prevent the escape of a suspect.

1. Imminent Danger: "Imminent" does not mean "immediate" or "instantaneous," but that an action is pending. Thus, a subject may pose an imminent danger even if he/she is not at that very moment pointing a weapon at the Agent. For example, imminent danger may exist if Agents have probable cause to believe any of the following:

a. The subject possesses a weapon, or is attempting to gain access to a weapon, under circumstances indicating an intention to use it against the Agents or others; OR,

b. The subject is armed and running to gain the tactical advantage of cover; OR,

c. A subject with the capability of inflicting death or serious physical injury--or otherwise incapacitating Agents--without a deadly weapon, is demonstrating an intention to do so; OR

d. The subject is attempting to escape from the vicinity of a violent confrontation in which he/she inflicted or attempted the infliction of death or serious physical injury.

2. Absence of a safe alternative: Agents are not REQUIRED to use or consider alternatives that increase danger to themselves or to others. If a safe alternative to the use of deadly force is likely to achieve the purpose of averting an imminent danger, deadly force is not necessary. Among the factors affecting the ability of Agents to SAFELY seize a suspect, the following are relevant:

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a. RESPONSE TO COMMANDS - Verbal warnings prior to using deadly force are required WHEN FEASIBLE--i.e., when to do so would not significantly increase the danger to Agents or others. While compliance with Agents' commands may make the use of deadly force unnecessary, ignoring such commands may present Agents with no safe option.

b. AVAILABILITY OF COVER - Availability of cover provides a tactical advantage. An armed suspect attempting to gain a position of cover may necessitate the use of deadly force; conversely, an Agent in a position of cover may gain additional time to assess the need to use deadly force without incurring significant additional risks.

c. TIME CONSTRAINTS - The inherent disadvantages posed by the issue of action/reaction, coupled with the lack of a reliable means of causing an instantaneous halt to a threatening action, impose significant constraints on the time-frame in which Agents must assess the nature and imminence of a threat.

(3) APPLICATION OF DEADLY FORCE

(a) When the decision is made to use deadly force, Agents may continue its application until the subject surrenders or no longer poses an imminent danger.

(b) When deadly force is permissible under this policy, attempts to shoot to cause minor injury are unrealistic and can prove dangerous to Agents and others because they are unlikely to achieve the intended purpose of bringing an imminent danger to a timely halt.

(c) Even when deadly force is permissible, Agents should assess whether its use creates a danger to third parties that outweighs the likely benefits of its use.

EFFECTIVE: 04/07/97

| 12-2.1.1 | Revised and Moved to 12-2.1 |

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EFFECTIVE: 04/07/97

| 12-2.1.2 | Revised and Moved to 12-2.2 |

EFFECTIVE: 04/07/97

| 12-2.1.3 | Revised and Moved to 12-2.3 |

EFFECTIVE: 04/07/97

| 12-2.2 | Carrying of Weapons | (See also MIOG, Part II, 12-6.)
(Formerly 12-2.1.2) |

(1) SAs must be armed at all times when on official duty with the handgun secured to the Agent's person in an approved holster. Immediate access to the handgun and security are paramount. Briefcases, handbags, etc., are not generally acceptable methods of carrying a firearm. Loss of or damage to a weapon related to nonholster storage or the inability to access a weapon when necessary may result in recommendation for administrative action.

SAs are authorized to be armed when off-duty.

(2) The SAC or designee is ultimately responsible for assignments where firearms might be used. The SAC should be on-scene if possible.

(3) Safety levers should not be engaged on any pistol constructed with a double action first shot (e.g., Smith & Wesson 459, 659, 3913). With the exception of single-action pistols (e.g., Browning Hi-Power), handguns should not be holstered in a cocked mode.

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(4) When an SA is moving with a drawn weapon, the finger must be off the trigger; double-action weapons should be decocked; the manual safety should be engaged on single-action weapons. Safety is the paramount consideration. Unless obvious and articulable circumstances dictate otherwise, these safety rules should NOT be violated.

(5) To preclude unintentional discharges when covering an adversary, double-action weapons should be decocked and finger off the trigger. Single-action weapons (including shoulder weapons) should have the safety engaged and finger off the trigger.

(6) When SAs are armed, handguns must be fully loaded.

(7) Unless operationally deployed, shoulder weapons should be maintained with an empty chamber. Prior to entry into areas where potential danger exists, a round should be chambered in all shoulder weapons. The safety should remain engaged until the circumstances require placing the weapon in the "fire" mode.

(8) SAs must be familiar with and currently qualified with all firearms and equipment they carry.

(9) When possible, emphasis must be placed on planning arrests to ensure superiority of manpower and firepower to exert maximum pressure on the individual(s) being sought, thereby reducing the opportunity for a subject to resist or flee.

(10) SAs may draw their weapons without being confronted with a deadly force situation. Proper training, good judgment and experience in arrest situations must be relied upon to provide the proper response when confronted with potential deadly force situations.

(11) SAs should avoid unreasonable display of weapons in public.

(12) Accidental or unintentional discharge of a weapon is extremely dangerous to the public and to FBI personnel. Avoid unnecessary handling of weapons and never dry fire weapons unless on a range or other safe, suitable area. ANY unintentional discharge must be reported to FBIHQ using FD-418.

(13) Specialized weapons, i.e., M16, MP5, gas delivery systems, etc., must only be deployed by SAs trained and currently qualified in their use.

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EFFECTIVE: 04/07/97

|12-2.3| Firearms Aboard Aircraft (See MIOG, Part I, 164-15 (4).)
|(Formerly 12-12.1.3)|

(1) Title 49, USC, Chapter 465, Section 46505, generally forbids carrying firearms aboard aircraft. FBI Special Agents are exempt from this prohibition.

(2) FAA Federal Air Regulation 108.11 (a) (Title 14, CFR, Section 108.11) recognizes the authority of FBI SAs to carry firearms aboard aircraft at all times.

(3) The FBI has exclusive jurisdiction over the Aircraft Piracy Statute, Interference with Flight Crew and certain crimes aboard aircraft.

(4) FBI SAs MUST carry a firearm ON THEIR PERSON aboard any commercial domestic flight when on official business, unless operational considerations dictate otherwise. Firearms may NOT be carried in a purse, briefcase or carry-on luggage. Under no circumstances should an Agent surrender their weapon to airline personnel.

(5) Agents are encouraged, but not required, to carry their firearm when traveling aboard a commercial airline when traveling within the United States for reasons other than official duty. If carried, the firearm MUST remain on the Agent's person.

(6) FBI SAs must complete the appropriate airline forms for traveling while armed and comply with airline and airport procedures.

(7) FBI SAs are prohibited from consuming alcoholic beverages while traveling armed on aircraft or within eight hours of travel.

(8) SAs must avoid unnecessary display of firearms while traveling by aircraft.

(9) The aforementioned FAA Regulations apply to U.S. flag

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carriers operating between points within the United States and its Territories. When official duty involves travel through or to a foreign country, the traveling Agent must determine beforehand the laws of the country being visited or transited regarding firearms, and prior approval to carry a firearm in that country must be obtained.

(10) If operational or travel considerations do not permit the carrying of a firearm, firearms may be placed in checked baggage for retrieval at the destination. Firearms placed in checked baggage must be unloaded and secured in a hard side, locked case. The weapon must be declared to the ticket agent at the time of check-in and the airline "firearm" tag placed ~~INSIDE the locked suitcase.~~

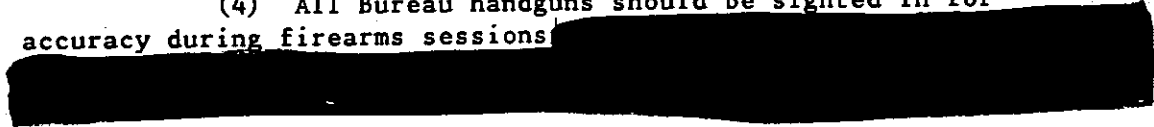
EFFECTIVE: 04/07/97

12-3 ISSUED WEAPONS

(1) FBI SAs are authorized to carry and utilize only issued or Bureau-approved personally owned weapons (POWs) regardless of on- or off-duty status.

(2) Any firearm, regardless of Bureau-issued or personally owned status is referred to as ASSIGNED PROPERTY.

(3) Firearms can only be carried by those Bureau employees who are (1) authorized to use firearms in connection with their official duties and (2) are currently qualified.

(4) All Bureau handguns should be sighted in for accuracy during firearms sessions 

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(5) Any changes or alterations to any assigned weapon must be authorized by the Firearms Training Unit and must be accomplished by the FBI Gun Vault at Quantico. Exceptions to this requirement must be requested in writing and approved by the Gun Vault.

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EFFECTIVE: 04/07/97

12-3.1 Distribution of Firearms

| Each field office should maintain an adequate number of handguns and shoulder-fired weapons available for issue as needed. |

(1) Handguns -

(a) SAs are issued a handgun and associated holster and ammunition or magazine pouches while attending New Agents Training. This weapon will generally remain assigned to the Agent throughout his/her career. Exceptions may result due to loss or damage of the weapon or replacement of the weapon at the direction of the Firearms Training Unit (FTU).

(b) Handguns are intended for general self-defense and should not be exclusively relied upon for planned offensive operations such as the execution of search warrants or arrests where shoulder-fired weapons may be more appropriate. |

(c) | Small-framed handguns (i.e., Smith and Wesson revolver Models 36, 49, 60; Glock 26 and 27 pistols, etc.) are most useful when concealability is important and should not be considered as a primary firearm in most situations. |

(2) Shotguns

| Shotguns should be issued on an extended basis to Agents assigned to investigations/duties where contact with armed subjects is likely (i.e., drugs, Violent Crimes and Major Offenders, resident Agents, [REDACTED] etc.). Shotguns from the division gun vault may also be issued for short terms on an as-needed basis (i.e., warrant executions). |

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(3) Rifles

(a) | Sniper rifles and rifles capable of fully automatic fire are authorized for use only by current firearms instructors [REDACTED] who are qualified in the weapon's use. Any exception to this requirement must be requested in writing and approved by the Unit Chief, FTU. |

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(b) | Any SA qualified in the use of a rifle may use a

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rifle capable of automatic fire if it is equipped with a fire selector lock to prevent fully automatic fire.

(c) The SAC or designee may authorize the removal of the selector locks during emergency situations. This authority may not be delegated. Upon termination of the emergency situation the SAC must ensure the selector locks are properly reattached to the weapons.

(d) Bureau rifles should be sighted in during firearms training sessions to ensure accuracy at operationally appropriate distances.

(4) Submachine Guns

(a) The Bureau is generally equipped with Heckler and Koch (H&K) submachine guns.

(b) Submachine guns may only be used operationally by current firearms instructors, [REDACTED] currently qualified in their use. The MP5-10/A2 which is capable of a two-shot burst may be utilized by any Agent who is currently qualified on that weapon.

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(c) The Thompson submachine gun may only be used for display and demonstration purposes.

(5) Carbines

(a) The Bureau is equipped with Heckler and Koch (H&K) and Colt carbines.

(b) All SAs are authorized to use the H&K MP5SF and Colt M16 series of carbines, provided they are currently qualified with the weapon. The weapon must be equipped with a fire control selector lock if capable of fully automatic fire.

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12-4 PERSONALLY OWNED WEAPONS

(1) SAs are authorized to carry approved personally owned weapons (POWs) in lieu of a Bureau-issued firearm, provided the SAs are currently qualified with those weapons.

(2) SAs are authorized up to two POW handguns in addition to a Bureau-issued pistol or revolver. Agents may elect to have three POW handguns but the Bureau-issued handgun must be returned to the FBI Academy Gun Vault and the Bureau-issued gun removed from the SA's property record. POW handguns authorized for duty may be any combination of pistols and/or revolvers.

(3) SAs are authorized one POW 12-gauge shotgun with a barrel length between 18 and 20 inches and fixed stock, provided the SA is qualified with that weapon.

(5) The Firearms Training Unit (FTU) and FBI Academy Gun Vault maintain an up-to-date list of firearms approved for official use as well as accessories authorized for these firearms. Additionally, the FTU will provide the list of approved handguns, shotguns and rifles/carbines with approved accessories to the field division PFIs in the Annual Field Firearms Program communication. Agents should consult with the PFI or the FTU BEFORE purchasing a firearm for official use.

(6) Before approval of a POW is granted, the weapon must be inspected by the FBI Academy Gun Vault for functional reliability, accuracy and serviceability.

(7) Approval for POWs will only be granted for currently manufactured models. Once a weapon is discontinued by a manufacturer, that model will no longer be approved. Previously approved weapons in this category will continue to be approved until removed by submission of FD-431. Likewise, once a weapon no longer approved is removed from an Agent's FD-431, that weapon will not be approved for official use by another Agent.

(8) POWs authorized to be carried on official business are to be treated in the same manner as nonexpendable Bureau property.

(9) No POW will be approved for use which requires an application for National Firearms Act (NFA) approval from the Bureau of Alcohol, Tobacco and Firearms (ATF). Those weapons that apply as listed in Title 18, Section 5845 are as follows:

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- (a) A shotgun having a barrel or barrels of less than 18 inches in length;
- (b) A rifle having a barrel or barrels of less than 16 inches in length;
- (c) Any weapon mentioned in (a) or (b) above which has an overall length of less than 26 inches;
- (d) Any machine gun (fully automatic weapon);
- (e) Any silencer or suppressed weapon.

(10) | POWs must have a factory finish from the manufacturer. The Gun Vault will be responsible for blued or parkerized finishes only. If the condition of the finish renders the weapon unserviceable, authority to carry that weapon may be withdrawn. Refinishing other than bluing or parkerizing must be completed by the manufacturer at the Agent's own expense. |

| (11) | Approval Procedure

(a) The field division PFI will manage this program for the office.

(b) An SA seeking weapon approval will submit | an | FD-431 in quadruplicate to PFI with the weapon for | inspection and initial | approval.

(c) | The | PFI (or | a designated | firearms instructor) will verify that the weapon meets the requirements for a POW in terms of condition, serviceability, required features, and being an | approved | model.

(d) | The | PFI (or | a designated | firearms instructor), after signing the FD-431, will submit the forms for SAC approval and transmittal, returning three copies of the FD-431 to | the | FBI Academy Gun Vault WITH THE WEAPON. | The submitted FD-431 MUST contain the PFI's signature and SAC or designee's initials. | One copy of the FD-431 should be maintained as a field office tickler copy. Pistols must be accompanied by four factory | magazines. Rifles | must be submitted with a minimum of two factory magazines.

(e) | The aforementioned approval process may be modified when an Agent purchases an approved firearm directly from a manufacturer who will ship the weapon directly to the FBI Academy Gun

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Vault. The FD-431 is completed by the requesting Agent, approved by the PFI and SAC, and three copies forwarded to the FBI Academy Gun Vault. The FD-431 will then be matched with the gun received from the manufacturer.

(f) Weapons must be clean, unloaded, properly packaged, and properly shipped.

(g) The Gun Vault will inspect the firearm for physical condition and test fire the weapon for functional integrity.

(h) If the weapon meets all necessary inspection prerequisites, the firearm will be returned to the submitting PFI with the FD-431 marked "approved." The Bureau will not supply parts needed to make a weapon acceptable for approval.

(i) SAs must fire a qualifying score on the current qualification course for the weapon in question and appropriately record scores BEFORE authority to carry the weapon will be granted by the PFI.

(j) Once the approval procedure is complete, the SA is authorized to carry this POW. The approval copy of FD-431 should be placed in the SA's personnel file.

(k) Any reason for disapproval of a weapon will be explained in full on the FD-431 which will be returned with the weapon to the submitting PFI.

(12) To remove a POW from Bureau-approved status, properly execute Form FD-431 in quadruplicate and forward three copies to Quantico. Upon receipt of the return copy from Quantico, the PFI will delete this weapon from the Agent's firearms training records.

(13) No firearm is authorized for official use unless it is physically inspected and authorized by the Gun Vault (i.e., seized weapons, personal purchases, etc.).

EFFECTIVE: 04/07/97

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| 12-4.1 | Revised and Moved to 12-4 |

EFFECTIVE: 04/07/97

12-5 MAINTENANCE AND REPAIRS

(1) SAs are personally responsible for security and maintenance of all firearms and other expendable and nonexpendable related equipment assigned to them.

(2) Alterations, repairs, and refinishing of assigned firearms must be conducted by FBI gunsmiths. Exceptions include refinishing by manufacturers or other contractors whose use has been requested in writing and approved by the Firearms Training Unit (FTU) in advance.

(3) After-market parts or options will not be approved unless authority is requested in writing and approved by the FTU Unit Chief. Questions regarding the installation of after-market parts on a Bureau-approved firearm should be resolved PRIOR to purchase of these parts or modifications by contacting the FTU.

(4) SAs are to bring all Bureau-assigned handguns to the Gun Vault for preventive maintenance, inspection and repair each time they attend an in-service or conference at the FBI Academy.

(5) Firearms must be unloaded, cleaned, and properly packaged before shipment via Federal Express, or other appropriate means. When returning a firearm to the FBI Academy Gun Vault for service or turn-in, a cover communication should be included which states the reason the firearm is being returned. Firearms being returned should be addressed: FBI Academy, Room 110, Building DN, Quantico, Virginia 22135. (DO NOT MAIL WEAPONS ADDRESSED "ATTENTION: GUN VAULT.") (See MAOP, Part I, 17-1.7.1; Part II, 2-2.2.2, 6-2.3.9, and 6-10.2.)

(6) When it becomes necessary to render a weapon inoperable during the course of an investigation, this procedure must be accomplished by an FBI gunsmith.

(7) Field offices intending to use seized guns for

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demonstrations or teaching purposes must first submit those weapons to the Gun Vault for inspection, approval, and possible modifications to render them safe.

EFFECTIVE: 04/07/97

12-5.1 Care of Firearms

(1) After being used, and periodically during storage, all weapons should be carefully cleaned and lubricated per the manufacturer's recommendations. Care should be taken to prevent excess solvent and oil from entering inaccessible areas of the firearm.

(2) Excess oil and solvent must be completely wiped off wood stocks. Do not allow any oil or solvent to come in contact with the lenses of any telescopic sights or night sights.

(3) Due to the fact that handguns are almost continually encased in leather holsters, regular inspection and lubrication should be conducted to prevent rusting.

(4) Questions pertaining to the care, cleaning and maintenance of firearms should be addressed to the PFI or FBI Academy gunsmiths.

EFFECTIVE: 04/07/97

12-5.2 Deleted

EFFECTIVE: 04/07/97

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12-6 SECURITY OF WEAPONS | (See also MIOG, Part II, 12-2.2.) |

(1) Each SA is personally responsible for the security of weapons under his/her control.

(2) SACs must provide |secure| storage areas for Bureau-assigned firearms in Bureau office space.

(3) When on duty and out of the office, handguns should be kept on the SA's person unless operational considerations or good judgment dictate otherwise.

(4)  b2, b7E

(5) When SAs remove handguns from their person, it is recommended that the weapon and holster be removed together to prevent unintentional discharge. |This recommended action is made to minimize unnecessary unloading/loading of weapons within Bureau office space. |

(6)  b2, b7E

(7) All firearms stored in Bureau office vaults or other approved areas must be unloaded, functional and clean.

(8) All operational shoulder weapons, whenever possible, should be stored muzzle end down to facilitate the natural movement of lubricants toward the barrel end.

(9) All weapons should be stored UNLOADED in the following manner:

(a) Revolvers - cylinder closed, hammer down.

(b) Pistols - |magazine removed, slide closed, hammer released and chamber plug inserted if available. |

(c) Remington Model 870 shotgun - action closed, trigger snapped, safety on.

(d) Colt Model |M16/AR-15 series of |rifles or carbines - magazine removed, action closed, trigger snapped, fire selector on "SEMI."

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(e) Winchester/Remington rifles - action closed, trigger snapped, safety off.

(f) Thompson submachine gun - magazine removed, action closed, fire selector on "SINGLE," safety on "FIRE."

(g) H&K|MP5 (all models) - magazine removed, action closed, trigger snapped, safety on.

(h) M79 Grenade Launcher - action closed, trigger snapped, safety on.

(i) Federal Gas Gun - action closed.

EFFECTIVE: 04/07/97

12-6.1 Security of Weapons at Residence or Nongovernment Space

(1) SAs are personally responsible for security of all assigned firearms to prevent unauthorized handling or unintentional discharge.

(2) When devices or containers are provided by the Bureau for the storage of weapons away from Bureau space, SAs should make use of this equipment whenever possible.

(3) When unattended, each firearm must be made inoperable by one or more of the following methods:

(a) Remove and separate the source of ammunition.

(b) Install commercially available pistol lock, trigger lock, or cable lock.

(c) Contain in a commercially available lock box or other container which will provide appropriate security.

(4) Bureau personnel authorized to carry a firearm must use the utmost caution when storing and securing their firearm at home when children are present. In addition to great personal grief, many states have laws providing for severe criminal and civil penalties when anyone is injured or killed as a result of a child

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obtaining access to a firearm. Bureau employees are to ensure the security and storage of their firearm(s) complies with pertinent state and local laws.

EFFECTIVE: 04/07/97

12-6.2 Vehicles (See MAOP, Part I, 1-3.2.)

(1) No Bureau-assigned firearm may be left in the passenger compartment of an unattended Bureau vehicle or vehicle authorized for official use unless the vehicle doors are locked and the firearm is secured in a locked vehicle weapons mount or other secure device or container which cannot be readily removed from the vehicle, and circumstances prevent more secure storage.

(2) [REDACTED] Even when properly secured, firearms should not be left in unattended vehicles overnight unless required by operational circumstances.

b2 b7E

(3) Other nonexpendable Bureau equipment related to Agent safety may be maintained in the passenger compartment of an unattended Bureau vehicle or vehicle authorized for official use for short periods of time only if required by operational necessity or good judgment, and only if properly concealed and with the vehicle doors locked. "Properly concealed" means placed in an appropriate container and/or secreted within the vehicle to prevent observation and identification of the item from the vehicle exterior.

(4) Any nonexpendable Bureau equipment not related to SA safety should be maintained in the locked trunk of an unattended Bureau vehicle or vehicle authorized for official use, but should not be left overnight unless operational circumstances dictate otherwise.

(5) [REDACTED]

(6) [REDACTED]

b2 b7E

(7) [REDACTED]

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b2
b7E

[REDACTED]

(8) The standards set forth above are MINIMUM standards. Employees are expected to exercise good judgment in providing adequate security to all such equipment and firearms. Personal inconvenience is not considered an adequate reason for deviation from these minimum standards.

(9) Reports of lost/stolen firearms related Bureau property should be submitted to the Firearms Training Unit AND the Adjudication Unit, Office of Professional Responsibility, for replacement and possible administrative action.

EFFECTIVE: 04/07/97

12-7 AMMUNITION

(1) SAs and other Bureau employees authorized to carry firearms may load their Bureau-assigned weapon(s) only with ammunition provided or approved by the FBI.

(2) It is the SAC's responsibility to ensure that the field office maintains an adequate supply of ammunition for training and operational contingencies.

(3) Field office ammunition inventories should be rotated to promote serviceability and be inspected a minimum of once each quarter.

(4) All ammunition should be stored in a secure, and preferably dehumidified, controlled temperature environment.

(5) During training, any ammunition authorized for FBI use may be fired. At all other times outside of training sessions, FBI authorized service ammunition must be used.

(6) Ammunition carried on the person should be used during the next firearms training session and replaced with a fresh supply.

(7) 9 mm 124 grain ball "training" ammunition may be used

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operationally in the suppressed MP5 SD only. This round is limited to training use only in all other Bureau-issued/approved 9 mm weapons.

(8) The Firearms Training Unit is the procurement point for all ammunition used by Bureau personnel for official purposes.

EFFECTIVE: 04/07/97

12-7.1 Deleted

EFFECTIVE: 04/07/97

12-8 FIREARMS PROCUREMENT

(1) The acquisition of firearms as Bureau property must be (1) approved by the FTU, and (2) administered by the FBI Academy Gun Vault.

(2) All firearms purchased or obtained by a field office as Bureau property must be shipped directly to the FBI Academy Gun Vault for inspection and test firing before use.

(3) Any exceptions to this policy must first be requested in writing and approved by the FTU before procurement.

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12-9 FIREARMS IN RESIDENT AGENCIES

(1) Firearms may be maintained in resident agencies.

(2) All handguns and shoulder fired weapons should be stored in a secure safe, vault or safe-type cabinet. Reasonable security precautions such as weapons locked and stored in locked cabinets or closets within alarmed Bureau space may suffice in lieu of storage in a safe.

(3) Field offices are authorized to purchase safes, vaults, or safe-type cabinets in order to provide secure storage of firearms.

(4) All other policies cited herein that govern the use and maintenance of Bureau-assigned firearms and ammunition also apply.

(5) Any exceptions to this policy must be requested in writing and approved by the FTU.

EFFECTIVE: 04/07/97

12-10 FIREARMS TRAINING

(1) Firearms training requirements are submitted to the field annually by EC to all SACs, captioned, "Field Firearms Training Program."

(2) The objective of the FBI firearms training program is to provide four MANDATORY qualification sessions annually. Since firearms training is a perishable skill, however, the FTU encourages field offices to provide additional training opportunities. Field offices whose range availability and ammunition supply will not support mandated training should submit a proposed training plan to the Training Division, FTU, for approval. This plan should include the number of sessions, courses to be used, and the number of rounds to be fired.

(3) The SAC is ultimately responsible for all firearms training, weapons and ammunition inventories, and execution of the Field Firearms Program.

(4) SAs and all other personnel authorized to carry

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firearms must meet or exceed the minimum proficiency and safety standards set forth in the Annual Field Firearms Program.

(5) PFIs are responsible for all transition training either from revolver to pistol or pistol to revolver. The PFI must be satisfied that an SA has successfully completed the requirements of transition training and proficiency checklist as specified in training curricula provided by the FTU and is qualified to carry that weapon. The PFI must verify this training by documentation on or attached to the SA's FD-40.

(6) Each PFI should adhere to the format of the calendar year Field Firearms Program provided by the FTU. Any changes must be submitted via written communication and approved in advance by the Unit Chief, FTU.

(7) All firearms training sessions must be supervised by the PFI or a Bureau-certified firearms instructor designated by the PFI.

(8) All SAs are required to attend defensive tactics training conducted in conjunction with each of the firearms qualification sessions.

(9) The Defensive Tactics Training Course will be managed by the Principal Defensive Tactics Instructor in each field division. This program is submitted to each office as part of the annual Field Firearms Training Program.

(10) Field offices must report the following by electronic communication captioned, "Annual Field Firearms Training Report," to the FTU by close of business 12/31:

(a) Dates of training sessions

(b) Ranges utilized

(c) Names of instructors assisting each session. These names should also be listed at the bottom of FD-39 score cards.

(d) Names of Bureau personnel who have missed ANY mandatory training sessions, with the reason for each delinquency specified. ALL delinquencies must be reported.

(e) Names of all Bureau personnel who have failed to shoot qualifying scores with any authorized weapon. Include date last

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qualified.

(11) The PFI is to ensure that ranges used for field firearms training are inspected and contain no safety hazards that would endanger FBI personnel or others.

(12) PFIs are to make every effort to ensure that the air quality of indoor ranges used for training complies with the Occupational Safety and Health Administration (OSHA) standards. A certificate of compliance with these standards should be available for review at the range facility. If an indoor range does not comply with OSHA standards, this facility should not be used for training.

(13) The authority in charge of a particular range should be advised of any safety deficiencies noted.

EFFECTIVE: 04/07/97

12-10.1 Firearms Delinquencies

(1) Any employee authorized to carry firearms who does not attend firearms training during a firearms training period is considered delinquent. To ensure compliance with this requirement, the SAC (or AD in the case of FBIHQ) may, at their discretion, require delinquent individuals to surrender their firearms and make any necessary recommendations to the Adjudication Unit, Office of Professional Responsibility (OPR), FBIHQ, for administrative action if appropriate. The individual's authority to carry a firearm is rescinded and the weapon should only be issued for training purposes until the delinquency is corrected. No SA should be permitted to become delinquent for any firearms training period unless documented medical circumstances dictate otherwise AND the SA has been placed on medical mandate by FBIHQ Health Care Programs Unit. The FTU is to be advised of each delinquency in the "Annual Field Firearms Training Report."

(2) Those Agents who were unable to attend firearms training on their regularly scheduled days should be rescheduled at the earliest convenience during the training period. Delinquencies must be corrected as soon as possible.

(3) Whenever authority to carry a weapon is rescinded, a memorandum of explanation should be attached to the SA's FD-40.

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EFFECTIVE: 04/07/97

12-10.2 Firearms Qualification

EFFECTIVE: 05/20/94

12-10.2.1 Firearms Qualification Policy (See MIOG, Part II,
12-10.4; MAOP, Part I, 20-28.3.)

(1) SAs must qualify with ALL weapons they are authorized to carry.

(2) SAs must qualify a minimum of four times per calendar year.

(3) SAs must qualify with each assigned handgun a minimum of once per year. It is recommended that weapons regularly carried on duty be fired for qualification at each firearms session.

(4) Specific training requirements are set out in the Field Firearms Training Program submitted by the FTU for each calendar year. PFIs are required to follow current established course protocols set by the FTU.

(5) Agents will qualify within their assigned division. Agents assigned to FBIHQ, the Engineering Research Facility, and the FBI Academy will qualify with the FTU at Quantico.

Exceptions:

(a) Agents assigned on a temporary duty basis to another division which would preclude their qualification in their assigned division, may qualify with the host division. It is the responsibility of the PFI in the host division to ensure the TDY

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Agent's scores are recorded and forwarded to the PFI of the Agent's assigned division.

(b) Agents wishing to qualify with another division for convenience must have the concurrence of the PFI from their assigned division and the host division. The PFI of the host division must record the visiting Agent's scores and forward these to the PFI of the Agent's assigned division.

(c) Agents assigned to FBIHQ, the Engineering Research Facility and the FBI Academy wishing to qualify with another division must have the concurrence of the FTU and host PFI. The PFI of the host division is responsible to ensure the visiting Agent's scores are recorded and reported to the FTU.

EFFECTIVE: 04/07/97

12-10.2.2 Recording Firearms Scores

(1) The names of SAs receiving firearms training should be indicated on the Form FD-39 or an approved automated system.

(2) The individual scores shall be entered in the appropriate column of Form FD-39. This form shall contain the names of all SAs attending firearms training and the make and model of issue/approved firearm(s) used for qualification. Supervising firearms instructors shall be listed at the bottom of FD-39.

(3) After completion of a training period, scores are to be transferred from the FD-39 to each SA's FD-40 or automated form. FD-39s are retained for one year, then destroyed; FD-40 is a permanent record and must accompany the SA's personnel file upon transfer.

(4) The PFI or designated firearms instructor will score the targets on qualifying courses.

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12-10.2.3 Failure to Qualify

(1) If an SA fails to qualify, the PFI must provide remedial training and an opportunity to qualify on the next regularly scheduled qualification day.

(2) After opportunities have been provided for qualification and failures continue to exist, the PFI must advise the FTU in the Annual Field Firearms Training Report.

(3) Employees must demonstrate proficiency to be permitted to carry firearms. If the employee cannot qualify after remedial training on two out of three qualification attempts, the SAC must require the employee to surrender his/her firearm. The Agent will be issued his/her weapon only for training until such a time as a qualifying score is shot. When an Agent's authority to carry a firearm is rescinded, this action must be noted on the Agent's FD-40.

(4) Chronic unexcused delinquency or failure to qualify should be reported to the FTU and Adjudication Unit, Office of Professional Responsibility, with recommendations for administrative action, if appropriate.

EFFECTIVE: 04/07/97

12-10.2.4 Shoulder Weapons - Qualification

SAs will qualify with each assigned shoulder weapon at least twice per year. Agents are encouraged to train with weapons they regularly carry at EVERY training session. SAs with an assigned shoulder weapon will use that specific weapon when qualifying. Agents not assigned a specific shoulder weapon will, at a minimum, demonstrate proficiency with the shotgun and MP5 at least once per year as specified in the Annual Field Firearms Program.

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12-10.3 Firearms Safety Rules

(1) Cardinal Rules:

(a) Treat all firearms as if they are loaded.

(b) Never point a weapon at anyone unless you are justified in doing so.

(c) Keep your finger off the trigger unless you intend to shoot.

(2) General Rules:

(a) All live-fire FBI firearms training must be supervised by an FBI Firearms Instructor.

(b) When transporting weapons on your person to and from the range, handguns should be holstered; shoulder weapons should be in a safe condition and carried with the muzzle pointed straight up.

(c) Safety precautions must be adhered to and enforced. Discipline must be maintained. Unsafe and careless behavior will not be tolerated, should be reported, and may result in recommendations for administrative action.

(d) Immediately upon picking up a firearm, face a safe direction, activate the safety if present, remove any ammunition, open the action and check to see that the weapon is unloaded. Check it again.

(e) Never give to or receive a firearm from anyone, unless the weapon is unloaded and the action is open allowing the person receiving the weapon to see that it is unloaded. Always present the weapon BUTT first.

(f) Never anticipate a command. Avoid unnecessary conversation, and pay attention to instructors. You will be told exactly what to do.

(g) Perform a safety check on the weapon before a training session. Make sure the weapon is unloaded. After training, you also need to ensure the weapon is unloaded before cleaning.

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(h) Load and unload only on the firing line and only when instructed to do so. Any exceptions will be stipulated by the lead Firearms Instructor.

(i) Keep the firearm pointed down range or in a safe direction at all times and ALWAYS be aware of potential dangers in any direction your weapon may be pointed.

(j) Use only one hand when holstering a handgun. Any exception will be so stipulated by the lead Firearms Instructor.

(k) No smoking, eating or drinking on the firing line because of health risks associated with lead residue.

(l) Never permit the muzzle of a firearm to touch the ground.

(m) In case of a misfire or malfunction, perform an immediate action drill, unless instructed to do otherwise.

(n) After firing a shot that does not sound as loud as it should, clear the weapon and check to see if a bullet is lodged in the barrel.

(o) Never leave your firing position unless instructed to do so.

(p) Never remove a weapon from the holster in training, unless instructed to do so.

(q) Never dry fire on the range unless under direct supervision of a Firearms Instructor. Exceptions will be specifically identified by the lead Firearms Instructor.

(r) Eye and ear protection are mandatory when firing on the range. Ear plugs should be worn ONLY IN CONJUNCTION with proper sound barriers and are NOT a substitute for issued or equivalent hearing protection.

(s) Everyone is responsible for range safety. Immediately report any safety violations you see to a Firearms Instructor.

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EFFECTIVE: 04/07/97

12-10.4 Firearms Training of Non-Agent Employees

As a rule, only Agents receive firearms training from the Bureau. Exceptions are:

(1) Electronics technicians and security patrol clerks specifically authorized by FBIHQ.

(2) Uniformed Police Officers of the FBI.

(3) Other non-Agent personnel with special authority to carry firearms (e.g., Special Deputy U.S. Marshal).

(4) Non-Agent personnel authorized to carry firearms must:

(a) be approved by their SAC or Section Chief

(b) comply with deputation requirements established by the USMS, and

(c) be engaged in official activities for which the carrying of a firearm has been authorized.

(5) All non-Agent personnel who are authorized to carry firearms will comply with all regulations in this section that normally apply to SAs (see MIOG, Part II, 12-10.2.1). In addition, they must also attend annual legal training, quarterly defensive tactics training, and participate in the Fitness Indicator Test (FIT).

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12-10.5 Police Firearms Training

(1) FBI firearms instructors may conduct police firearms schools.

(2) Firearms training is to be given only to law enforcement groups unless an exception is authorized by the SAC (e.g., safety training for Bureau employees and their family).

(3) The primary firearms instructor must ensure that ranges used for firearms training are inspected and contain no safety hazards that would endanger FBI or police personnel.

EFFECTIVE: 04/07/97

12-10.6 Firearms Instructors Policy (Formerly 12-10.6.1)

(1) To qualify as a Bureau firearms instructor, candidates must attend the Firearms Instructor In-Service (FAIS) presented by the FTU.

(2) To maintain instructor status, employees must qualify quarterly and obtain the following minimum scores when these courses are fired:

- (a) 30 round bulls-eye course
 - 1. One-hand score 240, or
 - 2. Two-hand (optional) score 260

(b) Double Action Course score 90

(c) PQC score 90

(d) Shotgun 10A score 90

(e) MP5 (qualification course) score 90

(3) To maintain instructor status, in addition to shooting instructor level scores on courses listed in (2) above, each instructor must participate in at least one documented Bureau firearms

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training session per year.

(4) Firearms instructors must attend a Recertification Program with the FTU at least once every four years. Agents transferring out of the FTU are considered recertified for a period of four years.

(5) Failure to comply with instructor requirements will result in the loss of current status. The employee will be listed officially as firearms instructor - inactive.

(6) To regain active firearms instructor status, the employee must attend a Recertification Program at the FBI Academy and demonstrate proficiency as noted in (2) above.

EFFECTIVE: 07/17/97

| 12-10.6.1 | Revised and Moved to 12-10.6 |

EFFECTIVE: 04/07/97

| 12-10.7 | Target Guidelines |

| (1) | STEEL TARGET POLICY

| (a) - Standard | service and training ammunition | may not be used on steel targets | at distances less than ten yards. Some types of frangible ammunition may | be used on | steel targets at closer distances.

| (b) | To minimize | potential injury from | ricochets, firing positions should be perpendicular to the target line.

| (c) | Construction of any steel targets MUST be coordinated through the | FTU to ensure targets meet minimum hardness and safety standards.

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(d) PFIs are responsible for permitting only the use of proper weapons and ammunition on steel targets to prevent damage or destruction to the target, reduce ricochet and prevent injury to personnel.

(e) Steel targets must be inspected before each training session.

(f) All personnel on the steel course site must stand behind the shooter. In multiple courses, the shooter must not be ahead of another shooter.

(g) All personnel on the steel course site must continuously wear eye and ear protection. Personnel on a steel course should also wear issued body armor.

(h) Damaged targets, i.e., dimpled, punctured, or bowed, are unsafe and should not be used.

EFFECTIVE: 04/07/97

12-11 SHOOTING INCIDENTS (See MAOP, Part II, 8-1.3.2.)

EFFECTIVE: 10/17/95

12-11.1 Reporting of Shootings (See MIOG, Part II, 12-11.8; MAOP, Part II, 8-1.3.2.)

(1) In all shooting incidents involving the intentional use of force by FBI personnel and in all incidents, intentional or otherwise, WHERE INJURY OCCURS, notify the Violent Crimes and Major Offenders Section (VCMOS) Chief, CID, FBIHQ by telephone, followed by teletype. Similarly, in all shooting incidents occurring in joint investigations or FBI led/controlled task forces where a non-FBI participant fires a weapon, notify the VCMOS, CID, FBIHQ by telephone, followed by an airtel within seven days.

(2) Other instances involving the discharge of a firearm

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| by FBI personnel | must be reported as soon as time permits by teletype to the Chairperson, Shooting Incident Review Group (SIRG), with a copy to the Firearms Training Unit (FTU). FD-418 (Shooting Incident Report), in triplicate, is to be submitted to the FTU by airtel within five working days. SA's FD-40 (Firearms Record) should be attached to the FD-418.

(3) | If an FBI employee is injured, designate one copy of teletype for the Office of | Public | and | Congressional Affairs. |

(4) SAC must personally ensure that investigations | related | to Agent-involved shooting incidents are handled quickly and properly.

(5) | If the SAC or ASAC was involved in the planning or execution of events, FBIHQ should be advised during initial contact. |

(6) | Initial teletype should include the SAC's recommendation whether the shooting inquiry should be conducted by the field division under the direction of the SAC, or by a Shooting Incident Response Team (SIRT) under the direction of an Inspector or Inspector-in-Place (IIP). Generally, this determination is based on the extent of SAC or ASAC participation in the planning and operational events of the incident. |

(7) | The Assistant Director, Inspection Division (INSD), in consultation with the SAC and Assistant Director, CID, will make the determination whether a shooting inquiry will be conducted under the direction of the SAC or an Inspector/IIP. |

(8) | If an Inspector/IIP is not dispatched to the scene, the SAC will advise and confirm by teletype that he/she is directing the necessary required shooting inquiry investigation, UACB. |

(9) | A shooting inquiry must be conducted under the direction of the SAC when a weapon is discharged by FBI personnel unless circumstances necessitate the inquiry be conducted under the direction of an Inspector/IIP. |

(10) | In joint or task force investigations wherein a local, state, or other federal law enforcement officer fires a weapon or is shot, but no shots are fired by FBI personnel who are present:

(a) Joint investigation - SAC or ASAC will notify FBIHQ by telephone, followed by an airtel delineating the following:

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1. Activities of accompanying officer and circumstances which led to the shooting.
2. Details of raid/arrest plan.
3. Instructions given to accompanying officer.
4. Results of local shooting inquiry conducted, if available; records of interview(s), and analysis.

(b) FBI led/controlled task force:

1. Include all of (a) above, plus:
 - a. Degree of FBI supervision exercised over the officer's day-to-day investigative activities (generally reflected in implementing Memorandum of Understanding (MOU)).
 - b. Chain of command within the task force.
 - c. A copy of any MOU delineating task force responsibilities of non-FBI personnel.

(c) Submit within seven days, an original and 12 copies of the shooting incident airtel to the Assistant Director, INSD, Rm. 7129, Attention: SIRG, with one copy designated to the FTU.

(11) through (22) Moved to MIOG, Part II, 12-11.7, 12-11.8, and 12-11.9.

EFFECTIVE: 10/17/95

12-11.2 Guidelines for Intervention at the Shooting Scene (See MAOP, Part II, 8-1.3.2.)

(1) After the shooting scene has been secured, the first concern expressed and acted upon will be that all Bureau personnel are well cared for both physically and mentally.

(2) The Agent(s) involved in the shooting incident will be permitted and encouraged to immediately contact his/her spouse

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and/or family. If the Agent has been injured, or if he/she feels it would be useful, the Agent's family will be contacted immediately in person by a designated Agent who knows the family personally. The field office will also be notified of the Agent's condition so that there will be a response to the family who called the office. It is particularly important that family notification occur before press and/or media accounts appear.

(3) Agents who have been personally involved in the shooting incident will be removed from the scene as soon as possible and not assigned further duties in the investigation of that incident.

(4) If the Agent's weapon is secured for evidence or ballistics tests, another will be issued immediately unless there is cause not to issue a weapon. The Principal Legal Advisor, Office of General Counsel, FBIHQ, or the United States Attorney's Office should be consulted if questions arise regarding whether an Agent's weapon should be surrendered to local authorities.

(5) The SAC or ASAC will initiate a personal contact with the Agent(s) and his/her family in a supportive role and offer assistance, if needed. This contact will be made as soon as possible following the incident (within the first 24 hours).

(6) The current Bureau procedure of not releasing the identity of Agents involved in investigations or incidents is especially important in post-shooting matters and will be maintained.

(7) An SAC should communicate with FBIHQ if any of the established procedures appear to be inappropriate for a specific incident.

(8) SACs and/or ASACs should hold an office conference, as soon as practical, after a shooting incident and as often as necessary to keep all personnel advised of pertinent details concerning the shooting incident. This should substantially reduce rumors and distorted accounts of the incident. (See MAOP, Part II, 8-1.3.2.)

EFFECTIVE: 05/20/94

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12-11.3 Guidelines For Intervention During The First Week (See
MAOP, Part II, 8-1.3.2.)

(1) The Critical Incident Program consists of several specifically trained Agents and support employees located at the FBI Academy, Quantico, Virginia, and throughout the field offices administered from Personnel Division (PD), FBIHQ.

(2) The Critical Incident Program also includes FBI Chaplains in each field office who have been trained to respond to Agents and support employees who have been involved in critical incidents including shootings.

(3) Bureau policy establishes confidentiality for any conversations between employees and peer support employees or FBI Chaplains.

(4) There are exceptions to this Bureau policy of confidentiality which could require disclosure. These exceptions might include, but are not limited to, risk of death or injury, perspective criminal acts, or interference with Bureau investigations. A decision to disclose must first be discussed with the Critical Incident Program Manager, PD, FBIHQ. No assurance can be given that the courts will recognize the confidential relationships established by this policy. In a criminal or civil action arising from a critical incident, the court could conceivably order disclosure notwithstanding Bureau policy.

(5) The SAC or ASAC will advise the office FBI Chaplain(s) of the critical incident and coordinate a request for peer support with the PD, FBIHQ.

(6) A brochure is available to Agents/employees who have been involved in shooting incidents covering:

- (a) The symptoms to be expected and their normal course.
- (b) Administrative handling of the post-shooting investigation.
- (c) Legal aspects of the shooting incident.
- (d) Counseling services available.

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(7) An official from FBIHQ will contact the Agent personally by telephone. The scope and direction of this call is to express concern for the welfare of the Agent and his/her family. The Assistant Director, PD, will coordinate the personal phone contacts.

(8) A total of five optional days of administrative leave are available to be taken (at sole discretion of) persons directly involved in the shooting incident. The use of that administrative leave will be strongly encouraged by the SAC. This leave may be taken at any time at the discretion of the Agent and should be coordinated with his/her supervisor. The Health Care Programs Unit (HCPU), PD, will furnish guidance concerning individuals eligible for leave and authority to grant leave. (Also see LEAVE ADMINISTRATION GUIDE.)

(9) An Agent directly involved in the shooting incident should be advised by the SAC that the Agent can be reassigned from his/her squad for a period of time if the Agent so desires.

(10) The SAC will immediately coordinate with HCPU, PD, FBIHQ, if an Agent directly involved in the shooting incident requires other special attention, to initiate the utilization of the mental health professional resources of the Employee Assistance Program (EAP).

(11) If an Inspector has been assigned to conduct the shooting inquiry, he/she will review these intervention guidelines with appropriate field office managers.

(12) In the event of an incident which involves the death of an employee or a line-of-duty injury that results in the hospitalization of the employee for serious injuries, the Director desires to personally contact the employee or family and offer comments that will contribute, even if in only a small fashion, to the healing process that lies ahead. To facilitate these contacts the following information should be relayed to the Director expeditiously, usually by teletype.

(a) A brief description of the incident and the nature of the injuries sustained.

(b) The name(s) and age(s) of the employee's immediate family.

(c) Where and when the employee or family may be reached.

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(d) Any other information that would be helpful during the Director's contact with employee or family.

(13) Recognizing that the FBI's continuing concern can significantly help the recovery of our employees and their families, it may be beneficial for the Director to recontact them. The timing of this recontact is left to the discretion of the SAC. Recontact requests should be submitted by teletype to the Director's personal attention and include the following information:

(a) The information requested above.

(b) An update on the condition of the employee or family.

(14) More periodic expressions of concern by the immediate FBI family will be led by the SAC. SACs should be aware of the extensive support structure that exists in the HCPU of the PD. This includes peer support, contract mental health professionals, FBI Chaplains and the EAP. These resources should be used as appropriate to provide our employees and their families with the support and assistance they need during times of extreme trauma and sorrow.

EFFECTIVE: 05/20/94

12-11.4 Guidelines for Long-Term Issues (See MAOP, Part II, 8-1.3.2.)

(1) SAC or ASAC will personally make every effort to facilitate the administrative investigation of a shooting incident.

(2) If a group of Inspectors from FBIHQ is required to conduct an investigation of the shooting incident, an effort will be made to ensure that at least one of the Inspectors has received training in the effects of post-shooting trauma and, if possible, has personally experienced a shooting incident.

(3) Agents should be allowed to pace their own return to work following shooting incidents. The Personnel Division (PD) will furnish guidelines concerning use of administrative leave. The SAC and supervisor will be involved in this decision-making process.

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(4) If a transfer of an Agent to another squad following a shooting incident is contemplated, consideration will be given to the effects of the transfer on the adjustment period and the Agent should be involved in the decision.

(5) The letter announcing the conclusion of a Bureau investigation of a shooting incident will be phrased in a way that takes into account the emotional impact on the Agent who has been involved in a life-threatening situation and may have suffered post-shooting trauma.

(6) SACs and/or ASACs or the Principal Firearms Instructor should personally and individually provide the necessary positive and/or negative feedback to Agents after the administrative inquiry has been completed. This will also afford an opportunity to ascertain if the involved Agent(s) is amenable to any formal recognition, as warranted. Medals or incentive awards following a shooting incident in which subjects have been seriously injured or killed can have a negative psychological impact and/or be perceived as a reward. However, medals or incentive awards may be appropriate, and will be authorized if recommended and justified. Emphasis will be on the effort to save lives.

(7) Agents who have been involved in a shooting incident will not immediately be assigned to duties likely to involve armed confrontations. This is even more important when a given Agent has already been involved in a previous shooting incident. This consideration should take precedence over other action, including transfers.

(8) Employees who have been involved in shooting incidents will be afforded an opportunity to attend a Post-Critical Incident Seminar at the FBI Academy. These group sessions will be the basis for future modifications in policy and training and will also provide a pool of employees able to provide meaningful peer support. The group sessions provide a therapeutic understanding of the shooting event. These conferences will be coordinated by the Training Division's Behavioral Science Services Unit (BSSU).

(9) PD's Employee Benefits Unit has prepared a booklet captioned "Your Worker Compensation Benefits" for questions relating to work-related illnesses and injuries.

(10) The PD Transfer Ombudsman had been designated to serve as a single point of contact at FBIHQ concerning insurance and compensation matters following a shooting incident. The Ombudsman

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will be available on a case-by-case basis to respond following a critical incident and offer assistance to victims and survivors of that incident concerning insurance and compensation matters. The Ombudsman attends Post-Critical Incident Seminars and maintains contact with the Critical Incident Program Manager.

(11) Six months after the shooting incident, HCPU, PD, FBIHQ, will contact the SAC of the Agent involved in the shooting incident to determine if follow-up counseling is necessary.

EFFECTIVE: 05/20/94

12-11.5 Guidelines For Training (See MAOP, Part II, 8-1.3.2.)

(1) Training related to post-shooting trauma and its management will be made available to Bureau administrative personnel. A training block of this type will be presented by the Behavioral Science Services Unit, (BSSU), Firearms Training Unit, and the Management Science Unit, Training Division. A presentation in this area should also be incorporated into upcoming SAC Conferences, Senior Executive Programs, and Executive Development Institute sessions.

(2) An orientation session by the BSSU on an introduction to post-shooting trauma will be provided to students during New Agents training.

(3) In the planning of operations which have a high risk of armed confrontations and/or may involve the use of deadly force, if the SAC, ASAC or supervisor is aware of an Agent who is experiencing high levels of personal and/or family stress or health problems, consideration should be given to temporarily excuse the SA from participating in the exercise in order to minimize the risk of cumulative stress or trauma incidental thereto.

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12-11.6 Nondisclosure of Agents' Names in Shooting Incidents (See MAOP, Part II, 5-2 (4) and 8-1.3.2.)

Names of Agents involved in shooting incidents in performance of duty should not be volunteered to outsiders since experience has shown that once their identities become a matter of public knowledge, the potential that they and their families will be subjected to harassment and possible retaliation substantially increases. If identities of Agents involved in shooting incidents have been made public through inclusion in public records or disclosure at public proceedings, SACs may verify the Agents' identities in response to inquiries by news media representatives or others.

EFFECTIVE: 04/07/97

12-11.7 Investigation of Shootings Involving FBI Personnel (Formerly 12-11.1.) (See MAOP, Part II, 8-1.3.2.)

(1) An investigative inquiry of the shooting incident will be conducted under the direction of the SAC or Inspector/Inspector in Place (IIP), as appropriate, and a comprehensive report issued.

(a) The SAC is responsible for preserving evidence and instituting a logical investigation. SAC or SAC's designee should personally coordinate investigation if an Inspector/IIP is not dispatched to the scene.

(b) The SAC will designate an investigative team to conduct those shooting inquiries under his/her direction. The SAC should use appropriate personnel and resources (Evidence Response Team (ERT), Photographer, etc.) to conduct a thorough, factual investigation of the shooting incident and to submit a comprehensive report to the Shooting Incident Review Group (SIRG). The SAC should consider Laboratory Division assistance in appropriate circumstances.

(c) In the event an Inspector/IIP is dispatched to the scene, the Shooting Incident Response Team (SIRT) will be comprised of an Inspector or IIP and two or more Assistant Inspectors-in-Place (AIIP) selected by the Chief Inspector, Inspection Division

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(INSD), and a forensic team comprised of a firearms examiner, visual information specialist, and photographer selected by the Laboratory Division.

(d) The SIRT under the direction of the Inspector or IIP will report directly to the Chief Inspector, Office of Inspections, during the shooting inquiry and be tasked with completion of a thorough, factual investigation of the shooting incident and submission of a comprehensive report to the SIRG, along with any observations regarding safety and/or training issues identified through the inquiry.

(2) Local authorities are to be contacted to clarify jurisdiction and investigative responsibilities.

(3) All personnel and witnesses at the scene are to be identified, located and interviewed.

(4) Agents involved in a shooting must be given sufficient time to regain composure before being requested to provide any statements. The official conducting the inquiry will consult with the SAC or other appropriate personnel and consider such factors as physical injuries or trauma experienced by the Agent involved in a shooting to determine when an interview should take place.

(5) Avoid having involved Agent(s) conduct any investigation and/or interviews relevant to the shooting. Do not, however, delay substantive investigation to accomplish this. Separate and remove involved Agent(s) from the scene as soon as practical.

(6) Forms FD-644 (Warning and Assurance to Employee Requested to Provide Information on a Voluntary Basis) and FD-645 (Warning and Assurance to Employee Required to Provide Information) are not to be used in investigations concerning shooting incidents in the absence of specific, compelling reasons. Such a determination will be made by the SAC or Inspector/IIP in consultation with the appropriate FBIHQ officials. Prior to the use of the FD-645 in cases where there is potential for criminal prosecution of the employee to be interviewed, OPR, Inspection Division, must present the facts of the case to OPR, DOJ, and obtain an initial opinion that the matter in question should be handled administratively rather than criminally. (See MAOP, Part I, 13-6 (3) and MIOG, Part I, 263-5 (3).)

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EFFECTIVE: 10/17/95

12-11.8 Shooting Inquiry Report (See MIOG, Part II, 12-11.1;
MAOP, Part II, 8-1.3.2.)

(1) Results of an inquiry in all shooting incidents involving the intentional use of force by FBI personnel and in all incidents, intentional or otherwise, WHERE INJURY OCCURS, are to be submitted to FBIHQ within two weeks in the form of an investigative report. The shooting inquiry is primarily a fact-finding effort and must be objective, thorough, and factual. Observations regarding safety and/or training issues identified during the inquiry should be included in the report.

(2) Report should be captioned "Shooting Inquiry, Report of Shooting Incident; (name of Reporting) Division; (date of shooting incident); Admin Matters; (66F classification)." The report should specifically reference, using case caption, the substantive violation, if any, involving the shooting incident, e.g., "John Doe; First Savings Bank; 3/6/95; BR; OO: NY; UCFN #." Reference should also be made to the teletype that initially advised FBIHQ of the shooting and the communication which forwarded the FD-418s.

(3) The report should contain appropriate enclosures and exhibits, to include but not limited to: medical reports, coroner or autopsy reports, police reports, crime scene diagrams, radio logs, criminal record and NCIC checks, military records of subjects if pertinent, weather information, firearms and ballistic information (include Laboratory Reports if available or FD-302 summary of laboratory analysis), videos from local news media, shooting incident reconstructions, and crime scene photographs.

(4) No accomplishments should be claimed in the Shooting Inquiry report. Any accomplishments achieved at the time of the shooting incident should be claimed by a communication under the substantive title.

(5) The Administrative section of the report should include information concerning decisions regarding interview of subject(s), pertinent administratively controlled material, informant information, and observations regarding training and/or safety issues. SAC analysis and recommendation(s) for administrative action, if deemed warranted, should be set forth in this section of the report.

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(6) A table of contents should be utilized to organize and identify report contents. Following is an example of items which might normally be included:

(a) Interviews of personnel involved - include signed, sworn statements of all Bureau employees principally involved in the shooting incident. Interview all Bureau personnel directly involved in the investigation and/or planning leading to the shooting incident. Any arrest or raid plans pertinent to the incident should be carefully spelled out in statements obtained from the person(s) in charge of the raid/arrest.

Interviews in shooting inquiries should be handled without the use of Forms FD-644 and FD-645, unless there are specific factual situations or complaints which might raise concerns about the shooting. Should these arise, the details should be discussed with the Chief Inspector, Inspection Division (INSD), prior to conducting any interview of Bureau personnel.

(b) Interviews of witnesses - include FD-302s of all witnesses to the shooting incident. Persons interviewed should be apprised of the access provisions of the Privacy Act and afforded the opportunity to request confidentiality in accordance with MIOG, Part I, 190-7 and SAC Memo 51-77 (C) dated 11/15/77.

(c) Investigation regarding subject(s) - include such information as criminal records, if available, and interviews of associates which are germane to shooting (i.e., individuals involved in circumstances surrounding the shooting incident, co-arrestee, etc.). If possible, include interview of subject(s) regarding the shooting. Such an interview is often quite productive in obtaining admissions from the subject(s) directly pertinent to the shooting incident. Statements made by subject(s) contemporaneous to the shooting oftentimes may be important to the overall evaluation of the incident by the SIRG.

Apprehension FD-302 should be included. Prepare FD-302 reporting that subject did not, was not known to have, or refused to comment on the shooting, if applicable.

(d) Medical reports - include medical reports and interviews with medical personnel clarifying the nature and gravity of all wounds or injuries as a result of the shooting. Indicate weapon, entry and exit of individual shots, if determinable. If fatalities involved, include coroner or autopsy reports.

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(e) Vehicles involved - describe all pertinent vehicles and indicate damage incurred. Describe any other property damage.

(f) Weapons involved - include FD-302s reflecting weapons and ammunition used by Agent(s), officer(s) and subject(s) involved and disposition or custody of weapons following the shooting.

(g) Maps, diagrams, photographs, and other graphic depictions or representations of shooting incident scene and/or scenario.

(h) Police reports - include copies of reports, if available, plus any statements made regarding possible prosecutive action against Bureau personnel. Include copy of communications with local prosecuting attorney.

(i) Prosecutive status of subjects.

(j) Laboratory reports - laboratory reports should be included in the Shooting Inquiry report, if they are available. If laboratory examinations have not been completed, preliminary results should be reported by a summary FD-302. Results of forensic processing conducted at the scene may be included in the form of a laboratory report or an FD-302, whichever is deemed most suitable by the forensic expert(s).

(7) To assure accuracy and completeness of the Shooting Inquiry report, SAC or Inspector/IIP should confer with the Chief Inspector, Office of Inspections, INSD.

(8) Submit an original and 12 copies of the report to the Assistant Director, INSD, Rm. 7129, Attention: SIRG, with one copy designated to the FTU. The INSD will distribute copies to members of the SIRG.

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12-11.9 Shooting Incident Review Group (Formerly 12-11.1.) (See MAOP, Part II, 8-1.3.2.)

(1) The Shooting Incident Review Group (SIRG) is an independent review committee established to analyze all shooting incidents involving Bureau personnel and to evaluate the application of deadly force in such incidents. The SIRG is to provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint, if any, as well as recommendations concerning training issues, safety issues and administrative action, if deemed necessary.

(2) Scope and Purpose: The SIRG will review all shooting incidents wherein Bureau personnel employ deadly force, as well as all incidents where a firearm is discharged in a nontraining setting.

(a) The SIRG will determine if the shooting under review was intentional or unintentional. This will govern the standards applied in the review as the FBI's Deadly Force Policy will only be applied where the shooting was intentional.

(b) The SIRG will deliberate and determine if the shooting incident falls within the application of the FBI's Deadly Force Policy and the law.

(c) The SIRG will review operational plans, procedures, tactics and circumstances leading to the shooting incident.

(d) The SIRG will review issues associated with safety, training, and management oversight and make recommendations for administrative action, if deemed necessary.

(3) The SIRG will be comprised of representatives from the following:

(a) Inspection Division (INSD) - Deputy Assistant Director, (Chairperson) and Chief Inspector, Office of Inspections, (Alternate Chairperson);

(b) Criminal Investigative Division;

(c) National Security Division;

(d) Training Division;

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(e) Personnel Division;

(f) Office of the General Counsel;

(g) Laboratory Division;

(h) Field Supervisor (preferably one who has been involved in a shooting incident) from the Washington, D.C. Metropolitan area.

(i) Department of Justice Attorney(s) as delegated by the Deputy Attorney General.

(4) The SIRG will deliberate and report its analysis by issuing a memorandum of findings and recommendations to the Director. This memorandum will be reviewed by the SIRG members, each of whom may provide additional comments, observations, or recommendations by attaching an addendum to the memorandum.

(5) The findings and recommendations will be submitted from the SIRG by the Chairperson to the Assistant Director, INSD, for approval and forwarding to the Director. An information copy of the SIRG memorandum of findings will be disseminated to the substantive Assistant Director (CID or NSD) as appropriate, and to other appropriate entities (Training, Personnel, etc.).

EFFECTIVE: 10/17/95

12-12 HOLSTER/ACCESSORY EQUIPMENT

(1) SAs must train with holsters and related equipment normally used on duty at each firearms training session.

(2) Holsters are not provided for personally owned weapons.

(3) Personally owned holsters must be approved through the PFI before use.

(4) Alterations of any holster, such as removing a thumb brake, is not permitted.

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(5) Accessory equipment, i.e., magazine or speed loader pouches, ammunition pouches, etc., must be maintained and inspected in the same manner as a holster.

(6) Each SA is responsible for the proper maintenance of all holsters and accessory equipment under his/her control.

(7) Bureau-issued holsters/accessories, when worn or damaged beyond repair may be replaced through the FBI Academy Gun Vault.

(8) All strong side belt holsters will meet the following requirements:

(a) Must be able to draw and reholster the handgun with one hand.

(b) The holster must not require the trigger finger to pass through the trigger guard to release the weapon.

(c) the holster must secure the weapon during strenuous physical activity (running, climbing, upside down, etc.).

(9) "Miscellaneous holsters" refers to shoulder holsters, belly bands, ankle holsters, inside pants holsters, cross-draw holsters, fanny (butt) packs, etc.

(a) All regulations that exist for strong side hip holsters apply with the exception that it is permissible for the weak hand to steady the holster while returning the weapon. However, no holster will be approved that REQUIRES using both hands to draw the weapon.

(b) Firearms instructors are to ensure that proper safety is exercised during training with any miscellaneous holster.

(10) SAs should use both Bureau-issued and personally owned holsters and other firearms equipment during firearms training sessions to ensure familiarity.

EFFECTIVE: 04/07/97

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Section 552

Section 552a

(b)(1)

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12-15 DEMONSTRATIONS AND TOURS

(1) Only authorized firearms instructors may present "live fire" demonstrations, and then only with the express consent of the SAC or designee.

(2) Any other SA may present Bureau firearms for demonstration using "red-handle" weaponry or live weapons equipped with trigger guard locks or similar devices which prevent the weapon from firing.

(3) The safe condition of all weapons used for demonstration should be verified by a Bureau firearms instructor BEFORE use. (The general safe condition of firearms is action open, safety on, and weapon free of any live ammunition.) Demonstration weapons should never be pointed at another person.

EFFECTIVE: 04/07/97

12-16 MEDICAL PROFILE SYSTEM - MEDICAL MANDATES (RESTRICTIONS)

(1) Agents on medical mandates are to be permitted to participate in firearms training, including defensive tactics, PROVIDED the Agent's evaluating physician is fully familiar with the Agent's condition, the nature of the training to be undertaken, and furnishes a written statement that, in the physician's opinion, such participation would not be injurious to the Agent's health or dangerous to others. (See MAOP, Part I, 20-5.2.1 (2).)

(2) In instances where the evaluating physician does not certify the Agent to attend training and the prospects for future participation are remote due to the Agent's condition, authority to carry a firearm will be rescinded and any Bureau-issued weapon turned in. (See MAOP, Part I, 20-5.2.1 (3).)

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12-17 TRAINING SAFETY

(1) All training exercises or scenarios which incorporate the use of loaded or unloaded firearms must be supervised by a currently qualified Bureau firearms instructor.

(2) The supervising firearms instructor must ensure that:

(a) all necessary firearms and ammunition safety checks are conducted prior to commencement of training.

(b) all firearms safety rules and precautions are adhered to by all participants.

(c) all facilities and training props are safe and absent of potential hazards to all personnel.

(3) The primary instructor may designate assistants as required; however, the ultimate responsibility for safety rests with the primary instructor.

(4) Under no circumstances will the primary or assistant instructors become active participants or role players during the training exercise or scenarios.

EFFECTIVE: 04/07/97

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SECTION 13. LABORATORY DIVISION AIDS TO INVESTIGATIONS

13-1 INTRODUCTION TO FBI LABORATORY DIVISION

EFFECTIVE: 05/25/90

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EFFECTIVE: 04/07/97

13-2 AVAILABILITY AND USE OF LABORATORY FACILITIES

EFFECTIVE: 05/25/90

13-2.1 Availability of the FBI Laboratory

As a general rule, services of the FBI Laboratory are available to:

(1) U.S. Attorneys, military tribunals, and all other Federal agencies in both civil and criminal matters. (Requests from USAs for any Laboratory services (including trial charts), examinations and testimony of FBI Laboratory experts should be made through FBI field offices.)

(2) All duly constituted state, county, and municipal law enforcement agencies in the United States and territorial possessions in connection with their official investigations, but in criminal matters only.

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13-2.1.1 Stipulations

All Laboratory services, including expert witnesses, are rendered free of all cost to the requesting agency, but in offering these services, experience has dictated the following limitations in the interest of economy to avoid duplication of effort and to ensure the proper administration of justice:

(1) No examination will be conducted on any evidence which has been previously subjected to the same type of technical examination. This requirement is intended to eliminate duplication of effort and ensure the integrity of the evidence is maintained. An exception may be granted by the Laboratory Division to this policy when there exist compelling reasons that a reexamination be conducted. These reasons should be set forth in individual letters from the director of the laboratory which conducted the original examination, the prosecuting attorney, and the investigating agency which collected and submitted the evidence for laboratory analysis. (Note: A check will be searched through the National Fraudulent Check File even though it has been technically examined by or searched through a check file maintained by another agency.)

(2) No testimony will be furnished if testimony on the same technical subject and in the same case is to be given for the prosecution by another expert.

(3) No request for examination will be accepted from a nonfederal law enforcement agency in connection with criminal cases if it is indicated that only a civil case will grow out of it.

(4) No requests for examination will be accepted from other laboratories which have the capability of conducting the requested examinations. (Exceptions to this policy may be made, in extenuating circumstances, upon approval of the Assistant Director of the Laboratory.)

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EFFECTIVE: 09/09/93

13-2.2 Use of Other Laboratories or Other Forensic Experts

Since materials of evidentiary value located at a crime scene or otherwise obtained during FBI investigative activities offer invaluable potential for investigative information and probative results, these materials should be submitted, except in circumstances detailed in subsection 13-2.2.2 below, to the FBI Laboratory in lieu of other laboratories or other forensic experts because

(1) The facilities of and the expertise within the FBI Laboratory provide the best in available scientific analyses and technical services

(2) The FBI is appropriated money yearly by Congress to operate its own Laboratory to provide laboratory services in matters of interest to the Bureau.

EFFECTIVE: 04/07/97

13-2.2.1 Cases Involving Joint Jurisdiction

Diplomacy and good judgment must be exercised in the instances which arise in cases of joint jurisdiction where state, local, and/or other Federal laboratories either handle or maintain custody of materials of evidentiary value obtained by their personnel either prior to or after FBI involvement so as to:

(1) Protect the integrity and "chain of custody" of these materials of evidentiary value in the event the final mutual agreement is that the matter under investigation is to be prosecuted in the Federal judicial system with the FBI having the responsibility of primary jurisdiction and

(2) Demonstrate the FBI has the proper professional respect for the technical and scientific competence of these other laboratories and the investigative efforts of their law enforcement personnel.

(3) In matters where physical evidence has been

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previously examined by a state or local crime laboratory and the FBI Laboratory is directed by the Department of Justice to conduct a reexamination, the head of the laboratory which conducted the original analysis will be promptly notified of this action by the Laboratory Division.

EFFECTIVE: 05/25/90

13-2.2.2 Cases Involving Sole FBI Jurisdiction (See MIOG, Part II, 13-2.2.)

When circumstances dictate, FBIHQ will consider requests for the use of non-Bureau forensic experts. The following conditions must be observed:

(1) Only the FBI Laboratory should conduct forensic examinations of evidence in FBI investigations. Only under extenuating circumstances should other laboratories or forensic experts in private practice be consulted or their services requested. This should only occur after prior contact, and with the approval of, the FBI Laboratory by electronic communication (EC), teletype, or telephone and then confirmed by EC or teletype. Such communications should include:

(a) A synopsis of the circumstances necessitating the use of an outside forensic expert.

(b) The name of the local expert(s) and their local laboratory affiliation, if any,

(c) The name and office telephone number of the case Agent, and

(d) The personal endorsement of the SAC that such action is needed.

(2) This procedure is necessary to ensure:

(a) That the needed services or examinations cannot be performed in a timely fashion by submitting the evidence to the FBI Laboratory due to extreme urgency of the situation, or that FBI Laboratory personnel could not travel to the requesting location and perform the services or examinations;

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(b) That when circumstances so warrant, and FBI Laboratory approval is given, only competent and reputable forensic experts be utilized who are recognized as reliable within the forensic science community.

(3) If FBI Laboratory approval is obtained for the use of non-FBI Laboratory experts, those experts must assure that all necessary examinations are being performed since federal violations frequently require different elements of proof than do state or local violations of the same or similar nature and,

(a) That nothing will be done which will destroy the usefulness of the evidentiary material;

(b) That the local expert be advised of the willingness of the FBI Laboratory to be consulted on the scientific and technical aspects of the examination(s) and to provide additional examinations which may not be possible locally;

(c) That a copy of the local expert's examinations report be promptly furnished to the FBI Laboratory.

(4) Under no circumstances should "curbstone" opinions be sought of local scientific or technical personnel to assess the potential value of evidentiary materials prior to submitting these items to the FBI Laboratory for examination. Preliminary local analyses could

(a) Cause alteration and/or contamination of these materials,

(b) Create a conflict of opinion due to variations in testing procedures,

(c) Unduly complicate the "chain of custody,"

(d) Severely hamper the effectiveness of the Bureau's efforts, and

(e) Create unnecessary legal issues which could arise subsequently in the prosecution process.

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EFFECTIVE: 04/07/97

13-3 REQUESTING LABORATORY ASSISTANCE

The information under this caption as well as that contained elsewhere in this section under the particular type of examination or assistance desired should be consulted to facilitate the submission of requests to the Laboratory Division.

EFFECTIVE: 05/25/90

13-3.1 Requests for Examination(s) of Evidence (See MIOG, Part I, 9-7; II, 13-17.3.)

A request for an examination must be in written form and forwarded with the evidence. A telephonic request must be followed with a written official communication. The incoming communication must be sent with each case and should include a listing of the suspect/subject, victim, violation, location and date of offense, case file number, a brief description of the case, a detailed description of the evidence enclosed, the request of the Laboratory and a contact name and number. A written request for Laboratory Division services must bear a single title and a single Universal Case File Number. If additional cases need to be intercompared with the listed title, that request should be in the body of the incoming communication, not identified by additional titles. All requests should be addressed to the Director, Federal Bureau of Investigation, with an attention line in accordance with 13-3.1.1 below and contain the following information:

- (1) Reference to any previous correspondence submitted to the Laboratory in the case.
- (2) The nature of and the basic facts concerning the violation insofar as they pertain to the laboratory examination.
- (3) The name(s) and sufficient descriptive data of any subject, suspect, or victim.
- (4) Each case submitted to the Laboratory must be individually packaged and placed in an appropriate evidence container. The evidence container must be placed under proper seal, labeled with

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appropriate warning labels, contain a single titled communication, and shipped via trackable carrier. Lab exam requests should contain a list of the evidence being submitted either "herewith" or "under separate cover." (Note: Due to evidential "chain of custody" requirements, all evidence sent through the U.S. Postal Service (USPS) system must be registered mail and not by parcel post or regular mail. If United Parcel Service, Federal Express, or air freight is used, utilize their "acknowledgment of delivery," "protective signature," "security signature," or any other such service which provides the same protection as USPS registered mail.) Only evidence for the first captioned case should be submitted with each communication. (See MIOG, Part II, 13-3.1.2 (9), 13-6.7 and 13-6.7.1.)

(a) "Herewith": This method is limited to certain small items of evidence which are not endangered by transmission in an envelope. Utilize the specially designed evidence envelope (Form FD-632). Execute written portion of envelope BEFORE placing evidence inside to preclude damaging or altering evidence and to prevent addition of indented writing. Insert the evidence and securely seal the envelope. Fold up the flap marked "PLEASE STAPLE CORRESPONDENCE TO THIS FLAP" and securely attach the written communication which should state "Submitted herewith are the following items of evidence."

(b) "Under separate cover": This method is generally used for shipment of numerous and/or bulky items of evidence. The written communication should state "Submitted under separate cover by (list the method of shipment be it USPS, United Parcel Service, Federal Express, or air freight) are the following items of evidence." For further information concerning the preparation of packages sent under separate cover see 13-3.1.2 below as well as 13-6.6 (Packaging Chart) illustrated in the "Electronic Reference Library Searching Guide" Appendix.

(c) "Packaging": An evidence container is defined as any container that houses items of evidence in a manner which maintains the integrity of those items. To further this definition, a primary container is the container that is in direct contact with the evidence. For example, an envelope housing a fraudulent document or a vial containing blood would be considered a primary container. A primary container must be placed in a secondary container which must be leakproof and puncture-resistant, when the evidence so warrants additional protections. A secondary container is needed only when wet evidence, such as liquid blood, or a sharp item, such as a needle or a knife, is submitted to the Laboratory for examination. Each item of evidence must be packaged separately to avoid contamination. Each case must be submitted individually. The Laboratory Division will

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strictly endorse the related portions of MIOG, Part II, 13-3.1.2(3) and 13-3.1.2(4).

(d) "Sealing": All containers must be properly sealed with tamper-evident tape. A container is properly sealed only if its contents cannot readily escape and if entering the container results in obvious damage/alteration to the container or its seal. A proper seal consists of taping the evidence container over or along the opening with tamper-evident tape and placing the initials of the person creating the seal over the tape. A proper seal is not created by simply stapling the evidence container closed, nor is it properly sealed when a container opening is exposed. Tamper-evident tape is available through FBI central supply or the Evidence Control Technician. (See 13-3.1.2.)

(e) "Warning Labels": A warning label alerts the recipient of the potential hazards of the evidence enclosed, therefore appropriate warning labels must be placed on an evidence container in a visible area. Biological hazards (biohazards) fall under the Bloodborne Pathogen guidelines. (See 13-3.1.2.)

Biohazardous evidence (evidence containing any biological material) must be labeled with a biohazard sticker. If the item is or contains dried body fluids, such as blood, semen, or saliva, a primary container is the only container needed and the biohazard sticker is placed on the outside of the primary container. If the item is or contains wet body fluids, the primary container must be placed in a secondary container and the secondary container must be labeled with a biohazard sticker. (See 13-12.4.1.)

Because of the importance of compliance with using proper warning labels, FBIHQ will remind the field of the policy when a noncompliant submission is received. If the case Agent or Evidence Control Technician neglects to affix appropriate warning labels, the examiner or examiner's Unit Chief will call the supervisor of the case Agent or Evidence Control Technician to alert that supervisor of the noncompliant submission. Pursuant to the contact, a letter describing the noncompliant submission will be sent to the Assistant Director in Charge (ADIC) or Special Agent in Charge (SAC).

(5) A request stating what types of examinations are desired. Include, if applicable, comparisons with other cases, listing captions of these cases and Bureau file numbers, if available.

(6) Information as to where the original evidence is to be returned as well as where the original Laboratory report is to be

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sent.

(7) A statement, if applicable, as to whether

(a) The evidence has been examined previously by another expert in the same technical field (provide a copy of any report(s) generated by other experts, if available)

(b) Any local controversy is involved in the case,
or

(c) Any non-Bureau law enforcement agencies have an interest in the case.

(8) Notification of the need and reason(s) for an expeditious examination bearing in mind this treatment should not be routinely requested.

(9) If damage occurs in the mail system or evidence is improperly packaged and the integrity of the evidence has been jeopardized as a result, the case Agent will be notified. If the integrity of the evidence has been compromised, a decision will be made by appropriate laboratory personnel as to what, if any, forensic examinations can or will be conducted. This policy is imperative to preserve the integrity of the evidence and to protect the safety and well being of the persons handling these submitted materials.

EFFECTIVE: 11/21/97

13-3.1.1 Attention Lines for Communications and Packages (See MIOG, Part II, 13-3.1, 13-3.1.2(8) and (10).)

The following guidelines should be adhered to as closely as possible to avoid any unnecessary delay in the routing of mail at FBI Headquarters.

(1) All requests for a laboratory examination should be marked "Attention: FBI Laboratory, Evidence Control Center."

(2) Deleted

(3) Deleted

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(4) Requests for photographic processing ONLY should be submitted on the FD-523. (Note: Whenever a package containing exposed film is sent to the Laboratory the word "FILM" should be clearly marked on the outside of the package.)

(5) Requests for photographic laboratory examination of any kind should be marked "Attention: FBI Laboratory, Special Photographic Unit."

(6) Requests for BOTH photographic processing and a fingerprint examination should be submitted on the FD-523 and, in the area for request, marked "Attention: Laboratory Division, Evidence Control Center."

(7) Requests for the enhancement, processing and examination of video imagery where no comparison with known photographs or items of clothing are required or requests for the production of video tape demonstrative evidence should be marked "Attention: FBI Laboratory, Special Photographic Unit."

EFFECTIVE: 07/25/97

13-3.1.2 Shipment of Evidence "Under Separate Cover" (See MIOG, Part II, 13-3.1(4)(b).)

The following steps should be followed to properly prepare a package for shipment of numerous and/or bulky items of evidence apart from the original written request for the examination(s). For additional guidance and instructions see 13-3.1(4)(b), (c), (d), and (e) above and 13-6.6 (Packaging Chart) below. (Note: Comply with the following steps (1) through (9) if a cardboard box is used and step (10) if a wooden box is used):

(1) Take every precaution to preserve the items of evidence as outlined in the applicable sections of the Evidence Chart (13-6.7) as well as afford appropriate physical protection of the latent fingerprints thereon to include identification with the word "LATENT." (See (10) below.)

(2) Choose a cardboard box suitable in size.

(3) Place nonporous items of evidence in a separate container to avoid contamination and for preservation of latent

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prints. (See Part II, 13-3.1(4)(c) and 13-3.1.2 (10) below.)

(4) Do not place evidence from more than one case in the same box. (See Part II, 13-3.1(4)(c) and 13-3.1.2 (10) below.)

(5) Pack the evidence securely within the box to avoid damage in transit or puncture of box and protrusions/loss of evidence. (See (10) below.)

(6) Seal the box with gummed tape and clearly mark the outer portions of the box with the word "EVIDENCE." (Note: If any of the evidence in the box is to be subjected to a latent fingerprint examination, also clearly mark the outer portions of the box with the word "LATENT.")

(7) Place a copy of the original written request for the examination(s) in an envelope marked "INVOICE" and securely affix this envelope to the outside of the sealed box.

(8) Enclose the sealed box in wrapping paper and seal the wrapping paper with gummed tape. Prepare the address label, addressing the package to the Director, Federal Bureau of Investigation, 935 Pennsylvania Avenue, NW, Washington, D.C. 20535-0001, with the proper attention line as outlined above in 13-3.1.1. Cover the label with yellow transparent tape to identify the shipment as evidence and place it securely on the package.

(9) Ship the package by U.S. Postal Service, United Parcel Service, Federal Express, or air freight in accordance with the note in 13-3.1(4) above and the Evidence Chart (13-6.7).

(10) Choose a durable wooden box suitable in size and

(5). (a) Comply with the above steps (1), (3), (4), and

(b) Securely fasten the lid on the box and address it to the Director, Federal Bureau of Investigation, 935 Pennsylvania Avenue, NW, Washington, D.C. 20535-0001, with the proper attention line as outlined above in 13-3.1.1.

(c) Place a copy of the original written request for the examination(s) in an envelope marked "INVOICE." Place the invoice envelope in a clear plastic cover, and tack it to the box.

(d) Comply with step (9) above.

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EFFECTIVE: 07/25/97

13-3.2 Requests for Other Laboratory Assistance

Requests for artist conceptions should be submitted on Form FD-383. Requests for photographic processing, printing, enlargements, etc., where no examination is involved must be submitted on an FD-523. Requests for other Special Projects Section services should be submitted on an FD-790. Requests for translations, trial exhibits, and on-the-scene Laboratory assistance in photographic surveillances, evidence examinations, or crime scene searches (e.g., bombings) and questions concerning photographic, polygraphic, forensic training, or other Laboratory matters should be submitted in a written communication, in triplicate, directed to the FBI Laboratory. However, if time is of the essence or the exigencies of the case are such, telephonically contact the Laboratory Division, referring to the "FBI Laboratory Directory of Support Services," for the unit which provides the desired assistance. If after consulting the Directory, problems or questions still exist, call the office of the Assistant Director, extension 4410.

EFFECTIVE: 09/03/93

13-4 RESULTS OF EXAMINATION(S) OF EVIDENCE

The results of evidential examinations conducted in the Laboratory are recorded in a written report.

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13-4.1 Dissemination of Laboratory Report (See MAOP, Part II,
10-13.13.)

Normally three copies of each laboratory report are
furnished to the

- (1) Office(s) contributing evidence,
- (2) Office of origin,
- (3) Offices designated by the contributor(s), and

(4) Those offices determined by the Laboratory to have an
interest in the case depending on the results of the examination(s).

(a) The original and two copies of the report will
usually be sent to the office of origin in those instances where there
are several offices contributing evidence, as well as those instances
in which a contributing office makes such a request.

(b) If evidence is submitted to the Laboratory by a
non-Bureau agency in a case in which the Bureau has or may have a
joint jurisdiction, a report will be furnished the contributor
with three copies of the report designated for interested Bureau
offices, to include the office of origin.

EFFECTIVE: 09/24/93

13-4.2 Inclusion of Laboratory Report in Other Reports

A copy of a laboratory report may be included in other
reports prepared in the field. Some laboratory reports are sent to
the field under the cover of a Laboratory Transmittal Form (7-72)
commonly referred to as the Administrative Page(s). These
Administrative Pages are not part of the laboratory report and
therefore should not be included in any reports prepared in the field.

EFFECTIVE: 01/26/83

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13-4.3 Rule 16. (Discovery and Inspection)

A portion of Rule 16 of the Federal Rules of Criminal Procedure states "Reports of Examinations and Tests. Upon request of a defendant the government shall permit the defendant to inspect and copy or photograph any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are within the possession, custody, or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the government, and which are material to the preparation of the defense or are intended for use by the government as evidence in chief at the trial." This request must be made before the court and "Upon a sufficient showing the court may at any time order that the discovery or inspection be denied, restricted, or deferred, or make such other order as is appropriate."

EFFECTIVE: 01/26/83

13-4.4 Laboratory Reports and the Disposition of Submitted Evidence

(1) Each laboratory report will normally contain a statement concerning the original evidence being returned herewith, under separate cover, or with the results of another examination such as a latent fingerprint examination.

(2) Whenever original evidence is returned by the Laboratory to the contributing office(s) or to the office of origin, upon the request of the contributor(s), it should be checked against those items listed in the written request as well as in the laboratory report to ensure all the evidence has been returned.

(a) If any discrepancies exist, extreme care should be exercised in examining all of the packing material utilized in the shipment of the evidence in order that the missing items will not be inadvertently disposed of with this material. The FBI Laboratory should be advised immediately of any discrepancies.

(b) |Deleted|

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EFFECTIVE: 04/07/97

13-5 TESTIMONY OF LABORATORY EXAMINERS

EFFECTIVE: 01/26/83

13-5.1 Availability of Service

Laboratory examiners are available for expert testimony concerning their examinations provided no other expert is used by the prosecution in the same scientific field. (Note: This restriction is generally used in the interest of economy and to avoid duplication of effort.)

EFFECTIVE: 01/26/83

13-5.1.1 Testimony at Trials

The absence of examiners from FBIHQ should be kept to a minimum; therefore,

(1) Every effort should be made to utilize the services of these witnesses as quickly as possible, consistent with good trial procedures.

(2) Whenever practical, arrange for their immediate release following court appearance.

(3) In most cases the presence of an expert witness is NOT required by the court during the jury selection and, consequently, he/she need not be present when the case is called.

(4) Whenever it is possible to anticipate when the expert testimony will be required, arrangements should then be made to have the witness present at that time, rather than earlier in the trial.

(5) Laboratory should be notified of the trial dates or other judicial deadlines as soon as they are known or set.

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EFFECTIVE: 07/25/97

13-5.1.2 Grand Juries and Preliminary Hearings

(1) Laboratory experts are available to testify at such hearings but requests for their appearance should not be made unless absolutely necessary because in most cases the laboratory report, an affidavit, or the testimony of the case Agent will suffice.

(2) If all attempts to obviate the appearance of a Laboratory expert have been exhausted, the FBI Laboratory should be advised in detail of the unusual circumstances which make the presence of an expert absolutely necessary.

EFFECTIVE: 01/26/83

13-6 HANDLING OF PHYSICAL EVIDENCE

EFFECTIVE: 01/26/83

13-6.1 Definitions of Evidence

(1) That which is legally submitted to a competent tribunal as a means of ascertaining the truth of any alleged matter of fact under investigation before it.

(2) Anything which a suspect leaves at a crime scene or takes from the scene or which may be otherwise connected with the crime.

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13-6.1.1 Terminology

"Physical," "real," "tangible," "laboratory," and "latent," are all adjectives to describe the types of evidence which the FBI Laboratory Division examines.

EFFECTIVE: 09/24/93

13-6.2 Purpose of Physical Evidence

- (1) Aids in the solution of the case because it can
 - (a) Develop M.O.'s or show similar M.O.'s.
 - (b) Develop or identify suspects.
 - (c) Prove or dispose an alibi.
 - (d) Connect or eliminate suspects.
 - (e) Identify loot or contraband.
 - (f) Provide leads.
- (2) Proves an element of the offense, for example.
 - (a) Safe insulation, glass or building materials on suspect's clothing may prove entry.
 - (b) Stomach contents, bullets, residue at scene of fire, semen, blood, toolmarks may all prove elements of certain offenses.
 - (c) Safe insulation on tools may be sufficient to prove violation of possession of burglary tools statutes.
- (3) Proves theory of a case, for example,
 - (a) Footprints may show how many were at scene.
 - (b) Auto paint on clothing may show that a person was hit by car instead of otherwise injured.

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EFFECTIVE: 01/26/83

13-6.3 Nature of Physical Evidence

For the most part, physical evidence falls into two classifications.

EFFECTIVE: 01/26/83

13-6.3.1 Evidence with Individual Identifying Characteristics

This evidence can be positively identified as having come from a specific source or person if sufficient identifying characteristics, or sufficient microscopic or accidental markings are present. (Examples are: fingerprints, handwriting, bullets, toolmarks, shoe prints, pieces of glass and plastic where the broken edges can be matched, and wood where broken/cut surfaces can be matched and fabric and tape (torn ends).)

EFFECTIVE: 04/01/96

13-6.3.2 Evidence With Class Characteristics Only

(1) This evidence, no matter how thoroughly examined, can only be placed into a class. A definite identification as to its source can never be made since there is the possibility of more than one source for the evidence found. (Examples are: soil, blood, hairs, fibers, paint from a safe or car, glass fragments too small to match broken edges, and toolmarks, shoe prints, or bullets, in those instances where the microscopic or accidental markings are insufficient for positive identification.)

(2) It is desirable to have evidence that can be positively identified, but the value of evidence with class characteristics only should not be minimized. In cases involving evidence with class characteristics only, the following are desirable:

- (a) A preponderance of such evidence.

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(b) A preponderance of class characteristics within a single item of evidence such as paint with many layers all matching or soil with foreign matter such as paint chips, odd seeds, and safe insulation.

(c) Elimination specimens such as soil from where a suspect claims he/she was or where he/she claims a car was; soil from the surrounding areas to show that a variation does exist; and paint or other materials from a source mentioned in an alibi.

EFFECTIVE: 09/24/93

13-6.4 Crime Scene Search

A crime scene search is a planned, coordinated, legal search by competent law enforcement officials to locate physical evidence or witnesses to the crime under investigation. In order to be effective a crime scene search should include the steps outlined in paragraphs 13-6.4.1 through 13-6.4.8 below. (Note: For additional information concerning a bombing crime scene search see paragraph 13-6.5 below.)

EFFECTIVE: 02/12/92

13-6.4.1 Protect and Secure the Crime Scene

Only persons who have a legitimate investigative interest should be allowed into the crime scene. This number should be kept to a minimum. Too many people in a crime scene can lead to evidence being moved or destroyed before its value as evidence is recognized. Once the scene is established, it should be protected diligently.

EFFECTIVE: 02/12/92

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13-6.4.2 Conduct a Preliminary Survey of the Crime Scene for the
Purposes of Establishing Firm Organizational and Planning
Guidelines

This is the planning stage of the search. The plans
should include:

- (1) Form objectives of the search - what is to be found.
- (2) Take special note of evidence that may be easily
destroyed such as shoe prints in dust, footprints, etc.
- (3) Organize the search.
 - (a) Make assignments for photographs, fingerprints,
plaster casts, and evidence handling.
 - (b) Decide on search pattern, i.e., lane, grid,
spiral or zone searches.
 - (c) Issue instructions to assisting personnel.
- (4) Write a narrative description of the general
conditions of the crime scene. These are the investigator's original
notes which will be used to refresh his/her memory at the trial. They
should be an accurate description of the crime scene and should
include:
 - (a) Date, time, and location of the search.
 - (b) Weather and lighting conditions.
 - (c) Identity of others participating in the search.
 - (d) Assignments given other personnel.
 - (e) Condition and position of evidence found.

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13-6.4.3 Photograph the Crime Scene

(1) Crime scenes will not remain undisturbed for very long, and therefore should be photographed as soon as possible, preferably before anyone is allowed into the scene.

(2) When possible, a medium-format (120-roll film) camera such as the Mamiya 645 should be used. If not available, then the 35mm camera should be used. Crime-scene photographs will be taken in daylight or with electronic flash; therefore, the best film choice is either Kodacolor Gold 100 or Vericolor Professional III Type S (VPS). If using VPS, set camera and flash ISO settings at 80 instead of 160 which is indicated on the film instructions. It is noted that numerous stages of a crime scene investigation will involve photography. A constant awareness must be maintained in order to ensure that the original crime scene is photographically recorded. As discoveries are made, these also should be photographed.

(a) Exterior crime scene:

1. Establish the location of the scene by taking a series of overall photographs to include a landmark. (360 degrees coverage if possible)

2. Establish the location of the building through a series of overall photographs. (Aerial photographs obtained at a later date may be useful.) Oblique and verticals.

3. Any item of importance should have two additional photographs made of it. A MEDIUM-distance photograph that depicts the item and shows its relative position to other items in the immediate area and a CLOSE-UP photograph with a scale if possible.

4. Take a series of close-up photographs of individual items of evidence to include filling the film frame, showing proper perspective and avoiding oblique angles if possible. (Black and white slow-speed film should be used as needed to record shoe prints in dust, documents, fingerprints, etc.)

5. All entrances/exits into the crime scene area should be photographed.

(b) Interior crime scene:

1. Utilizing a series of overall photographs, photograph rooms and other interior areas from all sides in an

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overlapping series. It may be useful to make some photographs with a wide-angle lens, but, as mentioned before, these should be noted on the "photo log," Form FD-674.

2. Any item of importance should have two additional photographs made of it. A MEDIUM-distance photograph that depicts the item and shows its relative position to other items in the immediate area and a CLOSE-UP photograph with a scale if possible.

3. Deleted

4. Deleted

(c) Evidence photographs are needed to:

1. Record the condition of individual items of evidence before recovery. (Photographs must show the evidence in detail and should include a scale, photographer's initials, and the date.)

2. Conduct laboratory examinations of evidence such as shoe prints, tire impressions, and that obtained from bank robberies. (Photography should be performed before any attempts to lift or cast. Photographs should show identifying data as indicated above.)

3. Support testimony given in court.
(Photographs should be of professional quality and very detailed.)

(3) The sequence of photographs varies with each scene. Logic should dictate what order to proceed with photography based on the fragility of a given area and your ability to maintain control of the scene. If you feel that exterior areas are in danger of being contaminated, then start with those. As long as all the needed photographs are made, the order in which they are made is not critical.

(4) Crime-scene photographs should be made with the "normal" lens for the camera in use (80mm lens with the 120-roll film camera, 50mm lens with the 35mm camera) whenever possible. The "normal" lens maintains the same perspective that your eye gives you looking at the scene. A series of overlapping photographs can be made so that all areas of given space are recorded. If using a lens other than the "normal" lens, such as a "wide-angle" lens, to be able to photograph a larger area in a single photograph, it should be noted in the photo log (FD-674). (See paragraph (5).)

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(5) A record of photographs taken should be kept on a "photo log," Form FD-674. It is not necessary to record the shutter speed and f/stop used. It will be very useful to record the item description and, in some cases, the location of an item and/or the photographer may be significant. A quick drawing showing this should be done in the provided space on the form. (This drawing in no way is a substitute for the crime scene sketch.) This information can then be used later for identifying photographs and as an aid in testimony.

EFFECTIVE: 02/12/92

13-6.4.4 Sketch the Crime Scene

A crime scene sketch is a handmade pictorial representation of conditions at a crime scene. (Floor plans are sometimes available from commercial concerns to aid in sketching.) It is useful in clarifying investigative data and to make the situation easier to understand by eliminating unnecessary detail. A sketch does not replace photographs at the crime scene and should be used to show:

- (1) Dimensions of rooms, furniture, doors, windows, etc.
- (2) Distances from objects to entrances and exits
- (3) Distances between objects (including persons/bodies)
- (4) Measurements showing the exact location of items of evidence. Each object should be located by two measurements from nonmovable items, such as doors, walls, etc.
- (5) Point-of-view locations of photographs

EFFECTIVE: 02/12/92

13-6.4.5 Process for Fingerprints

See Part II, Section 15, of this manual for instructions on fingerprinting a crime scene.

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EFFECTIVE: 02/12/92

13-6.4.6 Make Shoe Print/Tire Tread Casts and/or Lifts

See paragraphs 13-19.1 through 13-19.1.3 elsewhere in this section for instructions on the making of shoe print/tire tread cases and/or lifts.

EFFECTIVE: 02/12/92

13-6.4.7 Collect, Identify and Preserve the Evidence

For additional information on the collection, identification, and preservation of items of evidence, see paragraph 13-6.7 (Evidence Chart) and/or the appropriate paragraphs elsewhere in this section concerning the type of examination desired.

(1) Collection.

(a) All evidence must be collected legally in order to be admissible in court at a later date. For further instructions on the legality of crime scene searches, refer to the Legal Handbook for Special Agents.

(b) Evidence found during a search should be displayed immediately to another Special Agent so that both Agents can testify to its source.

(c) All evidence should be fully described in the searcher's notes and photographed in place prior to being picked up.

(d) If appropriate, Form FD-597 (Receipt for Property Received/Returned/Released/Seized) should be properly executed and the copy furnished to the contributor and/or the person(s) to whom the property is being surrendered. The original of Form FD-597 is to be placed in the 1-A exhibit envelope of the case file.

(2) Identification.

All articles of an evidentiary nature should be carefully marked for identification, preferably on the article itself,

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in a manner not to injure the evidence itself and not to be obliterated. These markings, to include initials, date and case number, enable the person finding the evidence to testify, at a later date, to the finding of it.

(3) Preservation.

(a) Each item of evidence should be placed in a suitable container, such as pillboxes, plastic vials or strong cardboard boxes. The container should be suitably identified and sealed.

(b) Prepare appropriate 1-A envelopes (FD-340a and/or FD-340b) and/or Forms FD-192 and store the evidence in designated areas.

(c) For submission of evidence to the laboratory for examination see 13-3 (Requesting Laboratory Assistance), 13-6.6 (Packaging Chart), and 13-6.7 (Evidence Chart).

(d) The legal "chain of custody" must be maintained at all times.

EFFECTIVE: 02/12/92

13-6.5 Bombing Crime Scene Search

Bombing crime scenes, in spite of their massive destruction, must be conducted on the theory that everything at the scene prior to the explosion is still in existence unless it has been vaporized by the explosion. Locating and identifying items is the problem. The often-used statement that so much is destroyed by the explosion that the cause must remain unknown is rarely true. Due to various factors, the exact amount of explosives used cannot normally be determined based on an evaluation of the damage at the scene. (Note: The information contained in 13-6.4 through 13-6.4.7 concerning a crime scene search also applies to a bombing crime scene search.)

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13-6.5.1 Purpose of Bombing Crime Scene Search

(1) The purpose of a bombing crime scene search is to determine what happened, how it happened, and gather evidence to identify bomb components, reconstruct the explosive device and compare it with items of evidence identifiable to a suspect or to previous bombings.

(2) The office of origin should contact the Laboratory as soon as feasible to advise of the bombing and pertinent details. The Laboratory will search its archives in order to advise the field office of any similar bombing incidents from the past.

EFFECTIVE: 04/07/97

13-6.5.2 Special Considerations for a Bombing Crime Scene Search

The following steps are to assist in the preparation, supervision, and evaluation activity connected with the scene of a bombing. The topics covered are not meant to be all inclusive and no attempt has been made to comment on the many aspects of the bombing investigation.

(1) Plan of action: Formulate a plan adapted to the particulars of the bombing crime scene. This plan will include consideration of the creation of an on-scene command post; establishment of lines of supervision; assignment of various tasks such as photographing, fingerprint processing, crowd control, collection of evidence, etc.; protection of the crime scene; obtainment of needed equipment; periodic evaluation of progress; providing of pertinent information to the public; safety; etc.

(2) Command post: Consider establishing an on-scene command post, separate from the investigative command post, particularly at a large bombing which may require days or weeks to complete the crime scene search. The command post should coordinate efforts amongst Bureau personnel and between representatives of other agencies and utilities as well as handle inquiries from sightholders, persons associated with the scene, relatives of the victims, and the press.

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One person should be in overall charge of the bombing investigation, another over the actual crime scene search, and another over the collection of the evidence. These three individuals must maintain close coordination and expeditiously exchange information on a continual basis. The evidence coordinator will report directly to the crime scene coordinator who in turn will report directly to the individual responsible for the overall bombing investigation.

(3) Safety: Evaluate safety conditions at the outset of the crime scene search and on a continual basis throughout the search consider the possibility of a second bomb, a "jammed" bomb, or live explosives being in the debris and the safety of crowds, nearby residents, and personnel at the crime scene not only from additional explosions but also from such dangers created by utilities, weakened walls, etc.

(a) Ensure all crime scene personnel are current with Tetanus and Hepatitis B vaccine.

(b) Dust masks should be worn at all times while present at the crime scene, especially when death occurs and suspect carcinogens are present.

(c) Annual physical for potential crime scene personnel and individuals which have worked on major crime scenes is recommended.

(d) All crime scene clothing should be detoxified prior to leaving the crime scene, even if the crime scene personnel are returning the following day. Caution should be exercised when storing soiled crime scene clothing in a hotel room or at the searcher's residence. Many contaminants may be adhering to this clothing and could cause illness to an individual not associated with the crime scene.

(e) Prior to allowing the search team access to the crime scene, especially in the event of a large bombing, the crime scene should be examined for the presence of a radioactive residue, either associated with the bomb or the bombing scene.

NOTE: Bureau bomb technicians, Laboratory explosive specialists, public safety bomb squad or military EOD personnel should be contacted if a bomb is located.

(4) Protection of crime scene: Take adequate safeguards to protect the crime scene from fire, law enforcement, utility, and

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rescue personnel as well as others such as sightseers, victims, and individuals with a personal interest in the property. Also, since most residues remaining after an initiation of an explosive are water soluble, the crime scene, as much as possible, should be protected against exposure to excessive moisture be it from rain, snow, broken water pipes, or any other source.

(5) Photographs: Take appropriate photographs to give a photographic representation of the crime scene (see 13-6.4.3 as a guide). These photographs should be made immediately before, periodically during, and at the completion of the crime scene activity. Properly identify each photograph, coordinate the photographs with diagrams and/or blueprints or maps, and consider the advisability of aerial photographs.

(6) Bomb scene specialists: Have some specialists trained in handling and processing bomb scenes or make arrangements for obtaining such individuals from the Laboratory Materials and Devices Unit. Although the basic principles of conducting a crime scene search apply in a bomb scene search, individuals with specialized knowledge of explosives, improvised explosive devices, damage produced by explosive charges, and other facets associated with bomb scene searches, such as the search and collection of physical bombing evidence, are extremely valuable to the processing of a bomb scene effectively and efficiently. These specialists need not be qualified bomb disposal specialists. They should be the first persons, if possible, to be selected for the evidence and crime scene search coordinator positions.

(7) Equipment: Promptly make arrangements to obtain the necessary equipment to move the debris and material at the scene. Although the equipment needed at the scene varies, the following have been used:

(a) Hand tools: Shovels, rakes, brooms, boltcutters, wire cutters, sledgehammer, hammer, screwdrivers, wrenches, chisels, hacksaw, magnet, flashlights, knife, 50-foot measuring tape, and traffic wheel measuring device.

(b) Other light equipment: Screens for sifting debris, wheelbarrows, metal trash cans, power saw, cutting torch equipment, ladders, portable lighting equipment, metal detector, large plastic sheets, photographic equipment, and parachute harness with related rope and pulleys.

(c) Heavy equipment: Truck, front-end loader,

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bulldozer, crane, and shoring materials.

(d) Personal equipment: Hard hats, safety goggles, gloves (work and rubber types), foul weather clothing, coveralls, and work shoes.

(e) Crime scene kit: Usual equipment used for the collection, preservation, and identification of physical evidence.

(f) Vehicle: If the bombed target was a vehicle, bring an identical vehicle, if possible, to the scene to assist in identifying fragmented and mutilated items.

(8) Search for evidence: Bear in mind the search for evidence at a bombing crime scene is important because the crime may contain principal evidence which will lead to the identification of the bomber(s) and/or assist in the successful prosecution of the matter. The following guidelines are general in nature as the exact method of searching depends on various uncontrollable factors:

(a) Place one person in overall charge of the collection of the evidence from the various collectors as valuable evidence may not be admissible in court if a proper "chain of custody" cannot be established.

(b) Do not stop the search after a few items of evidence have been found. Experience has shown that a thorough, persistent search will locate remains of most of the bomb components.

(c) Avoid the tendency to concentrate only on physical evidence, such as safety fuse, detonating cord, blasting caps, leg (electrical) wire, dynamite wrappers, batteries, clock and timing devices, electronic and electrical components, metal end cap from a TNT block, plastic end cap from a C4 block, explosive residues, and unconsumed explosives, which may represent a bomb as this can result in overlooking other valuable evidence, such as fingerprints, hair, fibers, soil, blood, paint, plastic, tape, tools, toolmarks, metals, writing, paper, printing, cardboard, wood, leather, and tire tread-shoe print impressions.

(d) Conduct a well organized, thorough, and careful search to prevent the necessity of a second search. However, have a secure "dump" area for debris in the event a second search is necessary.

(e) | Simultaneously commence the scene search from

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both the site of the explosion and from the extreme perimeter toward the center. If the bomb crater is in earth, obtain soil samples from the perimeter of the crater, as well as from the sides and bottom, making sure to dig into the substrata. If the crater is in another material, obtain similar samples.

(f) Sift small debris through a 1/4-inch wire screen onto an insect-type wire screen. Usually these screens are placed on 2-foot square wooden frames constructed from 2- by 4-inch lumber. | NO more than three workers should work on a screen. |

(g) X-ray the bodies of living and deceased victims who were in close proximity of the explosion site for possible physical evidence and if possible, have the evidence removed. Their clothing should be retained as it may contain explosive residues. Also, obtain all medical reports concerning the victims' injuries/circumstances of death.

(h) Search a sufficient distance from the site of the explosion as evidence has been found several blocks from the sites of large explosions.

(i) Determine the possible flight paths of bomb components to prevent needless searching.

(j) Search trees, shrubbery, telephone poles, and the roofs, ledges, and gutters of buildings.

(k) Establish a search pattern for large areas. A line of searchers moving forward has been found to be a satisfactory method. A bomb scene specialist should follow the line of searchers to evaluate the items found, control the searchers, and furnish guidance. If a second search is desired, the positions of the searchers on the line should be rotated.

(l) Retain all items foreign to the scene and items which the searchers cannot identify after seeking the assistance of those familiar with the bombed target.

(m) Obtain known standards of wire and building material from the bomb scene to be submitted to the Laboratory for elimination purposes.

(n) Collect and preserve street signs, such as no parking or stop signs that may have captured explosives residue following the bombing. If it is not possible to remove and collect

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the sign immediately, a plastic bag should be placed over the sign until explosives residues can be removed and packaged for analysis.

(o) Have a chemist screen each crime scene worker for possible contamination with explosives in accordance with existing policy.

(p) Do not wear crime scene clothing that has been used for explosive training, research with explosives, clothing normally used for firearms practice or has been worn at other bombing crime scene searches or the search of a bombing suspect or bomb factory unless the clothing has been thoroughly cleaned by a commercial laundry.

EFFECTIVE: 04/07/97

13-6.6 Packaging Chart (See MIOG, Part II, 13-3.1(4) (b), 13-3.1.2, 13-6.4.7(3) (c), 13-6.7(20) (d); NFIP Manual, Part I, 5-6.3(14) (b).)

The following chart should be followed to properly prepare a package for shipment of numerous and/or bulky items of evidence apart from the original written request for an examination(s). For additional guidance and instructions see 13-3.1.2 (Shipment of Evidence "Under Separate Cover") above.

ILLUSTRATION NOT SHOWN - SEE "ERL SEARCHING GUIDE," APPENDIX

1. Pack bulk evidence securely in box.
2. SEAL box and mark as evidence. Mark "Latent" if necessary.
3. Place copy of transmittal letter in envelope and mark "Invoice."
4. Stick envelope to OUTSIDE of sealed box.
5. Wrap sealed box in outside wrapper and SEAL with gummed paper.
6. Address to: Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001
"Attention FBI Laboratory, Evidence
Control Center."

Cover label with yellow transparent tape and attach

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- it securely to the package.
7. If packing box is wooden--tack invoice envelope to top under a transparent yellow cover.

EFFECTIVE: 04/01/96

13-6.7 Evidence Chart (See MIOG, Part I, 91-8(11), 139-3; Part II, 13-3.1(4), 13-3.1.2 (1), (9), 13-6.4.7 (3)(c).)

The following chart is provided to give assistance in the collection, identification, preservation, packaging, and sending of evidence to the Laboratory. This chart should be used in conjunction with similar evidence information contained elsewhere in this section under each type of examination desired. This evidence information and chart are not intended to be all inclusive, and does not pertain to latent fingerprint evidence.

(1) SPECIMEN - ABRASIVES, INCLUDING CARBORUNDUM, EMERY, SAND, ETC.:

ounce (a) STANDARD (AMOUNT DESIRED) - Not less than one

(b) EVIDENCE (AMOUNT DESIRED) - All

(c) SEND BY - Registered mail or Federal Express

(d) IDENTIFICATION - On outside of container: Type of material, date obtained, name or initials

(e) WRAPPING AND PACKING - Use sturdy containers, such as 35 mm film canister or pharmaceutical container. Seal to prevent any loss.

(f) REMARKS - Avoid use of envelopes

(2) SPECIMEN - ACIDS:

(ml.) (a) STANDARD (AMOUNT DESIRED) - 100 milliliters

(b) EVIDENCE (AMOUNT DESIRED) - All to 100 ml.

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Service (c) SEND BY - Federal Express or United Parcel

(d) IDENTIFICATION - On outside of container: Type of material, date obtained, name or initials

(e) WRAPPING AND PACKING - Plastic or all-glass bottle. Tape stopper. Pack in vermiculite or other absorbent material.

(f) REMARKS - Label "acids-corrosive."

(3) SPECIMEN - ADHESIVE TAPE:

(a) STANDARD (AMOUNT DESIRED) - Recovered roll

(b) EVIDENCE (AMOUNT DESIRED) - All

(c) SEND BY - Registered mail

(d) IDENTIFICATION - On outside of container: Type of material, date obtained, name or initials

(e) WRAPPING AND PACKING - Place on waxed paper cellophane.

(f) REMARKS - Do not cut, wad or distort.

(4) SPECIMEN - ALKALIES - CAUSTIC SODA, POTASH, AMMONIA, ETC.:

(a) STANDARD (AMOUNT DESIRED) - 100 ml., 100 grams (gm.)

(b) EVIDENCE (AMOUNT DESIRED) - All to 100 ml., All to 100 gm.

Service (c) SEND BY - Federal Express or United Parcel

(d) IDENTIFICATION - On outside of container: Type of material, date obtained, name or initials

(e) WRAPPING AND PACKING - Plastic or glass bottle with rubber stopper held with adhesive tape. Pack in sawdust or vermiculite. Label "Corrosive Material-Alkali" and volume.

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(f) REMARKS - Label alkali-corrosive.

(5) SPECIMEN - AMMUNITION (CARTRIDGES): (See (29).)

(a) SEND BY - For instructions re: shipping live ammunition, see 13-12.4.2 in this section.

(b) IDENTIFICATION - On outside of container: Type of material, date obtained, name or initials

(c) WRAPPING AND PACKING - For instructions re: shipping of live ammunition, see 13-12.4.2 in this section. (See also 13-12.4.3.)

(d) REMARKS - Unless specific examination of cartridge is essential, do not submit.

(6) SPECIMEN - ANONYMOUS LETTERS, EXTORTION LETTERS, BANK ROBBERY NOTES: (See (19), (20), (22), (23), (43), (52), (65))

(a) EVIDENCE (AMOUNT DESIRED) - All (Original documents, not copies, whenever possible)

(b) SEND BY - Registered mail

(c) IDENTIFICATION - Initial and date each unless legal aspects or good judgment dictates otherwise.

(d) WRAPPING AND PACKING - Place in proper enclosure envelope and seal with "Evidence" tape or transparent cellophane tape. Flap side of envelope should show (1) wording "Enclosure(s) to FBIHQ from (name of submitting office)," (2) title of case, (3) brief description of contents, and (4) file number, if known. Staple to original letter of transmittal.

(e) REMARKS - Do not handle with bare hands. Advise if evidence should be treated for latent fingerprints.

(7) SPECIMEN - BILE:

(a) STANDARD (AMOUNT DESIRED) - 10 milliliters

(b) SEND BY - Most expeditious means available

(c) IDENTIFICATION - Label container identifying

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sample name of subject, date taken, initials of Agent.

(d) WRAPPING AND PACKING - Container in cardboard box with paper or styrofoam packing.

(e) REMARKS - Hold in freezer until personally delivered or pack in dry ice for mailing by most expeditious means available. Attach autopsy report.

(8) SPECIMEN - BLASTING CAPS (CONTACT MATERIALS AND DEVICES UNIT FOR INSTRUCTIONS.)

(9) SPECIMEN - BLOOD - LIQUID KNOWN SAMPLES: (See 13-8.1.4, 13-8.2.5 (3) & 13-8.4 (5).)

(a) STANDARD (AMOUNT DESIRED) - 1 red top (no preservative) vacutainer vial for serological analysis and 1 purple top (EDTA) vacutainer vial for DNA analysis

(b) EVIDENCE (AMOUNT DESIRED) - All

(c) SEND BY - Air mail special delivery - air freight or similar rapid transit method

(d) IDENTIFICATION - Use adhesive tape on outside of test tube. Name of donor, date taken, doctor's name, name or initials of Agent.

(e) WRAPPING AND PACKING - Wrap in cotton, soft paper. Place in mailing tube or suitably strong mailing carton.

(f) REMARKS - Submit immediately. Don't hold awaiting additional items for comparison. Keep under refrigeration, NOT freezing, until mailing. NO refrigerants and/or dry ice should be added to sample during transit. Fragile label.

(10) SPECIMEN - BLOOD - SMALL QUANTITIES (LIQUID QUESTIONED SAMPLES): (See MIOG, Part II, 13-8.1.4.)

(a) EVIDENCE (AMOUNT DESIRED) - All

(b) SEND BY - Air mail special delivery - air freight or similar rapid transit method

(c) IDENTIFICATION - Use adhesive tape on outside of test tube. Name of donor, date taken, doctor's name, name or initials

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of Agent.

(d) WRAPPING AND PACKING - Wrap in cotton, soft paper. Place in mailing tube or suitably strong mailing carton.

(e) REMARKS - If unable to EXPEDITIOUSLY furnish sample, allow to dry thoroughly on the nonporous surface, and scrape off; or collect by using eyedropper or clean spoon, transfer to nonporous surface and let dry; or absorb in sterile gauze and let dry.

(11) SPECIMEN - BLOOD - SMALL QUANTITIES (DRY STAINS NOT ON FABRICS): (See MIOG, Part II, 13-8.1.4.)

(a) EVIDENCE (AMOUNT DESIRED) - As much as possible

(b) SEND BY - Registered mail

(c) IDENTIFICATION - On outside of pillbox or plastic vial. Type of specimen date secured, name or initials.

(d) WRAPPING AND PACKING - Seal to prevent leakage.

(e) REMARKS - Keep dry. Avoid use of envelopes for scrapings.

(12) SPECIMEN - BLOOD - SMALL QUANTITIES (FOR TOXICOLOGICAL USE): (See MIOG, Part II, 13-8.1.4, 13-8.2.4 (3).)

(a) EVIDENCE (AMOUNT DESIRED) - 20 cc. (Blood and preservative mixture)

(b) SEND BY - Air mail special delivery - air freight or similar rapid transit method

(c) IDENTIFICATION - Use adhesive tape on outside of test tube. Name of donor, date taken, doctor's name, name or initials of Agent.

(d) WRAPPING AND PACKING - Medical examiner should use a standard blood collection kit.

(e) REMARKS - Preservative desired (identify preservation used). Refrigerate. CAN freeze.

(13) SPECIMEN - BLOOD - STAINED CLOTHING, FABRIC, ETC.: (See MIOG, Part II, 13-8.1.4.)

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(a) EVIDENCE (AMOUNT DESIRED) - As found

(b) SEND BY - Registered mail, Federal Express,
United Parcel Service (UPS)

(c) IDENTIFICATION - Use tag or mark directly on
clothes. Type of specimens, date secured, name or initials.

(d) WRAPPING AND PACKING - Each article wrapped
separately and identified on outside of package. Place in strong box
placed to prevent shifting of contents. Brown paper bags should be
used for air-dried, blood-stained clothing items.

(e) REMARKS - If wet when found, DRY BY HANGING.
USE NO HEAT TO DRY. Avoid direct sunlight while drying. Use no
preservatives.

(14) SPECIMEN - BODY ORGANS (BRAIN, KIDNEY, LIVER, LUNG):
(See (33) and (70) below, and MIOG, Part II, 13-10.1.5.)

(a) EVIDENCE (AMOUNT DESIRED) - 75 grams of each

(b) SEND BY - Most expeditious means available

(c) IDENTIFICATION - Label container indicating
organ, name of subject, date taken, initials of Agent

(d) WRAPPING AND PACKING - Styrofoam container
preferred to keep specimens frozen

(e) REMARKS - Hold in freezer until personally
delivered or pack in dry ice for mailing by most expeditious means
available. Attach autopsy report.

(15) SPECIMEN - BULLETS (NOT CARTRIDGES): (See MIOG, Part
II, 13-12.4.3.)

(a) EVIDENCE (AMOUNT DESIRED) - All found

(b) SEND BY - Registered mail

(c) IDENTIFICATION - Initial or otherwise mark
primary container only

(d) WRAPPING AND PACKING - Pack tightly in cotton or

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soft paper in pill, match or powder box. Label outside of box as to contents.

(e) REMARKS - Unnecessary handling obliterates marks

(16) SPECIMEN - CARTRIDGES (LIVE AMMUNITION):

(a) EVIDENCE (AMOUNT DESIRED) - All found

(b) SEND BY - For instructions re: shipping live ammunition, see paragraph 13-12.4.2 in this section.

(c) IDENTIFICATION - Initial or otherwise mark primary container only

(d) WRAPPING AND PACKING - Pack tightly in cotton or soft paper in pill, match or powder box. Label outside of box as to contents.

(17) SPECIMEN - CARTRIDGE CASES (SHELLS): (See MIOG, Part II, 13-12.4.3.)

(a) EVIDENCE (AMOUNT DESIRED) - All

(b) SEND BY - Registered mail

(c) IDENTIFICATION - Initial or otherwise mark primary container only

(d) WRAPPING AND PACKING - Pack tightly in cotton or soft paper in pill, match or powder box. Label outside of box as to contents.

(13.) (18) SPECIMEN - CHARRED OR BURNED DOCUMENTS: (See 13-17.4)

(a) EVIDENCE (AMOUNT DESIRED) - All

(b) SEND BY - Registered mail

(c) IDENTIFICATION - On outside of container indicate fragile nature of evidence, date obtained, name or initials.

(d) WRAPPING AND PACKING - Utilize polyester film encapsulation technique (contact Investigative Operations and Support Section for instructions) OR Ship charred paper in original container

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in which it was burned at crime scene OR Pack in rigid container between layers of cotton. Do not compress layers.

(e) REMARKS - Added moisture, with atomizer or otherwise, NOT RECOMMENDED.

(19) SPECIMEN - CHECKS (FRAUDULENT):

(a) EVIDENCE (AMOUNT DESIRED) - All (Original documents, not copies, whenever possible)

(b) SEND BY - Registered mail

(c) IDENTIFICATION - See Anonymous Letters (6) above

(d) WRAPPING AND PACKING - See Anonymous Letters (6) above

(e) REMARKS - Advise what parts questioned or known. Furnish physical description of subject.

(20) SPECIMEN - CHECK PROTECTOR, RUBBER STAMP AND/OR DATER STAMP KNOWN STANDARDS (NOTE: SEND ACTUAL DEVICE WHEN POSSIBLE)

(a) STANDARD (AMOUNT DESIRED) - Obtain several copies in full word-for-word order of each questioned check-writer impression. If unable to forward rubber stamps, prepare numerous samples with different degrees of pressure.

(b) SEND BY - Registered mail

(c) IDENTIFICATION - Place name or initials, date, name of make and model, etc., on sample impressions.

(d) WRAPPING AND PACKING - See Anonymous Letters (6) above and/or Packaging Chart (paragraph 13-6.6) above

(e) REMARKS - Do not disturb inking mechanisms on printing devices

(21) SPECIMEN - CLOTHING:

(a) EVIDENCE (AMOUNT DESIRED) - All

(b) SEND BY - Registered mail, or Federal Express or United Parcel Service (UPS)

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(c) IDENTIFICATION - Mark directly on garment or use string tag. Type of evidence, name or initials, date.

(d) WRAPPING AND PACKING - Each article individually wrapped with identification written on outside of package. Place in strong container. Clothing items should be individually packaged in paper bags.

(e) REMARKS - Leave clothing whole. Do not cut out stains. If wet, HANG IN ROOM TO DRY before packing.

(22) SPECIMEN - CODES, CIPHERS AND FOREIGN LANGUAGE

MATERIAL:

(a) EVIDENCE (AMOUNT DESIRED) - All

(b) SEND BY - Registered mail

(c) IDENTIFICATION - Same as Anonymous Letters (6)

above

(d) WRAPPING AND PACKING - Same as Anonymous Letters

(6) above

(e) REMARKS - Furnish pertinent background and technical information.

(46) (23) SPECIMEN - COMPUTER AND COMPUTER-RELATED ITEMS: (See

(a) EVIDENCE (AMOUNT DESIRED) - All

(b) SEND BY - Floppy disks - registered mail; hard disks - by overnight express.

(c) IDENTIFICATION - Label container indicating date taken and initials of Agent.

(d) WRAPPING AND PACKING - See Anonymous Letters (6) above. Package or envelope should be marked "Magnetic Media Evidence Enclosed. Do not X-ray."

(e) REMARKS - If computer diskettes are submitted, accompanying communication should, if possible, contain information regarding the make and model of computer used in their preparation.

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- (24) SPECIMEN - DRUGS - LIQUIDS: (See (35), (36), (49))
- (a) EVIDENCE (AMOUNT DESIRED) - All
 - (b) SEND BY - Registered mail, UPS or air express
 - (c) IDENTIFICATION - Affix label to bottle in which found, including name or initials and date.
 - (d) WRAPPING AND PACKING - Bottle with sealable top.
 - (e) REMARKS - Determine alleged normal use of drug and if prescription, check with druggist for supposed ingredients.
- (25) SPECIMEN - DRUGS - POWDERS, PILLS, SOLIDS: (See (35), (49))
- (a) EVIDENCE (AMOUNT DESIRED) - All
 - (b) SEND BY - Registered mail, UPS or air express
 - (c) IDENTIFICATION - On outside of pillbox, name or initials and date
 - (d) WRAPPING AND PACKING - Seal to prevent any loss by use of tape
- (26) SPECIMEN - DYNAMITE AND OTHER EXPLOSIVES OR SUSPECTED EXPLOSIVES (CONTACT MATERIALS AND DEVICES UNIT FOR INSTRUCTIONS AND SHIPPING CONTAINERS.)
- (27) SPECIMEN - FIBERS:
- (a) STANDARD (AMOUNT DESIRED) - Entire garment or other cloth item
 - (b) EVIDENCE (AMOUNT DESIRED) - All
 - (c) SEND BY - Registered mail
 - (d) IDENTIFICATION - On outside of sealed container or on object to which fibers are adhering.
 - (e) WRAPPING AND PACKING - Folded paper or pillbox. Seal edges and openings with tape.

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(f) REMARKS - Do not place loose in envelope.

(28) SPECIMEN - FILM:

(a) EVIDENCE (AMOUNT DESIRED) - All

(b) SEND BY - Registered mail

(c) IDENTIFICATION - If not developed mark outside
"DO NOT X-RAY."

(d) WRAPPING AND PACKING - If not developed wrap in
lightproof container.

(29) SPECIMEN - FIREARMS: (See MIOG, Part II, 13-12.4.3,
13-12.5; MAOP, Part II, 2-2.2.2, 6-2.3.9.)

(a) EVIDENCE (AMOUNT DESIRED) - All

(b) SEND BY - Registered mail or Federal Express

(c) IDENTIFICATION - Mark inconspicuously as if it
were your own. Investigative notes should reflect how and where gun
marked.

(d) WRAPPING AND PACKING - Wrap in paper and
identify contents of package. Place in cardboard box or wooden box.

(e) REMARKS - Unload all weapons before shipping.
Keep from rusting. See Ammunition (5) above, if applicable.

(30) SPECIMEN - FLASH PAPER:

(a) SEND BY - Contact Investigative Operations and
Support Section for instructions

(b) IDENTIFICATION - Initials and date.

(c) WRAPPING AND PACKING - Individual polyethylene
envelopes double wrapped in manila envelopes. Inner wrapper sealed
with paper tape.

(d) REMARKS - Store between moistened sheets of
blotter paper, with dry ice. Refrigerate if extended storage is
necessary.

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(31) SPECIMEN - FUSE (SAFETY) (CONTACT MATERIALS AND DEVICES UNIT FOR COMPLETE INSTRUCTIONS)

(32) SPECIMEN - GASOLINE: (See MIOG, Part II, 13-10.3.4.)

(a) STANDARD (AMOUNT DESIRED) - 100 ml.

(b) EVIDENCE (AMOUNT DESIRED) - All to 100 ml.

(c) SEND BY - UPS or Federal Express

(d) IDENTIFICATION - On outside of container, label with type of material, name or initials, and date.

(e) WRAPPING AND PACKING - Use sturdy box containing break-proof bottles and absorbent packing.

(f) REMARKS - Shipping regulation - allow 4 oz. maximum per bottle.

(33) SPECIMEN - GASTRIC CONTENTS:

(a) EVIDENCE (AMOUNT DESIRED) - All available

(b) SEND BY - Most expeditious means available

(c) IDENTIFICATION - Label container indicating "gastric contents," name of subject, date taken, initials of Agent.

(d) WRAPPING AND PACKING - Bottle with sealable top and pack as indicated under "Body organs," (14) above.

(e) REMARKS - Mark package "Keep Refrigerated."

(34) SPECIMEN - GEMS: (See MIOG, Part II, 13-11.7.)

(a) EVIDENCE (AMOUNT DESIRED) - All

(b) SEND BY - Registered mail

(c) IDENTIFICATION - On outside of container

(d) WRAPPING AND PACKING - Use 35 mm film canister or pharmaceutical container.

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(35) SPECIMEN - GENERAL UNKNOWN - SOLIDS (NONHAZARDOUS):

- (a) STANDARD (AMOUNT DESIRED) - 100 gms.
- (b) EVIDENCE (AMOUNT DESIRED) - All to 100 gms.
- (c) SEND BY - Registered mail
- (d) IDENTIFICATION - Name or initials, date on outside of sealed container.
- (e) WRAPPING AND PACKING - Same as Drugs, (24) and (25) above.

(f) REMARKS - If item is suspected of being a hazardous material, treat as such and contact Materials and Devices Unit for shipping instructions.

(36) SPECIMEN - GENERAL UNKNOWN - LIQUIDS (NONHAZARDOUS):

- (a) STANDARD (AMOUNT DESIRED) - 100 ml.
- (b) EVIDENCE (AMOUNT DESIRED) - All to 100 ml.
- (c) SEND BY - Registered mail
- (d) IDENTIFICATION - Same as for liquid drugs, (24) above.
- (e) WRAPPING AND PACKING - Same as drugs, (24) above.

(f) REMARKS - If item is suspected of being a hazardous material, treat as such and contact Materials and Devices Unit for shipping instructions.

(37) SPECIMEN - GLASS FRAGMENTS: (See MIOG, Part II, 13-11.1.3.)

- (a) EVIDENCE (AMOUNT DESIRED) - All
- (b) SEND BY - Registered mail, UPS or air express
- (c) IDENTIFICATION - Adhesive tape on each piece. Name or initials and date on tape. Separate questioned and known.

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(d) WRAPPING AND PACKING - Wrap each piece separately in cotton. Pack in strong box to prevent shifting and breakage. Identify contents.

(e) REMARKS - Avoid chipping and mark "Fragile."

11.1.3.) (38) SPECIMEN - GLASS PARTICLES: (See MIOG, Part II, 13-

(a) STANDARD (AMOUNT DESIRED) - All of bottle or headlight. Small piece of each broken pane.

(b) EVIDENCE (AMOUNT DESIRED) - All

(c) SEND BY - Registered mail

(d) IDENTIFICATION - Name or initials, date on outside of sealed container

(e) WRAPPING AND PACKING - Use 35 mm film canister or pharmaceutical container.

(f) REMARKS - Do not use envelopes or bags which will tear.

(39) SPECIMEN - GLASS WOOL INSULATION: (See (45))

(a) STANDARD (AMOUNT DESIRED) - 1-inch mass from each suspect area

(b) EVIDENCE (AMOUNT DESIRED) - All

(c) SEND BY - Registered mail

(d) IDENTIFICATION - Name or initials, date on outside of sealed container

(e) WRAPPING AND PACKING - Sealed container

(40) DELETED

(41) SPECIMEN - GUNSHOT RESIDUES - ON CLOTH: (See (57) and MIOG, Part II, 13-12.4.1.)

(a) EVIDENCE (AMOUNT DESIRED) - All

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(b) SEND BY - Registered mail

(c) IDENTIFICATION - Attach string tag or mark directly. Type of material, date, and name or initials.

(d) WRAPPING AND PACKING - Place fabric flat between layers of paper and then wrap so that no residue will be transferred or lost.

(e) REMARKS - Avoid shaking.

(42) SPECIMEN - HAIR:

(a) STANDARD (AMOUNT DESIRED) - 25 or more full length hairs randomly selected from head or pubic regions. Should include both pluckings and combings, separately enclosed in envelopes and marked accordingly.

(b) EVIDENCE (AMOUNT DESIRED) - All

(c) SEND BY - Registered mail

(d) IDENTIFICATION - On outside of container. Type of material, date, and name or initials.

(e) WRAPPING AND PACKING - Folded paper or pillbox. Seal edges and openings with tape.

(f) REMARKS - Do not place loose in envelope.

(43) SPECIMEN - HANDWRITING AND HAND PRINTING, KNOWN STANDARDS:

(a) STANDARD (AMOUNT DESIRED) - For instructions re: obtaining known standards, see paragraph 13-17.2.3 in this section

(b) SEND BY - Registered mail

(c) IDENTIFICATION - Name or initials, date, from whom obtained, and voluntary statement should be included in appropriate place.

(d) WRAPPING AND PACKING - Same as Anonymous Letters
(6) above.

(44) SPECIMEN - HOAX BOMB DEVICES AND/OR COMPONENTS (FOR

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INSTRUCTIONS, CONTACT THE MATERIALS AND DEVICES UNIT.) (See also MIOG, Part I, 91-8; Part II, 13-16.6.)

(45) SPECIMEN - INSULATION (SEE GLASS WOOL INSULATION, (39) ABOVE.)

(46) SPECIMEN - MAGNETIC MEDIA (SEE COMPUTER, (23) ABOVE.)

(47) SPECIMEN - MAGNETIC TAPE RECORDINGS (SEE MIOG, PART I, 139-3(2) (d), PART II, SECTION 16, PARAGRAPHS 16-8 TO 16-8.2.4.)

(48) SPECIMEN - MATCHES:

(a) STANDARD (AMOUNT DESIRED) - One to two books of paper. One full box of wood.

(b) EVIDENCE (AMOUNT DESIRED) - All

(c) SEND BY - UPS or Federal Express

(d) IDENTIFICATION - On outside of container. Type of material, date, and name or initials.

(e) WRAPPING AND PACKING - Metal container and packed in larger package to prevent shifting. Matches in box or metal container packed to prevent friction between matches.

(f) REMARKS - Keep away from fire. "Keep away from fire" label

(49) SPECIMEN - MEDICINES (SEE DRUGS, (24) AND (25) ABOVE.)

(50) SPECIMEN - METAL:

(a) STANDARD (AMOUNT DESIRED) - One pound

(b) EVIDENCE (AMOUNT DESIRED) - All to one pound

(c) SEND BY - Registered mail, UPS or air express

(d) IDENTIFICATION - On outside of container. Type of material, date, and name or initials.

(e) WRAPPING AND PACKING - Use paper boxes or containers. Seal and use strong paper or wooden box.

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(f) REMARKS - Melt number, heat treatment, and other specifications of foundry if available. Keep from rusting.

(51) SPECIMEN - OIL: (See MIOG, Part II, 13-10.3.4.)

(a) STANDARD (AMOUNT DESIRED) - 250 ml. together with specifications

(b) EVIDENCE (AMOUNT DESIRED) - All to 250 ml.

(c) SEND BY - Any method

(d) IDENTIFICATION - On outside of container. Type of material, date, and name or initials.

(e) WRAPPING AND PACKING - Container with tight screw top. Pack in strong box using excelsior or similar material.

(f) REMARKS - Keep away from fire.

(52) SPECIMEN - OBLITERATED, ERADICATED, OR INDENTED

WRITING:

(a) EVIDENCE (AMOUNT DESIRED) - All

(b) SEND BY - Registered mail

(c) IDENTIFICATION - Same as Anonymous Letters, (6)

above

(d) WRAPPING AND PACKING - Same as Anonymous Letters, (6) above

(e) REMARKS - Advise whether bleaching or staining methods may be used. Avoid folding.

(53) SPECIMEN - PAINT - LIQUID:

(a) STANDARD (AMOUNT DESIRED) - Original unopened container, up to 1 gallon if possible

(b) EVIDENCE (AMOUNT DESIRED) - All to 1/4 pint

(c) SEND BY - Registered mail, UPS or air express

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(d) IDENTIFICATION - On outside of container. Type of material, origin if known, date, name or initials.

(e) WRAPPING AND PACKING - Friction-top paint can or large-mouth, screw-top jars. If glass, pack to prevent breakage. Use heavy corrugated paper or wooden box.

(54) SPECIMEN - PAINT - SOLID (PAINT CHIPS OR SCRAPINGS):

(a) STANDARD (AMOUNT DESIRED) - At least 1/2 square inch of painted area if possible, with all layers represented. Take representative samples from several areas of known source and secure separately.

(b) EVIDENCE (AMOUNT DESIRED) - All. If on small object, send object.

(c) SEND BY - Registered mail, UPS or air express

(d) IDENTIFICATION - On outside of container. Type of material, origin if known, date, name or initials.

(e) WRAPPING AND PACKING - Use 35 mm film canister or pharmaceutical container. Seal to prevent leakage. Paper and plastic envelopes are not satisfactory. Do not pack in cotton.

(f) REMARKS - Avoid contact with adhesive materials such as fingerprint lifting tape or other pressure sensitive tape. Wrap so as to protect smear.

(55) SPECIMEN - PHOTOGRAPHS:

(a) EVIDENCE (AMOUNT DESIRED) - All

(b) SEND BY - Registered mail

(c) IDENTIFICATION - If not developed mark outside
"DO NOT X-RAY"

(d) WRAPPING AND PACKING - If not developed wrap in lightproof container.

(56) SPECIMEN - DENTAL STONE CASTS OF TIRE TREADS AND SHOE PRINTS: (See 13-19.1.2.)

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(41) ABOVE.) (57) SPECIMEN - POWDER PATTERNS (SEE GUN SHOT RESIDUES,

(58) SPECIMEN - ROPE, TWINE, AND CORDAGE:

available (a) STANDARD (AMOUNT DESIRED) - One yard or amount

(b) EVIDENCE (AMOUNT DESIRED) - All

(c) SEND BY - Registered mail

(d) IDENTIFICATION - On tag or container. Type of material, date, name or initials.

(e) WRAPPING AND PACKING - Wrap securely.

11.3.2.) (59) SPECIMEN - SAFE INSULATION: (See MIOG, Part II, 13-

areas (a) STANDARD (AMOUNT DESIRED) - Sample all damaged

(b) EVIDENCE (AMOUNT DESIRED) - All

(c) SEND BY - Registered mail, UPS or air express

(d) IDENTIFICATION - On outside of container. Type of material, date, name or initials

(e) WRAPPING AND PACKING - Use 35 mm film canister or pharmaceutical container. Seal to prevent any loss.

(f) REMARKS - Avoid use of glass containers and envelopes.

13-8.2.4.) (60) SPECIMENS - SALIVA SAMPLES: (See MIOG, Part II,

(a) STANDARD (AMOUNT DESIRED) - Collect on saliva swab (cotton-tipped applicator), generally, five-inch long wooden stick with cotton tip.

(b) EVIDENCE (AMOUNT DESIRED) - All

(c) SEND BY - Registered mail

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(d) IDENTIFICATION - On outside envelope put type of sample, date and place of collection and collector's initials.

(e) WRAPPING AND PACKING - Seal in envelope.

(f) REMARKS - Applicators can be purchased in individually wrapped sterile packets which contain a single sterile swab. Allow to dry before placing in envelope.

(61) SPECIMEN - SHOE PRINT LIFTS (IMPRESSIONS ON HARD SURFACES): (See MIOG, Part II, 13-19.1.3.)

(a) STANDARD (AMOUNT DESIRED) - Photograph before making of dust impression.

(b) EVIDENCE (AMOUNT DESIRED) - All

(c) SEND BY - Registered mail

(d) IDENTIFICATION - On lifting tape or paper attached to tape. Name or initials and date.

(e) WRAPPING AND PACKING - Prints in dust are easily damaged. Fasten print or lift to bottom of a box so that nothing will rub against it.

(f) REMARKS - Always rope off crime scene area until shoe prints or tire treads are located and preserved.

(62) SPECIMEN - SOILS AND MINERALS: (See MIOG, Part II, 13-11.2.2 and 13-11.2.3.)

(a) STANDARD (AMOUNT DESIRED) - Samples from areas near pertinent spot.

(b) EVIDENCE (AMOUNT DESIRED) - All

(c) SEND BY - Registered mail

(d) IDENTIFICATION - On outside of container. Type of material, date, name or initials.

(e) WRAPPING AND PACKING - Use 35 mm film canister or pharmaceutical container.

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(f) REMARKS - Avoid glass containers and envelopes.

(63) SPECIMEN - TOOLS:

(a) EVIDENCE (AMOUNT DESIRED) - All

(b) SEND BY - Registered mail, UPS or air express

(c) IDENTIFICATION - On tools or use string tag.
Type of tool, identifying number, date, name or initials.

(d) WRAPPING AND PACKING - Wrap each tool in paper.
Use strong cardboard or wooden box with tools packed to prevent shifting.

(64) SPECIMEN - TOOLMARKS: (See (72) and MIOG, Part II, 13-13.3, 13-13.4.)

(a) STANDARD (AMOUNT DESIRED) - Send in the tool.
If impractical, call Firearms/Toolmarks Unit for instructions.

(b) EVIDENCE (AMOUNT DESIRED) - All

(c) SEND BY - Registered mail, UPS or air express

(d) IDENTIFICATION - On object or on tag attached to
or on opposite end from where toolmarks appear. Name or initials and date.

(e) WRAPPING AND PACKING - After marks have been
protected with soft paper, wrap in strong wrapping paper, place in
strong box, and pack to prevent shifting.

(65) SPECIMEN - TYPEWRITING, KNOWN STANDARDS:

(a) STANDARD (AMOUNT DESIRED) - For instructions re:
obtaining known standards see paragraph 13-17.2.4 in this section

(b) SEND BY - Registered mail

(c) IDENTIFICATION - Place name or initials, date,
serial number, name of make and model, etc., on specimens.

(d) WRAPPING AND PACKING - Same as Anonymous
Letters, (6) above.

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(e) REMARKS - Examine ribbon for evidence of questioned message thereon.

(66) SPECIMEN - URINE:

(a) STANDARD (AMOUNT DESIRED) - 50 cc minimum

(b) SEND BY - Registered mail

(c) IDENTIFICATION - Label container indicating "urine," name of subject, date taken, initials of Agent.

(d) WRAPPING AND PACKING - Bottle with sealable top, surrounded with absorbent material to prevent breakage. Strong cardboard or wooden box, refrigerate if possible.

(e) REMARKS - Mark package "Keep Refrigerated."

(67) SPECIMEN - VAGINAL SAMPLES - SLIDES (MICROSCOPE):
(See (68) and MIOG, Part II, 13-8.2.5.)

(a) EVIDENCE (AMOUNT DESIRED) - Minimum of two slides

(b) SEND BY - Registered mail

(c) IDENTIFICATION - Label with type of sample, name of donor, date and place of collection and collector's initials.

(d) WRAPPING AND PACKING - Use commercial slide box.

(e) REMARKS - Slide box available at hospitals. Doctor should not fix slides. No cover slips. Air dry.

(68) SPECIMEN - VAGINAL SAMPLES - SWABS: (See MIOG, Part II, 13-8.2.5.)

(a) STANDARD (AMOUNT DESIRED) - Two unstained swabs from same package as stained.

(b) EVIDENCE (AMOUNT DESIRED) - Minimum of two swabs

(c) SEND BY - Express mail

(d) IDENTIFICATION - Same as (67) above.

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(e) WRAPPING AND PACKING - Seal in envelope.

(f) REMARKS - Allow swabs to dry before packaging, refrigerate or freeze.

(69) SPECIMEN - VIDEO TAPES:

original (a) EVIDENCE (AMOUNT DESIRED) - Always submit

(b) SEND BY - Registered mail

(c) IDENTIFICATION - Place name or initials, date and identification number on cassette housing.

(d) WRAPPING AND PACKING - Wrap securely. Strong cardboard box with three inches of paper crumpled around all sides of the video tapes. Do not use foam packing material.

(e) REMARKS - Mark the package "Video Tape" or "Recorded Magnetic Medium."

(70) SPECIMEN - VITREOUS HUMOR:

(a) STANDARD (AMOUNT DESIRED) - All

(b) SEND BY - Most expeditious means available

(c) IDENTIFICATION - Label container indicating "vitreous humor," name of subject, date taken, initials of Agent

(d) WRAPPING AND PACKING - Glass bottle with sealable top and pack as indicated for "Body organs," (14) above.

(e) REMARKS - Refrigerate only (do not freeze) until personally delivered. Keep cool during delivery time. Attach autopsy report.

(71) SPECIMEN - WATER:

(a) STANDARD (AMOUNT DESIRED) - 1 Liter

(b) EVIDENCE (AMOUNT DESIRED) - 1 Liter

(c) SEND BY - Registered mail

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- top.
- (d) IDENTIFICATION - Date and initial
 - (e) WRAPPING AND PACKING - Use bottle with sealable

- kink.)
- (72) SPECIMEN - WIRE (SEE ALSO TOOLMARKS, (64) ABOVE.):
 - (a) STANDARD (AMOUNT DESIRED) - Three feet (Do not
 - (b) EVIDENCE (AMOUNT DESIRED) - All (Do not kink.)

-
- (c) SEND BY - Registered mail
 - (d) IDENTIFICATION - On label or tag. Type of material, date, name or initials.
 - (e) WRAPPING AND PACKING - Wrap securely.
 - (f) REMARKS - Do not kink wire.

- available.
- (73) SPECIMEN - WOOD:
 - (a) STANDARD (AMOUNT DESIRED) - One foot or amount
 - (b) EVIDENCE (AMOUNT DESIRED) - All
 - (c) SEND BY - Registered mail
 - (d) IDENTIFICATION - On label or tag. Type of material, date, name or initials.
 - (e) WRAPPING AND PACKING - Wrap securely

EFFECTIVE: 11/21/97

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13-6.7.1 Hazardous Materials (See MIOG, Part II, 13-3.1(4) and
| 13-15.1.6; MAOP, Part II, 2-4.4.3.) |

Over 3,000 items, including flash paper, live ammunition, explosives, radioactive materials, flammable liquids and solids, flammable and nonflammable gases, spontaneously combustible substances, and oxidizing and corrosive materials are currently considered as hazardous materials. All require special packaging and the amount of each item which can be shipped is regulated. Therefore, the applicable action listed below is to be taken:

(1) Flash paper: Contact Investigative Operations and Support Section for shipping instructions EACH AND EVERY TIME this item is to be submitted to the Laboratory.

(2) Live ammunition: For shipping instructions see 13-12.4.2 elsewhere in this section.

(3) Other hazardous materials: Contact the Materials and Devices Unit for shipping instructions EACH AND EVERY TIME any hazardous material, except flash paper or live ammunition, is to be submitted to the Laboratory.

EFFECTIVE: 04/07/97

13-6.7.2 Nonhazardous Materials

If evidence of this type is not found in this chart or elsewhere in this section, locate a specimen which is most similar in nature and take the appropriate actions or call the Laboratory at 202-FBI-4410 for general instructions.

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13-7 FIELD PHOTOGRAPHY

The purpose of the information under this caption is to provide some of the general guidelines pertaining to Bureau photographic matters and to list by name, description, and use the types of document copying, microfilming, general photographing, and surveillance equipment available to the various field offices. For information concerning photographic examinations conducted in the Laboratory see [MIOG, Part II, 13-7.6 and 13-7.6.1.)]

EFFECTIVE: 07/25/97

13-7.1 General Guidelines

EFFECTIVE: 04/19/91

13-7.1.1 Laboratory Photographic Responsibilities *ba*

(1) The Special Photographic Unit (SPU) of the Laboratory (Room 3449, Extension [REDACTED]) is responsible for all photographic matters to include surveillance photography, nonroutine requests, unusual processing requirements, examination of photographic evidence, and all other photographic equipment requests, repairs, problems, or other inquiries. SPU has been funded to supply the field with most photographic equipment; therefore, requests for routine photographic equipment should be directed to SPU through the field office Photographic Technician. SPU is the funding source for all photographic equipment (there is no other source available to the field). If there is any doubt regarding equipment, contact SPU, for assistance and clarification. SPU also handles all photographic tradecraft in FCI matters.

(2) The SPU also handles all general processing and mass production photographic work. This includes the capability of doing copy work on film of documents, objects, i.e., photographs, jewelry, etc., and duplication of slides and making of slides from original art work for training purposes. SPU handles equipment needs for darkroom and "mug shot" photography. This is defined as photographic processing and finishing, studio and "mug shot" areas to include those facilities in use within the field office and off-site facilities. SPU will also handle the design of field office darkrooms and those

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related areas due to moves or renovations. All related equipment selection, procurement, inventory and distribution, including sinks, cabinets, enlargers, miscellaneous darkroom equipment, processing and finishing equipment, mug shot and copying equipment that relate to the darkroom areas will also be handled by SPU.

(3) The SPU is responsible for the processing of the video imagery where the image requires enhancement and the preparation of a photographic print. This video imagery may originate from time-lapse or full-motion video tapes of any format or from still video disks. SPU can provide photographic prints and/or video tapes of these enhanced images. Requests for comparisons of video imagery to known photographic prints or to other submitted evidence (guns, articles of clothing, bags, hats, etc.) should be forwarded directly to SPU. (See 13-7.6.1.)

(4) Submissions to the SPU should be by electronic communication under the case caption.

(5) The SPU of the Laboratory Division oversees the areas of film processing, color and black and white enlarging and camera copy work, and slide reproduction, all on a quantitative basis. These requests should be submitted with an FD-523.

(6) The film processing functions are inclusive of color negative (C-41), color positive (E-6), microfilms, and all black and white negatives.

(7) Color and black and white enlargements made from negatives are processed to specifications which can vary in dimensions of 3 1/2 by 5 inches to 40 by 60 inches. There is also the capability of processing color enlargements from slides; however, this involves the preparation of an internegative which can result in the loss of resolution and color reproduction in larger prints.

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13-7.1.2 Personal Identification ("mug") Photographs
(See MIOG, Part II, 11-4.9.)

Personal identification color ("mug") photographs should include the head and shoulders in full face view and profile. If not otherwise equipped, use the Mamiya 645, with flash equipment or flood lamps and, if available, a white background. Include identifying data and a visible gray scale in all pictures. If the equipment for this purpose is not available, contact the Special Photographic Unit (Room 3449, Ext. [REDACTED])

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EFFECTIVE: 07/25/97

13-7.1.3 Polaroid Photographs

Polaroid cameras and 4- by 5-inch (Speed Graphic) polaroid film holders are available in many offices. The use of polaroid should be limited to those situations in which an immediate photographic print will definitely further the investigation. In other situations, conventional photography should be used.

EFFECTIVE: 04/19/91

13-7.1.4 Color Photography

The use of color photography should be considered during the course of all investigations where a record of the color or color contrast may be a factor in the evaluation of the evidence. Color photographs may be particularly helpful and important in recording the bloodstains in a crime scene; color negative processing should be used. When color photographs are to be made, 120 or 35mm film is preferred. Closely follow the instructions provided with the film as to lighting and exposure data. Good quality color prints can be made from a color negative. If projection slides are desired, color reversal (positive) properly exposed film, such as Ektachrome or 3M CS Type Film and FUJI can be used. (Under no circumstances should Kodachrome film be used.)

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EFFECTIVE: 04/19/91

13-7.2 General Photographic Equipment

Name of Equipment	Description	Use
Mamiya 645	120mm roll film camera. Kit includes camera, motor drive, flash and lens.	Aerial, crime scene, "mug" and document photography.
Canon and Nikon Camera Systems	35mm camera. Lens available 24mm-2000mm. Numerous other special application accessories are supplied or are available on request.	Primarily intended for use as a surveillance system. Also used in some concealments and remote applications.

EFFECTIVE: 04/19/91

13-7.3 Microfilming Equipment

Name of Equipment	Description	Use
Attache photocopy units.	Portable, completely self-contained, collapsible document copy equipment carried in an attache case, 18" by 12" by 4 3/4", weighing 16 lbs. Electronic photo-flash lights powered by self-contained 6-volt (four "C" cells) battery pack or AC/DC. Camera is standard 36 exposure 35mm Olympus with lens. Newer models will have AC/DC	Rapid photography of small number of documents including bound and large-size documents. Do not use color film.

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operation and larger film
capacity options.

EFFECTIVE: 04/19/91

13-7.4 Deleted

EFFECTIVE: 02/12/92

13-7.5 Photographic Surveillance

The objective of surveillance photography is generally to obtain recognizable, identification images of individuals or items, or to record events as they occur, or over a long period of time. Conventional still photography should be used in all instances where recognition or identifiable detail is required. Still video is not to be used unless the immediate electronic transmission of the image is of prime importance and quality is secondary. Motion pictures (if detail is of high importance) or closed circuit TV (CCTV), should be used if the prime objective is to record the action taking place or an event that occurs over a long period of time. When both identification and action are required still photography and CCTV should be used simultaneously. CCTV images and motion picture images cannot be substituted for conventional still photography since it is not possible to make high-quality, hard-copy enlargements from these processes. (See Part II, 9-1(5) of this manual concerning the use of photographic technicians for photographic surveillances.) The SPU will design and install unmanned automatic still-camera surveillance systems where the need arises. These utilize a variety of trip devices.

_____ and other devices to activate the camera when subjects are present.

b2/b7E

EFFECTIVE: 02/12/92

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13-7.5.1 Long Range Photography With Telephoto Equipment

The lens used depends upon the distance from the subject to the cover available.

(1) Telephoto lenses are available for still photography at distances up to 1500':

Distance Range	Rec. Lens Focal Length (2mm's per foot)
50' - 150'	up to 300mm.
150' - 300'	300mm to 600mm.
300' - 600'	600mm to 1200mm.
600' - 1500'	1200mm to 3000mm.

(2) Fast telephoto lenses are available for photography in situations in which the intensity of the light available is low. These are limited to up to 400mm.

(3) Deleted

EFFECTIVE: 02/12/92

13-7.5.2 Night Surveillance Equipment

(1) Night photographic surveillance problems may be solved with the utilization of light intensification equipment provided to each Special Operations Group (SOG) and maintained by the Special Photographic Unit, Laboratory Division. Night viewing devices are not designed for photography.

(2) Ultrahigh-speed films for surveillance photography in low-light-level situations, such as a dimly lighted street or entryway at night, are available. The use of such films with available fast lenses extends surveillance photography to many nighttime and other situations where the available light is extremely low. Film, equipment, and assistance for these applications can be obtained from the Laboratory.

(3) Infrared photography can be used to obtain photographs in total darkness. High-speed infrared film, infrared flashbulbs, light sources and infrared filters for light sources are available for such installations.

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(4) Most offices are equipped with a [REDACTED]
[REDACTED] Personnel in those offices have been
appropriately trained. Only those personnel are to utilize the [REDACTED]
units.

b2/b7E

EFFECTIVE: 02/12/92

13-7.5.3 Photography With Concealed Cameras

(1) Concealed cameras are motor-driven still cameras (35
mm). Concealments available include: [REDACTED]

[REDACTED] Custom units can be made to solve specific problems.
Special equipment and concealments are available for FCI cases.
Contact the Special Photographic Unit on the secure phone system.

(2) The concealments can be activated by individuals at
the scene or by remote control for unmanned surveillances or camera
traps. Such equipment can be operated by direct wire connection,
timers, tripping devices or radio control.

(3) Camera equipment is available which is readily
adaptable for use from cover in mobile equipment-automobiles, panel
trucks, etc. Reflex (through the lens) focusing cameras are
particularly useful for this application.

EFFECTIVE: 07/25/97

13-7.5.4 Aerial Photography

Aerial photography can be used for planning, intelligence
gathering and court purposes. The Mamiya 645 provided to the field
is the recommended camera for aerial photography from fixed wing
aircraft or helicopters. [REDACTED]

[REDACTED] Contact the Special Photographic Unit, Extension [REDACTED]
for information and scheduling.

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EFFECTIVE: 05/26/89

13-7.5.5 | Emergency Operational Support

A specialized photographic Emergency Response Team will provide immediate on-scene photographic intelligence during a crisis situation or any case requiring immediate results. Equipment, including a portable darkroom system, is prepackaged for immediate deployment to anywhere in the world. This whole-team concept and equipment is designed to provide photographic results without any outside source of personnel or other resources such as electricity. Contact the Special Photographic Unit, Extension [REDACTED] for information and scheduling. |

b2

EFFECTIVE: 05/26/89

13-7.5.6 Deleted

EFFECTIVE: 11/20/90

13-7.6 | Photographic Examinations | (See MIOG, Part II, 10-3, 13-7, and 13-7.6.1.) (Formerly 13-18) |

(1) Forensic examinations of photographic evidence are available from the Special Photographic Unit. Photographic evidence may include:

- (a) Film negatives
- (b) Slides
- (c) Instant prints/slides
- (d) Photographs
- (e) Cameras
- (f) Video tape

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- (g) Unexposed film
- (h) Undeveloped film
- (i) Photographic accessories
- (j) Pornography
- (k) FCI Tradecraft
- (l) Motion Pictures
- (m) Image processing picture files
- (n) Digital camera image files

(2) Also, any other evidence may be submitted for studio photographic examinations using, for example, infrared, and ultraviolet techniques. This nonphotographic evidence includes, but is not limited to:

- (a) Documents
- (b) Clothing
- (c) Any obliterated writing or printing
- (d) Defaced or altered surfaces
- (e) Items with hollows or cavities

(3) The following are examinations of photographic evidence available from the Special Photographic Unit:

(a) Bank Robbery Film Examinations - Bank Robbery film (or video tape) is examined and compared to other submitted evidence (guns, clothing, mug shots, bags, hats, etc.). This examination may help establish a subject's presence at a crime scene by identifying clothing, weapons, or any other items linked to the subject. These examinations include surveillance video tapes that are increasingly popular for bank surveillance. Also subject height determinations may be made from these images (see Photogrammetry Examinations below at (3) (e)).

Note: It is important to remember that the negatives or the original video tape are the best evidence and should always be submitted when

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an examination is requested. Before submitting, any prints needed for continuing the investigation should be made from the negatives, and at least one copy of the video tape should be retained in the field division.

In conjunction with the Firearms/Toolmarks Unit, bullet trajectories may be calculated through photogrammetric techniques.

(b) Photographic Comparisons - Photographic evidence is examined and compared to other evidence or photographs of evidence. Various photographs of a subject taken at different times and places may be compared to determine if the photographs are indeed of the same subject. The subject may be a suspect individual, vehicle, weapon, or virtually anything that may be photographed. Also, any items within a photograph may be compared, for example, a pendant around an individual's neck, rings, or tattoos.

(c) Time and Location Examinations - Photographic evidence may be examined to determine the location, time, and date that an image was taken.

(d) Authenticity Examinations - Photographic evidence may be examined to determine if the image is the result of a composite, a copy, or of some other alteration method to cause a misrepresentation. Evidence may also be examined to see if it is a copy of copyrighted or pornographic material.

(e) Photogrammetry - Actual dimensions may be derived from photographic images through the use of various geometric formulae. The most common is determining the height of bank robbery suspects. As an adjunct to this type of examination, plan drawings, or views may be generated. These are "overhead" representations of a scene depicted in a photographic image. These may be used for mapping a major crime scene from photographs taken of the scene. This may include onsite surveys by SPU personnel coupled with photographs taken by specially calibrated cameras.

(f) Infrared (IR), Ultraviolet (UV), and X-Ray Examinations - Obliterated writing or other marks may be made evident by examining evidence with IR, UV, and X-ray photography. These examinations are based on the principle that various substances may reflect, fluoresce, or luminesce at different rates. Examples include overwritten documents, documents with altered writing, objects with defaced serial numbers, or other identifying marks, or marks that may be invisible against a similarly colored background.

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(g) FCI Tradecraft - The Special Photographic Unit examines and maintains a collection of foreign counterintelligence tradecraft. This is not necessarily limited to FCI cases. Any cases of items designed for concealed cameras, money, drugs, etc., may be examined for evidentiary purposes.

(h) Source and Age Examinations - In some cases photographic products (including film and prints) may be dated and source established by an examination of their manufactured characteristics. This may be helpful in establishing the time frame that a photograph may have been taken.

(i) Camera Examinations - Cameras may be examined to determine if they exposed a particular image. Also they may be examined to determine if they have been altered (including serial numbers), and for the purposes they may have been altered. These examinations include any photographic equipment or supplies that may have been seized as evidence.

(j) Image Processing - Photographic images that have been degraded as the result of being out-of-focus, blurred, under or overexposed, or any other problems contributing to a poor image may be corrected through the use of computer digital image processing.

(k) Scene Reconstruction - Photography may be used to "reconstruct" what may have been visible to a subject or witness under a given set of circumstances. This may also be used to establish the veracity of photographs introduced in court purporting to depict lighting conditions at a certain time and place.

(l) Analysis of Time and Motion - The speed of objects may be calculated in motion pictures, video tapes, or other images from sequential frame cameras.

(m) Photographic Consultation - The SPU is available to provide assistance on how to best preserve and transport photographic evidence. In cases where exposed or unknown film or other photographic materials are seized as evidence, the SPU may be able to determine whether or not the items have been exposed, and if so how they should be developed.

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13-7.6.1 Video Tape Enhancement/Examination and Support
(See also MIOG, Part II, 13-7.1.1 and 13-7.6.1.)
(Formerly 13-29, 13-29.1, 13-29.2 and 13-29.3)

The Special Photographic Unit (SPU) of the Laboratory (Room 3449, Extension [REDACTED]) is responsible for the processing of video imagery where the image requires enhancement and the preparation of a photographic print. This video imagery may originate from time-lapse or full-motion video tapes of any format or from still video disks.

SPU can provide photographic prints and/or video tapes of these enhanced images. Requests for comparisons of video imagery to known photographic prints or to other submitted evidence (guns, articles of clothing, bags, hats, etc.) should be forwarded to the SPU.

SPU can also provide the following forensic video support services:

(1) Reconstruction of physically damaged video tapes. This includes tapes that have been damaged due to mechanical malfunction of a video tape machine or video tapes that have been deliberately damaged.

(2) Slow-motion or frame-by-frame playback of video tapes. This is often beneficial when actions or activities occur quickly and are not readily apparent to the viewer. This process is also valuable for recovering partially recorded video frames that also are not readily apparent to the viewer.

(3) Conversion of foreign video standards. There are three primary worldwide video standards (NTSC, PAL, and SECAM). These standards are not directly compatible. Tapes received from or destined to foreign countries may require standards conversion. In addition to providing this conversion process, the SPU can provide consultation and technical assistance in determining proper video standards.

(4) Production of demonstrative evidence video tapes for courtroom presentation. This is to include video tapes produced for crime scene documentation or reenactment and the preparation of video tapes containing English-translated subtitles of surveillance video tapes where the recorded conversation is in a foreign language.

(5) Where appropriate, SPU can edit and/or compile video segments for briefings or as investigative or demonstrative aids.

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(6) Submission to the SPU should be by electronic communication under the case caption. Video frames or sequences that require enhancement or processing should be identified by using the time/date recorded on the video tapes when available. Should there be no time/date or an incorrect time/date recorded on the video tape, a complete description of the subject or activities in question should be provided and the tape stopped at the beginning of the pertinent segment. Also, if available, the manufacturer and model of the recording video tape machine should be included.

(7) It should be noted that video-based imagery does not contain the resolution of film and should not be used as a replacement for film, where image detail for identification purposes is required.

(8) Attempts should be made to minimize the number of times a video tape is played or reviewed. Continued or repeated use of video tapes, especially time-lapse video tapes, can cause physical degradation of the tape and can severely limit enhancement efforts. Original video tape should always be submitted.

EFFECTIVE: 07/25/97

13-8 SEROLOGY EXAMINATIONS

(1) Forensic serology consists of the identification and characterization of blood and other body fluids in the crime laboratory. Evidence is received mainly in connection with violent crimes, such as murder, rape, robbery, assault-and-battery. Evidence in burglary, hit-and-run cases and game violation cases is also frequently received.

(2) In cases where it has been determined that a person is infected with, or is suspected of being infected with either acquired immune deficiency syndrome (AIDS), tuberculosis or hepatitis (A, B, or C), the Laboratory MUST be notified of the condition both in the incoming communication and the evidence labeled accordingly.

(3) If an investigator is not familiar with or is unsure about the submission of any particular evidence to the Laboratory, he/she should call to get advice.

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EFFECTIVE: 11/20/90

13-8.1 Blood

EFFECTIVE: 11/20/90

13-8.1.1 Blood Examinations Aid Investigations

(1) ~~In location of the crime scene~~ - Identification of human blood can pinpoint the area for a crime search.

(2) In determining the possible commission of a crime - Occasionally, the identification of human blood on a highway, sidewalk, porch, or in a car is the first indication of a crime's occurrence.

(3) In identifying the weapon used - The DNA typing of human blood identified on a club, knife or hammer can be of considerable investigative and prosecutive value.

(4) In proving or disproving a suspect's alibi - The identification of human blood on an item belonging to a suspect who claims an animal as the blood source. The identification of animal blood can substantiate the claim of an innocent person.

(5) In eliminating suspects - The determination by DNA typing tests that human blood on suspect items is different from the victim's blood can facilitate the release of a suspect or help to substantiate a suspect's claim of injury.

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13-8.1.2 Information Determinable by Blood Tests

(1) Identification of stains as blood - Chemical analyses are necessary to positively identify blood. The appearance of blood can vary greatly depending on the age of stains and on other factors.

(2) Determination whether blood is of human or animal origin - If animal, determination of specific animal family.

(3) DNA analysis of blood.

(a) Deleted

(b) Deleted

(c) Deleted

EFFECTIVE: 05/31/94

| 13-8.1.3 | Deleted |

EFFECTIVE: 11/21/97

13-8.1.4 Collection, Identification and Wrapping of Bloodstained Evidence (See MIOG, Part II, 13-6.7 (9), (10), (11), (12), (13).)

(1) Agents conducting crime scenes and handling any body fluids should wear latex gloves inasmuch as the status of infectious microorganisms (e.g., AIDS, Hepatitis B) that may be contained in body fluids will not be known. If aerosol droplets or airborne particles are produced during the crime scene search, surgical masks and eye protection are recommended. Particular care should also be taken when handling or searching for secreted sharp instruments such as knives and hypodermic needles. Agents should use mirrors and flashlights to look for secreted hypodermic needles and syringes prior to inserting the hand in areas they cannot clearly see. In any instance where an injury occurs and a body fluid comes in contact with a wound, however

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minor, medical attention should be sought immediately. (See MIOG, Part II, 13-8.4 (5).)

(2) Deleted

(3) Garments and fabrics:

(a) Investigator's identifying marks should be put directly on the fabric in ink, away from stained areas if possible.

(b) Each item should be wrapped separately.

(c) Stains which are moist must be dried out thoroughly before wrapping or putrefaction of blood will occur.

(d) Drying should be done by exposure to the atmosphere in a secure, well-ventilated room and not be exposed to direct sunlight or heat.

(4) Blood on surfaces such as walls or floors - If possible, remove stained portion of wall or floor. If this is not possible, stains can be swabbed from surface using swabs slightly moistened with water. Air dry swabs and place in paper envelopes. DO NOT PLACE IN PLASTIC.

(5) Blood on automobiles involved in "hit and run" cases where a paint examination will also be requested should not be scraped off. It should be chipped off along with appropriate paint specimens with a sharp object such as a chisel or screwdriver and shipped to the Laboratory in one piece.

(6) Blood on pieces of glass:

(a) Pieces should be submitted if stains are too thin for removal of adequate amount by scraping.

(b) Specimens should be insulated in package to avoid breakage in transit.

(c) Mark item itself or on container holding pieces or scrapings.

(d) In circumstances where objects contain handprints or friction ridge detail present in blood, consideration should be given to removing sections of walls, floors, glass, etc., for submission to the Latent Fingerprint Section for examination and

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chemical enhancement of these impressions for identification purposes.

(7) Blood in dirt or sand:

(a) If blood is encrusted on surface, the crusts should be removed and enclosed in separate pillboxes to avoid further contamination with dirt and sand during shipment. Remainder of specimen may be submitted in circular ice cream-type container.

(b) Mark containers appropriately.

(8) Blood on large metallic objects, such as car bumpers or pipes:

(a) If shipped in wooden box, the use of wooden cleats or wires inside box is suggested to hold specimen securely and avoid frictional removal of stains during shipment.

(b) Mark items themselves.

(9.) (9) Liquid blood samples: (See MIOG, Part II, 13-6.7)

(a) Samples from victim and suspect should always be submitted.

(b) No refrigerants and/or dry ice should be added to the sample.

(c) Blood samples (at least five cubic centimeters) from the victim and suspect should be collected in two vacutainer tubes, one containing EDTA (purple top) for DNA analysis and the other with no preservative (red top) for serological analysis. Package to protect from breakage and contain a spill. The internal packaging should include the "Biohazard" labels. (See also 13-8.4 (5).)

(d) No other anticoagulant or preservative is recommended. Package to protect from breakage, and submit at least 5 cubic centimeters of blood.

(e) Sample should be shipped refrigerated without delay to the Laboratory (air freight or similar rapid transit method).

(f) Stopper should be sealed with tape to avoid loosening due to air pressure differences in plane and possible loss of blood.

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(g) While in storage, keep under refrigeration but
DO NOT FREEZE.

EFFECTIVE: 07/25/97

13-8.1.5 Blood Evidence Transmittal Letter

The letter of request should contain the following
information:

- | (1) | A brief statement of the facts surrounding the case.
- | (2) | Any claims made by the suspect as to the source of
blood on evidence items.
- (3) Deleted
- (4) Information concerning weather conditions to which
the evidence might have been exposed, contaminating substances, etc.
- (5) Information concerning disease state(s) of subject(s)
and/or victim(s) (examples: AIDS, Tuberculosis, Venereal Disease,
Hepatitis, etc.)

EFFECTIVE: 04/01/96

13-8.2 Other Significant Body Fluids

EFFECTIVE: 06/10/88

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13-8.2.1 Body Fluid Examinations Aid Investigations

(1) Seminal Stains:

(a) Their identification by chemical and microscopic means on vaginal smears or swabs or on a rape victim's clothing may be of value in corroborating the claims of victim. Seminal fluid analysis will be performed by DNA analysis.

(b) Deleted

(c) Deleted

(2) Saliva Stains: In FBI cases, suspected saliva stains will be examined by DNA analysis. (See MIOG, Part II, 13-8.4 (3).)

(a) Deleted

(b) Deleted

(3) Urine Stains - May be qualitatively identified based on chemical testing; however, absolute identification may not be possible. DNA testing on urine stains may be attempted.

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13-8.2.2 Deleted

EFFECTIVE: 09/24/93

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13-8.2.3 Limitations on Seminal Stain and Saliva Stain|DNA Typing|

(1) Sometimes semen is mixed with urine or vaginal secretion of the victim and interpretation of DNA typing tests is more difficult.

(2) Saliva on cigarette stubs and on cigar butts may be DNA typable. Ash trays SHOULD NOT be simply emptied into a container. Individual butts should be separately packaged and care taken to avoid ash and debris contamination of any saliva present.

(3) Deleted

(4) ACCURATE EVALUATION OF|DNA TYPING|RESULTS ON QUESTIONED SEMEN AND SALIVA STAINS REQUIRES KNOWN LIQUID|OR DRIED|BLOOD SAMPLES FROM THE VICTIM AND SUSPECT.

EFFECTIVE: 04/01/96

13-8.2.4 Collection, Identification and Packaging of Evidence
Stained with Body Fluids | (See MIOG, Part II, 13-8.2.5.) |

(1) Semen Samples - Clothing or other material bearing suspected semen stains should be marked with dates and initials, DRIED IF MOIST, and each item packaged|separately in paper, NOT PLASTIC. |

(2) Saliva Samples: (See MIOG, Part II, 13-8.2.5.)

(a) Questioned samples should be handled as above for semen.

(b) For Dried Saliva Samples: (See MIOG, Part II, 13-6.7 (60).)

1. Saliva swabs (also called buccal swabs) can be collected using sterile cotton-tipped "Q tip" applicators. Generally these applicators can be purchased in individually wrapped sterile packets which contain a single sterile swab--generally a five-inch-long wooden stick with cotton tip.

2. The swab should be put in the mouth of the individual and placed firmly up against the inside of the cheek and

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rotated. Generally two swabs, one from each cheek are collected. The swabs should be allowed to COMPLETELY AIR DRY, then packed and sealed in clean envelopes, paper packets, or in their original packet and conveyed to the Laboratory. After drying is complete, label appropriate envelope with type of sample, collector's initials, date and place of collection.

(c) NEVER submit liquid saliva samples.

(3) For Dried Blood Samples: From a fingerprick, or whole blood sample collected in a purple top (EDTA preservative) tube, a bloodstain is made on sterile, clean cotton cloth (usually washed cotton sheets). Two stains are usually prepared. The stains should be approximately one to two inches in diameter (about the size of a United States 50-cent piece). The stain should be allowed to COMPLETELY AIR DRY. The stain can be placed in a paper packet or envelope for shipping. The stains can then be stored in refrigerator/freezer conditions for a long period of time. (See MIOG, Part II, 13-6.7 (12).)

EFFECTIVE: 04/07/97

13-8.2.5 The Rape Case - Special Evidence Considerations (See MIOG, Part II, 10-3, 13-6.7 (67) & (68).)

(1) Because of the possibilities of serological evidence in rape being composed of possible mixtures of body fluids, evidence collection and preservation in a rape case warrant special consideration. The forensic serologist can often provide the investigator with valuable information beyond the statement that "semen is present" on an item if the necessary samples are obtained and properly preserved prior to submission to the Laboratory. The situation outlined below represents the ideal case; however, in many instances, much of the evidence listed may be obtained without excessive difficulty.

(2) It should be realized, however, that the majority of this evidence should be collected as soon as possible (within hours) of the crime.

(3) The following evidence should be obtained FROM THE VICTIM in a rape case:

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(a) Two liquid blood samples at least 5 cc in volume. One red-topped tube for conventional serology analysis and one purple-topped tube for possible DNA analysis. These samples will enable the laboratory examiner to determine the victim's DNA characteristics for comparison with the evidence and the suspect's samples. (See MIOG, Part II, 13-6.7 (9) & 13-8.4 (5).)

(b) Four vaginal swabs (dry before packaging). These would be used for genetic grouping determination.

(c) Two (2) vaginal smear slides for use as a means of showing that spermatozoa (and semen) are, in fact, present. Slides to be sent to the FBI Laboratory should not be fixed or stained and all made from the vaginal swabs from step (b).

(d) Two clean swabs from the same package as the above vaginal swabs. These would be used as unstained control swabs to show that any result obtained from stained swabs is or is not due to the cotton of the swabs themselves.

(e) Deleted

(f) In addition to the above, items of clothing, bed clothes, etc., would logically be obtained from the scene and victim at this time or as soon after as possible.

(g) Appropriate hair samples should be collected from the victim (known head and pubic hairs, combed head and pubic hairs).

(4) Evidence collected from the SUSPECT(s) would logically include clothing, a liquid blood sample and a saliva sample, taken as described in 13-8.2.4 above, and hair samples.

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13-8.3 DNA Analysis | Unit I |

The DNA Analysis | Units (DNA I and II) analyze |
deoxyribonucleic acid (DNA) | from biological tissues | recovered from
physical evidence in violent crimes. Evidence examined by the | units |
consists of known liquid and dried blood samples, | hairs, bones,
teeth, | portions of rape kit swabs and extracts, and body fluid stained
cuttings from homicide, sexual assault and serious aggravated assault
cases. These items of evidence are normally examined first to
determine the probative value of DNA analysis.

EFFECTIVE: 11/21/97

13-8.4 DNA Evidence Examination Policy

In general, this policy states that the FBI Laboratory
will accept evidence for DNA analysis from current, violent personal
crimes where appropriate standards for comparison are available. The
policy is specified as follows:

(1) BUREAU CASES

(a) Physical evidence submitted for DNA analysis in
connection with FBI investigations will be examined where appropriate.

(b) A known blood sample from the victim and suspect
for comparison purposes is required. No DNA analysis will be
conducted until known blood samples from both the suspect and the
victim have been received. Preliminary examinations, such as the
identification of blood or semen | or hair comparison, | may be conducted
without a known blood sample from the suspect, where appropriate.

(2) NON-BUREAU CASES

(a) DNA analysis on state and local cases will be
limited to homicide, sexual assault and serious aggravated assault
cases in which a suspect has been identified. In certain cases,
evidence will be accepted by the FBI Laboratory for DNA analysis even
though a suspect has not been identified. These exceptions include
serial homicide/rape cases and sexual assaults on young children.

(b) A known blood sample from the victim and suspect

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for comparison purposes is required. No DNA analysis will be conducted until known blood samples from both the suspect and the victim have been received in the DNA Analysis|Units.|

(c) Requests for DNA analysis on previously adjudicated cases should not be submitted to the FBI Laboratory but should be referred by the investigative agency to one of the private DNA testing laboratories. Names and addresses of these laboratories can be provided on request.

(3) PCR TESTING (See MIOG, Part II, 13-8.2.1 (2).)

(a) The DNA Analysis|Units|now|have|on-line a technique called PCR (POLYMERASE CHAIN REACTION) testing. This technology allows the Laboratory to obtain a DNA type from|other| biological materials. Because of limited resources being devoted to this technology, strict case acceptance policy has been established by the Laboratory Division.

(b) Evidence for PCR analysis will be accepted only in FBI cases when a known blood sample from the suspect has been obtained and submitted along with the evidence. The Laboratory will not accept state or local cases or domestic police cooperation cases for PCR analysis unless previously authorized by the Assistant Director, Laboratory Division.

(4) REEXAMINATION POLICY

(a) It is the policy of the FBI Laboratory that no examination will be conducted on evidence which has been previously examined by another expert. However, the Laboratory will accept evidence samples for DNA analysis even though another crime laboratory may have conducted traditional tests on the evidence items if that crime laboratory does not have the capability to perform the DNA tests and if the submitted samples are determined to be of a quality and condition conducive to DNA analysis. The local forensic laboratory should be encouraged to contact the DNA Analysis|Units|of the FBI Laboratory prior to submission of this kind of evidence.

(b) Paternity or parentage testing involving a paternity index is not done by the DNA Analysis|Units,|even in criminal cases. The Laboratory does not currently perform these types of tests. Private paternity testing laboratories should be contacted for these services.

(c) In cases where conventional serology and no DNA

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analysis is requested because of judicial rulings, trial delays, etc., it is the policy of the Laboratory that no analysis will be conducted.

(5) Evidence submitted for DNA analysis can be collected, preserved and transmitted to the Laboratory according to the guidelines set forth in Section 13-8.1.4 ("Collection, Identification and Wrapping of Bloodstained Evidence"): Bloodstained evidence should be completely air-dried before packaging and submitted promptly to the Laboratory. Two liquid blood samples, at least 5cc in volume, should be collected from both the suspect and victim; one red-top tube for conventional serology analysis (containing no preservatives) and one purple-top tube (containing EDTA) for DNA analysis. These blood samples should be submitted to the Laboratory without delay. In the event there will be a delay in submission of the dried stain evidence to the Laboratory, it should be kept frozen. (See MIOG, Part II, 13-6.7 (9), 13-8.1.4(9)(c) & 13-8.2.5 (3).)

EFFECTIVE: 11/21/97

13-9 MICROSCOPIC EXAMINATIONS

EFFECTIVE: 02/12/92

| 13-9.1 | Trace Evidence

| Trace evidence (hairs and fibers) examinations are conducted by the Trace Evidence Unit. |

EFFECTIVE: 07/25/97

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PRINTED: 02/18/98

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13-9.1.1 Trace Evidence Examinations Aid the Investigation

These examinations are valuable in that they assist in:

(1) Placing the suspect at the scene of the crime

(a) Transfer of hairs or fibers between the victim's and suspect's clothing in crimes of violence such as rape, assault and murder.

(b) Hairs or fibers from a suspect left at the scene of crimes such as burglaries, armed robberies and car thefts.

(2) Identifying the scene of the crime - Hairs or fibers left at the scene of crimes such as burglaries and armed robberies.

(3) Identifying the weapon or the instrument of a crime - Hairs or fibers on wrenches, knives or clubs.

(4) Identifying hit-and-run vehicles - Hairs or fibers adhering to suspect automobile.

EFFECTIVE: 07/25/97

13-9.1.2 Information Determined from an Examination of a Hair

Whether animal or human

(1) If animal, the species and/or family from which it originated (dog, cat, deer, beef, etc.)

(2) If human, the race, body area, method of removal from the body, damage, and alteration (bleaching or dyeing) and suitability for comparison with known hair samples may be determined.

(3) A comparison with known hair samples will result in a possible association, an elimination or a no conclusion.

(4) If a microscopic association is made between a questioned and known hair sample, DNA analysis may be performed on the questioned hair and compared to a known blood/saliva sample.

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EFFECTIVE: 11/21/97

13-9.1.3 Information Determined From Fiber Examinations

(1) Identification of the type of fiber

- (a) Animal (wool)
- (b) Vegetable (cotton)
- (c) Synthetic (man-made)
- (d) Mineral (glass)

(2) Determination as to whether or not questioned fibers are the same type and/or color and match in microscopic characteristics as those fibers comprising a suspect garment.

EFFECTIVE: 02/12/92

13-9.1.4 Limitations of Hair Examinations

(1) Not absolute identification; however, is good circumstantial evidence.

(2) Age cannot be determined.

(3) Although racial characteristics, hair color and length may be of value for investigative lead purposes, microscopic characteristics exhibited by hairs are not. Furthermore, significant hair comparisons can only be conducted with known samples of hair, best obtained by collecting both pluckings and combings from an individual.

EFFECTIVE: 04/01/96

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13-9.2 Fabric

A positive identification can be made if a questioned torn piece of fabric can be fitted to the known torn material.

EFFECTIVE: 02/12/92

13-9.3 Deleted

EFFECTIVE: 02/12/92

13-9.4 Cordage/Rope

A piece of rope left at the scene of the crime may be compared with similar suspect rope.

(1) Composition, construction, color and diameter can be determined.

(2) Manufacturer can sometimes be determined, if tracer present.

EFFECTIVE: 02/12/92

13-9.5 Botanical

Botanical examinations are conducted where plant material from a known source is compared with plant material from a questioned locale.

EFFECTIVE: 02/12/92

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13-9.6 Anthropological

(1) Frequent identifications are made through comparisons of teeth with dental records and X-rays with corresponding bone structures.

(2) Examinations may be made to determine if skeletal remains are animal or human. If human, the race, sex, approximate height and stature and approximate age at death may be determined.

(3) DNA analysis may also be performed on the skeletal remains and compared to known blood/saliva samples in an attempt to assist in the identification process.

EFFECTIVE: 11/21/97

13-9.7 Wood

The presence of a suspect at the crime scene can often be established from a comparison of wood from his/her clothing, vehicle or possession with wood from the crime scene.

EFFECTIVE: 05/26/89

13-9.7.1 Types of Wood Examinations

- (1) Specific source
 - (a) Side or end matching.
 - (b) Fracture matching.
- (2) Species identification

EFFECTIVE: 05/26/89

13-9.8 | Deleted |

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EFFECTIVE: 05/26/89

13-9.9 Deleted

EFFECTIVE: 05/26/89

13-9.10 Miscellaneous Examinations

These examinations include the following:

- (1) Fabric impressions
- (2) Glove prints
- (3) Feather Identification

EFFECTIVE: 05/26/89

13-10 CHEMICAL EXAMINATIONS

EFFECTIVE: 12/16/88

13-10.1 Toxicological Examinations

EFFECTIVE: 12/16/88

13-10.1.1 Purpose

Assists the medical examiner in determining the cause of death in suspected cases of poisoning.

EFFECTIVE: 12/16/88

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13-10.1.2 Types of Poisons

- (1) Volatiles, such as carbon monoxide, alcohols, cyanide and solvents.
- (2) Heavy metals, such as arsenic, mercury, lead and antimony.
- (3) Nonvolatile organic poisons, such as drugs of abuse, pharmaceuticals and pesticides.
- (4) Miscellaneous, such as inorganic compounds, plant materials, caustic substances, and insects.

EFFECTIVE: 12/16/88

13-10.1.3 Background Information Useful to Toxicological Examiner

- (1) Copy of autopsy report.
- (2) Symptoms exhibited prior to death.
- (3) List of drugs administered to victim.
- (4) List of toxic chemicals normally encountered by victim in employment or at home.

EFFECTIVE: 12/16/88

13-10.1.4 Desirable Specimens for Complete Laboratory Examination

- (1) Brain (75 grams)
- (2) Liver (75 grams)
- (3) Kidney (75 grams)
- (4) Blood (20 cc) (add preservative and identify)
- (5) Urine (all)
- (6) Gastric contents (all)

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- (7) Vitreous Humor
- (8) Any suspect food, drugs or chemicals

EFFECTIVE: 12/16/88

13-10.1.5 Preparation for Shipment to Laboratory

- (1) Place each organ and fluid in a separate sealed container.
- (2) Have pathologist label and initial each specimen.
- (3) Place container in insulated box with dry ice or freezer block (do not allow coolant to touch glass jars).
- (4) Mark package "Keep Cool" and transmit by overnight express.

EFFECTIVE: 12/16/88

13-10.2 Pharmaceutical and Drug Examinations

EFFECTIVE: 12/16/88

13-10.2.1 Information Helpful to Laboratory Examiner

- (1) Interview of suspect regarding source and use.
- (2) Prescription data.
- (3) If possible, submit sample in original container.

EFFECTIVE: 12/16/88

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13-10.2.2 Collection and Preservation

- (1) Each item packaged separately and securely.
- (2) Each item and/or its container clearly identified by initials and item number.

EFFECTIVE: 12/16/88

13-10.2.3 Information Determined from the Examinations

- (1) Weight of pharmaceuticals.
- (2) Quantitation of active ingredients.
- (3) Whether a controlled substance or prescription item.

EFFECTIVE: 12/16/88

13-10.3 Arson Examinations

EFFECTIVE: 12/16/88

13-10.3.1 Reasons for Arson

- (1) Insurance | fraud. |
- (2) Revenge.
- (3) | Destruction of a crime scene. |
- (4) Pyromania.
- (5) Civil disobedience.

EFFECTIVE: 12/16/88

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| 13-10.3.2 | Arson Evidence |

| (1) | Location

- | (a) Area of intense burning.
- | (b) Multiple areas of origin.
- | (c) "V" pattern areas. |

| (2) Arson | time delay | devices

-
- (a) Candle plants
 - (b) Cigarette in matchbook
 - (c) Molotov cocktail
 - (d) | Fused chemicals |
 - | (e) Electronic devices |

(3) Fire trails

- (a) Cloth ropes
- (b) Burn trails on carpeting
- (c) Deep charring trails in hardwood

(4) Removal of property - No typical remains of household goods in debris

EFFECTIVE: 12/16/88

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13-10.3.3 Types of Evidence

| Any sample from the point or area of origin, especially
specimens that are absorbent in nature or of a type that will retain a
flammable liquid, such as:

| (1) | Padded furniture

| (2) | Carpets

| (3) | Plasterboard

| (4) | Soil

| (5) | Clothing

| (6) | Molotov cocktails

EFFECTIVE: 12/16/88

13-10.3.4 Preservation of Evidence

Most readily flammable liquids are volatile and are easily
lost through evaporation.

(1) Use air tight containers

(a) Clean metal cans (preferable)

| (b) Kapak bags |

| (c) | Clean glass jars

(2) Properly identify specimen - Initial specimen or
container

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13-10.3.5 Interpretation of Laboratory Results

(1) Gas Chromatography examination of distillates recovered from suspected arson debris usually aids in classifying the product with regard to distillation range such as gasoline, fuel oil and paint solvents.

(2) Limitations: Generally unable to identify specific brand of gasoline or fuel oil due to weathering, common intermixing of commercial brands and lack of distinguishing characteristics between brands.

EFFECTIVE: 12/16/88

13-10.4 General Chemical Analysis Examinations

EFFECTIVE: 12/16/88

13-10.4.1 Definition

Qualitative and quantitative analysis of miscellaneous chemical evidence.

EFFECTIVE: 12/16/88

13-10.4.2 Examples of Sources of Materials

(1) Deleted

(2) Fraud cases: Verification or disproving specifications in government purchases, product verification in "pyramiding" operations, con games, replacement of valuable product constituents with worthless constituents, etc.

(a) Desired information - Claims made for product by manufacturers or distributors, alleged constituents, complaints by users, etc.

(b) Limitations - Products cannot be tested mechanically or to determine pros or cons of use. Analysis is limited

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to determination of constituents and literature search in reference thereto. Consideration of use of outside laboratories can be given to other necessary testing.

(3) Chemical destruction cases: Destruction of paint surfaces, lawns, and other valuables with harsh chemicals.

(4) Assault cases: Use of harsh chemicals on assault victims, lubricants used in rape and sodomy cases, miscellaneous unknown chemicals found at assault scene, etc.

(5) Sabotage: Harsh chemicals and other adulterants in fuel tanks and oil pans, gears, etc., of drive trains; sea water contamination aboard ships.

(6) Ink Analysis

(a) Scope - Comparison of the formulations of questioned and/or known ink specimens including typewriter ribbons and stamp pad inks.

(b) Limitations - When ink formulations are the same, it is not possible to determine whether or not they originated from the same source to the exclusion of other inks having similar formulations.

(c) Standard ink reference files necessary for possible association of a questioned ink with a manufacturer are available to the Laboratory.

(d) Determination of whether or not a document was written after the date shown thereon can only be made if a date taggant is in the ink. Only a limited number of companies utilize the taggant.

(7) Explosives and explosives residue analysis

(a) Post-explosion evidence

1. Scope - Examine evidence after an explosion for the presence of residues left behind from an explosive.

2. Types of Evidence - Metal, glass, plastics, rubber close to the seat of the explosion. Soil from the crater should be removed. Attempt to collect control samples from the surrounding area.

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- contamination.
3. Take necessary precautions to avoid
 4. Containers for evidence
 - a. clean metal paint cans
 - b. plastic evidence bags placed and sealed
 - c. clean glass jars
- in Kapak bags

(b) Preexplosion - raw explosive samples

1. Containers
 - a. metal cans or glass jars
 - b. be aware of shipping requirements for explosives.

2. Limitations - In some cases the manufacturer of a material can be obtained. Comparison with samples for batch comparisons is possible.

(8) Paint and plastics analysis

(a) Paints

1. Scope - Comparison of paint samples from known source to a paint sample removed from a specimen.

2. Limitations - When paint samples match, it can only be said that the specimen may have come from the known source or one just like it. Only in rare cases can a positive match, to the exclusion of all others, be made.

3. National Automotive Paint File (NAPF) is housed in the Laboratory.

(b) Plastics

1. Scope - Analysis of plastic or polymeric materials. Plastic fragments from hit and run accidents can be reconstructed into its original shape.

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(9) Tape Analysis

(a) Scope - Tapes come in a variety of forms such as masking, electrical, and duct tape. These materials have been used to bind homicide victims, cover drug packs, and components of improvised explosive devices. End matches are the most powerful results.

(10) Miscellaneous chemical examinations such as:

- (a) Chemical agents on bank robbery packets
- (b) Dyes encountered in bank dummy packets or security devices can be compared with known standards in the Laboratory
- (c) Constituent determination in patent cases
- (d) Flash and water soluble paper in gambling and espionage cases
- (e) Verification of stolen chemicals in ITSP and TFIS cases, and
- (f) Harsh chemicals or sugars in DAMV cases.
- (g) Adulterants in Tampering With Consumer Product cases.
- (h) Trace drugs in money, clothing, suitcases, and other containers
- (i) Smokeless powder comparisons
- (j) Food analyses
- (k) Cosmetic examinations
- (l) Button examinations
- (m) Lubricants - such as Vaseline in rape cases.

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EFFECTIVE: 11/21/97

13-11 MINERALOGY EXAMINATIONS

(1) Mineralogy is part of the Trace Evidence Unit.

(2) Mineralogy examinations are conducted on those materials which are mostly inorganic, crystalline or mineral in character, and include glass, building materials, soil, debris, industrial dusts, safe insulations, minerals, abrasives, and gems.

Comparisons can, by inference, connect a suspect or object with a crime scene, prove or disprove an alibi, provide investigative leads or substantiate a theorized chain of events. (See MIOG, Part II, 13-15 (2).)

EFFECTIVE: 11/21/97

13-11.1 Glass

Glass, a noncrystalline, rigid material usually exhibits excellent physical, optical and compositional properties for comparison purposes. When a window breaks, glass particles can shower 10 feet or more toward the direction of the force. Particles, therefore, get onto hair and clothing of the perpetrator. Particles also become embedded in bullets and/or objects used to break windows. Particles of broken glass from a hit-and-run vehicle are often found on the victim's clothing.

(1) Deleted

(2) The Laboratory examiner cannot identify the source to the exclusion of ALL other sources; however, it can be stated and demonstrated that it is highly improbable that the particles came from a source other than the matching known source; if two or more different known sources can be matched, the conclusion is greatly enhanced.

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EFFECTIVE: 11/21/97

13-11.1.1 Glass Fractures

Fracture patterns are unique. A physical match of two pieces of glass establishes that they came from a mutual source to the exclusion of all other sources; examinations also result in valuable information as to the direction of the breaking force.

(1) Penetration of glass panes by bullets or high speed projectiles produces a cone pattern from which the direction and the angle of penetration can be determined. If the cone is not present, stress line patterns as described below are used to determine the direction of the force.

(2) By a study of stress lines on radial cracks near the point of impact, the direction of the force which broke the glass can be determined.

(a) This determination depends on identification of the radial cracks and the point or points of impact. A sufficient amount of glass must be submitted to reconstruct a portion of the pane from the edge to the point of impact. All, or as much as possible, of the pane should be submitted.

(b) The pieces of glass remaining in the window after the breaking should each be labeled to indicate inside or outside, left, right, top or bottom prior to submission to the Laboratory. (See 13-11.1.3 below.)

(c) The direction of the breaking force usually cannot be determined from tempered glass (commonly found in side and rear auto windows) or very small panes of glass.

(d) Laminated glass, such as windshields, present special problems. Submit entire windshield if possible.

(e) Heat breaks can be identified, but the side on which the heat was applied cannot be determined from fracture edges.

(3) Pieces of glass may often be fitted together.

(a) By fitting pieces together with microscopic matching of stress lines, the Laboratory examiner can positively

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identify the pieces as originally having been broken from a single pane, bottle or headlight. (See 13-11.1.3 below.)

(b) If pertinent portions of a bottle or headlight can be fitted together, the manufacturer, type, etc., may be determined for lead purposes.

EFFECTIVE: 11/21/97

13-11.1.2 Glass Fibers and Fiberglass Insulation Materials

Glass fibers from boats, auto fenders, filters and most often building or duct insulations may adhere to the clothing or belongings of suspects. By microscopic comparison, glass fibers are identified and compared with the known source.

EFFECTIVE: 09/24/93

13-11.1.3 Collection of Glass Specimens (See MIOG, Part II, 13-11.1.1(2)(b) & (3)(a).)

(1) In cases where the direction of breaking force is required, pieces left undisturbed in the window must be marked as to inside or outside, top, bottom, left, right and all available glass must be submitted so that enough pieces can be fitted together to identify the radial cracks near and at the point of impact.

(2) Where pieces are large enough to fit together, all available glass must be submitted to increase the probability of finding matching edges.

(3) Do not place glass samples in paper or plastic bags and envelopes. Wrap each piece securely and package tightly.

(4) Send all available items of clothing of the suspect, comb his/her hair and check for particles in sweat on skin and in wounds.

(5) Where fiberglass insulation is involved, be sure all sources from various areas are sampled. Look for added insulation

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over older insulation. Send both.

EFFECTIVE: 09/24/93

13-11.2 Soils, Dusts, Debris

Soil is defined as any finely divided material on the surface of the earth and may contain such man-made materials as cinders, shingle stones, glass particles, paint, rust, etc. Soil, as a category, includes debris, industrial dusts, oily soil from under vehicles as well as natural soils.

EFFECTIVE: 06/15/81

13-11.2.1 Value of Soil as Evidence

(1) Soil varies widely from point to point on the surface of the earth and even more with depth. Many small samples are better than one large sample.

(2) Soil cannot be positively identified as coming from one source to the exclusion of all others; but the Laboratory expert can associate questioned soil with a most probable source, conclude that a source cannot be eliminated or that a point or area could not be the source of the questioned soil. Such conclusions have proven extremely valuable in the proof of criminal cases.

(3) Industrial dust specimens or soil near factories are often distinctive.

(4) Debris may contain particles characteristic of a specific area.

EFFECTIVE: 06/15/81

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13-11.2.2 Collection of Soil Specimens | (See MIOG, Part II,
13-6.7 (62).) |

(1) The investigator should seek likely areas at the crime scene such as shoe prints, tire marks, burial sites or muddy areas where a transfer of soil to the suspect is logical. The investigator should attempt to get samples which visually appear to be the same as the soil on the suspect's shoes or belongings.

(2) Several samples should be taken from crime scene areas because of the above-mentioned variation in small areas; additional samples in at least four directions up to 300 feet from the scene should be sampled to show that a variation does exist and to allow the Laboratory to "judge" the probability that the questioned soil could have come from the area. Samples should be taken from the surface no deeper than shoes or tires would depress the soil. Many small samples are desirable, a mixture from a large area or a sample taken too deep may introduce unwanted variations.

(3) Alibi areas such as the suspect's yard or work area should be sampled.

(4) |Deleted|

(5) Where soil has fallen or been deposited inside buildings or cars send carpets or attempt to keep lumps intact by secure packing; lumps break up in a too large, unpacked container.

(6) Soil from under car fenders may be in layers. Such soil should be chipped or cut off and packaged so that layers can be kept intact for comparison with similar lumps that may be found at the crime scene.

(7) Shoes, tires and other items should be submitted to the Laboratory. Attempts to remove the soil in the field may destroy valuable soil characteristics.

EFFECTIVE: 07/25/97

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13-11.2.3 Packaging of Soil Specimens | (See MIOG, Part II, 13-6.7
(62).)|

- | (1) | Air dry soil before packaging. |
- | (2) | Do not use envelopes or glass jars for soil.
- | (3) | Use leakproof containers such as film canisters or
plastic pill bottles.

EFFECTIVE: 11/21/97

13-11.3 Safe Insulations

Safe insulation is found between the walls of fire resistant safes in vaults and safe cabinets. It is readily transferred to tools and clothing.

EFFECTIVE: 01/11/85

13-11.3.1 Value as Evidence

- (1) Safe insulation can usually be identified as such.
- (2) The make of safe can often be determined by examination of the insulation.
- (3) Microscopic comparison of particles or deposits with insulation from the broken safe connects, by inference, clothing or tools with the safe.
- (4) Safe insulation on tools may "make" a case for possession of burglar's tools.

EFFECTIVE: 01/11/85

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13-11.3.2 Collection and Packaging

- (1) Sample near broken edge of insulation.
- (2) Send tools or clothing to Laboratory; do not remove deposits in the field.
- (3) Pack to keep lumps intact; protect deposits on tools by wrapping.

EFFECTIVE: 05/11/87

13-11.4 Building Materials

EFFECTIVE: 05/11/87

13-11.4.1 Value as Evidence

(1) Where entry is through a roof or wall, particles adhere to clothing or tools and may be on the loot or in toolbags or vehicles.

(2) These materials are usually common materials.
Maximum value as evidence is gained through the presence of several types, such as brick, mortar, plaster, stucco, etc.

EFFECTIVE: 05/11/87

13-11.4.2 Collection and Packaging

(1) The hole should be examined and materials of each type should be obtained.

(2) Submit in leakproof containers.

EFFECTIVE: 05/11/87

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13-11.5 Minerals, Rocks, Ceramics

These materials will be examined or compared as requested.

EFFECTIVE: 05/11/87

13-11.6 Abrasive Materials

In sabotage and malicious damage to engines, cars, trains, etc., abrasive materials may be put in oil or lubricants. These materials can be identified as sand or commercial abrasives and are of some value for comparison.

EFFECTIVE: 05/11/87

13-11.6.1 Collection of Specimens for Abrasives

(1) If oil, the oil from the engine sump and/or filters should be submitted; abrasives settle in oil or fuel.

(2) Send affected bearings or parts; the abrasive may be embedded; scratches or cuts may be typical of abrasive damage.

EFFECTIVE: 05/11/87

13-11.7 Gems, Precious Stones, Synthetic and Fake Gems

The Laboratory can determine whether gemstones are genuine, synthetic or fake. If expedient, a Laboratory examiner is available for on scene examinations. The Laboratory can, on a limited basis depending on inventory, provide identifiable or Bureau property gemstones for undercover operations whether or not recovery of the gemstones is anticipated.

EFFECTIVE: 09/24/93

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13-12 FIREARMS IDENTIFICATION

Firearms identification deals with the comparison of bullets, cartridge cases and other ammunition components to a particular firearm to determine if they had been fired by that particular firearm to the exclusion of all other manufactured firearms.

EFFECTIVE: 04/07/97

13-12.1 Conclusions

Either one of the three conclusions listed below can be reached. If either (1) or (2) is reached, that conclusion is positive as in fingerprint identification.

(1) The bullet, cartridge case, or shotshell casing was fired by the weapon.

(2) The bullet, cartridge case, or shotshell casing was not fired by the weapon.

(3) There are not sufficient microscopic marks remaining on the bullet, cartridge case, or shotshell casing to determine if it was fired by the weapon or the condition of the weapon precludes the possibility of making an identification.

EFFECTIVE: 01/31/78

13-12.2 Terminology

EFFECTIVE: 01/31/78

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13-12.2.1 Caliber

In general, caliber denotes the nominal bore diameter of a barrel measured in either hundredths of an inch (.01) or in millimeters (mm). This provides an initial grouping capability, such as referring to .22 caliber, .30 caliber or .38 caliber.

EFFECTIVE: 01/31/78

13-12.2.2 Cartridge Designations

These designations expand from the basic cartridge grouping in a variety of ways. Each one of these designations denotes a specific cartridge case size and configuration. While some cartridges will interchange, most are specific for a firearm of a particular cartridge designation. Among cartridge designations are the following:

- (1) Descriptive words: .38 Special, .41 Magnum, .380 Auto, 9mm Corto.
- (2) Original powder charge: .30-40 Krag.
- (3) Manufacturer's or designer's name: .30 Remington, 6mm Remington, .257 Roberts
- (4) Velocity: .250-3000
- (5) Year of adoption: .30-06 Springfield
- (6) Diameter in millimeters and length of case: 9 x 19, 8 x 57.

EFFECTIVE: 07/25/97

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13-12.2.3 General Rifling Characteristics

These vary from manufacturer to manufacturer and consist of:

- (1) Number of lands and grooves.
- (2) The widths of the lands and grooves.
- (3) Direction of twist of rifling.
- (4) Caliber.

EFFECTIVE: 07/25/97

13-12.3 Types of Examinations

EFFECTIVE: 05/26/89

13-12.3.1 Bullets

Marks on bullets can be produced by rifling in the barrel of the firearm or possibly in loading.

- (1) Recovered evidence bullet: Determine manufacturer, specific caliber, type and make of firearm from which fired and whether sufficient marks are present for identification. (Make of firearm involved based on general rifling characteristics.)
- (2) Bullet versus firearm: Determine whether bullet fired from firearm.
- (3) Shot pellets, buckshot and slugs from the victim or scene: Can identify size of the shot and gauge of the slug. Occasionally, shot can be identified to the barrel of a particular shotgun.
- (4) When a bullet and/or fragments bearing no microscopic marks of value for identification purposes are encountered, it is often useful to perform a quantitative analysis of the bullet and/or fragment and compare them to the similarly analyzed bullets of any

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recovered suspect ammunition (for example, cartridges remaining in suspect's firearm, cartridges in suspect's pockets, partial boxes of cartridges in suspect's residence). When two or more lead samples are determined to be compositionally indistinguishable from one another, a common manufacturer's source of lead is indicated. Lead composition information in conjunction with other circumstantial information is often useful in linking a suspect to a shooting. (Lead examinations are conducted by the Materials and Devices Unit. See MIOG, Part II, 13-14.)

Compositional analysis of shot pellets and rifled slugs can provide similar useful circumstantial information.

EFFECTIVE: 07/25/97

13-12.3.2 Fired Cartridge Case or Shotshell Casing

Marks on a fired cartridge case or shotshell casing can be produced by breech face, firing pin, chamber, extractor and ejector.

(1) Fired cartridge case found at scene: Determine specific caliber, type and possibly make of firearm in which fired, and whether sufficient marks are present for identification.

(2) Fired shotshell casing found at scene: Determine gauge, original factory loading and whether sufficient marks are present for identification.

(3) Wadding or shot from victim or scene: From wadding determine gauge and possibly manufacturer of wadding. From shot, determine size. Shot not identifiable with a suspect firearm.

(4) - Fired cartridge case/shotshell casing versus firearm: To determine whether loaded into and/or fired in firearm.

(a) Based on identifiable firing pin impression, breech face or chamber marks, can establish as fired in specific firearm.

(b) Based on extractor or ejector marks, can only identify as having been loaded into and extracted from specific firearm.

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EFFECTIVE: 04/07/97

13-12.3.3 Unfired Cartridge or Shotshell

(Note: See 13-12.4.2 regarding "Shipping of Live Ammunition.") Sometimes it is important to determine whether the unfired cartridge or shotshell was loaded into and extracted from a firearm based on the presence of extractor and/or ejector marks. The following can be determined:

(1) Cartridge: Specific caliber, type of firearm involved and whether sufficient marks for identification.

(2) Shotshell: Gauge and whether sufficient marks are present for identification.

(3) Cartridge/shotshell versus firearm: Determine if loaded into and extracted from a suspect firearm. Does not apply to revolvers.

EFFECTIVE: 04/07/97

13-12.3.4 Gunshot Residues

Gunshot residues may be located, depending on the muzzle-to-garment distance, by

(1) Microscopic examination of the area surrounding the hole for gunpowder particles and gunpowder residues, smudging and singeing.

(2) Chemical processing of area surrounding hole to develop a graphic representation of powder residues and lead residues around hole. Test patterns obtained compared with those produced at various distances using suspect firearm and ammunition like that used in the case--from same source if possible.

(3) The Firearms/Toolmarks Unit (FTU) only examines victim's clothing for gunshot residues in order to determine distance

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of the muzzle of the firearm to the clothing at the time of discharge. Therefore, only the clothing from the area where the victim was shot should be submitted for examination for gunshot residues. For example, if the victim was shot in the chest, requests for examination of the victim's pants, shoes, etc., for gunshot residues should not be made.

(4) In rare occasions the FTU will examine shooter's clothing for gunshot residues, primarily when there is evidence of a struggle between the victim and the subject. The FTU does not examine suspected shooter's clothing for the presence of gunshot residues in order to prove that they discharged a firearm. In the event an examination of a shooter's clothes for the presence of gunshot residues is needed, the request should be directed to the Chemistry Unit.

EFFECTIVE: 07/25/97

13-12.3.5 Shot Pattern

The distance at which a shotgun was fired can be determined. It is necessary to test fire THE SUSPECT|firearm|at various distances using the same type of ammunition as involved in the case being investigated. Fired shotshells from the suspect|firearm| can be submitted. See paragraph 13-12.4.2 regarding the shipment of live ammunition.

EFFECTIVE: 04/07/97

13-12.3.6 Trigger Pull

The amount of pressure necessary to fire a weapon can be determined.

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13-12.3.7 Determination of Accidental Firing

"Accidental" is a determination of a state of mind; however, a firearm can be examined to determine if it can or cannot be fired without pulling the trigger.

EFFECTIVE: 04/07/97

13-12.3.8 Identification of Gun Parts

Gun parts found can be identified as to

(1) Type of firearm from which it originated

(2) In some cases, it might be possible to determine the part that came from a suspect firearm; however, in most instances, examination of the part will only determine if the part is consistent in observable physical characteristics with the type of parts utilized in the suspect firearm.

EFFECTIVE: 04/07/97

13-12.4 Submission of Evidence

EFFECTIVE: 05/26/89

13-12.4.1 Clothing for Gunshot Residue Examination

(1) Protect each article of clothing at the time of removal and wrap each separately. Each article of clothing that has blood on it must have a biohazard label placed on the outside of its individual package. A biohazard label must also be placed on the outside of the box containing the separate wrapped packages, as well as on the outer wrapping of the box. (See MIOG, Part II, 13-3.1 (4)(e).)

(2) Make certain all garments are AIR-DRIED in shade before submitting to the Laboratory.

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(3) Provide autopsy reports and/or copies of autopsy photos if victim is deceased. Otherwise advise as to location of gunshot wounds.

EFFECTIVE: 04/01/96

13-12.4.2 Live Ammunition (See MIOG, Part II, 13-6.7 (5), (16), 13-6.7.1, 13-12.3.3, 13-12.3.5, 13-12.4.3; MAOP, Part II, 2-2.2.1, 6-2.3.9.)

Live ammunition cannot be sent through the U.S. Postal Service but can be shipped via Federal Express. The following guidelines must be strictly followed in order to comply with Department of Transportation regulations:

(1) Deleted

(2) Air Shipments (Federal Express) -

(a) Cardboard box with appropriate label and invoices marked "Federal Express."

(b) Shipper's certification for restricted articles.

(c) "Small Arms Ammunition" stamped on outside of box.

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13-12.4.3 Bullets, Cartridge Cases and/or Firearms

(1) Ammunition components such as bullets, cartridge cases, wads and firearms can be sent to the Laboratory by registered mail, U.S. Postal Service. Complete cartridges, gunpowder and/or unfired primers must be shipped by Federal Express. (See MIOG, Part II, 13-6.7 (5), (15), (17), (29); MAOP, Part II, 6-2.3.9.)

(2) Firearms have been submitted to the Laboratory with foreign objects such as flex cuffs, pencils, etc., in the barrel/chamber area, or the actions have been left open which allowed packing material (styrofoam/shredded paper) to enter these areas.

WHILE SAFETY IS CERTAINLY PARAMOUNT, AND EVERY EFFORT SHOULD BE MADE TO MAKE SURE A FIREARM IS UNLOADED WHEN IT IS SENT TO THE LABORATORY, it should be recognized that certain practices, while serving the purpose of rendering the firearm safe, can adversely affect some of the Laboratory examinations for which the firearm is being submitted.

(3) In firearms examinations, the most critical areas of a firearm are the bore, chamber and breech face. Placing a flex cuff through the barrel of a pistol, for example, could result in the cuff material rubbing against, and changing the microscopic marks in the bore and chamber areas of the barrel and the breech face area of the slide or dislodging trace evidence in these areas. Likewise, placing a pencil or rolled-up piece of paper in the action to keep it opened, could also adversely affect the marks on the breech face and also allow packing material to enter the firearm. In some instances, a firearm has been received which would not function due to shredded paper or styrofoam pellets having entered the action/chamber areas.

(4) As an examination of a firearm can involve additional Laboratory examinations for latent fingerprints, blood, etc., firearms evidence should be packaged to eliminate or reduce as much as possible the likelihood of damage to such evidence.

Firearms can be sent by registered mail, U.S. Postal Service.

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13-12.5 Marking Specimens for Identification

(1) | Bullets, cartridge cases, shotshell casings, cartridges, shotshells and other firearms-related evidence should be marked with initials or other personal identifying data on the primary evidence container only. (Caution: Do not place markings on the item(s) itself. Any trace evidence on the item and the microscopic marks need protection from possible loss or destruction.) |

| (2) | Firearms: (See MIOG, Part II, 13-6.7 (29).)

| The primary container with the firearm should be marked with initials or other personal identifying data. (Caution: Do not place markings on the firearm itself. The firearm may need to undergo various examinations, such as DNA, Trace, or Latent Fingerprint; therefore, protection must be afforded to the firearm to avoid possible loss or destruction of evidence.) |

EFFECTIVE: 07/25/97

13-12.6 Obtaining Test Specimens

| Whenever possible, the firearm should be submitted to the Laboratory. If the firearm cannot be submitted, | call the Firearms/Toolmarks Unit for instructions. |

EFFECTIVE: 07/25/97

13-12.7 Standard Reference Files

EFFECTIVE: 06/26/91

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13-12.7.1 Reference Firearms Collection

This collection contains over 3,000 handguns and 2,000 shoulder weapons and is used for such things as:

- (1) Locating serial numbers
- (2) Replacing inoperable firearms parts
- (3) Identifying gun parts

EFFECTIVE: 04/07/97

13-12.7.2 Standard Ammunition File

The Standard Ammunition File is maintained in the FBI Laboratory's Firearms-Toolmarks Unit (FTU). This file is continuously updated and contains over 15,000 commercial and military ammunition specimens of both domestic and foreign manufacture. These specimens serve as standards which assist in the determination of ammunition type and manufacture. A computerized database permits comprehensive searching of this file on the basis of the observable physical characteristics present on unknown ammunition components.

EFFECTIVE: 04/01/96

13-12.7.3 Reference Fired Specimen File

This file contains test bullets and cartridge cases obtained from firearms which have been fired in the Laboratory. (Note: An "Unidentified Ammunition File," "Open Case File" or "Unsolved Crime File" consisting of bullets and cartridge cases recovered from crime scenes is no longer maintained by the Laboratory.)

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13-12.7.4 General Rifling Characteristics File (GRC)

This computerized data file contains information relating to the general rifling characteristics of a number of firearms. In those cases in which no firearm is provided, the GRC file is used by the Firearms-Toolmarks Unit to provide a list of firearms which could possibly have fired the submitted bullet or cartridge case.

EFFECTIVE: 04/01/96

13-12.8 Disposition of Firearms and Related Property

The following guidelines are to be used in Bureau cases.

(1) Any firearm to be disposed of should be done so by the Laboratory.

(2) The Laboratory can dispose of firearms and related property with a court order, Declaration of Forfeiture, and a Declaration of Abandonment Vesting Title to the United States. If such cannot be obtained, see United States Marshal's Manual, Section 709.01 (Prisoner's Property) or Section 322.01 (Abandoned Property). When obtaining a court order, the requesting attorney should be advised to seek an order directing the firearms into the custody of the FBI "for its use or for any other official purpose." The court order must be signed by a judge. (See MAOP, Part II, 2-4.4.6.)

(3) The Laboratory can dispose of firearms and related property purchased with Bureau funds when all investigations and court proceedings have been adjudicated.

EFFECTIVE: 04/07/97

13-12.9 [Deleted]

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EFFECTIVE: 05/31/94

| 13-12.9.1 | Deleted |

EFFECTIVE: 05/31/94

| 13-12.9.2 | Deleted |

EFFECTIVE: 05/31/94

| 13-12.9.3 | Deleted |

EFFECTIVE: 05/31/94

13-13 TOOLMARK IDENTIFICATION

Toolmark examinations include, but are not limited to, microscopic studies to determine if a given toolmark was produced by a specific tool. In a broader sense, they also include the identification of objects which forcibly contacted each other; were joined together under pressure for a period of time and then removed from contact; and were originally a single item before being broken or cut apart. The inclusion of these latter areas results from the general consideration that when two objects come in contact, the harder (the "tool") will mark the softer. (Saws, files and grinding wheels are generally not identifiable with marks they produce.)

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EFFECTIVE: 01/31/78

13-13.1 Conclusions

- (1) That the tool produced the toolmark
- (2) That the tool did not produce the toolmark, or
- (3) That there are not sufficient individual characteristics remaining within the toolmark to determine if the tool did or did not produce it.

EFFECTIVE: 01/31/78

13-13.2 Types of Toolmark Examinations

EFFECTIVE: 01/31/78

13-13.2.1 Toolmark with Tool

Several comparisons can be made between a tool and a toolmark such as the:

- (1) Examination of the tool for foreign deposits such as paint or metal for comparison with a marked object.
- (2) Establishment of the presence or nonpresence of consistent class characteristics.
- (3) Microscopic comparison of a marked object with several test marks or cuts made with the tool.

EFFECTIVE: 01/31/78

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13-13.2.2 Toolmark Without Tool

Examination of the toolmark can determine:

- (1) Type of tool used (class characteristics)
- (2) Size of tool used (class characteristics)
- (3) Unusual features of tool (class or individual characteristics)
- (4) Action employed by the tool in its operation
- (5) Most importantly, if the toolmark is of value for identification purposes.

EFFECTIVE: 04/07/97

13-13.2.3 Metal Fracture

Fracture examinations are conducted to ascertain if a piece of metal from an item such as a bolt, automobile ornament, knife, screwdriver, etc., was or was not broken from a like damaged item available for comparison. This type of examination may be requested along with a metallurgical examination (see major topic 13-14 elsewhere in this section).

EFFECTIVE: 04/07/97

13-13.2.4 Marks in Wood

This examination is conducted to ascertain whether or not the marks left in a wood specimen can be associated with the tool used to cut them, such as pruning shears, auger bits, etc. This examination may be requested along with a wood examination (see secondary topic 13-9.7 elsewhere in this section).

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EFFECTIVE: 01/31/78

13-13.2.5 Pressure/Contact

Pressure or Contact examinations are conducted to ascertain whether or not any two objects were or were not in contact with each other either momentarily or for a more extended time.

EFFECTIVE: 01/31/78

13-13.2.6 Theftgate Cast Material

Theftgate Cast Material impressions of stamped numbers in metal, such as altered vehicle identification numbers, can be examined and compared with other cast impressions, as well as with suspect die stamps. Instructions for use of this casting material can be obtained from the Firearms/Toolmarks Unit, FBI Laboratory. (See MIOG, Part II, 13-13.3.1.)

EFFECTIVE: 07/25/97

13-13.2.7 Lock and Key Examinations

(1) The purpose of a lock examination is to determine, if possible, if toolmarks are present that indicate attempts were made to pick the lock, or if some type of tool or instrument was used to force the lock. When such a request is made, only the lock or those parts of the lock which have visible toolmarks on them should be submitted. For example, if the outer doorknob was forced, then only that knob should be submitted for examination. Also, in the case of worn locks, marks that were already on the lock at the time of the crime should be noted in the request for examination.

(2) Examination of keys can determine their observable physical characteristics, such as number and depth of cuts, blade style, etc. A determination of whether key will operate a specific lock can only be made after the key is actually tested in the questioned lock and does not require an examination by an examiner from the Firearms/Toolmarks Unit.

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(3) As the main thrust of the FTU examination is concerned with toolmarks, if there are questions about the operation of a particular style lock, consideration should be given to contacting a local locksmith with those questions.

EFFECTIVE: 07/25/97

13-13.3 Obtaining Evidence in Toolmark Cases | (See MIOG, Part II,
13-6.7 (64).)|

(1) It is most desirable, if possible, to submit the actual toolmarked area for direct comparison. (Note: In number restoration cases, the Laboratory will routinely make a cast of the toolmark for a possible future comparison with|any suspect die| stamps.)

(2) If it is impossible to submit the original, prepare and submit a cast, preferably|using Theftgate Casting Material or a suitable silicone-based material.| For instructions on how to prepare a plastic cast/impression see paragraph 13-13.3.1 below.

(3) Photographs, although helpful in presenting an overall location of the mark, are of no value for identification purposes.

(4) Do not forget to obtain samples of paint, safe insulation, and any other material likely to appear as foreign deposits on tools.

(5) - DO NOT place the tool against the toolmark for size evaluation.

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13-13.3.1 Theftgate Cast Material Impressions (See MIOG, Part I,
26-2.8; Part II, 10-3, 13-13.2.6, |13-13.3.)|

The following instructions are for making a plastic
cast/impression of stamped numbers in metal.

(1) All casts should be taken BEFORE ANY |small| number
restoration is attempted. (See "Items with Obliterated Identification
Markings" under secondary topic 13-14.2 elsewhere in this section for
further information on number restoration.)

(2) Casts should be taken using Theftgate Cast Material
(made by Advanced Ceramics Services, Denver, Colorado, Telephone
Number (303) 237-5456) which should be available in each |office or can
be obtained by contacting the Firearms/Toolmarks Unit in the
Laboratory Division. |

(3) The number one priority in taking a cast of stamped
numbers is cleaning the number area of any foreign matter as the cast
material will duplicate any foreign material left in the stamped
characters. Thus, paint and dirt should be removed from the stamped
area with a suitable solvent (acetone, gasoline or a commercial paint
remover). A toothbrush could be used to help clean down to the bottom
of the stamped area and IN NO INSTANCE should a wire brush be used to
clean the area as this will scratch the numbers and make subsequent
identification of the stamps impossible. If there is any rust in the
stamped numbers, use of "NAVAL JELLY" is helpful in removing the rust.

(4) Having cleaned the surface, a dam should be built
around it to retain the liquid |casting material| while hardening and
cooling. The liquid and the powder of the replica kit are mixed for
one minute in the |plastic bottle| that contained the powder. The dam
material should be a soft pliable clay-like material such as caulking
cord, "Play Dough" or modeling clay. Prior to forming the dam, nylon
filament tape should be placed at each end of the characters, partly
within the dam area to facilitate the cast removal. All voids around
the dam should be sealed to prevent leaking. Once the liquid has been
poured and hardened, lift up on the ends of the tape to lift out the
cast. If the cast has a lot of paint and rust, additional casts
should be taken until the best possible cast has been obtained and
this should be submitted to the Laboratory.

(5) The Theftgate Cast Material is available in three
formulations for use in three different temperature ranges: 40 to 69
degrees Fahrenheit, 70 to 80 degrees Fahrenheit, and over 80 degrees
Fahrenheit. At very low temperatures, setting time can be several

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hours even when using the low temperature range formulation. In this instance, if possible, the vehicle or metal should be moved to a heated building. Further the area can be heated by several methods such as heat lamp, infrared light bulb, hair dryer directed on the number area and then upon the cast, etc. The use of a torch to heat the area is not recommended.

EFFECTIVE: 07/25/97

13-13.4 Submitting Toolmark Evidence to Laboratory (See MIOG, Part II, 13-6.7 (64).)

(1) Pack the evidence, possibly with cotton, to preserve the evidence and prevent contamination.

(2) Properly identify each item to facilitate court presentation. Consider the possible need in court of the object from which the specimen was cut.

(3) Submit the tool rather than making test cuts or impressions in field.

(4) Mark ends of evidence which are or are not to be examined.

EFFECTIVE: 07/25/97

13-13.5 Reference Files (See MIOG, Part I, 26-2.8.)

(1) National Automobile Altered Numbers File: The FBI Laboratory is maintaining in the National Automobile Altered Numbers File selected specimens, including surface replica plastic impressions of altered vehicle identification numbers found on stolen cars, trucks and heavy equipment. The purpose of this file is to have a central repository for such specimens of altered numbers so that comparisons can readily be made at any time in an attempt to identify recovered stolen cars and possibly link such vehicles with commercialized theft rings nationwide or other cases investigated by the Bureau.

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(2) Deleted

EFFECTIVE: 04/07/97

13-13.6 Identification Manuals

Laboratory manuals concerning the identification of automobiles, foreign and domestic, tractor trucks, trailers and construction equipment are updated on a timely basis. These manuals contain both information and photographs which indicate [REDACTED] and provide investigative aids to the field Agent examining these kinds of equipment. Copies of these manuals can be obtained by contacting the Firearms-Toolmarks Unit of the Laboratory Division. b2/b7E

EFFECTIVE: 05/26/83

13-14 METALLURGY EXAMINATIONS (See MIOG, Part II, 13-12.3.1, 13-13.2.3.)

Metallurgy encompasses the science of metals and other materials. These materials may be metallurgically examined for comparison purposes and/or information purposes.

EFFECTIVE: 07/25/97

13-14.1 Examinations for Comparison Purposes

Determinations to ascertain if two metallic or nonmetallic objects came from the same source or from each other usually require evaluations based on surface characteristics, microstructural characteristics, mechanical properties and composition.

(1) Surface Characteristics - macroscopic and microscopic features exhibited by the metal or material surface including

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fractured areas, accidental marks or accidentally damaged areas, manufacturing defects, material defects, fabrication marks and fabrication finish. The fabrication features reveal part of the mechanical history of how a metal was formed; e.g., if it was cast, forged, hot-rolled, cold-rolled, extruded, drawn, swaged, milled, spun, pressed, etc.

(2) Microstructural Characteristics - the internal structural features of a metal as revealed by optical and electron microscopy. Structural features include the size and shape of grains; the size, shape and distribution of secondary phases and nonmetallic inclusions; and segregation and other heterogeneous conditions. The microstructure is related to the composition of the metal and to the thermal and mechanical histories of the metal, including post-fabrication exposures and/or deformations.

(3) Mechanical Properties - describes the response of a material to an applied force or load, e.g., strength, ductility, hardness.

(4) Composition - the chemical element make-up of the material including major alloying elements and trace element constituents. Because most commercial metals and alloys are nonhomogeneous materials and may have substantial elemental variations, small metal samples or particles may not be compositionally representative of the bulk metal.

EFFECTIVE: 07/25/97

13-14.2 Examinations for Information Purposes

Some of the kinds of information that can result from metallurgical examinations of materials in various conditions are listed below:

(1) Damaged metallic or nonmetallic items

(a) Cause of the failure or damage.

(b) The magnitude of the force or load which caused the failure.

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(c) The possible means by which the force or load was transmitted to the item and the direction in which it was transmitted.

(2) Burned, heated or melted metal

(a) Temperature to which the metal was exposed.

(b) Nature and/or direction of the heat source which damaged the metal.

(c) Whether the item was involved in an electrical short-circuit situation.

(3) Rusted or corroded metal - length of time the metal had been subjected to the environment which caused the rust or corrosion. Requires that the investigator submit information concerning the environmental conditions.

(4) Cut or severed material

(a) Method by which the material was severed - sawing, shearing, milling, turning, electrical arcing, flame cutting (oxyacetylene torch or "burning bar"), etc.

(b) Temperatures and/or type of equipment required.

(c) Deleted

(5) Fragments

(a) Method by which the fragments were formed.

(b) If fragments had been formed by high velocity forces, may determine if an explosive had been detonated and the relative magnitude of the detonation velocity.

(c) Possible identification of the item which was the source of the fragments. In bombings, timing mechanisms can often be identified as to type, manufacturer and model; determinations are often possible as to the time displayed by the mechanism when the explosive detonated and as to the relative length of time the mechanism was functioning prior to the explosion.

(6) Watches, clocks and timers

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(a) Condition responsible for causing the timing mechanism to stop or malfunction.

(b) Whether the time displayed by the mechanism represents AM or PM (calendar-type timing mechanisms only).

(7) Deleted

(8) Lamp bulbs

(a) Whether a broken lamp bulb was incandescent at the time the glass portion broke.

(b) Whether an unbroken lamp bulb was incandescent at the time it was subjected to impact forces such as those developed in vehicular collisions.

(9) Objects with questioned internal components: X-ray radiography can reveal the interior construction and the presence or absence of cavities or foreign material.

(10) Items with obliterated identification markings - Obliterated identification markings are often restorable, including markings obliterated by melting of the metal (welding, "puddling"). Obliterated markings can also be restored on materials other than metal. Because different metals and alloys often require specific methods for restoration of obliterated markings, the Laboratory should be contacted before any field processing for number restoration is attempted. (See MIOG, Part I, 26-2.8 (1); Part II, 10-3, 13-13.3.1.)

(11) Speedometers: Speed indicated at impact.

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13-15 MATERIALS ANALYSIS EXAMINATIONS

(1) These examinations are made by the Chemistry Unit. (See MIOG, Part II, 13-10.) These examinations entail the use of microscopic, microchemical and instrumental techniques such as Fourier transform infrared spectroscopy, X-ray diffraction, pyrolysis gas chromatography - mass spectrometry, scanning electron microscopy, differential thermal analysis, capillary electrophoresis, liquid and ion chromatography, etc., for both organic and inorganic analyses, identification and/or comparison of the compositions of paints, plastics (polymers), tape (electrical, masking, and duct tapes), glues, caulker/sealants, cosmetics, explosives and explosive residues.

(2) Mineralogy is part of the Trace Evidence Unit (see MIOG, Part II, 13-11 for mineralogy examinations).

EFFECTIVE: 07/25/97

13-15.1 Paints, Cosmetics, Plastic Products, and Tapes

EFFECTIVE: 09/03/93

13-15.1.1 Automobile Paints

It is possible to establish the color, year and make of an automobile from a paint chip by use of the National Automotive Paint File which contains paint panels representing the original paint finish systems used on all makes of American cars, light trucks, vans, and most foreign cars. A very careful search of the accident or crime scene should be made to locate small chips because:

(1) Paint fragments are often found in the clothing of a hit-and-run victim during Laboratory examinations.

(2) Paints may be transferred from one car to another, from car to object, or from object to car during an accident or the commission of a crime.

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(3) The paint particles may not be big enough to recognize/detect with the unaided eye so suspected transfer items should be submitted to the Laboratory for complete analysis. Also, thinly deposited smears of paint may vary in color and should not be eliminated during a field examination.

EFFECTIVE: 05/31/94

13-15.1.2 Nonautomobile Paints and Other Coatings

(1) Coatings of all types can be analyzed and compared. Paint on safes, vaults, window sills, door frames, furniture, bicycles, etc., may be transferred when forcible contact is made with another object. For example, a comparison can be made between the paint on an object and the paint on a tool to determine if there was contact with a particular painted surface. However, the manufacturer cannot be determined (other than original automotive paint finishes).

(2) Fine art authentication through complete chemical analyses of the coatings/materials utilized in the painting can be performed.

EFFECTIVE: 05/31/94

13-15.1.3 Cosmetics and Related Items

Known and questioned samples of cosmetics, such as lipstick, face powder, body lotions and lubricants, and various other make-up materials can be compared with each other but they normally cannot be associated with a specific source, manufacturer or distributor.

EFFECTIVE: 05/31/94

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13-15.1.4 Plastics/Polymers

It is usually not possible to specifically identify the particular source, use, or manufacturer of plastic items from composition alone but comparisons such as the following can be made:

(1) Trim from automobiles, depending upon the uniqueness of the composition, is compared with plastic remaining on the victim or property struck in a hit-and-run.

(2) Plastics comprising insulation on wire used in bombings or other crimes are compared with known or suspected sources of insulated wire.

(3) Miscellaneous plastic material (including buttons) from crime scenes is compared with possible sources.

EFFECTIVE: 05/31/94

13-15.1.5 Tape

A positive identification may be made with the torn or cut piece of tape left at the scene of the crime or on a victim and a roll of suspect tape (similar to fabric examination).

(1) Associations of tapes left at the scene and from suspected sources are determined from physical and compositional characteristics.

(2) Deleted

(3) Trace Evidence Unit maintains a duct tape reference file.

EFFECTIVE: 07/25/97

13-15.1.6 Explosive Residues

See Part II, Section 13-6.7.1.

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EFFECTIVE: 05/26/89

13-15.2 Fluorescent Powders and Other Marking Materials

EFFECTIVE: 09/03/93

13-15.2.1 Purpose

Marking materials are used to prepare an object, be it a decoy package, cash box, money, etc., in order that a detectable trace will be left on a person or the property of a person who handled the object.

EFFECTIVE: 05/26/89

13-15.2.2 Selection Factors

(1) The choice of material depends on factors inherent with each situation. These materials can be obtained as kits from commercial vendors.

(2) The material used can be a dry powder, liquid, or grease and be available in many visible and fluorescent colors.

(3) Fluorescent materials require a source of ultraviolet light to examine the subject's hands or clothing.

(4) Deleted

(5) Deleted

EFFECTIVE: 09/24/93

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| 13-15.2.3 | Deleted |

EFFECTIVE: 09/03/93

| 13-15.2.4 | Deleted |

EFFECTIVE: 09/03/93

| 13-15.2.5 | Deleted |

EFFECTIVE: 09/03/93

13-15.2.6 Fluorescent Materials

- (1) Have the advantage of not being visible to the subject.
- (2) Have the capability of being subsequently identified as the same powder used, by analysis of deposits on clothing, etc.
- (3) Have the disadvantage of requiring a source of ultraviolet light (see item (7) below).
- (4) Phosphorescent materials are different from fluorescent powders and must not be used since these may be detected by the subject even without an ultraviolet source.
- (5) Must be applied in a finely ground or powdered form.
- (6) Choice of form depends on object to be marked, for example:

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(a) Contact areas of tools can be coated with a grease, such as vaseline, mixed with a fluorescent powder without creating suspicion. Richer deposits are transferred when grease film is used.

(b) Normally dry surfaces, such as gloves, money, doorknobs, steering wheels, etc., would arouse suspicion if coated with a grease. After coating an appropriate surface with grease, the remainder of object and/or container may be dusted with dry powder.

(c) Time, amount of light, and other factors may limit application to dusting since the dusting procedure is rapid and does not require meticulous attention.

(d) Liquid fluorescent materials normally used as a writing medium. Care must be taken to prevent liquid marks or discolorations on paper or surface treated.

(7) Availability of fluorescent materials: Questions on availability and appropriateness of chemicals to particular problems can be resolved by contacting the Trace Evidence Unit of the Laboratory, extension [redacted] or [redacted] b2

(8) Procedures for application:

(a) In applying grease, use bare fingers or an appropriate applicator and rub it over the surfaces of the items to be marked so as to leave a thin film. Avoid large "globs" of grease. The common fluorescent materials available from the Laboratory are not dangerous or toxic substances and will not be readily absorbed through the skin. However, normal precautions should be made to avoid direct inhalation or contact with the eyes and mouth.

(b) In applying powder form, numerous methods are commonly used, such as shaking powder over items, dusting with a powder puff or pad of cheesecloth, or brushing over the surfaces in a manner similar to that used to dust with fingerprint powder.

(c) Liquids can be applied with a clean pen, small paint brush, or spray-type dispenser.

CARE SHOULD BE TAKEN SO THAT THE FLUORESCENT SOURCE IS NOT DIRECTED AT THE EYES, SINCE THE ULTRAVIOLET RAYS FROM THE LIGHT CAN CAUSE DAMAGE TO THE EYES.

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EFFECTIVE: 07/25/97

13-15.2.7 On-Site Laboratory Assistance to Field

Any requests for on-site assistance by Trace Evidence Unit personnel in a high-priority crime scene situation must be made by direct communication between the SAC and the Assistant Director, Laboratory Division. Such requests should only be made when the available services of the field crime scene search team will not fully meet the needs of the situation. This on-site support would include, but is not limited to, detection (i.e., explosives, drugs or drug by-products), recovery, preservation and delivery to the Laboratory of trace evidentiary materials considered to be of probative value in the investigation.

EFFECTIVE: 07/25/97

13-16 | SUPPORT SERVICES AND EXAMINATIONS IN BOMBING AND
EXPLOSIVE MATTERS |

EFFECTIVE: 09/24/93

| 13-16.1 | Deleted |

EFFECTIVE: 09/24/93

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13-16.2 Handling, Transportation and Storage of Explosives|or
Suspected Explosives (See MAOP, Part II, 2-4.4.11.)|

(1) Explosives|or suspected explosives|should only be handled by trained Laboratory Division personnel or certified Special Agent bomb technicians. The handling, transportation and storage of explosives should always be carried out in a safe, reasonable and prudent manner consistent with applicable laws and regulations.

(2) Each field division, through liaison contacts with local law enforcement agencies and U.S. military commands, should establish suitable and proper storage for explosives seized in the course of Bureau investigations or for use in training matters dealing with explosives. In the event suitable and proper explosives storage arrangements cannot be achieved to meet a field division's requirements, the purchase of a portable magazine(s) may be required.

(3) Any problems or questions regarding the handling, transportation and storage of explosives should be immediately resolved through contact with the Laboratory|Division's Materials and Devices Unit.|

EFFECTIVE: 04/07/97

13-16.3 Render Safe Assistance to the FBI

All offices are to have established liaison with|public safety bomb squads and|United States Military Explosive Ordnance Disposal (EOD) Units|in order that assistance can be promptly obtained if explosives|and/or bombs are encountered in connection with official investigations. -|The public safety bomb squad response is an integral part of the FBI Counterterrorism and narcoterrorism programs, and as such, liaison with these squads is an extremely important responsibility which|should be handled by the Special Agent field bomb technician.

(1) The United States Army has EOD Units stationed throughout the continental United States plus Alaska and Hawaii. These Units have provided support to the Bureau in the past and have personnel qualified to handle explosives and bombs. Due to emergency conditions, requests for assistance from Army EOD Units will usually be oral. Such oral requests are to be confirmed by letter addressed

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to the Commanding Officer of the EOD Unit involved.

(2) The Army does not have an EOD Unit in Puerto Rico. Therefore, the San Juan Office should have established liaison with an appropriate United States Navy facility.

EFFECTIVE: 02/12/92

13-16.4 On-Site Laboratory Assistance to Field

Any requests for on-site assistance by Laboratory personnel in an explosives-related situation must be made by direct communication between the SAC and the Assistant Director in Charge, Laboratory Division. Such requests should only be made when the available services of the field division bomb technician will not fully meet the needs of the situation. This on-site support includes, but is not limited to, forensic investigation at major bombing crime scenes, participating in raids or searches wherein explosives may be encountered and technical support for principal bomb squad.

EFFECTIVE: 02/12/92

13-16.5 [REDACTED] Technique

The Materials and Devices Unit, Laboratory Division, has the capability of [REDACTED]

[REDACTED] This technique, called the [REDACTED] is closely controlled by the Laboratory and may only be initiated by explosive specialists from the Materials and Devices Unit.

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(1) The Laboratory maintains a collection of [REDACTED] from which to draw upon when this technique is deemed appropriate. Additionally, items not in stock may be obtained from manufacturers where appropriate lead time is allowed. Items in this collection include: [REDACTED]

(2) [REDACTED]

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[REDACTED]

(3) For this technique to be implemented, approval must be obtained from the applicable Criminal Investigative Division section supervising the parent case. Coordination will then be made with the Laboratory regarding the specifics of the [REDACTED] proposal. Under no circumstances should any FBI personnel attempt to conduct [REDACTED] without the appropriate approval and coordination with the Laboratory Materials and Devices Unit.

EFFECTIVE: 04/07/97

13-16.6 Shipping Explosives, Hoax Bombs, and Bomb Components to the Laboratory for Examination (See MIOG, Part II, 13-6.7 (44).)

(1) Explosives are currently classified as hazardous material. Therefore, special packaging is required and the amount which can be sent in each shipment is regulated.

(2) The Materials and Devices Unit is to be contacted for shipping and packaging instructions EACH AND EVERY TIME an explosive, hoax bomb, or bomb component is to be shipped to the Laboratory Division for examination. The shipping instructions furnished must be strictly adhered to because the improper packaging and shipment of an explosive is a serious matter affecting safety, and violations of shipping regulations will not be tolerated.

(3) Prior to mailing/shipping items between Bureau offices which, when x-rayed, might appear suspicious, an immediate teletype must be sent or a telephone call made to the recipient. The teletype or telephone call should identify the shipping method (United States Postal Service Registered, FedEx, etc.) identifying/tracking number, office of origin, description of contents, date it was mailed/shipped, and any other information which may be beneficial to the recipient.

(a) Upon receipt of the above-mentioned information, the recipient must complete an FD-861 and post it on or near the x-ray machine in a conspicuous manner. It is the responsibility of each office to designate an appropriate area for the posting of such

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information and advise all employees responsible for x-raying incoming mail and related material of the designated area. Also, appropriate security must be afforded to the Mail/Package Alert Forms to prevent possible compromise. That is, the posting of such information in unsecured FBI space (i.e., loading dock, reception area, etc.) is strictly prohibited.

(b) The form must remain posted at all times until the item in question is received. Upon receipt of the questionable item, the FD-861 should be removed from the x-ray machine or designated area, and the bottom portion of the form completed (initials of the employee who identified the package and date received). The completed form should be retained for 90 days. Thereafter, the form should be disposed in official receptacles.

(c) The same procedures apply for mailing/shipping to the J. Edgar Hoover (JEH) FBI Building. An immediate teletype must be sent to FBIHQ. Attention: Mail Services Unit (MSU), Room 1B006, or call [REDACTED] (8 a.m. - 4:30 p.m., EST) or [REDACTED] (24 hours a day, seven days a week). The MSU will be responsible for ensuring appropriate JEH FBI personnel are advised of the questionable item. b2

(d) When mailing/shipping possible suspicious-looking items OUTSIDE the Bureau, offices should make a courtesy telephone call to the recipient, providing the same information as described above (i.e., shipping method, identifying/tracking number, date sent, description of contents, etc.). (See MIOG, Part I, 91-8 (11).)

EFFECTIVE: 06/04/97

13-16.6.1 Examination and Tests of Explosives and Explosive Devices

(1) The Laboratory|Materials and Devices Unit|will conduct all forensic explosive testing and examination of explosive devices at the Quantico explosives|ranges, or other ranges deemed appropriate,|in support of FBI investigations and prosecutions.

(2) Such examinations or tests which must be conducted in the field due to exigent circumstances must have the approval of the Laboratory Division. Special Agents of the|Materials and Devices Unit|will be assigned as appropriate to ensure that all forensic

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considerations and safety requirements are in accordance with applicable laws and regulations.

(3) This requirement extends to the handling, shipping and storage of explosive materials and verification testing of live explosives or devices to be carried out in the field where investigative matters are involved.

EFFECTIVE: 04/07/97

13-16.7 Examinations of Bombs and Explosives

(1) Bombing evidence is examined to identify the components and fabrication techniques utilized in the bomb, to reconstruct the bomb, find clues that will assist in the identification of the bomb builder and to determine if the bomb is like previously examined bombs. The Materials and Devices Unit is primarily responsible for the examination of all explosive devices and hoax bomb devices. All bombing evidence should be shipped to the Laboratory to the attention of the Evidence Control Center and the Materials and Devices Unit. Forensic bombing examinations are subdivided into five categories: (1) the main charge explosive, (2) the fuzing system (initiation system), (3) function tests, (4) destructive capability evaluations and (5) intercomparison examinations.

(2) The Materials and Devices Unit must approve the proposed use of explosives by [REDACTED] in conjunction with the Criminal Investigative Division. The Materials and Devices Unit will provide guidance and instruction as necessary on the feasibility and safe handling of [REDACTED]. Under no circumstances should [REDACTED] without prior approval of the Materials and Devices Unit.

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(3) The Materials and Devices Unit must approve all [REDACTED] in FBI investigations.

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EFFECTIVE: 04/07/97

13-16.7.1 Explosive Examinations (See MIOG, Part II, 13-15.1.6.)

The|Chemistry|Unit conducts instrumental examinations of explosive materials from unexploded bombs and residue from exploded bombs. These examinations can yield the following information:

(1) Explosive residue examinations often identify the type of explosive(s) used in the construction of the bomb, i.e., dynamite, slurry, military, gun powder or homemade.

(2) Analysis of unexploded materials can very likely identify the manufacturer of the explosive, i.e., Dupont, Atlas, Hercules.

(3) Analysis of unexploded materials from bombs can also provide detailed compositional information about the explosive that can permit comparisons with explosives seized from caches and suspects.

(4) It is important to know that most residues of an explosive are water soluble, and, therefore, these residues must be protected from moisture. Also, other residues evaporate quickly necessitating the immediate sealing of collected debris in airtight metal cans. Also recognize that modern chemical analytical techniques are capable of detecting extremely minute amounts of explosives. These capabilities require that personnel handling bombing evidence be absolutely sure they are not contaminating evidence with residues on their hands or clothing that they have picked up elsewhere.

(5) DO NOT USE A HEAT-SEAL CONTAINER, SCREW-ON LID OR OTHER HEAT-, FRICTION- OR STATIC ELECTRICITY- PRODUCING CONTAINER TO HANDLE, SHIP, TRANSPORT OR STORE LIVE EXPLOSIVES OR SUSPECT EXPLOSIVE MATERIALS. THIS DOES NOT INCLUDE SHIPPING OF EXPLOSIVE RESIDUE FOLLOWING THE COLLECTION OF DEBRIS FOLLOWING AN EXPLOSION.

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13-16.7.2 Fuzing System Examinations

The fuzing system of a bomb is the mechanism that, when activated, makes the bomb explode. A fuzing system can be something as simple as a burning fuse, or as complicated as a radio control mechanism. Examinations of a fuzing system can provide valuable investigative information as well as forensic information.

(1)

[REDACTED]

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(2)

[REDACTED]

(3)

[REDACTED]

EFFECTIVE: 02/12/92

13-16.7.3 Function Tests of Bomb Fuzing Systems

Routine examinations of unexploded fuzing systems include evaluations to determine if the system could function the bomb if it were activated. Statements concerning these tests will be included in the Laboratory report. If requested, bomb fuzing system plans can also be evaluated to determine if they are workable.

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13-16.7.4 Destructive Capability Evaluations

Routine examination of unexploded bombs includes an evaluation of the bomb's destructive capability. Statements concerning these evaluations are set forth in the Laboratory report. If important to the investigative effort, on-site evaluation of a bomb's blast effects can be made and expert testimony rendered about the size and type of explosive utilized.

EFFECTIVE: 02/12/92

13-16.7.5 Intercomparison Examinations

Intercomparison examinations of bombs, bomb debris and bombing related evidence are conducted to determine if the same person(s), plans and/or source of materials are involved in multiple incidents. The case Agent should request these types of examinations when investigation indicates a common link between bombing incidents. It should be noted that in certain situations the suspect and bombing incident can be positively linked through intercomparison examinations

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EFFECTIVE: 02/12/92

13-16.8 Explosive Reference Files

The Materials and Devices Unit maintains extensive reference files on commercial and military explosives and improvised explosive devices or homemade bombs. These files contain technical data plus known standards of explosive items and bomb components. Information in these files is routinely compared with bombing evidence under examination and any associations will be reported.

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13-16.9 Bomb Data Center Program

The additional mission of the FBI Bomb Data Center is to provide state of the art training to and develop technology for public safety bomb disposal technicians, provide operational support to law enforcement agencies during special events and/or crisis management situations and to gather and disseminate information pertaining to bombing matters.

EFFECTIVE: 04/07/97

13-16.9.1 Technical Publications

The FBI Bomb Data Center is responsible for the collection, collation and dissemination of up-to-date statistical and technical information concerning improvised explosive devices, render safe procedures, explosive research and technical equipment used by public safety bomb technicians.

The principal publications of the Bomb Data Center are disseminated through three distinct mailing lists:

(1) PUBLICATIONS CONTAINING UNRESTRICTED INFORMATION - These publications provide information of a general nature. They set forth the results of tests conducted on bomb handling and detection equipment and other data of general interest. The dissemination of these publications is not restricted to law enforcement agencies. Public utilities such as electric power, natural gas, water or similar companies which carry out functions relating to welfare and security of a community, and corporate security offices may be placed on the mailing list to receive unrestricted information. These publications are mailed to the heads of participating organizations, or they may be addressed to the head of any subordinate unit designated by the department head, e.g., commander, bomb squad; lieutenant, burglary squad, and require no special security precautions. The publication is known as the GENERAL INFORMATION BULLETIN (GIB).

(2) PUBLICATIONS CONTAINING RESTRICTED INFORMATION - These publications, available only to public safety agencies and certain military units, provide information of sensitive nature and are labeled RESTRICTED INFORMATION. The present information about the design and functioning of specific bombs which have actually been

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constructed, current and vital information concerning new or potential bomb-type hazards, methods of coping with certain bombs, and other information of specific interest to the bomb incident investigator. Because the information is considered restricted, the distribution of these bulletins is limited to those participants who have a need to know. They are mailed to the heads of participating organizations or they may also be addressed to the head of any subordinate unit designated by the department head, e.g., commander, bomb squad; lieutenant, burglary squad, for dissemination only to those persons who have a need for the information contained therein. They must not be made available to unauthorized persons. All participants who receive these publications also receive those containing unrestricted information. Recipients of restricted material must agree to safeguard the information. This publication is known as the INVESTIGATORS' BULLETIN (IB).

(3) SPECIAL TECHNICIAN'S BULLETIN (STB) - These publications, containing technical information intended only for the trained bomb technician, are also labeled RESTRICTED INFORMATION. They detail information regarding disarming procedures which have been employed against specific bombs, new or novel commercial items which may ultimately be encountered in improvised explosive devices, and other technical data which will be of specific interest to bomb technicians. Any attempt by an untrained person to apply the techniques or procedures contained in the STB could result in injury or death. Because of this, the STB is not mailed to the agency head but to the bomb squad commander for dissemination to qualified active members of the bomb squad. After receipt, it is the specific responsibility of the individual bomb technician to assure that these publications are not made available to unauthorized individuals. To obtain the STB, each bomb technician must be certified by his/her chief or supervisor in accordance with the following instructions:

(a) For Hazardous Devices School Graduates - The name and rank or title of the technician, the name and mailing address of the department or agency to which he/she belongs, and the date that he/she is presently employed as a bomb technician.

(b) Others - Active duty military EOD personnel will receive STB's through their parent commands.

(4) In addition to the established mailing list program, the Bomb Data Center can supply FBI offices, public safety agencies and corporate security personnel with bomb threat cards, physical security manuals and handout material on the bomb threat challenge.

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(5) The Bomb Data Center compiles and publishes quarterly statistical summaries on bombing incidents throughout the United States. Data utilized in these summaries is reported to the Bureau by Form FD-436. Use of this form is not restricted to incidents bearing the 174 classification (Explosives and Incendiary Devices; Bomb Threats). The statistical integrity of the bomb incident summaries requires that all explosive incidents in the following categories be reported: (See Correspondence Guide-Field, 3-5.2.)

(a) ACTUAL use of an explosive or incendiary device

(b) ATTEMPTED use of an explosive or incendiary device

(c) RECOVERY of an actual or hoax device

EFFECTIVE: 04/07/97

13-16.9.2

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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13-16.9.3 Technical Research

The FBI Bomb Data Center manages research programs involving remote-render safe technology, explosive breaching, incendiary devices and firing systems of explosive and incendiary devices. Much of this research is conducted in conjunction with other federal agencies. Completed research reports are distributed to tactical units within the FBI as well as other interested public safety agencies.

EFFECTIVE: 04/07/97

13-16.9.4 FBI Hazardous Devices School (FBI HDS)

(1) Basic training of public safety bomb technicians in the United States is provided at the FBI Hazardous Devices School (FBI HDS), Redstone Arsenal, Huntsville, Alabama. The FBI has funded and administered FBI HDS through the Bomb Data Center since 1981 when Congress mandated that the FBI would assume responsibility for the training of public safety bomb technicians. An annual Interagency Support Agreement with the U.S. Army provides military support at Redstone Arsenal. The U.S. Army provides a staff comprised of full time military and civilian personnel.

(2) The basic course is designed to train state and local public safety officials as bomb technicians. The basic course combines classroom and range instruction in explosives technology, electronic circuitry and components of explosive devices, nonelectric components and priming, use of special equipment for the detection and handling of explosive devices, and render safe equipment and techniques. The basic course is given eight times per year with 18 students enrolled in each course.

(3) HDS basic course applicants must be committed to five years of continuous service on an active bomb squad. Travel, lodging,

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and other expenses at the basic course are the responsibility of the trainee's agency.

(4) The one-week refresher course reviews basic principles and explores current developments in bomb disposal. The bomb technicians are placed in a variety of simulations which challenge their technical ability. HDS conducts twelve refresher courses each year with sixteen bomb technicians enrolled in each. The HDS refresher course is open to all basic course graduates. Reimbursement for travel, lodging, and subsistence is available from the FBI.

(5) ATTENDANCE PROCEDURE:

Any full-time, sworn employee of a local, state or federal public safety agency with a render safe responsibility may be selected for the HDS attendance. Priority selection status is given to local and state personnel with full-time render safe responsibilities. Departments which sponsor students for the basic course must certify that the required safety equipment (full-coverage bomb suit, portable X-ray system, disrupter, demolition kit, and quality hand tools) is in the agency's inventory. Applications must be reviewed by the field office Special Agent bomb technician working with the Police Training Coordinator.

(a) All applicants must: (See MIOG, Part II, 13-16.9.7.)

1. Be volunteers;
2. Be full-time, sworn, salaried officers assigned to bona fide public safety agencies;
3. Not be color blind;
4. Have vision in each eye which is not worse than 20/200 uncorrected and correctable to 20/20;
5. Not have a hearing loss in either ear which is greater than 60 decibels; and
6. Be in good health with no permanent or limiting disabilities.
7. Must fall within the Bureau weight chart (National Academy Standards) or have no more than 22 percent body fat.

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(b) All applicants should:

1. Be committed to bomb technician work for a minimum of five years after graduation from HDS;
2. Have a minimum of five years' experience with their respective agencies prior to the date of the application;
3. Upon graduation, be assigned to duties normally associated with those of a bomb technician; and
4. Upon graduation, attend the one-week refresher course every 36 months.

(c) Requests for attendance must be directed to the local FBI field division, Attention: Police Training Coordinator. The requesting agency will receive:

Form FD-731	Information Form
Form FD-732	Waiver Form
SF-88	Medical Examination Form
Form 2-205	Attachment to Medical Form
FD-406	Authority to Release Information
	Performance Standard Test Certification (Refresher candidates)

(d) The FBI field division submitting the application is responsible for the following investigative steps:

1. Office indices check
2. Birth date verification
3. Credit and arrest check for five-year period preceding date of application. Authority to Release Information (FD-406) must be obtained from the nominee at onset of the investigation. Credit checks will be conducted by contractor personnel at FBIHQ.

Any information developed which reflects unfavorably upon character or reputation of nominee must be completely resolved. SAC should make his/her recommendation based on results of investigation. Selection will be based on availability of space, number of technicians already trained in that area, and specific need of department.

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13-16.9.5 Bomb Technician's Seminar

Regional seminars are conducted by Bomb Data Center staff and field Special Agent bomb technicians on the construction and utilization of improvised explosive devices, techniques for remote neutralization, discussions of research and development and a review of new technical equipment. This seminar is only available to trained bomb technicians who are graduates of the FBI Hazardous Devices School.

EFFECTIVE: 04/07/97

13-16.9.6 Post-Blast Investigator Seminar

Regional seminars are conducted by Bomb Data Center staff on explosives recognition, investigative techniques and bomb crime scene procedures. This seminar is available to law enforcement personnel with investigative responsibilities in bombing cases.

EFFECTIVE: 04/07/97

13-16.9.7 Special Agent Bomb Technician Program

The Special Agent bomb technician program is voluntary and requires attendance at a four-week explosives course at the Hazardous Devices School, Redstone Arsenal. The purpose of this training, initiated more than fifteen years ago, is to provide specialized explosive training to Special Agents to improve the technical proficiency in bomb investigations and to establish a liaison link with public safety bomb squads. When the FBI assumed administration of the Hazardous Devices School in 1981, the cadre of Special Agent bomb technicians became an integral part of the Bureau's program of bomb technician and bomb investigator training.

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(1) Special Agents nominated for this training shall meet the following criteria:

(a) Be an experienced investigator with a minimum of two years in the field.

(b) Have an overall Performance Appraisal Report rating of "Superior."

(c) Be in good physical condition, meeting the minimum standards detailed in section 13-16.9.4 (5) (a).

(d) Have a minimum of five years of service remaining prior to retirement.

(e) Successfully complete the recommended elements of the "Performance Standard Test."

(f) Be a volunteer, recognizing the inherent dangers of working with live explosives.

(g) Be recommended for the program by the SAC, to include observations regarding the candidate with the respect to:

1. oral/written communication skills.

2. ability to function well under stressful conditions.

3. availability for travel, both overseas and domestic, to assist in Bureau special assignments; major incidents, and regional police training.

4. demonstrated ability to work in a team environment. (See (i).)

(h) It is recommended that candidates for the program serve as members of the field division's Evidence Response Team; become certified police instructors; and have no other significant collateral duties.

(i) Following successful completion of the HDS Basic Course, Special Agent bomb technicians will serve an 18-month probationary period. Probationary Special Agent bomb technicians will be evaluated by Materials and Devices Unit personnel in the areas outlined in 13-16.9.7 (1) (g) 1. through 4. and performance of

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the duties outlined in 13-16.9.7 (2) (a) ADMINISTRATIVE, (b) LIAISON, (c) TACTICAL, and (d) TRAINING. Additional evaluation will take place during the annual recertification seminar and through participation at a Regional Bomb Technician Seminar.

(2) Special Agent bomb technician, in addition to other duties as a field investigator, has the following responsibilities:

(a) ADMINISTRATIVE

1. Provides information and advice to the SAC in all matters involving the use, possession or transportation of explosives.
2. Coordinates the recovery of explosive evidence in FBI investigative matters as well as its safe shipment to the FBI Laboratory.
3. Compiles and reports to the Bomb Data Center information involving explosive devices encountered by public safety bomb squads and military EOD units.
4. Expeditiously reports to the Laboratory Division by telephone extraordinary bomb related events.
5. Assists the field office management in the development of emergency planning for a bombing occurrence.
6. Assists the office crime scene coordinator as necessary regarding bombing crime scene examinations and evidence collection.
7. Obtains and controls proper bunker space for the storage of explosive evidence, training devices, and tactical items.
8. Advises the Bomb Data Center of upcoming special events where specialized equipment may be required.

(b) LIAISON

1. Establishes and maintains communication with local military and civilian bomb disposal units.
2. Establishes and maintains communication with professional organizations (i.e., International Association of Bomb

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Technicians and Investigators - IABTI) in their area, to include membership in and attendance at organizational functions.

3. Establishes and maintains communication with other federal agencies to ensure information is obtained regarding their encounters with explosives.

4. Stimulates participation in the Bomb Data Center publication program by encouraging innovative research or recording of unusual incidents by local bomb squads.

(c) TACTICAL

1. Acts as an information link between field office management and its tactical units in situations involving explosives.

2. Assists in assessments of potential explosive and/or booby trap devices encountered during investigative, arrest and search operations.

3. Is available to tactical units for "on scene" technical assistance and direct liaison with supporting bomb squad personnel.

(d) TRAINING

1. Plans and conducts periodic training for FBI personnel as office needs dictate. Such training may include bomb threat assessment, search techniques, explosives recognition or other similar courses.

2. Assists the Materials and Devices Unit in its national training program conducted regionally throughout the year by participating in at least one regional school.

3. Assists the field office police training coordinator with local requests for bomb-related instruction.

4. In addition to regional schools MUST participate in the Materials and Device Unit sponsored annual recertification program to assess technical abilities and safe explosive handling practices.

EXPLOSIVE BREACHING TECHNIQUE IS NOT AUTHORIZED FOR ANY
FBI OR POLICE TRAINING PROGRAM

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The Laboratory Division has trained personnel to provide additional support to the SAC in situations in which explosives may be anticipated. BOMBING TECHNICIANS OF THE MATERIALS AND DEVICES UNIT are available to provide advice on safety perimeters at a bomb location, remote handling procedures for the render safe of an improvised explosive device, effect liaison with the faculty of HDS, direct access to the worldwide system of bomb data centers and provide direct liaison with public safety bomb squads. EXPLOSIVES SPECIALISTS OF THE MATERIALS AND DEVICES UNIT will provide assistance in the processing of bombing crime scenes, searches of bomb factories, [REDACTED] support and necessary forensic assistance. J2/b7E

EFFECTIVE: 04/07/97

13-16.9.8 Render Safe Equipment

(1) The primary goal of the bomb technician training at the Hazardous Devices School (HDS) is to save lives. Bomb technicians are taught remote render safe techniques so as to minimize the dangers inherent in bomb disposal activity. NO "HANDS ON" RENDER SAFE PROCEDURE IS RECOMMENDED UNLESS A LIFE IS IN IMMINENT DANGER AND THERE IS NO ALTERNATIVE. In order to support this philosophy, the FBI has included a wide range of high technology equipment in its training program. This equipment is utilized to illustrate the variety of remote techniques, to stimulate the acquisition of similar equipment by bomb squads and to provide an assessment of the capabilities of the equipment.

(2) The Laboratory Division possesses two self-contained bomb disposal vehicles. The vehicles contain a state-of-the-art bomb containment sphere which is designed to absorb the deadly pressure and fragmentation of an explosive device. Each truck also contains a bomb disposal robot and a bomb protection suit. When combined with other render safe equipment on the truck, the response package provides a variety of low-risk alternatives for a render safe operation. All of the equipment is designed for use during the critical time between detection of the bomb and detonation. The technology applies to initial assessment of the improvised explosive device, remote removal or on-site disruption. This equipment is available to augment public safety bomb squad or military EOD equipment at special events.

(3) All SA bomb technicians are trained in the use of

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general bomb disposal equipment, such as x-ray machines and disrupters. Bomb Data Center and HDS personnel also train on the use of more technical bomb disposal equipment.

EFFECTIVE: 04/07/97

| 13-16.9.9 Deleted |

EFFECTIVE: 04/07/97

13-16.9.10 Requests for Assistance

(1) All direct operational support performed by the Materials and Devices Unit must be in response to requests made by the SAC and coordinated with the Criminal Investigative Division.

(2) Laboratory Division personnel and equipment as well as field SA bomb technicians can provide assistance in the following situations wherein the use of explosives might be anticipated:

(a) Major Case - When situation involves FBI or Task Force jurisdiction, raid or arrest planning should include the availability of the local public safety bomb squad or military EOD units (Note Posse Comitatus restrictions on military seizure or processing of evidence). If other agency support is not feasible, SAC may request FBIHQ assistance.

(b) Special Event/Major Case - Local or state law enforcement is usually the lead agency in physical security matters with FBI jurisdiction aligned with terrorism possibilities. Public safety bomb squad may request priority training assistance at HDS or in a regional seminar. Technical support for the principal bomb squad may be requested through the local SAC and FBIHQ.

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EFFECTIVE: 04/07/97

13-17 DOCUMENT EXAMINATION (See MIOG, Part I, 7-14.9 (1) and
NFIPM, Part 1, 7-6.1.)

Document examination consists for the most part of a side-by-side comparison of handwriting, typewriting, and other written and printed items to establish origin or authenticity. In addition to submitting documents for document examinations, consideration should always be given to submitting them for latent fingerprint examinations (see Part II, Section 15 of this manual). Latent fingerprint examinations are conducted, if requested, after the original document has been photographed and the requested document examinations have been conducted.

EFFECTIVE: 07/25/97

13-17.1 Conclusions

Conclusions are positive and reliable when the examinations are conducted by competent experts. (Note: Age, sex, character, etc., cannot be determined in handwriting. Pseudoexperts in this field, "graphologists" or "graphoanalysts," purport to have this ability, but have no scientific validity.)

EFFECTIVE: 07/25/97

13-17.1.1 Identification

This conclusion is a definitive conclusion stating to the exclusion of all other sources.

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EFFECTIVE: 07/25/97

13-17.1.2 "No Conclusion" Examinations

In some document examinations, a "no conclusion" is reached as opposed to an "identification" or examination conclusion. Some of the reasons for a "no conclusion" are:

(1) Limited questioned material

(2) Inadequate known material

(3) Lack of contemporaneous standards (long interval of time exists between the preparation of the questioned and known material)

(4) Distortion/disguise (definite conclusions often impossible)

(5) Lack of sufficiently identifying characteristics (although ample quantities of both questioned and known samples are available) and/or

(6) Elimination of a suspect source.

EFFECTIVE: 07/25/97

13-17.2 Documentary Evidence

All efforts must be made to maintain and preserve documentary evidence in the same condition as it was received. This evidence must not be folded, torn, tampered with, marked or touched unnecessarily, stamped, soiled, subjected to indented writing, mutilated, etc. Each item of evidence should be placed in a separate envelope/container. Photocopies should be placed in paper rather than plastic envelopes as photocopies often stick to plastic mutilating the document.

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EFFECTIVE: 07/25/97

13-17.2.1 Marking for Identification

Evidence will be marked according to FBI Laboratory policy.

EFFECTIVE: 07/25/97

13-17.2.2 Original vs. Photocopy

The original evidence itself rather than a photocopy (copy made with a photocopier machine) should be submitted because many examinations can be conducted only on the original. Also, the original is utilized by the examiner to prepare court exhibits. Limited examinations, however, can be made using good quality photographs of the original evidence. A photocopy is normally satisfactory for file searches. In no case should the inability to forward the original evidence constitute a valid reason for not requesting an examination.

EFFECTIVE: 07/25/97

13-17.2.3 Obtaining Known Handwriting Samples (See MIOG, Part I, 87-5.2, 91-17.1.5; Part II, 13-6.7 (44).)

The following guidelines are to be used to obtain known handwriting and/or hand printing samples from a person (writer).

(1) Reproduce the original conditions as nearly as possible, the same text, size of paper, size of writing, space available for the writing, type of writing instrument, etc. Should always try to duplicate. Obtain the full text of the questioned writing in word-for-word order at least once, if possible. Signatures and less extensive writing should be prepared several times, each time on a different piece of paper. In hand printing cases, both upper case (capital) and lower case (small) samples

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| should be obtained. |

(2) Obtain samples from dictation until it is believed normal writing has been produced (the number of samples necessary cannot be determined in advance).

(3) Do not allow the writer to see either the original document in question or a photograph thereof prior to or during the taking of the samples.

(4) Remove each sample from the sight of the writer as soon as it is completed.

(5) Do not give instructions in spelling, punctuation or arrangement.

(6) | Deleted |

| (7) | In forgery cases the Laboratory should also be furnished with genuine signatures of the person whose name is | allegedly | forged.

| (8) | Obtain samples with both the right and left hands.

| (9) | Obtain samples written rapidly, slowly, and at varied slants.

| (10) | Obtain samples of supplementary writings such as sketches, drawings, manner of addressing an envelope, etc.

| (11) | Writer should initial and date each page.

| (12) | Witness each sample with date and initials | (and | name).

| (13) | Deleted

| (14) | If readily available, samples of undictated writing should be obtained, such as application for employment, social or business correspondence, school papers, | canceled checks, | etc.

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13-17.2.4 Obtaining Known Typewriting Samples (See MIOG, Part II,
13-6.7(64))

The following guidelines are to be used to obtain known typewriting samples.

(1) | If the typewriter is equipped with a carbon film ("one-time") ribbon, remove the ribbon prior to taking exemplars and submit it to the Laboratory whenever available. |

(2) | Obtain a full word-for-word text of the message in question using as nearly as possible the same degree of touch as used in the questioned text.

(3) | Obtain | at least two | samples of the complete keyboard (all letters, numerals and | symbols both upper and lower case). |

(4) | Obtain pertinent identifying data regarding the typewriter (make, model, serial number, etc.) and type this data as well as information such as the date sample was obtained, name of person taking the sample, where the typewriter was located, etc., on the sample.

(5) | Obtain data, if available, regarding when the machine was last serviced or repaired.

(6) | Properly witness each sample (initial and date on reverse side).

(7) | If the typewriter uses a cloth ribbon also obtain a stencil sample as follows:

(a) Physically remove the cloth ribbon from the typewriter or mechanically move it by placing the ribbon mechanism in the stencil position

(b) Place a piece of carbon paper over a piece of ordinary paper and insert them both in the typewriter

(c) Begin typing and allow the faces of the type to strike the carbon paper directly, and

(d) Submit the stencil sample, which is the typed text on the ordinary paper, to the Laboratory. (A stencil sample gives very clear impressions of the typefaces.)

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(8) If the typewriter contains no ribbon and one is not readily available, obtain a stencil sample by following steps (b) through (d) above.

EFFECTIVE: 07/25/97

13-17.2.5 Obtaining Known Photocopy Samples

The following guidelines are to be used when obtaining known samples from photocopy machines.

- (1) Obtain at least 10 samples with no document on the glass plate and the cover down.
- (2) Obtain at least 10 samples with no document on the glass plate and the cover up.
- (3) Obtain at least 10 samples with a document on the glass plate and the cover down.
- (4) Identify each sample as to make, model, and conditions under which sample was made.
- (5) On the transmitting communication to the Laboratory, if possible, list any of the following information that can be obtained from the known photocopy machine:
 - (a) Toner - Locate toner supplies and record toner components, manufacturer, and descriptive information
 - (b) Paper - Sheet or Roll fed
 - (c) Options
 1. Color - Determine if the machine has optional color capabilities and what colors are available
 2. Editor - mask and trim, or editor board
 3. Reduction, enlargement, and zoom

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EFFECTIVE: 05/11/87

13-17.3 Requesting Examinations

When a document examination is desired, follow the instructions in paragraph 13-3.1 (Requests for Examination of Evidence) elsewhere in this section, and include in the requesting communication the following:

- (1) Which of the submitted items are the questioned and the known specimens
- (2) Which questioned items are to be forwarded for latent fingerprint processing, and
- (3) Personal characteristics of the writer, such as any nervousness, disability, illness, injury, etc.

EFFECTIVE: 07/25/97

13-17.4 Types of Document Examinations

- (1) Handwriting (script)
 - (a) If a traced signature, try to locate the document containing the pattern or master signature from which traced.
 - (b) If a simulated or copied signature, include samples of genuine signatures to determine the extent of simulation.
 - (c) If a freehand signature, the forger has no knowledge of how the genuine signature looks.
- (2) Hand printing
- (3) Signature
 - (a) If a traced signature, try to locate the document containing the pattern or master signature from which traced.
 - (b) If a simulated or copied signature, include samples of genuine signatures to determine the extent of simulation.
 - (c) If a freehand signature, the forger has no knowledge of how the genuine signature looks.
- (4) Typewriting

(a)

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ba/b7E

[REDACTED]

(b) An examination of questioned typewriting can assist in determining a possible make and model of typewriter and/or typewriting element used to prepare the material.

(c) Questioned and known typewriting specimens of the same size and style of type cannot be identified unless individual defects or wear characteristics are exhibited in the samples.

(5) Paper

(a) Definite identification is seldom possible.

(b) Consideration should be given to indented writing, watermarks, tool or knife marks along the edges, whether the paper was torn in a manner to leave stubs in a tablet, and whether torn edges are suitable for comparison with torn edges on a source item.

(c) Some paper examinations are partially destructive and will not be conducted unless specifically advised.

(6) Paper-fiber transfer

An examination of the original document must be conducted with the suspect carbon film typewriter ribbon to determine whether or not the typewriter ribbon was utilized in the preparation of the questioned document.

(7) Writing instruments (pencils, pens, crayons, ball-point pens)

(8) Checkwriters

(a) Examination of checkwriter impressions assists in determining the manufacturer of the machine used to produce the impressions.

(b) Positive identification of questioned with known samples is infrequent because the construction of checkwriting machines inhibits the development of unique identifying defects and wear characteristics.

(9) Printing, photocopying, and other duplication

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processes

(a) Printed documents may be associated as originating from a common source or may be identified with known printing paraphernalia.

(b) Photocopies may be associated as originating from the same source or may be identified with a particular machine.

| (10) | Indented writing

(a) Photographic, electrostatic, and lighting techniques are used to determine the context of indented notations.

(b) The document should not be folded or creased.

(c) Care should be taken to ensure accidental indented writings are not made in a document after its collection as evidence.

| (11) | Obliterated or eradicated writing

(a) Nondestructive methods include photography, using ultraviolet and infrared techniques, and microscopic examination.

(b) Staining methods may produce minor stains. The Laboratory should be advised whether minor staining may be applied.

| (12) | Used carbon paper

(a) Carbon paper should not be folded or creased.

(b) Examination may disclose the context of handwritten or typewritten material pertinent to an investigation.

| (13) | Burned or charred paper (See MIOG, Part II, 13-6.7.)

(a) Questioned entries on charred or burned paper may be observed with appropriate examination.

(b) Charred paper should be protected by a polyester film encapsulation method or shipped to the Laboratory in the original container in which it was burned at the crime scene. Contact the Laboratory for more specific instructions.

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(c) If above options are not feasible, ship the charred paper between layers of cotton in a rigid container.

(14) Dating of a document

(a) May be based on watermarks, letterhead or other printing, and typewriting.

(b) Determination of exact dating is highly unlikely; however, it is possible to determine when items became commercially available.

(15) Wet documents

(a) Material should be frozen before shipping items to the Investigative Operations and Support Section.

(b) Freeze-dry methods of preservation will permit items to dry and reduce risk of decomposition.

(16) Deleted

EFFECTIVE: 07/25/97

13-17.5 Standards Files (Containing Known Standards Supplied by Manufacturers and/or Gathered by FBI Employees)

(1) Office Equipment File

(a) Consists of original samples of typewriting, photocopy machines, printers, and facsimile machines, from both foreign and domestic countries.

(b) Portions of this file permit classification of questioned printed material on the basis of make and model.

(2) Watermark Standards

(a) An index of watermarks and brands used by paper manufacturers.

(b) Aids in tracing source or origin of paper.

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(3) Deleted

(4) Checkwriter Standards

(a) Collection of original checkwriter impressions.

(b) Permits classification of questioned checkwriter impressions as to make and model.

(5) Shoe Print and Tire Tread Standards (See MIOG, Part II, 13-19.1.5.)

(6) National Motor Vehicle Certificate of Title File

See 13-17.6(4) of this section for further information.

(7) Deleted

EFFECTIVE: 07/25/97

13-17.6 Reference Files - Material Collected Through Casework

(1) NATIONAL FRAUDULENT CHECK FILE

(a) Contains computerized and copies of samples of checks, writings, and other documentary material used by persons involved in fraudulent check schemes.

(b) Assists in identifying individuals involved in fraudulent check schemes and associates questioned material in various cases as having originated from a common source.

(c) A search through the file will be made even though the questioned material was previously searched through a check file maintained by a state or local agency, or technically examined by another agency.

(2) ANONYMOUS LETTER FILE (See MIOG, Part I, 91-17.2.)

(a) Consists of a computerized reference collection,

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including digitized copies of notes and extortion and threatening letters. The criteria for an Anonymous Letter File search is as follows:

1. Kidnapping
2. Bomb threats
3. Case of the times (Abortion Clinics, Church Burnings, etc.)
4. Threats to Federal Officials
5. Contamination Issues.

(b) Assists in identifying the source of such questioned material and associates questioned material in various cases as having originated from a common source.

(c) Letters of domestic abusive or "crank" nature are neither searched nor added to the file, unless mitigating circumstances so warrant.

(d) Letters determined to be of no prosecutive value are not to be submitted to the Laboratory, unless mitigating circumstances so warrant.

(3) BANK ROBBERY NOTE FILE (See MIOG, Part I, 91-17.1.)

(a) Consists of computerized and digitized copies of writings of known bank robbers, of holdup notes found in the possession of known suspects and of notes used in actual holdups, or attempted holdups, of banks and other establishments.

(b) Assists in identifying questioned notes with known writers and associates questioned notes in various robbery cases as having originated from a common source.

(c) Notes and miscellaneous questioned writings found on counters and wastebaskets in banks which are obviously the work of mischief or prank will NOT be searched, and will NOT be added unless mitigating circumstances so warrant.

(4) NATIONAL MOTOR VEHICLE CERTIFICATE OF TITLE FILE (See MIOG, Part II, 13-17.5 (6).)

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(a) Consists of a questioned section comprised of
copies of counterfeit and/or altered motor vehicle titles, by state,
utilized in the transfer or sale of a stolen motor vehicle.

(b) Consists of a known section comprised of
authentic motor vehicle titles from each state.

(c) Assists in identifying counterfeit titles as
having originated from a common source.

(d) Will provide a known standard for a
determination to be made as to the authenticity of a questioned title.

(5) Deleted

(6) Deleted

EFFECTIVE: 07/25/97

| 13-18 PHOTOGRAPHIC EXAMINATIONS | (MOVED TO 13-7.6) |

EFFECTIVE: 07/25/97

13-18.1 Deleted

EFFECTIVE: 07/25/97

| 13-18.2 | Deleted |

EFFECTIVE: 02/12/92

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13-18.3 Deleted

EFFECTIVE: 02/12/92

| 13-18.4 | Deleted |

EFFECTIVE: 02/12/92

| 13-18.5 | Deleted |

EFFECTIVE: 02/12/92

13-19 SHOE PRINT AND TIRE TREAD EXAMINATIONS

EFFECTIVE: 02/12/92

| 13-19.1 How to Collect | the | Physical Evidence | (See MIOG, Part II,
10-3, 13-6.4.6.) |

Shoe | and tire tread impression | evidence found at the scene of a crime provides important evidence for investigation and eventual prosecution of the case. All impressions should first be photographed. The | evidence or item bearing the | original impression should then be transmitted to the Laboratory, if | possible. This is easily possible in cases when the impression is on broken glass, paper, or on another surface which can be removed from the crime scene; however, it should also be seriously considered and extended to bulkier items such as doors, pieces of flooring, etc., particularly in violent crimes. If the original item cannot be removed from the scene and transmitted to the Laboratory, examination quality photographs, followed by casting or lifting techniques should be made to complete the recovery of that evidence. These techniques are described below. |

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EFFECTIVE: 04/07/97

13-19.1.1 Photographing and Documenting the Evidence (See MIOG,
Part II, 13-6.4.6.)

(1) GENERAL CRIME SCENE PHOTOGRAPHS AND NOTES

General crime scene photographs are those which are taken from various distances and angles to capture the general appearance of the scene and to document certain facts about the scene. When taking general crime scene photographs of a shoe or tire impression, they should include both long-range, mid-range and close-range color photographs of the evidence. ISO 200 or 400 color film should be used. These photographs should be taken to create a zoom-in effect to show the relationship of the impressions to the surrounding area. THESE PHOTOGRAPHS ARE NOT SUITABLE FOR DETAILED FOOTWEAR OR TIRE EXAMINATIONS.

(2) EXAMINATION QUALITY PHOTOGRAPHS

Examination quality photographs are those which are taken from directly over the impressions utilizing a tripod, a scale and special lighting. The purpose of these photographs is to take a photograph which can be enlarged to the natural size via the scale and which reflects a high degree of detail. THESE PHOTOGRAPHS ARE USED FOR FORENSIC EXAMINATIONS.

The following is a procedure list for taking examination quality photographs:

(a) USE A SCALE IN EVERY EXPOSURE. Position a finely divided and accurate scale, such as a flat metric ruler, next to and on the same plane as the impression. A label may be placed in the picture to identify which impression you are photographing, in order to associate the photograph to the general crime scene photographs, crime scene sketches, etc.

(b) USE A QUALITY CAMERA. The camera should ideally be a larger format camera; however, suitable photographs can be taken with a MANUAL FOCUS 35 mm camera if proper procedures are followed. The camera should be equipped with a normal macro lens or a zoom lens in the 35-80 mm range. Load the camera with fine-grained color or black and white ISO 125 film. Check the ISO setting on the camera if the camera does not adjust to it automatically. Attach a

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cable shutter release if needed.

(c) Adjust the height and position of the camera on a tripod and position it directly over the impression so that the shoe impression and ruler nearly fills the frame. Make sure the film is parallel to the impression's surface, i.e., the lens is perpendicular to the impression.

(d) Determine what special lighting will be used. In most cases, oblique lighting should be used.

(e) For oblique lighting, a 6-foot flash extension cord must be used so that the flash can be held about 4-5 feet from the impression. This distance will allow for an even exposure across the impression. For a two-dimensional impression, such as a dust impression on a bank countertop, the flash should be positioned about 4 feet away from the impression but only about 1 inch above the surface the impression is on so that the light will graze the impressed area. For a three-dimensional impression, first decide what the height of the flash should be for the impression. The deeper the impression the higher the flash. The more shallow the impression, the lower the flash. The purpose of the oblique light is to lighten the higher areas of the impression while shadowing the lower depressed areas of the impression, thus providing increased contrast between the two. Block out any bright ambient light, particularly if the impression is outside in daylight. This can be achieved by draping a black cloth around part of the tripod or simply having someone hold the black cloth or a piece of cardboard or position their body next to the impression to block out the light and darken the area being photographed. This is very important and will maximize the benefit of the oblique light and result in much greater contrast and detail in the photograph. Several photographs with the oblique flash should be taken from at least three different sides of the impression. Always use a scale!

(f) For three-dimensional impressions, close down the f-stop to f-22 for greater "depth of field." Always make sure the camera is set on flash synchronization.

(g) ALWAYS FOCUS THE CAMERA! FOCUS THE CAMERA ON THE IMPRESSION, NOT THE SCALE, PRIOR TO EACH EXPOSURE. Use a cable shutter release or the camera timer to prevent movement of the camera during exposure.

(h) Take several exposures at each position, varying the light position, particularly if you feel this impression

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is a difficult one to photograph.

(i) TAKE SEVERAL PHOTOGRAPHS OF EACH IMPRESSION.

(3) PHOTOGRAPHIC EQUIPMENT KIT CHECKLIST

Having a photographic kit prepared in advance, will help result in the proper photographic treatment of the evidence. Below is a list of items which should be included in a crime scene kit to cover both the needs of general crime scene photography and "examination quality" photography:

Camera(s) with manual focus and interchangeable lenses. Macro or zoom lens or wide angle lens for general crime scene photos. Cable shutter release. Electronic flash. Long "Flash Extension Cord" (6 feet). Light meter (for incident light as well as flash). Device for checking focus (focus loop or macro focus aid). Tripod (preferably the inverted type). Fine-grained black/white and color films (ISO 125 or less). Color film for general crime scene (200-400 ISO). Scale (rigid and flat ruler, at least 6 inches long). Labels and writing instruments. Numbered cones or markers for general crime scene. White chart board for backfill lighting. Black cloth or screen for ambient light shield. Lens filters.

EFFECTIVE: 07/25/97

13-19.1.2 Casting Three-Dimensional Shoe and Tire Impressions
(See MIOG, Part II, 13-6.4.6 and 13-6.7 (56).)

Casting is the filling of a three-dimensional impression, usually in soil, sand or snow, to capture the maximum amount of detail in that impression for examination purposes. DENTAL STONE with a PSI rating of 8,000 or more should be used for casting footwear and tire impressions. Dental Stone (or Die Stone), available through local dental supply houses, having a minimum PSI of 8,000 or above, preferably colored, is the desired casting medium. The PSI is a compression strength measurement which should be listed on the container along with the proper ratio of powder to water which should be used for mixing. There is no need to buy premixed or modified dental stone from forensic suppliers, some of which have not been satisfactory.

NOTE: Plasters, plaster of paris or dental plasters are NOT

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SUFFICIENTLY HARD, do not resist abrasion when they are cleaned and, therefore, should NOT be used.

(1) ZIP-LOCK BAG METHOD FOR DENTAL STONE CASTING

(a) "Zip-lock" bags are highly recommended as a means of conveniently storing premeasured amounts of dental stone powder. A zip-lock bag measuring approximately 8 by 12 inches can easily store 2 pounds of dental stone material. Each footwear impression normally can be cast with 2 pounds. With several premeasured zip-lock bags stored and on hand, the casting of impressions at the crime scene will only involve the addition of a few ounces of water to each bag as needed. The bag can be used to both mix and pour the dental stone mixture. Those who have tried this method have found that it is a quick, clean, and convenient method of casting.

(b) Dental stone, like other gypsum materials is usually sold in quantities of 25, 50, or 100 pounds. By obtaining a source of zip-lock bags, approximately 8 by 12 inches in size, these larger containers of dental stone can be quickly divided into 2 pound portions in each bag. The bags can be laid on their side and flattened out to remove the excess air and zipped closed. The bags will keep the casting material dry and will be convenient to use when needed.

(c) When the time comes to prepare a cast, the preprepared zip-lock bags of dental stone are ready and conveniently available. To reach the necessary viscosity, dental stone requires approximately 5 to 6 ounces of water per pound. Die stone will require even less water. For a 2 pound bag of dental stone, approximately 9 to 10 ounces of water will need to be added. This can be conveniently done by utilizing a 12 ounce soda can or other measure. Since the exact amount of casting material will vary slightly from bag to bag, and the powder-to-water ratio will vary slightly from one brand of dental stone or die stone to another, the following procedure is recommended. Pour about two thirds of the estimated water needed into the bag. Allow the water to soak into the dental stone for two minutes. Zip the bag closed and mix the casting material by massaging and gently squeezing the bag. If more water is needed, add an ounce of water and continue to mix the material. Make sure that all of the material in the corners of the bag is mixed. If too much water is accidentally added, simply add a small amount of dental stone from another bag. The proper viscosity should be that of pancake batter or thick cream. The mixture should not be watery nor should it be so thick that it won't flow into an impression. When the

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water and dental stone are completely mixed and the proper viscosity is reached, the casting material is ready to be poured. This is easily accomplished by unzipping the bag and, holding it at ground level next to the edge of the impression, and carefully pouring the material into the impression.

(d) The zip-lock bag method has proven to be a very popular one and provides a convenient, clean and rapid way of preparing a quality cast. If more than one cast is being prepared, the person conducting the casting can solicit the help of other individuals to assist in the mixing portion of this process.

(2) MIXING DENTAL STONE IN A BUCKET

Although the zip-lock bag method is distinctly favorable for footwear impressions, the normal size of most tire tread impressions would necessitate the mixing of larger amounts. If a large quantity of dental stone is to be mixed at one time in a bucket, such as for a tire impression, the quantity of powder to water should first be determined. For instance, if 10 pounds of dental stone identical to the aforementioned example is used, where every 2 pounds of dental stone required 9.6 ounces water, 10 pounds would require 48 ounces of water. The water should first be added to the bucket and then the dental stone should be sifted into the water. The mixture should be stirred thoroughly when adding the powder and continuously for at least three minutes. Once the material is thoroughly mixed, the material can be poured into the impressed area.

(3) POURING THE CASTING MATERIAL

(a) Whether a form is used or not and whether the casting material is mixed in zip-lock bags or in buckets, the procedure and precautions for pouring the casting material into the impressed area are the same. Casting material has sufficient weight and volume to easily erode and destroy valuable detail if it is carelessly poured directly onto the impression. This is especially true in the case of fragile soil and sand impressions. When pouring the casting material from the zip-lock bags, the bag should be placed next to the impression so that the casting material does not cascade onto the impression, but instead, falls on the adjacent ground after which it will flow into the impression. When pouring the material from a bucket into the impression, a flat stick or a spoon should be held over an area to the side of the impression. The casting material can be poured from the bucket onto the stick or spoon in a way so that the spoon or stick will absorb the impact of the dental stone which will then flow harmlessly into the impression. With impressions which

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are on a slope or with impressions which have forms around them, the casting material could be poured from the bucket onto the higher ground next to the impression in a way so that the casting material would then naturally flow into the impression. Again, it should be emphasized that the entire impression must be filled with casting material until it has OVERFLOWED.

(b) Sometimes when mixing large amounts of dental stone in a bucket the viscosity of the dental stone may be ideal at the beginning of the pour but too viscous by the end of the pour. This is due to the settling of the mixture. Making sure the dental stone and water are thoroughly mixed immediately before pouring each impression can help offset this.

(c) Occasionally, whether the dental stone mixture is in a bucket or a bag, it is not apparent that the mixture is too viscous until it has been actually poured. Of course, then it is too late to change the mixture. The viscous mixture can be encouraged to flow into the impression simply by taking your finger or a small stick and vibrating it back and forth on the surface of the mixture. This will help the dental stone to relax and flow into the impression. Be careful not to put the stick or finger more than about 1/4 inch below the surface of the casting material as it might damage the impression.

(d) Before the cast completely hardens, it is possible to scratch the date, your initials and other needed information onto the back side of it. An alternate way of identifying the cast is to set a paper clip into the back of the cast before it sets. When the cast sets, an identifying tag can be attached to the paper clip.

(e) The cast should then be left undisturbed for at least 20 to 30 minutes in warm weather. If the temperature is cold, the cast should be allowed to sit considerably longer. Many casts have been destroyed or damaged because they were lifted too soon. When the time has come to lift the cast, care should be taken so as not to damage it. If the cast has been poured in sand or loose soil, it should lift very easily. Casts which are poured in heavier soils such as mud or clay, may require more careful treatment when being lifted.

(f) Allow the cast to air dry for AT LEAST 48 HOURS before cleaning it. It does not reach its total hardness for 24 to 48 hours.

(4) CLEANING A DENTAL STONE CAST

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Cleaning a dental stone cast should be left to the examiner after drying for 48 hours and thoroughly attaining maximum hardness. Dental stone casts made in sand or light soil can be cleaned simply by using water and a soft brush. Those casts poured in heavy clay soils which adhere to the cast surface can be cleaned by submerging the cast in a saturated solution of potassium sulfate for about 30 - 60 minutes. This will assist in the removal of soil from its surface. A soft brush can be carefully used to help free stubborn soil. Afterwards, rinse the cast thoroughly in water and then allow the cast to thoroughly air dry.

EFFECTIVE: 07/25/97

13-19.1.3 Lifting Two-Dimensional Impressions from Surfaces
(See MIOG, Part II, 13-6.7 (61).)

Lifting an impression allows for the transfer of a two-dimensional residue or dust impression to a lifting film giving it greater contrast. It also allows for it to be transported to the laboratory and photographed.

Lifting can be accomplished with an electrostatic lifting device (useful for dry impressions of dry origin), with gelatin lifting materials (useful for both dry and wet origin impressions) and adhesive lifting materials (used only for lifting impressions which have been developed with fingerprint powder and which are on nonporous surfaces).

(1) ELECTROSTATIC LIFTING DEVICE FOR LIFTING DRY RESIDUE IMPRESSIONS

(a) With the electrostatic lifting device, footwear impressions can be lifted from virtually any surface, both porous and nonporous. The device works best on DRY DUST OR DRY RESIDUE FOOTWEAR IMPRESSIONS WHICH ARE ON SURFACES THAT ARE RELATIVELY CLEAN. For impressions which fall into that category, the lifting device is excellent at lifting footwear impressions. If the impressions were wet when they were made or if they become wet or damp prior to lifting, the electrostatic lifting device WILL WORK POORLY OR NOT AT ALL. It is important to understand that THE ELECTROSTATIC LIFTING DEVICE IS USEFUL FOR DRY IMPRESSIONS AND NOT IMPRESSIONS OF WET ORIGINS. It is also important to remember that impressions which do

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not lift are NOT destroyed. Therefore, in cases where it is unknown whether an impression is of wet or dry origin, the use of the electrostatic lifting device will not risk the loss of or damage to the impression.

(b) It has always been a difficult, if not impossible, to successfully photograph and retrieve certain types of dust and residue footwear impressions, particularly if the impressions were on a surface where contrast was poor, on textured surfaces or in instances where the impressions were either latent or were barely visible. The electrostatic lifting device now makes it possible to both locate and retrieve footwear impressions of this type which have been previously overlooked, ignored, or lost in unsuccessful attempts to retrieve them. In fact, it may also be used to lift totally latent impressions from surfaces where it is suspected footwear impressions may be present even though they cannot be seen. It is therefore an excellent crime scene device which can be used to make a "blind search" of areas where it is likely that the suspect walked and therefore could potentially contain latent but retrievable dry residue impressions.

(c) The best way to familiarize oneself with the usage, applications and limitations of the electrostatic lifting device is to try a variety of lifting procedures on a variety of both dry and wet origin impressions and on a variety of surfaces. Equipped with this knowledge and experience, the use of the electrostatic lifting device at crime scenes and in laboratory casework becomes an easy routine.

(d) Not all dry impressions can be "successfully" lifted. Attempts to lift residue footwear impressions on a dirty surface which itself contains loose residue will result in both the impression and the background residue being lifted together. The lifting film will be covered with residue and the footwear impression will be lost in it. However, if the shoes of the suspect are damp or sticky and walk through a dirty surface, it may be possible to detect "negative" impressions where the residue on the surface was removed and adhered to the shoe and the negative image of the shoe sole remained.

(2) PROCEDURE FOR USING ELECTROSTATIC LIFTING DEVICES

Most electrostatic lifting kits will be accompanied by instructions; however, some basic instructions are supplied here. To lift an impression with the electrostatic lifting device, the following procedures should be used:

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(a) POSITION THE GROUNDING DEVICE

The ground wire of the electrostatic lifting device must be attached to the ground plate or other grounding material. The ground plate should be positioned as follows:

1. If at all possible, position the ground plate beneath the impressed item. This would be the best choice in the case of impressions on paper, loose carpeting, and other movable items. Since the lifting film may be larger than the impressed item, a piece of clear chart board or similar nonconductive material must be used as a separator and should be placed between the impressed item and the ground plate to keep the lifting film separated from the ground plate. If the metal laminated layer of the lifting film is in contact with the ground plate, arcing will occur and the device will not work.

2. Very often the impression will be on a surface, such as a tile floor, where the ground plate cannot be placed beneath the impression. In those instances, position the ground plate at least 2 inches away from the lifting film and with the metal side of the ground plate facing the ground or surface.

3. If the impressed item is on surfaces such as a door, chair seat, etc., place the ground plate in the best position to be most effective. In the case of a door, the ground plate can be taped to the rear side of the door with the metal side facing the impression. In the case of the chair, it can be taped alongside the impression on the chair or beneath the seat. To be most effective, the metal side of the ground plate should be in maximum contact with the adjacent surface whenever possible.

4. Occasionally, the footwear impression will be on a metal object such as a car hood, metal cabinet or other metal object. In those cases, the ground plate can be used or the ground lead can be attached directly to the car frame or metal object. ON METAL SURFACES AN ALTERNATE PROCEDURE SHOULD BE USED FOR THE PLACEMENT OF THE LIFTING FILM. (SEE STEP #2 IN (b) BELOW.)

After positioning the ground plate, attach one end of the ground wire to it or in the case of a metal object, connect the ground lead to that object. Plug the other end of the ground lead into the voltage source.

(b) PREPARE AND POSITION THE LIFTING FILM OVER THE

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IMPRESSION

1. Position a piece of lifting film over the impression with the black side facing against the impression. The black side will face down and the metal laminated side will face up. The placement of the lifting film should be handled carefully so as not to disturb or smear the impression. NEVER slide the lifting material over the surface. The lifting film should not touch any part of the ground plate. It may be necessary to place a piece of clean chart board between the impressed item and the ground plate or to make other adjustments so that the film and ground plate are not in contact with one another.

2. In cases where the impressed surface is metal, carefully place a piece of clear, very thin (1 or 2 mil) mylar or polyester over the impression. Then place a slightly smaller piece of lifting film, black side down, over the mylar. The mylar should be bigger than the lifting film to assure that none of the black lifting film is touching the metal surface. Continue with the lifting procedure as outlined; however, remember that the lifted impression will now be on the mylar. The mylar and the black lifting film can be lifted and kept together to provide the necessary contrast.

3. The electrostatic lifting of some impressions, particularly those which are latent or which may not be detectable until after lifting, can leave the crime scene technician with a lifted impression which can no longer be oriented as to its direction in the crime scene. It has been suggested that marking the lifting film and the impressed surface will later facilitate the orientation of the lifted impression. The need for this step should be considered prior to making any lifts.

(c) PLACE THE PROBE ON THE LIFTING FILM

1. The tip of the hand-held probe should be held in contact against an edge of the metal laminated backing of the lifting film. There is no need to move the probe around during the charging of the film. It should remain in contact with the film during the entire procedure. THE VOLTAGE CAN NOW BE TURNED ON. It is usually only necessary to turn the voltage on a low setting although in cases where the current must travel through thicker materials, a higher setting will be required. The application of sufficient voltage will cause the lifting film to be pulled down tightly against the impression. In some instances air bubbles will be trapped beneath the film. These will often disappear in a few seconds. If any air bubbles remain trapped beneath the film they may be rolled out with a

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clean fingerprint roller or brayer. This should be done very gently by lightly passing the roller over the film. The weight of the roller is all the pressure that should be used. Excessive pressure while rolling the film may damage the impression. If arcing occurs between the film and the ground, either the power is set too high or part of the lifting film is touching or too close to the ground plate.

2. After the power is turned off, allow the probe to remain in contact with the film for approximately five seconds for the purpose of discharging the film. When this is done, the film can be seen to relax as the charge leaves it.

(d) REMOVE THE LIFTING FILM

1. The film can now be removed from the impressioned area by carefully peeling it off from one end to the other. Once the film is removed, lay it on a clean flat surface with the black side facing up. In a totally dark room examine the film carefully with oblique light to see if an impression has been transferred to it. If this is not possible at the crime scene, then all lifts should be saved until they can be examined in TOTAL DARKNESS. Film should never be discarded without first CAREFULLY EXAMINING THE FILM IN A DARKENED ROOM WITH THE AID OF A STRONG OBLIQUE LIGHT. Many times, film which is viewed in ambient lighting or without a strong oblique light source will initially appear to contain no impressions. Further examination of that film in total darkness with a strong oblique light often reveals the presence of valuable impressions.

2. Often many residue impressions are so heavy that the first lifting process actually results in a lifted impression with too much residue. In those cases, a second lift of the same impression should be made as it sometimes results in an impression which appears clearer and much better for examination.

(3) STORAGE OF THE LIFTING FILM AFTER LIFTING

(a) Lifted impressions are fragile and can easily be damaged if the film is not secured. The film often contains a residual charge which can attract other dust and debris or cause the film to cling to another surface. For that reason, the lifting film should be protected immediately after being removed from the impression.

(b) To properly preserve and store the impressioned item or lifting film containing an impression, it should be stored

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securely in a folder or in a shallow photographic paper box. Do not use pizza boxes or similar low-grade cardboard or cardboard boxes as the residual charge on the lifting film will pull dust from the cardboard and interfere with the lifted impression. If a folder is used for the film, place the film on one side of the folder and secure it with a piece of tape. If the film should slide around in the folder or is pulled out of the folder while it is closed, the delicate lift will be damaged. Whenever the lift must be removed, the folder should be opened first, followed by removal of the lift. When a shallow box is used, the impressed item or lift can be taped securely into the bottom of the box.

(c) Items which contain a dry residue footwear impression SHOULD NEVER BE WRAPPED IN PLASTIC OR STORED IN A PLASTIC BAG. If they are, a partial transfer of the impression to the plastic will take place.

EFFECTIVE: 07/25/97

13-19.1.4 | Other Enhancement/Recovery Considerations

Specialized photographic, physical and chemical enhancement techniques may be utilized in the Laboratory for all types of impressions, providing the original impressed item can be removed from the scene and submitted to the Laboratory.

EFFECTIVE: 04/07/97

13-19.1.5 Laboratory Examinations | (See MIOG, Part II, 13-17.5.) |

(1) Footwear Computer Database Collection

Extensive footwear design and reference materials are maintained in the Laboratory to assist in determining the manufacturer of a particular shoe or tire design.

(2) If known shoes or tires of suspects are obtained and transmitted to the Laboratory along with the questioned impression

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evidence, the Laboratory can make forensic comparisons and can determine:

- (a) If the suspect's shoes or tires correspond in design and size with the questioned impressions.
- (b) If the suspect's shoes or tires correspond in wear and other identifying characteristics allowing for A POSITIVE IDENTIFICATION.
- (c) That the shoe or tire designs can be eliminated.

EFFECTIVE: 07/25/97

| 13-20 | RACKETEERING | RECORDS ANALYSIS

EFFECTIVE: 05/25/90

13-20.1 Types of Specialized Assistance and Examinations Available

EFFECTIVE: 05/25/90

13-20.1.1 Bookmaking/Numbers Operations

Analysis and interpretation are made of handwritten and printed systems of recording wagering on sports events; policy and numbers betting based on horse and dog racing, stock market data, drawn numbers, etc. Testimony is given concerning interpretation of records and/or manner of conducting such gambling operations and terminology.

EFFECTIVE: 05/25/90

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13-20.1.2 Loan Sharking (Shylocking) Records

Analysis of accounting-type notations to determine amount of outstanding loans, amounts paid in accrued interest and principal, total number of loans, and true annual rate of interest computed by the actuarial method.

EFFECTIVE: 05/25/90

13-20.1.3 Prostitution

Prostitution records are analyzed to determine the scope of the business, including the number of employees, their roles, gross and net revenues, and other financial information.

EFFECTIVE: 05/25/90

13-20.1.4 Drug Records

Analysis and interpretation of records relating to illicit drug operations. Records are examined to identify the type of drugs being distributed, their gross and/or net weights or quantities, income generated, money flow, number of persons involved and other like information. Emphasis is placed on supporting drug cases resulting in judicial proceedings such as grand juries, criminal trials, sentencing hearings and forfeiture hearings.

EFFECTIVE: 05/25/90

13-20.1.5 Lotteries, etc.

Evidence of this nature would include lottery tickets, sports parlay cards, sweepstakes, tip tickets and boards, punchboards, and machine tickets. If the printing plates or numbering dies are located, it may be possible to prove that evidence collected was printed by the particular plate or die.

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EFFECTIVE: 05/25/90

13-20.1.6 Deleted

EFFECTIVE: 05/25/90

13-20.1.7 Money Laundering

Analysis and interpretation of records relating to money laundering business. Cryptic and actual business records are examined to determine the financial flow of the operations.

EFFECTIVE: 05/25/90

13-20.2 Types of Gambling Evidence

- (1) Sports wagering slips.
- (2) Numbers wagering slips.
- (3) Summaries of wagering slips or tallies including adding machine tapes used to calculate wagering or to summarize writer's accounts. Charting of wagers, systematically done to determine volume of wagering on various events.
- (4) Accounting and financial records or "bottom sheets" showing numerous accounts (sometimes code-designated), amounts and/or commissions paid to writers.
- (5) Related paraphernalia - sports schedules or line sheets, sports records materials, dream books, cut cards, parlay manuals, conversion charts, scratch sheets, racing forms, etc.
- (6) Semidestroyed material such as charred, shredded, torn or wet water-soluble paper.
- (7) Transcripts of pertinent legally obtained telephone conversations.
- (8) Mechanical, electro-mechanical and electronic video

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gambling devices, including coin-operated slot machines as well as devices which electronically simulate or depict the playing of card games, casino games, bingo, keno, lotteries, and horse races.

EFFECTIVE: 06/26/96

13-21 CRYPTANALYSIS

Because of the unique nature and wide scope of these examinations and of the material which may be available for examination, it may be appropriate to telephonically contact the Investigative Operations and Support Section of the FBI Laboratory to resolve any questions that might arise.

EFFECTIVE: 03/21/95

13-21.1 Types of Examinations

EFFECTIVE: 11/21/89

13-21.1.1 Cryptanalytic

- (1) Cryptograms or codes.
- (2) Notes or notebooks containing cryptic notations.
- (3)- Material containing symbols or unusual literal or numerical notations.
- (4) Correspondence or documents which might contain hidden intelligence, such as
 - (a) Marked letters or numbers.
 - (b) Double meaning, wherein certain words and/or phrases are given arbitrary meanings by the writer.

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(c) Concealment ciphers, where letters or words are significant according to their positions in the document.

EFFECTIVE: 06/26/96

| 13-21.1.2 | Deleted |

EFFECTIVE: 11/21/89

13-21.2 Material to be Furnished to the Laboratory

EFFECTIVE: 11/21/89

| 13-21.2.1 | Cryptanalytic |

- (1) Any work papers available.
- (2) Identity of foreign languages that might be involved.
- (3) Information as to what the intent or subject area of the document might be.
- (4) Complete background information on the case.
- (5) Special training subject may have received.
- (6) Books, code books, cipher machines, pads, tables, etc., in the subject's possession.

EFFECTIVE: 06/26/96

13-21.2.2 Deleted

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EFFECTIVE: 11/21/89

13-21.2.3 Deleted

EFFECTIVE: 11/23/87

13-22 POLYGRAPH EXAMINATIONS

EFFECTIVE: 11/23/87

13-22.1 General Information

The following general information applies to the polygraph technique and its use in the FBI:

(1) The theory of detection of deception is predicated upon the principle that individuals usually manifest certain physiological reactions when practicing deception, particularly if the truth might produce an undesirable effect on their personal welfare. The reactions are primarily involuntary in character and normally cannot be controlled. During a polygraph examination, changes in the examinee's respiratory cycle, galvanic skin response and mean blood pressure and heart rate are recorded simultaneously and continuously on chart paper during a series of questions. The polygraph chart thus produced is evaluated to determine if the recorded reactions are of the type normally associated with truth or deception. |A polygraph test, however, only determines the examinee's perceptions of the truth, not actual truth. |

(2)- Based upon the examiner's study of the degree and nature of changes and variations in the recorded parameters, one of the following opinions can be reached:

- (a) That the recorded responses were not indicative of deception;
- (b) That the recorded responses were indicative of deception;
- (c) That the recorded responses are inconclusive; or

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(d) That the examiner expresses no opinion as to the truthfulness of the examinee due to the incomplete nature of the examination.

(3) Findings and conclusions resulting from interpretations of polygraph charts are generally not admissible in court. There appears to be a trend, however, toward admissibility of the polygraph test results.

(4) Statements, admissions and confessions obtained during a polygraph examination are admissible in court.

(5) The polygraph may be used for the following purposes:

(a) To aid in determining whether a person has pertinent knowledge of a particular matter under investigation or inquiry.

(b) To aid in determining the truthfulness of statements made or information furnished by a subject, victim, witness, informant, and/or an individual making allegations.

(c) To obtain information leading to the location of evidence, individuals or sites of offenses.

(d) To assist in verifying the accuracy and thoroughness of information furnished by applicants and employees in certain situations as specified in section 13-22.12 (Applicants) and section 13-22.13 (Employees).

(6) To enable the Bureau to realize the maximum benefit from their specialized training and skills and in order that they may retain their proficiency in the technique, polygraph examiners are to be utilized primarily as polygraph examiners/interrogation specialists. For this reason, and in order to ensure that each field office has equal access to an examiner, "territorial assignments" have been made for polygraph examiners. Examiners assigned to particular offices are responsible for a territory which includes their own office of assignment and designated neighboring field office. Requests for examinations are to be handled on a priority basis without regard to the examiner's office of assignment. In the event that the examiner responsible for covering a particular office is unavailable to conduct an examination that is needed on an expedite basis, SACs are authorized to coordinate directly with another neighboring office to obtain the services of an examiner.

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EFFECTIVE: 11/23/87

13-22.2 General Policy

The following general policies apply to the use of the polygraph by the FBI:

(1) The polygraph technique is highly reliable and valuable as an investigative tool when used by a competent and ethical examiner.

(2) The polygraph is to be used selectively as an investigative aid and results considered within the context of a complete investigation. Polygraph results are not to be relied upon to the exclusion of other evidence or knowledge obtained during the course of a complete investigation. Use of the polygraph for dragnet-type screening of large numbers of suspects or as a substitute for logical investigation by conventional means is prohibited.

(3) Polygraph examinations will be administered only to individuals who agree or volunteer to take an examination. In criminal cases, information concerning a person's refusal to take a polygraph examination shall appear only in the unproductive investigation section of the prosecutive report or in the administrative section of other reports.

(4) The following areas are not to be probed unless directly relevant to the investigation or inquiry.

- (a) Religious beliefs or affiliations
- (b) Beliefs and opinions regarding social matters
- (c) Information concerning sexual opinions or practices
- (d) Political beliefs and organizational affiliations of a nonsubversive nature.

(5) Polygraph examinations may only be conducted when the examiner, in his/her professional judgment, believes the results will be accurate. All reasonable efforts must be made to ensure accuracy of the results.

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13-22.3 Authorization/Approval for Conducting Examinations

The following guidelines govern authorization for the conduct of polygraph examinations:

(1) The SAC or person acting for that official may authorize polygraph examinations in connection with an ongoing Bureau case, except as follows:

(a) For authorization regarding polygraph examinations of Bureau employees and persons who make allegations against Bureau employees, see 13-22.14.

(b) Examinations conducted as a cooperative service to other federal agencies must receive prior authorization of the Assistant Director, Laboratory Division, or person acting for that official. SACs should forward such requests to Laboratory Division, Polygraph Unit, with recommendations concerning the propriety of the polygraph examination by a Bureau examiner, consistent with the factors of 13-22.4, and other pertinent interests of the Bureau. All such requests will be considered on a case-by-case basis.

(c) No polygraph examination will be conducted by a Bureau examiner for a state, county or municipal law enforcement agency as a police cooperation matter.

(d) Regarding polygraph examinations of defendants in post-conviction and presentencing situations, the SAC may authorize examinations in those postconviction situations where the polygraph is used in furtherance of continuing investigative interests, such as determining if the defendant perjured himself/herself during trial, verifying that defendants have fully complied with plea bargaining arrangements and conditions, determining the accuracy of information provided by convicted cooperating witnesses and testing the validity of extenuating and mitigating circumstances bearing on sentencing considerations. FBIHQ authority is necessary to conduct a polygraph examination in those situations where the purpose of a proposed polygraph examination would be to determine the veracity or guilt of a defendant with respect to an issue previously determined by trial. Such situations would include a presentence request or order for a polygraph examination by a presiding judge to determine in essence

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whether the defendant was really guilty of the offense for which he/she was convicted.

(2) In cases where FBIHQ approval is required, the authorizing FBIHQ official shall be identified on the Polygraph Examination Report (FD-498) which is forwarded to FBIHQ.

(3) Only Bureau polygraph examiners are to be used in FBI cases.

(4) Prior to SAC authority for a polygraph examination in a Financial Institution Fraud case, the USA should be contacted to ensure the USA will consider prosecution should a subject be identified. The result of contact with the USA should be confirmed in writing by appropriate communication to the USA and reported in all subsequent communications relating to the polygraph examination. (See MIOG, Part I, 29-5.)

(5) The decision as to whether or not to employ a polygraph examination must be made with the awareness that it might impact on other prosecutive actions. Therefore, consultation with the office of the USA should take place where deemed appropriate.

(6) Bureau polygraph examiners are trained to evaluate the suitability of the polygraph technique and they should be directly consulted, when possible, as to its applicability and limitations in particular situations. Unresolved issues will be referred to the FBIHQ Polygraph Unit.

EFFECTIVE: 10/13/95

13-22.4 Factors to be Considered in Approving Examinations

When evaluating the advisability of utilizing the polygraph the following factors should be considered:

(1) Determine if investigation by other means has been as thorough as circumstances reasonably permit, the proposed examinee has been interviewed and, consistent with the circumstances of the case, the development of additional information by means of a polygraph examination is believed essential and timely for further conduct of the investigation or inquiry.

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(2) Ensure that there is reasonable cause to believe that the person to be examined has knowledge of or was involved in the matter under inquiry or investigation or if the person is withholding information relevant to the inquiry or investigation.

(3) Determine if age is a factor. If a minor is to be examined, ensure a waiver is obtained from a parent or guardian.

(4) Are there any known physical or mental abnormalities?

(5) If the examinee is in custody, can full security and control be assured?

(6) Will the use of the polygraph jeopardize any local or Federal prosecution?

(7) What were the results of any prior polygraph examinations afforded the examinee?

EFFECTIVE: 09/15/80

13-22.5 Verification of Information

When information is supplied to the FBI and that information is not reasonably subject to verification by other investigative methods, use of the polygraph could be of value. Utilization of polygraph should be considered prior to making significant commitments of the Bureau's manpower or financial resources solely on the basis of unverified information. Use of polygraph will in no way absolve Agents of their responsibility to conduct all logical investigation possible by conventional means in order to verify the truthfulness and accuracy of information furnished.

EFFECTIVE: 09/15/80

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13-22.6 Responsibilities of the Case Agent

The case Agent is normally the first person to realize that a polygraph examination may be helpful to the investigation. In this regard it is important for the case Agent to understand certain aspects of polygraph procedure and to be fully aware of the existing policies concerning the use of the polygraph. A case Agent has the following responsibilities in connection with polygraph examinations:

- (1) Before a case Agent attempts to determine whether a proposed examinee will consent to an examination, it must first be ascertained that the SAC concurs in the need for and authorizes the use of the polygraph. Indiscriminate solicitation of individuals to submit to a polygraph examination is not an efficient or effective investigative procedure.
- (2) When a polygraph examination has been authorized, the case Agent should promptly reinterview the proposed examinee and ascertain if he/she will agree to submit to the examination. If the examinee is agreeable to the test, the case Agent will notify an examiner from his/her office or, in the event no examiner is assigned, the examiner of another office assigned to provide such support. The case Agent will then schedule a time and place for the examination to be conducted which is mutually agreeable with the examiner and the proposed examinee.
- (3) The case Agent should bring to the attention of the examiner any previously determined illness or psychiatric condition which would preclude the conduct of a meaningful polygraph examination.
- (4) If the examinee is suffering from any current illness or physical condition, consideration should be given to rescheduling the examination.
- (5) The person to be examined should not be subjected to lengthy interrogation immediately prior to the examination.

(6)



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(7) An investigator who is thoroughly familiar with the investigation, preferably the case Agent, should be available to assist the polygraph examiner as required during the test. This investigator should also be available to take any statement or confession which the examinee may elect to give after the examination is concluded.

EFFECTIVE: 10/13/95

13-22.7 Mental and Physical Fitness of the Examinee

Due to the nature of the polygraph examination the following guidelines apply:

(1) Persons who are not in sufficiently sound physical or mental condition will not be afforded a polygraph examination.

(2) A person to be examined should have had adequate food and rest before the examination. Examinee should not, at the time of the examination, be under the effects of alcohol, narcotics, drugs, stimulants, or sedatives. During the pretest interview, the examiner will specifically inquire of the person to be examined whether or not he/she is presently receiving or has in the past received medical or psychiatric treatment or consultation.

(3) Polygraph examinations will not be conducted if, in the opinion of the examiner, any of the following inhibit the individual's ability to respond or otherwise cause the individual to be an unfit candidate for examination:

(a) It is apparent that the examinee is mentally or physically fatigued.

(b) The examinee is unduly emotionally upset, intoxicated, or adversely under the influence of a sedative, stimulant, or tranquilizer.

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(c) The examinee is known to be addicted to narcotics.

(d) The examinee is known to have a mental disorder which causes the examinee to lose contact with reality or which could reasonably result in the examinee becoming violent during a test.

(e) The examinee is experiencing physical discomfort of significant magnitude or appears to possess disabilities or defects which, in themselves, might cause abnormal physiological reactions.

(4) Should the examiner or examinee have any doubt concerning the above conditions, the matter should be referred to the FBIHQ Polygraph Unit for determination and appropriate action. An examiner will not attempt to make a psychiatric or physical diagnosis of an examinee.

(5) If an examiner has any doubt concerning the ability of an examinee to safely undergo an examination, a statement from the examinee's physician must be obtained before proceeding with the test.

EFFECTIVE: 01/11/85

13-22.8 Polygraph Examination Room

EFFECTIVE: 01/11/85

13-22.8.1 Considerations in Selecting Polygraph Room

The polygraph examination room is of the utmost importance to professional and successful examinations. The room should be relatively free from outside noise and distraction which could break the mood carefully created by the examiner or which could cause distortion in the chart tracings and make them difficult or impossible to interpret. The polygraph room should also have a neat, professional appearance as such will contribute to the confidence the examinee has in the examiner--an essential prerequisite for a successful examination. Each should include an observation device and sound reproducer to allow authorized witnesses to see and hear the activities of the examination.

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EFFECTIVE: 01/11/85

13-22.8.2 Specifications for Polygraph Room

Offices undergoing remodeling or occupying new space should contact the FBIHQ Polygraph Unit for detailed recommendations and construction specifications for polygraph rooms and furnishings.

EFFECTIVE: 10/13/95

13-22.9 Legal Representation of the Examinee

In criminal matters if so requested, the examiner should provide examinee's attorney a briefing on polygraph procedures. Consistent with other case interests, the attorney may monitor the examination if the facility has that capability. The attorney should not be in the same room where the examination is being conducted.

EFFECTIVE: 01/11/85

13-22.10 Pretest Interview

During the pretest interview the following items will be covered with the examinee by the examiner.

(1) The examinee will be advised:

(a) Of his/her rights, if appropriate, in accordance with the "self incrimination clause" of the Fifth Amendment to the Constitution and that an attorney may be obtained and consulted.

(b) That the examination will be conducted only with the examinee's prior consent.

(c) Of the characteristics and nature of the polygraph instrument, the procedures to be followed during the examination, and all the questions to be asked during the testing phase of the examination.

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(d) Whether the area in which the examination is to be conducted contains a two-way mirror or other observation device, and whether the conversation during the examination will be monitored in whole or in part by any means.

(2) An appropriate consent or agreement form will be executed. Should the examinee agree to be examined, but refuse to sign the consent or agreement form, this should be noted on the form by the examiner and witnessed by one other person. The following forms will be used for this purpose:

(a) FD-328, Consent to Interview With Polygraph. This form is to be executed immediately prior to each examination, except those of applicants and employees who are examined under the provisions of 13-22.13.1 of this manual.

(b) FD-328a, Employee Agreement To Interview with Polygraph In Connection With An Administrative Interview. This form is to be executed prior to each examination under the provisions of 13-22.13.1.

(c) FD-328b, Applicant Agreement To Interview With Polygraph. This form will be executed prior to each examination of an applicant.

(3) The examiner will discuss the examinee's background with the examinee and obtain information to complete the necessary forms and to properly formulate questions.

(4) The matter under investigation, inquiry, or at issue, will be discussed in detail with the examinee.

(5) The test questions will be formulated by the examiner based on the case facts and the pretest phase of the examination. Each question to be used will be thoroughly discussed with the examinee. Words and terminology in questions must be completely understood by the examinee and wording will be in the vernacular of the examinee insofar as is possible. The examinee must understand the full meaning of each question. The questions should be simple, direct, and designed to elicit a "yes" or "no" answer only. They should not imply guilt on the part of the examinee.

EFFECTIVE: 12/16/88

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13-22.11 Reporting Procedures

The following procedures shall apply in reporting the results of the polygraph examination:

(1) Normally within ten working days following the completion of each examination, the examiner will forward, by special preprinted envelope, the following items which will reflect his/her preliminary opinion of test results for quality control review by a second certified Bureau examiner.

(a) Polygraph Examination Worksheet (FD-497) - submit original and one copy to FBIHQ.

(b) Polygraph Examination Report (FD-498) - submit original and one copy to FBIHQ.

(c) Consent or Agreement form (FD-328, FD-328a, or FD-328b)

(d) Copy of Interrogation, Advice of Rights (FD-395) (if used)

(e) All polygraph charts

(2) As polygraph examination results are not considered final until completion of the quality control review, preliminary opinions of truth or deception should not appear in any other document prior to concurrence in that opinion by polygraph review personnel of FBIHQ. This includes airtels, teletypes, etc. Examiners should advise case Agents of the danger involved in transmitting unofficial or preliminary findings. The Polygraph Examination Report (FD-498) is to be considered as a draft report until approved by supervisory personnel at FBIHQ.

(3) In criminal cases, upon completion of review at FBIHQ all polygraph documents will be returned to the field. In inquiry type examinations and those otherwise involving Bureau employees or applicants, the polygraph documents will be retained at FBIHQ.

(4) In the event it is determined that further testing or reevaluation is necessary, all documents and charts will again be forwarded to the Laboratory for additional quality control review following such reevaluation or retesting.

(5) Upon completion of the polygraph examination, an FD-

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302 should be prepared to reflect all relevant admissions made by the examinee. However, the opinion of the polygraph examiner regarding indications of truth or deception will be recorded only on the Polygraph Examination Report (FD-498), which will be submitted to the case file in the same manner as other laboratory reports after review by FBIHQ quality control personnel. If no admissions are made, an FD-302 is not necessary as all relevant information will be on the FD-498.

(6) A copy of all correspondence pertaining to polygraph matters should be designated for Bufile 80-5, the Polygraph Matters control file.

(7) Data regarding polygraph examinations and results (FD-498) is to be reported in the body of investigative reports in the same manner as other investigative matters.

EFFECTIVE: 10/13/95

13-22.12 Polygraph Examinations of FBI Applicants (See MIOG, Part I, 67-7.10, Part II, 13-22.1(5)(d).)

(1) All FBI applicants for support and Special Agent (SA) positions (including on-board support employees who apply for SA positions) 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). 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

(c) Deleted

(2) The Special Agent Applicant Unit (SAAU) and the Bureau Support Applicant Unit (BSAU), Personnel Division will ensure that all 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

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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) Deleted

EFFECTIVE: 04/29/97

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

(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

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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," 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

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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 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.

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EFFECTIVE: 04/29/97

13-22.13 Polygraph Examinations of FBI Employees

In addition to other pertinent requirements, the following policy applies to all polygraph examinations of Bureau employees.

EFFECTIVE: 01/11/85

13-22.13.1 Polygraph Examinations of FBI Employees Who Are Required to Submit to an Employee Interview (See MIOG, Part I, 263-6(3); II, 13-22.10(2), 13-22.13.2(1), (3), 13-22.13.4(1), (3), 13-22.14(2)(c); MAOP, Part I, 1-20(2)(e), 13-4.1.)

(1) When approved in accordance with 13-22.14, an employee who is required to submit to an employee interview may be requested to submit to a polygraph examination. The Bureau may draw an adverse inference from an employee's refusal to submit to such a polygraph examination, provided that such refusal alone shall not be the sole basis for disciplinary action against the employee.

(2) In the case of a security clearance adjudication, an employee's refusal to submit to a polygraph examination has the effect of denying the Security Programs Manager (SPM) the ability to complete a favorable security adjudication on the trustworthiness of the employee. The inability of the SPM to make an affirmative finding of trustworthiness will result in the revocation of an employee's Top Secret (TS) security clearance. Since a TS security clearance is a condition of employment, the FBI Personnel Officer is simultaneously advised of the revocation decision and thereafter the employee is dismissed from the rolls of the FBI.

(3) The following requirements must be satisfied if an employee is requested to submit to a polygraph examination pursuant to (1) and (2) above:

(a) The polygraph examination must be conducted in accordance with Bureau regulations for employee interviews;

(b) The employee must be advised of the consequences of a refusal to submit to a polygraph examination, and that failure to

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satisfactorily cooperate during a requested polygraph examination will be considered a refusal to submit to an examination;

(c) Prior to the examination, the examiner will obtain the examinee's agreement to be examined or polygraph (FD-328a, Employee Agreement To Interview With Polygraph In Connection With An Administrative Interview); and

(d) The investigation must concern a serious violation of law or policy involving one or more of the following situations:

1. The intentional and unauthorized release of sensitive protected information (including, for example, classified information, investigatory material and information, the disclosure of which is prohibited by law or regulation) with the reasonable expectation that it would ultimately be disclosed to those from whom the information is protected and would seriously and adversely affect an FBI function;

2. Serious questions concerning an employee's relationship with or allegiance to a foreign power;

3. The illegal or improper exercise of influence, coercive or otherwise, by an individual or group on an employee which could reasonably be expected to seriously affect or inhibit the employee in the impartial and effective performance of the employee's duties; or

4. The intentional and unauthorized destruction, mutilation, alteration, misplacement, taking, falsification, or other impairment of previously existing Bureau documents or evidence in the Bureau's possession or control.

5. Use of or unauthorized dealing in controlled substances, as defined under the Comprehensive Drug Abuse and Controlled Substances Act of 1970, Title 21, United States Code, by Bureau employees during the course of their employment.

6. The furnishing of false statements or the failure to candidly disclose information concerning prior criminal activities requested during the course of his/her employment processing. (See MIOG, Part II, 13-22.13.4.)

7. Allegations, evidence or indications of theft, fraud and/or misuse involving money, credit cards, securities

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and/or property belonging to, or in the possession of or under the control of the United States Government.

EFFECTIVE: 10/13/95

13-22.13.2 Polygraph Examinations of Bureau Employees Who Are Subjects of Criminal Investigations

A polygraph examination may be given to an employee who is the subject of a criminal investigation if the following requirements are satisfied:

(1) If the employee is required to submit to the interview then the polygraph examination given in conjunction with the interview shall be governed by the policies set forth in 13-22.13.1 above.

(2) If the allegations involve violations of Federal statutes within the Bureau's investigative jurisdiction, and the employee is not being required to submit to the interview but is doing so voluntarily, a polygraph examination may also be given if each of the following conditions are satisfied:

(a) Current Bureau regulations and procedures for employee interviews are observed;

(b) Current Bureau regulations and procedures applicable to polygraph examinations in criminal investigations are observed;

(c) The employee is requested to submit to a polygraph examination only in circumstances in which a nonemployee would be requested to submit to a polygraph examination; and

(d) The employee agrees to take the examination (FD-328, Consent to Interview With Polygraph).

(3) If the allegations involve violations not within the Bureau's investigative jurisdiction, polygraph examinations may only be given pursuant to 13-22.13.1 or 13-22.13.3.

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EFFECTIVE: 08/17/84

13-22.13.3 Voluntary Polygraph Examination of Employees

An employee may be asked or an employee may ask to undergo a polygraph examination in the following circumstances:

(1) If the employee is the subject of an FBI criminal investigation, the use of the polygraph shall be governed by the policies set forth in 13-22.13.2.

(2) If the employee is not the subject of an FBI criminal investigation, and the employee is not being required to submit to an employee interview, but is doing so voluntarily, then the employee may also be asked to submit to the interview in the form of a polygraph examination, or the employee may ask for the examination if the following requirements are satisfied:

(a) The employee must be advised that the examination is totally voluntary; that the employee may change the decision at any time without any disciplinary action being taken or adverse inference being drawn;

(b) The employee must signify in writing that he or she is voluntarily submitting to the polygraph examination by executing FD-328, (Consent To Interview With Polygraph); and

(c) FBI regulations and procedures for employee interviews must be observed.

EFFECTIVE: 08/17/84

13-22.13.4 Routine and Periodic Use of Polygraph Examinations for Bureau Employees

(1) Except as provided in 13-22.13.4, routine polygraph examinations of employees not suspected of being involved in any of the situations listed in 13-22.13.1 (2)(d) are prohibited.

(2) Employees who are subjected, or whose circumstances suggest that they could be subjected, to extremely coercive influences by an individual or group may be requested to submit to a polygraph

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examination on a periodic basis to determine if the coercive influences are significantly affecting the performances of their duties. Coercive influences include, but are not limited to, relative-hostage situations, extortion, blackmail, and similar circumstances where it is reasonable to believe that the individual or group could significantly influence the employee's work performance.

(3) Polygraph examinations authorized by 13-22.13.4 shall be conducted consistent with the procedures and policies set forth in 13-22.13.1.

EFFECTIVE: 08/17/84

13-22.14 Approval and Conduct of Employee Polygraph Examinations
(See MIOG, Part I, 263-6(3); II, 13-22.3, 13-22.13.1;
MAOP, Part I, 13-4.1.)

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

(2) The following standards apply for approval of polygraph examinations:

(a) No employee may be requested or asked to submit to a polygraph examination without an adequate demonstration of facts or circumstances indicating the need for a polygraph examination of that individual.

(b) All reasonable efforts must be made to resolve allegations or questions before requesting an employee to submit to a polygraph examination.

(c) Before any employee is requested to submit to a polygraph examination, the refusal of which may be used as a factor in determining whether the employee will be subjected to disciplinary action (13-22.13.1), there must be a substantial objective basis to suspect that the individual may be involved in one of the situations

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listed in 13-22.13.1.

(d) Employees who are requested or asked to submit to polygraph examinations will be fully advised of their options and the potential consequences of the exercise of those options.

(3) Use of the results of polygraph examinations.

(a) Disciplinary action will not be predicated solely upon the results of a polygraph examination, or upon the refusal to submit to a polygraph examination. (See (d).)

(b) The results of a polygraph examination may be considered with other evidence.

(c) Employees will be furnished the results of a polygraph examination prior to being subjected to any disciplinary action based in part on the results of the examination.

(d) An employee's refusal to submit to a polygraph examination in the case of a security clearance adjudication has the effect of denying the Security Programs Manager (SPM) the ability to complete a favorable security adjudication on the trustworthiness of the employee. The inability of the SPM to make an affirmative finding of trustworthiness will result in the revocation of an employee's Top Secret (TS) security clearance. Since a TS security clearance is a condition of employment, the FBI Personnel Officer is simultaneously advised of the revocation decision and thereafter the employee is dismissed from the rolls of the FBI.

(e) The results of a polygraph examination may be maintained with the records resulting from the investigations. Dissemination of such information shall be strictly limited to persons who have a legitimate right or requirement for access to the information.

(f) Deliberate or negligent misuse of the results of polygraph examinations shall be grounds for administrative action.

(4) Polygraph examination of employees will be administered away from their own office of assignment. This procedure will help protect the confidentiality of the inquiry/investigation and lessen the outside pressure on the employee which could be associated with employee's friends' and associates' knowledge of employee's participation in examination. (See MIOG, Part I, 263-6(2); MAOP, Part I, 13-4.1.)

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

EFFECTIVE: 10/13/95

13-22.15 Selection, Training, and Certification of Polygraph
Examiners

Requirements have been established to ensure that Bureau examiners meet the highest standards of integrity, competence, and professional excellence.

EFFECTIVE: 11/23/87

13-22.15.1 Selection and Training of FBI Polygraph Examiners

(1) To meet future needs for polygraph examiner trainees, a pool of candidates will be maintained by FBIHQ from which trainees will be selected. Any Agent interested in being trained in this investigative specialty should submit a memorandum to the SAC who will forward the requesting memorandum, with personal recommendations, to FBIHQ, Attention: Laboratory Division. Interested Agents should indicate if they are willing to accept transfer or if they desire consideration only for their current division.

(2) When vacancies occur, trainees will be selected by an FBIHQ selection board, in coordination with affected SACs.

(3) No Agent will be transferred to fill a polygraph examiner vacancy without his/her prior concurrence.

(4) Prior to selection, Agents will be interviewed by the selection board at FBIHQ and undergo a nonspecific polygraph examination.

(5) The following factors will be evaluated in selection of Agents to receive polygraph examiner training.

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- (a) At least five years' investigative experience
- (b) Experience and demonstrated success as interviewer/interrogator and as case Agent in complex investigations
- (c) Ability to perform well under stress and in confrontational situations
- (d) Availability for travel to conduct examinations in other divisions and throughout own field office territory as required (should NOT be in a hardship assignment or have medical mandates (restrictions) that would prohibit the employee from required travel.)

(e) Good judgment, maturity, dependability, self-motivation, and ability to work well alone should be clear attributes of Agent

(f) Willingness to be assigned to a headquarters city office, devote full time to polygraph examiner duties, and forego involvement in other collateral/coordinator-type activities.

(6) Agents selected for the program will complete the Polygraph Examiners Training Course at the Department of Defense Polygraph Institute, Fort McClellan, Alabama. The course, which is approximately 14 weeks in length, includes instruction in polygraph theory and procedures, psychology, physiology, semantics, question formulation, instrumentation, and legal matters related to polygraph. During the course students also conduct 50 polygraph examinations of persons who participate in mock crime situations.

EFFECTIVE: 12/27/93

13-22.15.2 Certification of Examiners

To be certified as an FBI polygraph examiner the following must be satisfied:

- (1) The examiner must be a graduate of a Bureau-approved polygraph school.
- (2) The examiner must successfully complete an internship consisting of conducting a minimum of 12 examinations with supervision

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of a certified Bureau examiner.

(3) The continued demonstration of proficiency in the polygraph techniques.

(4) The examiner should, if possible, conduct a minimum of 48 examinations per year. Examiners assigned duties in direct support of the FBI's quality control program at FBIHQ are exempt.

(5) The examiner should attend at least one FBI polygraph in-service training course or Bureau-approved polygraph refresher course or seminar at least every two years.

(6) Any examiner who has lost the requirements for certification can be recertified by successful completion of a Bureau-approved refresher course. In addition, the examiner being recertified will be required to conduct a minimum of 12 examinations under the supervision of an FBI certified examiner. Upon the completion of the above, the FBI certified examiner supervising the examiner for recertification will, in writing, forward his/her recommendations as to recertification to FBIHQ.

EFFECTIVE: 11/23/87

13-22.15.3 Refresher Training and Polygraph Seminars

Requests to attend refresher training courses, polygraph seminars, and/or meetings of professional polygraph associations should be handled in the following manner:

(1) Submit requests (Optional Form 170) along with appropriate details to FBIHQ, Attention: Polygraph Unit.

(2) Expenses incurred in conjunction with approved attendance at such functions are to be claimed on an expense voucher.

(3) Pertinent information gleaned at meetings, especially results of polygraph research, should be furnished to FBIHQ for possible distribution to all Bureau examiners.

EFFECTIVE: 12/19/86

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13-22.15.4 Performance Appraisal

(1) Field polygraphers have been assigned two critical elements by which their performance as polygraph examiners is evaluated. Because of the uniqueness of their responsibilities, i.e., frequently serving more than one field division and the review of each examination both technically and procedurally through a mandated quality-control process, these particular elements are rated and reviewed by Supervisory Special Agent Polygraph Examiners assigned to FBIHQ. This procedure does not preclude, at the SAC's discretion, the addition of critical elements generated by field offices reflecting other duties and responsibilities handled by their assigned polygraphers.

(2) Only the critical elements relating to polygraph performance will be rated and reviewed by FBIHQ. If additional elements are established by the field office, they are to be rated and reviewed by appropriate field supervisors. All critical elements (the two prepared for the Polygraph Program and any prepared by the field) will be combined to determine the overall rating of the employee prior to forwarding the performance appraisal to the Performance, Recognition and Awards Unit, Personnel Division.

EFFECTIVE: 04/21/94

13-22.15.5 Voice-Stress Devices Prohibited

Use of voice-stress devices to determine the truthful or deceptive nature of a person's oral statements is prohibited. Only Bureau-approved polygraph examiners using true polygraph instruments designed to record at least three physiological parameters including respiration, heart rate/blood pressure, and galvanic skin response (GSR), are authorized to conduct detection of deception examinations.

EFFECTIVE: 12/19/86

13-23 TRANSLATION POLICY (See MAOP, Part I, 22-6.)

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EFFECTIVE: 09/08/93

| 13-23.1 | Deleted |

EFFECTIVE: 09/08/93

| 13-23.2 | Deleted |

EFFECTIVE: 09/08/93

| 13-23.3 | Deleted |

EFFECTIVE: 09/08/93

| 13-23.4 | Deleted |

EFFECTIVE: 09/08/93

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13-24 ARTIST CONCEPTIONS

Consideration should be given to the preparation of artist conception portrait drawings of unknown subjects in selected Bureau cases. These sketches are prepared by Visual Information Specialists (VIS) at Headquarters from "look-alike" reference photos selected from the FBI Facial Identification Catalog and other descriptive data furnished by witnesses or victims.

EFFECTIVE: 12/10/91

13-24.1 Policy

EFFECTIVE: 12/10/91

13-24.1.1 General | (See MIOG, Part II, 13-25.1.1(1).) |

(1) Because of a limited staff of VIS, requests for artist conceptions other than those where the FBI has investigative jurisdiction must be approved on the merits of each individual request by Assistant Director of the Laboratory Division.

(2) In most instances, VIS prepare drawings from descriptive data transmitted to Special Projects Section via facsimile machine. If special handling is requested, a composite drawing can be completed in 2-4 hours. On cases of national import, consideration will be given to sending the VIS to the field location. A composite drawing prepared during a hypnosis session would be one such instance. VIS will participate in accordance with Bureau policy governing use of hypnosis as an investigative aid.

(3) Offices utilizing Identi-Kits | or other automated systems | can have these composites modified or redrawn according to specifications submitted by field office. Although the Identi-Kit cannot duplicate the skill and versatility provided by the VIS in the illustration of a facial likeness, it can serve a useful purpose as one of the methods Bureau offices can employ to prepare composites if the VIS cannot respond within time limits the field investigation in progress requires.

(4) As the investigation progresses, the Laboratory,

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Attention: Special Projects Section, should be advised of the use and effectiveness of the drawing as an investigative aid.

EFFECTIVE: 06/26/96

13-24.1.2 Dissemination

(1) The SAC may approve releasing Bureau prepared artist conceptions for publication by the news media in unknown subject cases in which the witnesses have stated the drawing is an excellent likeness to the unknown subject. After approval is received, file numbers and issue date information must be removed from the prints prior to releasing them. This is done by cutting off the bottom portion of each print.

(2) FBIHQ approval is required before an artist conception can be used in a circular letter.

EFFECTIVE: 08/16/82

13-24.1.3 Administrative Identification

All artist conceptions should, whenever possible, carry a Bureau file number, field office file number, and the date that the drawing was issued. This data will appear at the very bottom of the photographic prints of these drawings and may, if desired, remain on these prints while they are used for investigative purposes. The data must remain on the prints when they are produced as evidence at trial.

EFFECTIVE: 08/16/82

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13-24.2 Requesting an Artist Conception

(1) The "look-alike" references from the FBI Facial Identification Catalog are recorded on an FD-383 (Facial Identification Fact Sheet) which, along with other detailed descriptive or illustrative material, is forwarded to the Laboratory, Attention: Special Projects Section. Requests should be limited to those cases in which the witnesses can provide detailed descriptions, have selected a sufficient number of characteristics from the Facial Identification Catalog, and be reasonably confident they can recognize a likeness of the unknown subject if a sketch is produced.

(2) All offices and resident agencies having a facsimile device should consider using this device for transmitting the FD-383 and related reference material directly to the Laboratory, Attention: Special Projects Section, between 8:00 a.m. and 5:30 p.m., Washington, D.C., time. The telephone number of this facsimile in the Special Projects Section is [REDACTED]. Contact FBIHQ during other hours. ba

(a) Use of the facsimile device will ensure expeditious handling of the request.

(b) Also, use of FTS line can provide a direct communication between the artist and the interviewing Agent or witness when necessary.

EFFECTIVE: 08/16/82

13-24.3 Results of Request

(1) The drawing will be prepared in the Special Projects Section in the shortest possible time existing priorities permit, and transmitted to the requesting office by facsimile device for evaluation by the witnesses. Revisions may be requested by the field as needed until a good likeness is developed.

(2) Three polaroid copies of the drawing will be sent to the requesting office by routing slip on the same date as the facsimile transmission. If more than three Polaroid copies are deemed necessary, they may be made using field office facilities or from suitable local sources after approval of the likeness by the witnesses. If the extra copies cannot be obtained in the field, they may be ordered from the Laboratory, Attention: Special Projects Section.

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EFFECTIVE: 03/23/92

13-25 FACIAL AGING

Consideration should be given to the preparation of facially aged photographs of children and adults, using a computerized aging system located at FBI Headquarters. These aged photographs are prepared by Visual Information Specialists (VIS) of the Laboratory Division.

EFFECTIVE: 03/23/92

13-25.1 Policy

EFFECTIVE: 03/23/92

13-25.1.1 General

(1) As set forth in the policy statement for Artist Conceptions, (13-24.1.1) requests for facial aging must be restricted to those cases where the Bureau has jurisdiction. Any exceptions must be approved by the Assistant Director of the Laboratory Division.

(2) In situations requiring a child's photograph to be aged/updated, photographs of a parent, brother, or sister are requested as they may be scanned into the system and incorporated with the victim's photograph to produce the aged or projected image of how the child is likely to appear.

(3) A similar methodology is used in aging adult subjects; however, family photographs are generally not incorporated with the subject to achieve the aged image. The addition of facial lines and hair, increase or decrease in body weight, and a change of hairstyle are the most common factors used in this process, and these are borrowed from other facial images available to the artist.

(4) The value of this technique lies in the fact that when the computer system is used by an experienced artist, the rendering is more technically accurate than those produced entirely by

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hand, and it can be produced much faster.

(5) In some instances, it may be advisable or necessary for the Bureau artist to accompany the case Agent in interviews with the victim's family.

EFFECTIVE: 06/26/96

13-25.2 Administrative Identification

All aged photographs should, whenever possible, carry a Bureau file number, and the date that the photograph was issued. This data will appear at the very bottom of the photographic prints and may, if desired, remain on these prints while they are used for investigative purposes. The data must remain on the prints when they are produced for, or used as, evidence at trial.

EFFECTIVE: 03/23/92

13-25.3 Requesting a Facially Aged Photograph

In order to ensure the accuracy with which a photograph may be aged, the requesting office should submit several of the highest quality photographs available of the victim/subject, as well as all pertinent descriptive data regarding the victim/subject, i.e., date of birth, facial characteristics, etc. This information should be forwarded to the Laboratory Division, Attention: Special Projects Section by an FD-790 (Special Projects Section Work Order).

EFFECTIVE: 03/23/92

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13-25.3.1 Results of Request

(1) The aged photograph will be prepared in the Special Projects Section in the shortest possible time existing priorities will permit. Revisions may be requested by the field as needed until a projected likeness is developed.

(2) One black and white, 4" x 5" photographic print of the aged rendering will be shipped to the requesting office. If more than one print is deemed necessary, they may be made using field office facilities or from a suitable local source. If the extra copies cannot be obtained in the field, they may be ordered from the Laboratory Division, Attention: Special Projects Section.

EFFECTIVE: 03/23/92

13-26 VISUAL AIDS

The Special Projects Section, Laboratory, has the ability to design and prepare visual aids for investigative and prosecutive assistance, law enforcement training, as well as for administrative and informational purposes. (For information concerning artist conception portrait sketches, see paragraph 13-24 above.)

EFFECTIVE: 03/23/92

13-26.1 Requests

EFFECTIVE: 03/23/92

13-26.1.1 From FBIHQ

All requests from FBIHQ must be directed to the Special Projects Section by an FD-790 (Special Projects Section Work Order).

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13-26.1.2 From the Field

All requests from the field must be directed to the FBIHQ Laboratory Division by an FD-790 to the attention of the Special Projects Section and must contain the the following:

- (1) A general description of the work requested
- (2) The purpose and its use
- (3) All available reference and explanatory data, and
- (4) A sketch, if applicable, which does not have to be drawn to scale but must contain detailed measurements.
 - (a) If the request is for an investigative or prosecutive aid, it is to be submitted to the appropriate substantive investigative desk at FBIHQ for approval.
 - (b) Deleted
- (5) The case caption and file number if applicable.

EFFECTIVE: 09/03/93

13-26.2 Drawings

- (1) Two-dimensional visual aids include prosecutive and investigative aids such as:
 - (a) Street map for locating evidence, buildings, witnesses or routes.
 - (b) Plat map for locating evidence, buildings, subjects or witnesses.
 - (c) Terrain map showing wooded areas or other physical features.
 - (d) Combination map and photographic display to illustrate appearance of specific areas.
 - (e) Floor plan for locating evidence or movement of

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subjects.

(f) Diagram to explain check-kiting, telephone contacts or organizational structures.

(g) Statistical charts, graphs and bar charts.

(h) Enlargement of accounting papers or bank forms.

(2) Drawings will be prepared from information furnished or if the situation warrants, from on-the-scene data collected by FBIHQ personnel. Source material that can be used by the Special Projects Section as reference for preparing the drawings can often be found at municipal and other government offices.

(a) Floor plans at building inspector.

(b) Plat plans at tax assessor.

(c) Street and curb plans at highway department.

(d) Maps at U.S. Geological Survey.

(3) All source material must be verified for accuracy before submission.

EFFECTIVE: 03/23/92

||13-26.3| Models (Three-Dimensional)

(1) When deemed essential and approved by FBIHQ, a three-dimensional model can be prepared in major cases. The model will be constructed from measurements, photographs, and on-the-spot observations made by FBIHQ personnel to ensure authentication for the admittance of the model as evidence.

(2) The construction of three-dimensional models for use in aiding the United States Attorney to present his/her case are limited to instances when a clear illustration of the facts cannot be achieved with a two-dimensional chart. In most instances they are prepared to scale and are necessarily constructed from data collected on the scene by the VIS from Special Projects Section.

(3) The cost of preparing the three-dimensional trial

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model limits its use to major cases or those where alternate means of illustration cannot be used to supply a vital point to the prosecution of the case. Circumstances often falling within these guidelines include:

(a) Sections covering two or more physical levels such as between floors of a building or decks of a ship.

(b) A replica of a mechanical device which cannot be transported to the courtroom.

(c) A reproduction of terrain showing altitudes and distances.

(4) Requests for models should be made reasonably soon after occurrence of the crime to enable the VIS to construct the model to represent the scene accurately at time crime was committed.

EFFECTIVE: 05/26/89

||13-26.4| Special Investigative Equipment

Special equipment or enclosures can be constructed with approval of FBIHQ.

EFFECTIVE: 05/26/89

||13-26.5| Special Surveillance Graphics

With approval of appropriate FBIHQ substantive desk, a variety of graphic items can be designed and prepared as a comprehensive package to assist in the staging and operation of special surveillance activities.

EFFECTIVE: 05/26/89

||13-27| RADIATION HAZARDS

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EFFECTIVE: 05/26/89

||13-27.1| Introduction

Radioactive materials are in use in the nuclear power industry, nuclear weapons industry, academic and industrial research environments and in medicine. Accidents, death and injuries resulting from the handling and transportation of radioactive materials have been few; however, the role of radioactive materials in a terrorist incident, an extortion or a theft presents a special hazard to the investigator. Radiation is invisible and insensible; therefore, special knowledge about it will enable the investigator to intelligently evaluate its hazard.

EFFECTIVE: 05/26/89

||13-27.2| Terminology

EFFECTIVE: 05/26/89

||13-27.2.1| Atoms

Atoms are small particles of matter which have the characteristics of an element. For example, gold and silver are both elements and the smallest particle of gold or silver which can be identified as gold or silver is an atom of gold or an atom of silver.

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||13-27.2.2| Isotopes

Isotopes are varieties of the same element which have the same chemical properties but have a different nuclear structure and therefore different physical properties. For example, we have three isotopes of hydrogen; namely, Hydrogen One, Hydrogen Two and Hydrogen Three.

(1) Stable isotopes are ones which are incapable of spontaneous change and thus are not radioactive.

(2) Unstable isotopes undergo spontaneous changes and emit nuclear radiations.

EFFECTIVE: 05/26/89

||13-27.3| Nuclear Radiations

Nuclear radiations involve the emission of energy or particles from a nucleus.

EFFECTIVE: 05/26/89

||13-27.3.1| Alpha Particle

Alpha particle is a positively charged particle emitted from a nucleus and similar to a helium nucleus. It has a relatively large mass with low penetrating power and a short range. Alpha particles will usually not penetrate the skin but danger occurs when alpha emitters are introduced into the lungs or intestines.

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||13-27.3.2| Beta Particle

Beta particle is a high speed negatively charged electron emitted from a nucleus. It has little mass, low penetrating power and a short range. The more energetic particles will penetrate the skin. Danger is due to skin burns and internal damage if the emitter enters the body and lodges in a body organ.

EFFECTIVE: 05/26/89

13-27.3.3 Gamma Ray

Gamma ray is a unit of radiation energy similar to, but more energetic than, X-rays. Gamma rays can do body damage even when the source is located outside of the body due to their penetrating power.

EFFECTIVE: 07/25/97

13-27.3.4 Neutron

Neutron is a subatomic particle which has no electrical charge and it is one of two principal particles in the nucleus.

EFFECTIVE: 07/25/97

||13-27.4| Radiation Effects

Nuclear radiations avoid detection by all our senses. Excessive dosages are normally hazardous. Police activity in or around radiation areas requires special vigilance. Radiation hazards are usually considered as either external or internal hazards.

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||13-27.4.1| External Hazards

Bodily damage can result from overexposure to gamma rays even though the radioactive material is outside the body. Gamma rays are external hazards.

EFFECTIVE: 05/26/89

||13-27.4.2| Internal Hazards

~~Bodily damage can result if radioactive material emitting~~
alpha and beta particles contaminates our food or the air we breath and in this manner is taken into our bodies in excessive amounts. Alpha and beta particles are considered internal hazards.

EFFECTIVE: 05/26/89

||13-27.5| Detection Equipment

EFFECTIVE: 05/26/89

||13-27.5.1| Survey Meters

Survey meters are portable instruments designed to enable one to evaluate a particular radiation. They may be designed to detect and measure alpha, beta and gamma radiation and are used for the evaluation of contaminated foods and water. Survey meters read either in roentgens/hour or milliroentgens/hour (1,000 milliroentgens = 1 roentgen).

EFFECTIVE: 05/26/89

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||13-27.5.2| Dosimeters

Dosimeters are pocket-size instruments used to measure the total beta-gamma dosage accumulated by the person wearing the dosimeter. Some dosimeters can be read at any time by the wearer (self-reading dosimeters). Other dosimeters, such as film badges are not self-reading. These latter-type dosimeters are processed in a laboratory. Dosimeter readings are normally in roentgens or milliroentgens.

EFFECTIVE: 05/26/89

||13-27.6| Significance of Detection Equipment Readings

EFFECTIVE: 05/26/89

||13-27.6.1| Roentgen

Roentgen is a standard unit of measure of the energy of X-ray or gamma radiation which is absorbed. Often the term milliroentgen, which is one thousandth part of a roentgen, is used. The following table is a listing of radiation doses and their effects.

Acute Dose (roentgens)	Probable Effect of Total Body Dose
0 to 50	No obvious effect, except possibly minor blood changes.
80 to 120	Vomiting and nausea for about 1 day in 5 to 10 percent of exposed personnel. Fatigue but no serious disability.
130 to 170	Vomiting and nausea of about 1 day, followed by other symptoms of radiation sickness in about 25 percent of personnel. No deaths anticipated.
180 to 220	Vomiting and nausea for about 1 day, followed by other symptoms of radiation sickness in about 50 percent of personnel. No deaths anticipated.

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270 to 330	Vomiting and nausea in nearly all personnel on first day, followed by other symptoms of radiation sickness. About 20 percent deaths within 2 to 6 weeks after exposure; survivors convalescent about 6 months.
400 to 500	Vomiting and nausea in all personnel on first day, followed by other symptoms of radiation sickness. About 50 percent deaths within 1 month; survivors convalescent for about 6 months.
550 to 750	Vomiting and nausea in all personnel within 4 hours from exposure, followed by other symptoms of radiation sickness. Up to 100 percent deaths; survivors convalescent for about 6 months.
750 to 1000	Vomiting and nausea in all personnel within 1 to 2 hours. Probably no survivors from radiation sickness.
1000 to 5000	Incapacitation almost immediately. All personnel will be fatalities within 1 week.

EFFECTIVE: 05/26/89

13-27.7 Radiation Protection

The following factors should be considered when evaluating available protection.

(1) If all containers of radioactive material are sealed or closed and are INTACT it is unlikely that radioactive hazards are associated with the incident. Efforts should be made to protect the integrity of the containers during essential rescue, salvage and clean-up operations.

(2) If radioactive isotopes become loose from the container or are liberated by a handling accident the following

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factors should be understood.

(a) DISTANCE. The distance between individuals and the isotope source appreciably decreases radiation intensity with this reduction being described by an "inverse R squared" relationship. In most cases, for example, the distance of 2 feet from the source will decrease the radiation to one-quarter its value at 1 foot; a distance of 10 feet from the source will decrease the radiation to one-hundredth its value at 1 foot.

(b) TIME. The time one spends in the radiation field should be kept to an absolute minimum. A 2-hour exposure in a radiation field will be twice as large as a 1-hour exposure.

(c) SHIELDING. Dense materials such as steel, concrete and dirt between the individual and the source can cut down the intensity of gamma radiation. Most gamma-emitting radioisotopes emit radiation of less than one million electron volts per gamma ray. Generally, the radiation may be cut in half by 1 1/2 inches of steel, 4 1/2 inches of concrete, 7 1/2 inches of earth, or 10 inches of water.

(d) CONTAINMENT. Restriction of the radioisotopes to a limited area will help to establish boundaries for the hazard. Efforts should be made to keep the radioisotopes from scattering. If there is a fire associated with an incident, high pressure hoses might break open containers and widely distribute the radioisotopes. Vehicles and individuals repeatedly entering the area could track away any radioisotopes from incidents involving spills of radioactive materials. Such travel should be limited to that which is absolutely necessary.

(3) External and/or internal hazards can be present whenever radioactive materials are found. If it is not known what the hazards are, assume both to be present. To protect against internal hazards, personnel should wear breathing masks or some type of filter system over the nose or mouth. If possible, all personnel should be kept upwind from the scene of the incident and all smoking and eating should be prohibited in the restricted area. Personnel entering the area where there is radioactive dust should be wearing disposable or washable outer clothing.

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EFFECTIVE: 07/25/97

13-27.8 Emergency Procedures for Accident or Incident

(1) Keep all but essential rescue and investigative personnel away from the immediate accident scene.

(2) Report the accident or incident immediately to the nearest Department of Energy facility or military base, whichever is appropriate.

(3) Contact the Strategic Information Operations Center (SIOC) at FBIHQ, which will in turn contact the Hazardous Materials Response Unit (HMRU) of the Laboratory Division.

(4) Keep sightseers away - 500 yards or more, if possible.

(5) Stay out of smoke or vapors if there is fire.

(6) Hold people who may have been exposed to the contamination in an area for appropriate examination by emergency personnel.

(7) Do not fight fires involving explosives except under the direction of an expert.

(8) Do not permit the taking of souvenirs.

(9) Keep unauthorized personnel from entering the scene.

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EFFECTIVE: 03/21/95

| 13-28.1 | Deleted |

EFFECTIVE: 03/21/95

| 13-28.2 | Deleted |

EFFECTIVE: 03/21/95

| 13-29 | MOVED TO 13-7.6.1 |

EFFECTIVE: 07/25/97

| 13-29.1 | Moved to 13-7.6.1 |

EFFECTIVE: 07/25/97

| 13-29.2 | Moved to 13-7.6.1 |

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EFFECTIVE: 07/25/97

13-29.3 Moved to 13-7.6.1

EFFECTIVE: 07/28/97

13-30 COMPUTER ANALYSIS AND RESPONSE TEAM (CART)

EFFECTIVE: 02/28/97

13-30.1 General Information

(1) Since 1984, when the FBI Laboratory began examining computer-based evidence, the widespread use of computers and the rapidly developing technology of computer systems, have combined to dramatically increase the volume and complexity of computer evidence seized by FBI Agents. Today, FBI Agents routinely encounter computers in cases dealing with health care fraud, child pornography, terrorism, murder, drugs, financial institution fraud, public corruption, and in almost every other investigative classification for which the FBI is responsible.

(2) A real danger exists that well-intentioned efforts on the part of untrained field investigators can affect important evidence and may either render it unavailable to the investigator or inadmissible at the time of trial. Another danger is that the FBI will incur some civil liability for damage or destroyed computer data belonging to a subject or a third party. In 1992, the Laboratory Division's Computer Analysis and Response Team (CART) was formed to address these problems.

(3) The primary mission of CART, whether in the field or in the Laboratory, is to provide the investigator who encounters computer evidence with reliable, comprehensive, and timely

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information and technical support necessary to the investigation and prosecution of the case. These mission objectives are met through a mutually supporting task organization consisting of:

(a) A state-of-the-art forensic capability comprised of computer scientists and engineers, CART, centrally located in the Laboratory Division;

(b) A network of specially trained and equipped Field Examiners (FEs), assigned to selected field offices and serving regional requirements.

In a typical case:

1. The case Agent who expects to encounter computer-based information (usually in executing a search warrant) consults with an FE who is trained and equipped to handle most situations. The FE will determine whether or not he/she can operate independently or needs CART HQ assistance.

2. At the search site, the CART Examiner will determine what computer systems should be seized and brought back to the office for examination. If the warrant does not allow the seizure of equipment, the CART Examiner should be able to copy the data onto medium suitable for examination at the field office. CART HQ will be on stand-by to offer consultation should unsuspected circumstances be encountered.

3. After the equipment is seized and transported to the field office, the FE will conduct triage to determine if the examination can be handled in the field office or if all, or part, must be sent to the Laboratory Division for examination. Every effort will be made to examine the evidence in the field office.

4. The FE in consultation with the case Agent will determine what data is necessary from the seized computer and in what format to best present the data.

5. The FE will recover the necessary data using techniques and protocols developed by CART and provided to the FE by CART. These utilities reside on specialized hardware platforms which have also been provided to the FE by CART. The examiner will be familiar with these procedures and trained in their use under CART direction.

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6. At trial, the FE will be able to describe and defend his/her actions. If questions arise regarding the protocols used, CART will provide, when needed, experts who can explain CART's protocols.

(4) FEs are assigned to serve regions. These regions represent the best allocation of resources based on analyses of evidence submissions to CART and in consultation with the Criminal Investigative Division (CID) concerning investigative priorities.

EFFECTIVE: 02/28/97

13-30.2 Authorization/Approval for Conducting Exams/Searches (See MIOG, Part II, 13-30.4.)

(1) No action with respect to original computer evidence should be taken without consulting with one of the certified Computer Analysis and Response Team (CART) Examiners on the field list or CART at FBIHQ. In addition, no review of computer evidence should be performed without the supervision and/or consultation of a CART examiner.

(2) The following guidelines govern requests for CART support:

Any Agent who requires an examination of computer evidence or requires search assistance must contact their regional Field Examiner (FE). During emergency situations, if an FE is not able to be contacted, the CART Program Manager or Unit Chief should be contacted. After hours, contact CART through the FBIHQ switchboard operator. All requests for search assistance or computer examinations must be forwarded as a lead to the appropriate FE by an electronic communication (EC) or teletype. The EC should be sent to the field office of the FE and the Laboratory Division, Attention: CART. The first CASE ID# must be 66-HQ-C1155003 with the second CASE ID# as the substantive Universal Case File Number (UCFN). The EC should be titled "Computer Analysis and Response Team, Field Examiner Operations." If desired, the title of the case may be included as a dual-captioned title or included in the synopsis field of the EC. Whenever possible, FEs should be telephonically contacted prior to sending a written communication and that FE should be named in the attention line of the EC.

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13-30.3 Responsibilities of the Case Agent

(1) The case Agent is normally the first person to realize that Computer Analysis and Response Team (CART) support may be helpful to the investigation. In this regard, it is important for the case Agent to understand certain aspects of computer evidence searches and examinations and to be fully aware of the existing policies concerning computer evidence searches and examinations. A case Agent has the following responsibilities in connection with computer evidence searches and examinations:

Before an affidavit in support of a search warrant is written, the case Agent should consult with their regional CART Field Examiner (FE) to ensure proper justification is given for seizing the equipment and software needed to properly analyze the seized computer evidence. The case Agent should attempt to identify the types of computers, networks, and operating systems in use at the location to be searched. This will help the FE to determine what assets will be needed to conduct the search and process the evidence. The case Agent should advise the FE as to the types of electronic records believed to be contained on the evidence to be seized. This information is required in determining what equipment should be seized as well as how the examination of the evidence will be conducted.

(2) By providing the above information, the case Agent will maximize the results of the search warrant and ensure the forensic examination of their evidence will proceed in a quick and efficient manner.

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13-30.4 Submission of Evidence

(1) When it has been determined that evidence needs to be shipped either to a regional Field Examiner (FE) or the FBI Laboratory, the evidence must be processed through the field office's Evidence Control Technician (ECT). The ECT will ensure that proper chain of custody rules are followed. For assistance in packing computer evidence for shipping, the case Agent should contact the ECT in their field office.

(2) The evidence should be accompanied by an electronic communication (EC) as described in MIOG, Part II, 13-30.2, Authorization/Approval for Conducting Exams/Searches.

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13-30.5 Types of Computer Analysis and Response Team Support

(1) The Computer Analysis and Response Team (CART) can provide timely and accurate examinations of computers, diskettes, optical disks, tape backups, and other electronic media. CART can provide on-site field support as needed for execution of search warrants and examinations of computer systems which cannot be sent to a regional Field Examiner (FE) or the FBI Laboratory. CART can also provide on-site consultation with investigators and prosecutors in the development of strategies for the seizure of computer records and equipment. CART examiners will provide testimony as to examination procedures and results.

(2) In addition to the retrieval of records, CART capabilities include but are not limited to the retrieval of deleted, erased, and hidden data, the ability to break passwords and encryption schemes, and the examination of computer code to determine the effect of that code.

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13-30.6 Field Examiner Program

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13-30.6.1 Selection of Field Examiners

(1) Computer Analysis and Response Team (CART) Field Examiners (FEs) are selected by the CART Program Manager and scientific staff from among candidates nominated by Special Agents in Charge (SACs) based on education, training, experience, desire to participate in the program, and willingness to travel extensively while servicing needs of Bureau offices within the FE's region. Candidates with formal education in science or engineering will be preferred. Investigative skills and experience complement the forensic work and Special Agents are preferred as FEs.

(2) Selectees will have sufficient academic background and experience towards qualifications as an expert witness and to communicate technical matters effectively to nontechnical audiences. They will be technically innovative, demonstrate excellent problem-solving abilities, and be able to work independently. They will be available to devote at least 50 percent of their time to FE-related duties to ensure their special skills are used sufficiently to retain proficiency. They must meet the certification requirements of the Laboratory Division and CART and be able to serve at least two years as an FE.

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13-30.6.2 Training and Certification of Field Examiners

(1) Continuous education and training will be provided by the Laboratory Division's Computer Analysis and Response Team (CART) in the form of yearly in-service courses, commercially available training at the Field Examiner's (FE) home city, unique law enforcement courses provided by such professional organizations as the International Association of Computer Investigative Specialists (IACIS) and the Federal Law Enforcement Training Center (FLETC), etc. This continuous training will be sponsored and paid for by the FBI Laboratory or Government Employees Training Act (GETA) funds as appropriate.

(2) The CART training program will provide examiners with a broad base of computer knowledge for performing effective searches and proper forensic examinations and ensure that examiners are qualified and prepared to testify in court.

(3) CART training consists of two phases. The first phase, known as the general-education phase, lasts one to two years and ensures all examiners share a common knowledge base and qualifications. The second phase, known as the continuing-education phase, allows examiners to hone their skills and gain exposure to many technologies. The continuing-education phase continues throughout the examiner's career.

(4) The general-education phase culminates when the examiner receives his/her CART certification. Certification hinges on several factors. First, the examiner must complete all of the commercial training required. Second, the examiner must demonstrate technical proficiency. FEs accomplish this during a Lab Practicum at the FBI Laboratory. Finally, the FE must successfully complete moot court at a CART In-Service.

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13-30.6.3 Field Examiner Equipment

For each Field Examiner (FE), hardware and software modules are provided by the Laboratory Division. This equipment remains on the inventory of the Laboratory Division but is assigned to the individual FE. Likewise, the software is assigned to individual FEs in their own names. When an FE leaves the program his/her equipment and software will either be reassigned to another FE or will be returned to the Laboratory Division.

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13-30.6.4 Field Examiner Work Space

Field Examiners (FEs) have several unique requirements for their work space. The most important requirement is a secure work space to store evidence as it is being examined. Therefore, a secure room with access controlled by the FE is preferred. There should be adequate electrical service to support simultaneous operation of several computer systems. There should also be adequate ventilation to dissipate the heat generated by multiple computer systems. A telephone line is required in the FE's space to facilitate electronic communication between the FE and Computer Analysis and Response Team (CART), FBIHQ.

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13-30.6.5 Reporting Procedures for Field Examiners

Upon completion of a forensic examination, the Field Examiner is required to send an FD-302 report and any documents printed to the case Agent for inclusion into the substantive case file. A copy of the FD-302 report should also be sent to the 66-HQ-C1155003 control file.

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