

**FREEDOM OF INFORMATION
AND
PRIVACY ACTS**

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

(PART 1 OF 8)



FEDERAL BUREAU OF INVESTIGATION

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Manual of Administrative

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Manual of Administrative Operations and Procedures

Part I

Part 1 of 8

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SECTION 0. AUTHORITY OF THE DIRECTOR

0-1 AUTHORITY OF THE DIRECTOR

The Director's authority is derived from a number of statutory and regulatory sources. For example, Sections 531 through 540a of Title 28, United States Code, provide for the appointment of the Director and enumerates some of his powers. More importantly, with regard to promulgation of this Manual, Section 301 of Title 5, United States Code, authorizes the head of an Executive department to "prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property." The Attorney General, as head of the Department of Justice, has delegated the authority reposed in her by Section 301 to the Director in a variety of orders and regulations. Foremost among these delegations are Subpart P and Section 0.137 of Title 28, Code of Federal Regulations. This Manual is promulgated under the authority thus delegated.

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0-2 TITLE 28, CODE OF FEDERAL REGULATIONS, SECTION 0.137

"Except as to persons in Senior Executive Service positions reporting directly to the Director of the Federal Bureau of Investigation or the Administrator or Deputy Administrator of the Drug Enforcement Administration, the Director of the Federal Bureau of Investigation and the Administrator of the Drug Enforcement Administration are authorized, as to their respective jurisdictions, to exercise the power and authority vested in the Attorney General by law to take final action in matters pertaining to the employment, direction, and general administration (including appointment, assignment, training, promotion, demotion, compensation, leave, awards, classification, and separation) of personnel, including personnel in wage board positions. All personnel actions taken under this section shall be subject to post-audit and correction by the Assistant Attorney General for Administration."

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SECTION 1. ACTIVITIES AND STANDARDS OF CONDUCT (SEE MIOG, PART I,
281-16.4 (3).)

1-1 INTRODUCTION (See MAOP, Part I, 1-16.1.)

Regulations concerning the conduct and activities of employees are published in the Code of Federal Regulations (CFR), Title 28, Part 45.735 and Part 45, Appendix; and Title 5, Parts 2634, 2635, and 2636. Their source is found generally in Departmental Order 350-65 dated 12/28/65, as amended by Departmental Order 960-81 dated 10/26/81, which provides that employees shall conduct themselves in a manner that creates and maintains respect for the Department of Justice and the U.S. government. In all their activities, personal and official, they should always be mindful of the high standards of behavior expected of them. (See MAOP, Part I, 13-1(4).)

(1) Departmental Order 350-65, as amended by Departmental Order 960-81 dated 10/26/81, further provides that no Department of Justice employee shall participate personally and substantially as a government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, in which, to his/her knowledge, he/she, his/her spouse, minor child, partner, organization in which he/she is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he/she is negotiating or has any arrangement concerning prospective employment, has a financial interest, unless authorized to do so by the Deputy Attorney General. This prohibition includes such financial interests as ownership of securities of corporations or other entities which may become involved in Bureau investigation. The prohibited actions include supervisory decisions and recommendations, as well as investigative activities. Any employee receiving an assignment involving any matters in which employee has a direct or indirect financial interest as defined in the departmental order shall immediately advise his/her superior and shall be relieved of such assignment. Should there be a strong reason for requesting the Department's approval for the employee to participate in the assignment, the matter should be submitted to FBIHQ for consideration regarding presentation to the Department. In any event the employee should not participate in such assignment until the Department's authorization has been received. The departmental order specifically exempts from the above prohibition the stock, bond, or policy holdings

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of an employee in a mutual fund, investment company, bank, or insurance company which owns an interest in an entity involved in the matter provided that fair value of the employee's holding does not exceed 1 percent of the value of the reported assets of the mutual fund, investment company, or bank.

(2) The Order also provides that employee may not, except in the discharge of his/her official duties, represent anyone else before a court or government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another. An employee may not participate in his/her governmental capacity in any matter in which he/she, his/her spouse, minor child, outside business associate or person with whom he/she is negotiating for employment has a financial interest. Employees may not receive any salary, or supplementation of his/her government salary, from a private source as compensation for his/her services to the government. (See MAOP, Part I, 20-6.1(2) and 20-6.3.2.)

(3) FBI employees whose official responsibilities include research, recommendations, or decisions regarding Bureau insurance programs may not serve concurrently as an officer or member of the Board of Directors of any insurance group or association.

(4) Personal and Business Relationships: Unless prior authorization has been granted, an employee is prohibited from participating in a matter involving specific parties which he/she knows is likely to affect the financial interests of a member of the employee's household, or in which the employee knows a person with whom he/she has a covered relationship is or represents a party, if he/she determines that a reasonable person with knowledge of the facts would question the employee's impartiality in the matter.

Definitions of terms:

An employee has a COVERED RELATIONSHIP with:

- a person, other than a prospective employer described in Title 5, CFR, 2635.603(c), with whom the employee has or seeks a business, contractual or other financial relationship, other than a routine consumer transaction;

- a person who is a member of the employee's household, or who is a relative with whom the employee has a close personal relationship;

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- a person for whom the employee's spouse, parent or dependent child is; to the employee's knowledge, serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee;

- any person for whom the employee has, within the last year, served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or,

- an organization, in which the employee is an active participant.

(5) Extraordinary payments from former employers: Unless a prior waiver has been received under Title 5, CFR, 2635.503(c), an employee shall be disqualified for two years from participating in any particular matter in which a former employer is a party or represents a party, if the employee received an extraordinary payment from that person prior to entering government service. The two-year period of disqualification begins to run on the date that the extraordinary payment is received.

Definitions of terms:

EXTRAORDINARY PAYMENT means any item, including cash or an investment interest, with a value in excess of \$10,000, which is paid:

- on the basis of a determination made after it became known to the former employer that the individual was being considered for or had accepted a government position; and,

- other than pursuant to the former employer's established compensation, partnership, or benefits program. A compensation, partnership, or benefits program will be deemed an established program if it is contained in bylaws, a contract or other written form, or if there is a history of similar payments made to others not entering into federal service.

FORMER EMPLOYER includes any person which the employee served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee.

(6) Ethics Advice and Training

(a) The FBI's Deputy Designated Agency Ethics Official is the Chief, Legal Advice and Training Section, Office of the General Counsel (OGC). This person, on the FBI's behalf, is

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responsible for coordinating and managing the FBI's ethics program. The FBI's ethics official has authority to delegate certain responsibilities, including that of providing ethics counseling, to one or more deputy ethics officials. Employees of the Administrative Law Unit (ALU), OGC, and the Chief Division Counsel (CDC) have been delegated the authority to provide ethics counseling and advice.

(b) Initial Ethics Orientations. All newly hired employees are required by regulation to receive an initial ethics orientation within 90 days of entering on duty. An initial ethics orientation consists of the following: 1) providing each employee with a copy of Part I of Executive Order (EO) 12674, entitled "Principles of Ethical Conduct for Government Officers and Employees," as amended, and Part 2635 of 5 CFR, and/or a summary thereof, together with any agency supplemental regulations; 2) informing the employee of individuals available to answer questions regarding the employee's ethical responsibilities; and 3) providing the employee with one hour of official duty time to review the above materials. Newly hired Special Agents and support employees at FBIHQ will receive an initial ethics orientation during training or orientation courses conducted by the Training or Personnel Divisions. SACs are responsible for ensuring that support employees hired within their field offices receive an initial ethics orientation.

As the FBI's ethics program is subject to audit by the Office of Government Ethics and the Department of Justice, the Training and Personnel Divisions and each field office shall, prior to January 15 of each year, verify and report annually to the ALU, OGC, that all newly hired employees have been given an initial ethics orientation within 90 days of entering on duty.

(c) Annual Ethics Training. Certain employees are required by regulation to receive one hour of ethics training annually. These employees include: 1) the Director; 2) any individual required to file a Public Financial Disclosure Report (SF-278) (i.e., all Senior Executive Service employees); and 3) any individual required to file a Confidential Financial Disclosure Report (SF-450) or, in the alternative, a "Conflict of Interest Certification." Annual ethics training must include at a minimum, a review of the following: 1) the employee's responsibilities under Part I of EO 12674, as amended; 2) Part 2635 of 5 CFR, together with any agency supplemental regulations; and 3) a review of the employee's responsibilities under the conflict of interest statutes found at Title 18, USC, Sections 202-209. Annual ethics training and reporting requirements will be coordinated by the ALU, OGC, and assisted by the Chief Division Counsels.

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(d) Employees who have questions about the application of the Office of Government Ethics (OGE) standards of conduct or any supplemental agency regulations to particular situations should seek advice from an agency ethics official. Disciplinary action for violating the OGE standards of conduct or any supplemental agency regulations will not be taken against an employee who has engaged in conduct in good faith reliance upon the advice of an agency ethics official, provided that the employee, in seeking such advice, has made full disclosure of all relevant circumstances. Where the employee's conduct violates a criminal statute, reliance on the advice of an agency ethics official cannot ensure that the employee will not be prosecuted under that statute. However, good faith reliance on the advice of an agency ethics official is a factor that may be taken into account by the Department of Justice in the selection of cases for prosecution. Disclosures made by an employee to an agency ethics official are NOT protected by an attorney-client privilege. An agency ethics official is required by Title 28, USC, Section 535 to report any information he/she receives relating to a violation of the criminal code, Title 18 of the United States Code.

(e) Employees on detail to other agencies should refer to MAOP, Part I, Section 1-28.

(7) Outside Earned Income Limitations Applicable to
Certain Presidential Appointees and Other Noncareer Employees

A Presidential appointee to a full-time noncareer position shall not receive any outside earned income for outside employment, or for any other outside activity, performed during that Presidential appointment. This limitation does not apply to any outside earned income received for outside employment, or for any other outside activity, carried out in satisfaction of the employee's obligation under a contract entered into prior to April 12, 1989.

(8) In furtherance of the above, the Bureau expects its employees to so comport themselves that their activities both on and off duty will not discredit either themselves or the Bureau. Failure by an employee to follow these guidelines may result in appropriate disciplinary action including possible dismissal. The rules and regulations regarding official and personal conduct which govern the granting of individual access to and use of Bureau cryptomaterials appear in the COMSEC Custodian Manual (Chapter II, pages 6-11). (See (2) above.)

(9) The principles embodied in Executive Order 12674

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dated 4/12/89, establishing fair and exacting standards of ethical conduct for federal employees, are set forth as follows:

(a) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.

(b) Employees shall not hold financial interests that conflict with the conscientious performance of duty.

(c) Employees shall not engage in financial transactions using nonpublic government information or allow the improper use of such information to further any private interest.

(d) An employee shall not, except pursuant to such reasonable exceptions as are provided by regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

(e) Employees shall put forth honest efforts in the performance of their duties.

(f) Employees shall make no unauthorized commitments or promises of any kind purporting to bind the government.

(g) Employees shall not use public office for private gain.

(h) Employees shall act impartially and not give preferential treatment to any private organization or individual.

(i) Employees shall protect and conserve federal property and shall not use it for other than authorized activities.

(j) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official government duties and responsibilities.

(k) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(l) Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations,

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especially those - such as federal, state, or local taxes - that are imposed by law.

(m) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap. (See MAOP, Part I, 4-1, for DOJ policy.)

(n) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to this order.

These principles were established to ensure that every citizen can have complete confidence in the integrity of the federal government. Accordingly, employees are expected to adhere to these fundamental rules of ethical service. (See MIOG, Part II, 31-5(6)(b) and 31-6(1)(e).)

(10) Ethics Reform Act of 1989 Honorarium Ban

(a) Department of Justice (DOJ) employees have long been prohibited from receiving compensation or anything of monetary value for a consultation, lecture, teaching, discussion, writing, or appearance, the subject of which is devoted substantially to the responsibilities, programs or operations of the Department, or which draws substantially on official data or ideas which have not become part of the body of public information.

(b) The ban on receipt of honoraria by federal employees, imposed by Title VI of the Ethics Reform Act of 1989, was overturned in part by the United States Supreme Court. As a result, FBI employees at grade GS-15 or below are no longer subject to the ban. The status of the ban with regard to other FBI employees is still being determined by the Department of Justice. Additionally, all employees continue to be subject to the restrictions on receiving compensation for teaching, speaking and writing imposed by Section 2635.807 of Title 5, Code of Federal Regulations. Contact the Administrative Law Unit for further clarification.

(c) Deleted

(d) Deleted

(e) Deleted

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(f) Deleted

(g) Deleted

(h) Deleted

(i) Deleted

(j) Deleted

(k) Inquiries concerning outside employment requests from Special Agents (SAs) may be directed to the Adjudication Unit, Office of Professional Responsibility. Similar requests concerning support personnel should be directed to the Personnel Security Unit, National Security Division. The Supreme Court's decision overturning the honoraria ban has little or no impact on SAs since they are generally precluded from engaging in outside employment. See Manual of Administrative Operations and Procedures (MAOP), Part I, Section 20-6.3.2.

(11) Ethics Reform Act of 1989 Post-Employment Restrictions

(a) Department of Justice (DOJ) employees have been prohibited since 1980 under Title 5, Code of Federal Regulations (CFR), Part 2637, from certain post-employment conflict of interest activities as enumerated in Title 18, United States Code (USC), Section 207. As a result of amendments to Title 18, USC, Section 207, effective January 1, 1991, and implementing regulations codified at Title 5, CFR, Part 2641, FBI employees who retire/resign after that date are subject to substantially revised post-employment restrictions. Employees who left FBI service prior to January 1, 1991, remain regulated by former Section 207 and by its implementing regulations codified at Title 5, CFR, 2637.

(b) The provisions of Title 18, USC, Section 207, do not bar any FBI employee from accepting employment with any private or public employer after leaving federal service. However, they do prohibit employees from engaging in certain activities on behalf of entities or persons other than the United States.

(c) A lifetime restriction applies to all former employees barring them from representing an outside organization in dealing with the government in connection with a matter in which they were personally and substantially involved during their government employment. This restriction begins upon termination from government

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service and lasts as long as the particular matter does. Title 18, USC, Section 207(a) (1).

(d) An employee can participate "personally" in a matter even though he/she merely directs a subordinate's participation. The employee participates "substantially" if his/her involvement is of significance to the matter. Thus, an employee's participation in a single critical step will be sufficient to trigger the restrictions of this statute.

(e) Section 207(a) (1) does not apply unless a former employee communicates to or makes an appearance before the United States on behalf of some other person. "United States" refers to any employee of any department, agency, or court of the United States. The term does not include the Congress and, therefore, communications to or appearances before Members of Congress and legislative staffs are not prohibited. There is no prohibition against an employee representing himself/herself before the United States or acting on behalf of the United States.

(f) A communication to or appearance before the United States is not prohibited unless it concerns the same matter in which the former employee participated personally and substantially while employed with the government. A "communication" can be oral, in writing, or through electronic transmission. An "appearance" extends to a mere physical presence at a proceeding when the circumstances make it clear the former employee's attendance is intended to influence. The prohibition does not apply to an appearance or communication involving purely social contacts, a request for publicly available documents or a request for purely factual information.

(g) A two-year restriction applies to all former employees barring them from representing another person/organization in matters before the government for which they had knowledge or should reasonably have known was pending under their official responsibility during the last year of their government service. Title 18, USC, Section 207(a) (2). This provision is identical to the lifetime restriction discussed in (c) supra, except that it is shorter in duration and requires only that the individual have had official responsibility for a matter while employed by the government. Official responsibility would include the supervision of a subordinate employee who is personally and substantially involved in the matter although the former employee was not. The two-year period is invoked as a "cooling off" period during which former employees cannot unduly influence former subordinates in their official actions. (See MAOP, Part I, 20-6.1 (5).)

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(h) For one year after an employee terminates his/her government service, he/she may not represent, aid or advise another person/agency on trade or treaty negotiations which were ongoing during the last year of the employee's government service in which the employee personally and substantially participated. This provision will have very little impact on FBI employees. Title 18, USC, Section 207(b).

(i) One year after an employee terminates a "senior" position with the FBI, the employee may not represent another person/agency before the FBI on any matter which was pending during the one-year period prior to his/her termination from the "senior" service position. This one year "cooling off" period begins when the employee ceases to be a senior employee, not when government service is terminated. Title 18, USC, Section 207(c).

1. This prohibition applies only to those individuals within the FBI whose rate of basic pay (without any locality-based pay adjustments) is equal to or greater than the rate of basic pay payable for Level V of the Executive Schedule or Senior Executive Service employees at ES-level 5 or above. The employee does not have to have been involved in any way in the matter that is at issue.

2. The Office of Government Ethics has issued regulations for Section 207(c) which designate the FBI as a distinct and separate component of the DOJ for the purposes of the restrictions of Section 207(c). Therefore, a former "senior" FBI employee may communicate or appear before any government agency or DOJ component, except the FBI, on behalf of another individual within one year after leaving their senior position to influence official actions without violating this prohibition.

(j) For ONE YEAR after terminating a senior position, the employee may not knowingly attempt to influence a decision of an employee of the United States by representing, aiding or advising a foreign entity. This restriction is measured from the date the employee terminates his/her senior position. A foreign entity includes a government of a foreign country or a foreign political party. A foreign commercial corporation is not generally considered a "foreign entity" unless it exercises the functions of a sovereign. Title 18, USC, Section 207(f).

(k) Title 18, USC, Section 207(j) provides several exceptions to Section 207's substantive prohibitions. Several of

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these exceptions are not applicable to all of the substantive restrictions.

1. A former employee is not restricted by Section 207 from engaging in post-employment activities in carrying out official duties on behalf of the United States, nor will a "senior" employee violate Section 207(c) when carrying out official duties as an employee and if made on behalf of an agency or instrumentality of a state or local government, an accredited degree-granting institution of higher education, or a hospital or medical research organization which is tax exempt under Title 26, USC, Section 501(c) (3).

2. A former employee is not barred from representing, aiding, or advising an international organization in which the United States participates, provided the Secretary of State certifies in advance that such activity is in the interests of the United States.

3. A former "senior" employee will not violate Section 207(c) if he/she makes a statement based on his/her own special knowledge in the particular area that is the subject of the statement, provided that the employee receives no compensation for making the statement.

4. A former employee will not violate Section 207(a) (1), (a) (2), or (c) if he/she makes a communication solely for the purpose of furnishing scientific or technological information consistent with agency procedures or if the Director publishes a certification in the Federal Register attesting to the individual's qualifications and that the national interest would be served by the former employee's participation.

5. A former employee is not restricted from giving testimony under oath or from making statements required to be made under penalty of perjury, except for expert opinion testimony. Expert opinion testimony may only be given on behalf of the United States pursuant to a court order if the former employee is subject to the lifetime prohibitions contained in Section 207(a) (1) relating to the matter to be testified on.

(1) A willful violation of this section could be punishable by imprisonment of not more than five years. A violation that is not willful would be a misdemeanor which is punishable by imprisonment of not more than one year. A civil action may also be brought by the Attorney General (AG) which could carry a penalty

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(fine) of not more than \$50,000. The AG may petition for an injunction against persons he/she has reason to believe are engaged in conduct prohibited by Section 207. Title 18, USC, Section 216.

(m) Inquiries concerning post-employment

restrictions should be addressed to the Section Chief, Legal Advice and Training Section, Office of the General Counsel, who is the FBI's Deputy Designated Agency Ethics Official (DDAEO). Interpretations of Section 207's restrictions are fact-specific, depending upon the former employee's proposed outside employment and his/her former FBI position and its responsibilities.

(n) Upon termination of government service employees should be advised of these restrictions during their exit interview and this should be documented on the exit interview Form FD-193.

EFFECTIVE: 03/07/97

1-2 PERSONAL CONDUCT (See MAOP, Part I, 1-25.2.)

(1) Employees should never cause themselves to be mentally or physically unfit for duty. They are not permitted to consume alcoholic beverages during working hours, including that time allotted for meal periods or any period of leave taken if the employee intends to return to work before the termination of working hours, with limited exceptions necessary for Special Agents in certain undercover or surveillance assignments. Employees are not permitted to consume alcoholic beverages on Bureau premises while on or off duty, unless otherwise granted an exemption by the Director, the Assistant Director or Deputy Assistant Director of the Personnel Division, or by the Assistant Director of the Training Division with regard to the FBI Academy. Employees may not consume alcoholic beverages while on other federal property without the permission of the cognizant agency head or designee. Employees must be held accountable for their on- and off-duty alcohol-related misconduct, whether OR NOT they are specifically CHARGED with an alcohol-related offense by a local law enforcement agency. (See MAOP, Part I, 1-30 through 1-30.4.) The use of illegal drugs or narcotics or the abuse of any drugs or narcotics is strictly prohibited at any time. Employees must not, at any time, engage in criminal, dishonest, immoral or disgraceful conduct or other conduct prejudicial to the government.

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(2) USE OF OFFICIAL TIME -

(a) Unless authorized in accordance with law or regulations to use such time for other purposes, an employee shall use official time in an honest effort to perform his/her official duties. An employee not under a leave system, including a Presidential appointee exempted under Title 5, USC, Section 6301(2), has an obligation to expend an honest effort and a reasonable proportion of his/her time in the performance of official duties.

(b) An employee shall not encourage, direct, coerce, or request subordinates to use their official time to perform activities other than those required in the performance of their official duties or authorized in accordance with law or regulation.

EFFECTIVE: 10/08/96

1-2.1 Sexual Harassment Policy

Sexual harassment is prohibited within the FBI workplace, and will not be tolerated. Sexual harassment must be prevented not only because it is unlawful and potentially costly in financial terms, but also because of the disruptive effect it has on productivity, discipline, and morale. In all instances where allegations are substantiated, disciplinary action will be dispensed commensurate with the severity of the proscribed activity. It is the responsibility of all FBI managers and employees to eliminate sexual harassment within the FBI workplace and to create a discrimination-free work environment.

(1) Sexual harassment is a violation of Section 703 of the Civil Rights Act of 1964 (hereafter Title VII), and is defined by the Equal Employment Opportunity Commission (EEOC) as:

"Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of

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unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."

(2) Sexual harassment is usually divided into two forms. The first, quid pro quo harassment, is the most obvious form which involves the requirement of sexual favors as a term or condition of employment, or it requires submission to sexual advances for favorable consideration to workplace opportunities or promotions.

The second, referred to as a hostile work environment, is more difficult to define. A work environment is considered hostile when supervisors or fellow employees have created an atmosphere so infused with unwelcome sexual conduct that it unreasonably interferes with an individual's job performance. In determining whether this specific conduct constitutes sexual harassment, the EEOC looks at:

- (a) the whole employment picture;
- (b) the particular employee and the harasser;
- (c) the kind of sexual advances and the context in which the alleged incidents occurred.

(3) Examples of conduct which may be considered sexual harassment or create a hostile work environment, whether committed by supervisors or fellow employees, may include, but are not limited to:

- (a) oral or written comments of a sexual nature;
 - (b) comments regarding an individual's body;
 - (c) statements, anecdotes, jokes, teasing and/or gestures of a sexually degrading nature, which are used to describe an individual;
 - (d) physical contact or threats of physical contact;
- and
- (e) display of books, magazines, or pictures of a sexual nature that are, in the view of the recipient, offensive and unwelcome.

Employees should be aware that while any of the foregoing examples do not automatically (by themselves) constitute sexual harassment, they are all representative of unprofessional conduct which is subject to disciplinary action. FBI managers and supervisors

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should recognize that while such conduct may not rise to the level of sexual harassment, it is still inappropriate and counterproductive within the workplace. Besides affecting the victim's performance and self-esteem, it can have a debilitating effect upon overall employee morale.

(4) The emerging legal standard for determining whether conduct of a sexual nature was severe and pervasive enough to create a hostile working environment was discussed in a 1993 U.S. Supreme Court case entitled, "HARRIS V. FORKLIFT SYSTEMS, INC." In that case, the Court held that Title VII is violated whenever the workplace is permeated with discriminatory behavior that is sufficiently severe or pervasive to create an abusive or hostile work environment. The test that is applied has both a subjective and objective component. The victim must SUBJECTIVELY perceive the work environment as abusive. Next, the victim's perception must be supported by an OBJECTIVE finding that a reasonable person would consider the environment abusive or hostile. Further, the Court held that whether an environment is hostile or abusive can be determined by looking at the totality of the circumstances, which may include the following factors:

The severity and frequency of the conduct; whether the conduct was physically threatening or humiliating, or a mere offensive utterance, and whether the conduct reasonably interferes with an employee's work performance.

(a) Any investigation of a claim of sexual harassment brought by one of our employees against another FBI employee will therefore include an analysis of the totality of the circumstances, which will include these factors. Any employee found to have violated Title VII as a result of an internal investigation will face disciplinary action up to, and including, where egregious, dismissal.

(b) The Courts have also begun to recognize that women's perception of conduct is different from a man's perception. Women are also more likely to be concerned about sexual conduct since they are the victims of most sexual assaults. The Courts are leaning toward the belief that men might not understand the underlying threat a woman might perceive when a man directs unwanted attention of a sexual nature toward her, since men are seldom victims of sexual assault.

In view of the above, employees may best gauge the appropriateness of their language or conduct by first asking themselves the question, "Is

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this something I would want done or said in the presence of my mother, sister, wife, or daughter?" While this comparative example may appear to be trivial, it remains as the most reliable indicator as to the inappropriate nature of a word or action.

(5) Aggrieved employees are advised that they may seek redress to their situation through the Equal Employment Opportunity (EEO) process by initiating contact with an EEO Counselor within 45 days of the alleged discriminatory incident. (See MAOP, Part I, 4-4.)

(6) Employees who believe they are victims of such behavior are encouraged to report instances of this unprofessional conduct to appropriate management officials, to the Office of Professional Responsibility (OPR), or to the Administrative Summary Unit (ASU). (See MAOP, Part I, 13-1(2), and 13-2(1).)

It should be emphasized that employees may proceed through both the administrative (OPR or ASU) AND the EEO process simultaneously. The administrative process will address disciplinary aspects of the incident in question, while the EEO process is focused toward corrective action in the form of "make whole" relief sought by the complainant. Where necessary, employees may also wish to utilize the resources of the Employee Assistance Program (EAP) to address physical, mental, or emotional distress they may be experiencing. (See MAOP, Part I, 15-3.3.1.)

(7) All FBI managers and supervisors are obligated to promptly respond to and investigate incidents or allegations which relate to sexual harassment. Failure to appropriately respond could result in disciplinary action.

(8) All SACs and division heads are required to:

(a) discuss this policy with all Agents and support employees, particularly at the annual Agent and support personnel conferences (See MAOP, Part I, 4-7.1; Part II, Sections 8-1.3.2(4), and 8-2.2(1), (2)(b); and Legal Attache Manual, Sections 2-12.1 and 2-12.3);

(b) establish a standard of conduct that is consistent with accepted behavioral norms;

(c) reiterate to managers and supervisors that they are responsible for creating a professional work environment for their subordinates;

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(d) regularly and honestly assess the working environments within their span of control and initiate corrective action to rectify those situations where a puerile, locker room atmosphere represses professional conduct and achievement;

(e) alert those employees with a penchant for vulgar language, sexually degrading statements or jokes, as well as those who are inclined to display photographs or magazines of a sexual nature, that such conduct is offensive, unwelcome, and inappropriate in the work place, and it is subject to disciplinary action;

(f) emphatically encourage all employees to report inappropriate conduct without fear of retaliation or adverse reaction which fellow employees may wittingly or unwittingly afford them for their proper reporting of such unprofessional conduct;

(g) ensure that employees who feel that they have been victims of sexual harassment have confidence in management's interest or commitment to professionally address these situations;

(h) alert all employees of the availability of the Employee Assistance Program's (EAP) counseling service to provide confidential support and guidance to individuals who believe they have been victimized by such activity (See MAOP, Part I, 15-3.2);

(i) encourage managers/supervisors to be more observant of employees' conduct, anticipate circumstances in which sexual harassment may occur and take preventive action to preclude its occurrence, and appropriately document and refer unprofessional conduct for disciplinary consideration.

(9) Each employee should be knowledgeable of the FBI's Policy Statement Regarding Sexual Harassment, and refrain from such unprofessional activity or be subject to disciplinary action. No employee is expected to endure offensive or unwelcome conduct of a sexual nature. (See MAOP, Part I, 4-3(2).)

(10) Employees are likewise responsible for contributing to a work environment that is free of discrimination or harassment, and are specifically obligated to report ALL violations of this policy whether egregious or less serious infractions. Failure to report such instances allows not only illegal and unprofessional conduct to continue, but it provides the harasser with the opportunity to victimize additional employees.

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(11) Employees should be confident that their complaints regarding sexual harassment will be appropriately addressed by management without fearing any acts of retaliation, either by management officials or fellow employees.

(12) The provision of referral by management to the EAP for employees suffering physical, mental, or emotional stress resulting from raising complaints of sexual harassment, does not automatically translate into acceptance of the merits of his/her allegation of sexual harassment. The investigation associated with this incident will appropriately address this issue.

(13) All employees who have witnessed sexual harassment within the work place are expected to provide testimony in the form of affidavits to investigators who are conducting investigations into these matters. Failure to cooperate fully and candidly may subject an employee to disciplinary action. (See MAOP, Part I, 1-21.2(2).)

(14) The Civil Rights Act of 1991 amended Title VII of the Civil Rights Act of 1964 to allow employees who are victims of INTENTIONAL discrimination, (to include victims of sexual harassment) to collect compensatory damages for pain and suffering incurred as a result of this discrimination. It is now POSSIBLE for victims of sexual harassment to be awarded up to \$300,000 in compensatory damages where discrimination is shown to have been intentional. If the FBI determines that such compensatory damages are appropriate, or if this determination is made by the EEOC or the Department of Justice (through its Complaints Adjudication Officer), the payment of whatever damages are deemed proper must be paid out of the appropriated funds of this agency. Thus, the cost of intentional discrimination, be it sexual harassment or otherwise, is a major liability that agencies must confront and which agency managers must minimize to the fullest extent. The cost and the intrusion of a potential EEO or OPR investigation mandates a more responsive role by managers against this immature behavior.

EFFECTIVE: 05/13/94

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1-2.2 Informal Resolution Process (IRP)

The Informal Resolution Process (IRP) has been instituted as an alternate method by which to address allegations of sexual harassment. It is separate and apart from the Equal Employment Opportunity (EEO) and Office of Professional Responsibility (OPR) processes which continue to be available, although the three are not mutually exclusive. Mandated by the Attorney General, this process is a vital step to the prevention of sexual harassment within the Department of Justice (DOJ), and attempts to provide an expeditious and meaningful resolution to employees who feel that they have experienced sexual harassment in any form. This process is administered by employees known as "Facilitators." (See MAOP, Part I, 1-2.1; for the FBI's Sexual Harassment Policy, and a detailed discussion of the definition of sexual harassment. Also, see the "Informal Resolution Process Handbook" for further details about the IRP.)

(1) Each field office and Headquarters division should have at least two (2) trained Facilitators whose names and contact telephone numbers are to be prominently displayed.

(2) Employees should be aware that any retaliation resulting from their use of the IRP is a violation of the Civil Rights Act of 1964 (Title VII) as amended, and may be addressed through the EEO process and/or OPR.

(3) The IRP has a very short time frame in order to afford expedited attention or corrective action that can be either temporary or permanent. The DOJ has mandated that the Facilitator begin the inquiry within seven (7) calendar days from the time of initial contact, and that the inquiry be completed within 30 calendar days (with a provision for a 15 day extension). It is anticipated that FBI Facilitators will not require the entire 30 days, or the 15 day extension, in most cases since these matters are of the utmost priority. Facilitators should be able to determine the facts, present them to the SAC/Division Head, and have a final decision on the matter within a period of days rather than weeks.

(4) Upon being contacted by a complainant, Facilitators will provide explanations of the various avenues by which sexual harassment complaints may be addressed by furnishing the complainant with the required forms and handouts.

(a) If the complainant is seeking disciplinary

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action against the alleged offending party, the most appropriate forum is the OPR process. If the complainant wishes to initiate the OPR process, the Facilitator will advise the SAC who will refer the matter to OPR.

(b) If the complainant is seeking "make-whole" corrective relief, the EEO process should be invoked. If the complainant desires to invoke the EEO process, the Facilitator will provide the names and contact numbers of the EEO Counselors within that office/division. Contact with the Facilitator does not constitute contact with an Equal Employment Opportunity (EEO) Counselor for the purpose of initiating EEO precomplaint counseling, even if the Facilitator is an EEO Counselor. Should the complainant elect to go forward with the allegation of sexual harassment under the EEO process, she/he must initiate precomplaint counseling with an EEO Counselor within 45 days from the date of the alleged discriminatory activity.

(c) If the complainant is simply seeking to be transferred to another area within their division or to have someone speak to the alleged offending party, informal resolution through the IRP may present the best recourse.

(d) If the complainant is seeking a remedy beyond the limits of the IRP informal settlement, the complainant must also proceed through either the OPR and/or EEO process, or all three simultaneously. Utilization of the IRP does not preclude the complainant from concurrently pursuing OPR and EEO avenues.

(5) Once the Facilitator has thoroughly interviewed the complainant and determined the facts as known at that point, the SAC/Division Head should immediately be advised of the facts prior to initiating any inquiry.

(a) If the complaint is against the SAC/Division Head, the Facilitator will discuss the matter with FBIHQ prior to advising the SAC/Division Head and conducting any inquiry.

(b) By coming to the Facilitator and raising issues of sexual harassment, there is no provision for anonymity.

(c) It is within the discretion of the SAC/Division Head to temporarily transfer or detail within that division the complainant and/or the alleged harasser while awaiting the results of the Facilitator's inquiry into a complaint. The latter temporary transfer is not to be interpreted as an indicator of the credibility

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being attached to the complaint, but should be viewed as a necessary measure to ensure that the alleged behavior, or any reprisal, does not occur throughout the course of the inquiry.

(d) Utilization of the IRP does not preclude or abrogate the SACs/Division Heads from responsibility to refer matters of serious misconduct to OPR for appropriate administrative action. Serious misconduct is defined as conduct which has a significant adverse impact on the FBI, and includes possible violations of administrative policy as well as potential criminal activity. SACs/Division Heads will, however, allow Facilitators appropriate time to conduct their inquiry before reporting these matters to OPR except in the most egregious situations.

EFFECTIVE: 06/07/95

1-2.2.1 Conducting/Resolving the IRP Inquiry

(1) The Facilitator will conduct a limited inquiry to determine the facts of the matter. The inquiry will normally consist of interviews with the complainant, the alleged offending party and witnesses, and a review of any pertinent documents. While this is an informal process, all employees are expected to fully cooperate.

(2) The Facilitator will expeditiously provide the SAC/Division Head with the facts and serve as an impartial mediator to attempt an informal settlement of the matter. The SAC/Division Head may request assistance from the Facilitator in composing any settlement or in the drafting of any communication to FBIHQ referring cases of serious misconduct to OPR. Those communications become a part of the OPR file and are not to be kept with IRP documents.

(3) The SAC/Division Head will decide the appropriate means, if any, of resolving the matter at hand. Resolutions will be limited to speaking with the offending party, and/or effecting the permanent intradivisional transfer of the offending party if the inquiry develops corroboration of the alleged sexual harassment. The decision will depend upon the nature of the alleged activities and the immediate corrective action desired by the complainant.

(a) The SAC/Division Head may consider the intradivisional transfer of the victim as part of an informal

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resolution only if the complainant concurs that her/his being moved is a reasonable solution to the situation.

(b) If the offense does not rise to the level of serious misconduct and appropriate parties agree to the informal resolution, the SAC/Division Head will not be required to refer the matter to OPR, and the complaint will be considered resolved.

(c) The SAC/Division Head retains the right to take additional measures, such as transferring the alleged offending party within the division, and/or discussing the impact of this inappropriate conduct upon the workplace with the alleged violator.

(d) If the SAC/Division Head believes stronger disciplinary considerations are warranted against the alleged offending party, the matter must be referred to OPR for their consideration of administrative action.

(4) In those instances where an informal resolution is not achieved through the IRP, complainants may wish to avail themselves of the EEO and/or OPR processes.

EFFECTIVE: 06/07/95

1-2.2.2 Records Conducting/Resolving the IRP Inquiry

(1) Although the IRP is an informal process, certain statistics are required to be retained for response to requests from the DOJ regarding utilization of this new process. This information is being retained for statistical purposes only and no information or record of the names of complainants or alleged offenders will be placed in any FBI file. Any and all notes taken by the Facilitator during the course of the inquiry will be destroyed upon submission of the statistical data to the IRP Coordinator located in the Organizational Program Evaluation and Analysis (OPEA) Unit, Inspection Division, FBIHQ.

(2) The only forms used to record IRP contacts are an Acknowledgement Form used to inform complainants of a possible conflict if the IRP and EEO processes are selected; and a Record of Inquiry used as a tracking device which contains limited information.

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(3) While in the Facilitator's custody, all IRP documents are to be afforded appropriate security and confidentiality in that they are not to be shown to or discussed with anyone other than the complainant, the SAC/Division Head or their designee, and the IRP Coordinator in OPEA at FBIHQ. All notes taken by the Facilitator during the course of the inquiry should be destroyed upon completion of the Record of Inquiry form, and that destruction noted on the Record of Inquiry form.

(4) The original executed Acknowledgement Form, and the Record of Inquiry form should be sealed in a suitable envelope and mailed to the IRP Coordinator within seven (7) calendar days of the conclusion of this matter. These records will be maintained for an appropriate period of time after which they will be destroyed.

(5) The Facilitator will also collect and record statistical data and submit it to the IRP Coordinator as requested. The OPEA Coordinator will compile quarterly and/or annual reports as required by DOJ, and furnish copies of those reports to the OEEOA.

EFFECTIVE: 06/07/95

1-3 USE OF GOVERNMENT PROPERTY

An employee has a duty to protect and conserve government property and shall not use such property, or allow its use, for other than authorized purposes.

DEFINITIONS OF TERMS:

GOVERNMENT PROPERTY includes any form of real or personal property in which the government has an ownership, leasehold, or other property interest as well as any right or other intangible interest that is purchased with government funds, including the services of contractor personnel. The term includes office supplies, telephone and other telecommunications equipment and services, the government mails, automated data processing capabilities, printing and reproduction facilities, government records, and government vehicles.

AUTHORIZED PURPOSES are those purposes for which government property is made available to members of the public or those purposes authorized in accordance with law or regulation. Authorized purposes also include personal uses that involve only a negligible expense

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(such as electricity, ink, small amounts of paper, and ordinary wear and tear); and limited personal telephone/fax calls to locations within the office's commuting area, or that are charged to nongovernment accounts. The foregoing authorization does not override any statutes, rules, or regulations governing the use of specific types of government property, and may be revoked or limited at any time by any supervisor for any business reason. In using government property, employees should be mindful of their responsibility to protect and conserve such property and to use official time in an honest effort to perform official duties.

(1) All government property, including automobiles, boats, and other methods of conveyance, supplies, equipment, telephones and facilities are to be used solely for official purposes and not converted to any employee's personal use except for use in accordance with the foregoing Authorized Purposes provisions. With the authorization of the SAC, Assistant Director or a designated management representative, the use of equipment for training and research during nonwork hours shall be considered "official purposes." Government property authorized for an employee's use during nonworking hours must be appropriately charged out to the employee by executing appropriate property receipt, Form FD-281. The loss, misplacement, theft or destruction of government property issued to any employee must be reported to his/her superior immediately.

(2) All government and FBI records, to include computer records, are to be used solely for official purposes. The use of FBI records, or records made available to the FBI through other government agencies, for the purpose of obtaining information for personal use is strictly prohibited.

(3) The Bureau encourages the use of government property to reward employees and promote morale building, ceremonies, and events where such use, in the opinion of the SAC, increases the efficiency of the Bureau and facilitates a Bureau function. FBI Headquarters' permission should be obtained prior to use of government-owned boats, airplanes, and special purpose vehicles for purposes described above.

(4) Pursuant to Departmental Order 2630.2A, "Protecting And Controlling Federally Controlled Property and Loss/Theft Reporting Procedures," the removal of government-owned property from a federal building is prohibited unless properly authorized through the issuance of some form of property pass. Accordingly, the following procedures shall apply for government-owned property being temporarily removed from a federal building for any such property not otherwise

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issued/charged out to an employee, such as through the use of the FD-281:

(a) Approved forms, such as the 0-96, "FBI Property Pass," or the FD-79, "Chargeout of Nonexpendable Property," can be used for property pass purposes in place of the Property Management Application's (PMA) Charge Out/In Functions.

1. In field offices, property passes will be issued by the Administrative Officer, Office Services Manager or other individuals specifically designated by the SAC. The PMA's Charge Out/In Functions can be performed by each division's supply technician or by a designated employee with access to PMA.

2. At FBIHQ, property passes shall be issued by the Finance Division, Property Procurement and Management Section (PPMS), Property Management Unit (PMU). Form 0-96 is to be used and government property shall not be removed from the J. Edgar Hoover F.B.I. Building until this form is properly executed and signed by an authorized individual in PPMS, Finance Division.

(b) Property passes should be prepared in duplicate, unless administrative controls require additional copies. The original shall be given to the employee removing the property from the building, who will, in turn, surrender it to the security guard or other appropriate individual at the time the property is removed from the government building. The security guard or other authorized individual is responsible for returning this copy to the person who issued the pass. The person who issued the pass will ensure the original is appropriately retained until the property is returned. The person returning the property is responsible for ensuring the appropriate notation is made on the original copy to indicate the property has been returned.

(c) A duplicate copy of the pass will be retained by the person who issued it and reconciled with the original, when returned, to ensure only specifically authorized items were removed from the facility.

(d) It shall be the responsibility of the AO or OSM and PMU, PPMS, Finance Division, to ensure property pass records are reviewed at least quarterly. Any discrepancies found will be promptly reported to the Security Programs Manager, FBIHQ. (See MIOG, Part II, 35-9.4.6.)

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EFFECTIVE: 08/09/95

1-3.1 Bureau Vehicles (See MAOP, Part I, 12-2.5.1;
Part II, 6-1.2.3.)

(1) Bureau vehicles (to include government-owned vehicles; and vehicles rented or leased by the FBI) are to be used for official business only. In connection with the use of Bureau vehicles, transportation for other than FBI employees is to be restricted to individuals and their families, or aides accompanying them, who are traveling to attend FBI-sponsored or FBI-participating functions or have other direct business to transact with FBI officials and/or officials of the Department of Justice traveling on official business.

(a) Deleted

(2) Bureau vehicles are allowed to be driven between an employee's residence and work place to enable the FBI to maintain an emergency response capability which is necessitated by the nature of the work and not solely for the personal convenience of employees. In conjunction with this, the most direct and expeditious route to and from the employee's residence should be observed. An employee may, when circumstances warrant such an action, interrupt his/her travel as long as he/she does not deviate from an expeditious route to his/her residence nor impair his/her ability to retain emergency response capability.

(3) FBI employees are authorized to accompany the driver of the Bureau automobile to and from the driver's residence and the place of work provided that the trip is justifiable as necessary for the Bureau to retain its emergency response capabilities and no significant deviation from the most direct route occurs.

(4) An SAC may authorize on a case-by-case basis an Agent's spouse to travel in a Bureau automobile while the Agent is en route to and from a function in which the Agent has an official role, provided the Bureau vehicle is used exclusively as basic transportation to and from the FBI-sanctioned function. The foremost consideration in granting such a request should be whether such travel would be considered to be in the best interest of the government. Among the factors which should be considered are length of time of the function and distance to be traveled. (See MAOP, Part II, 8-5.)

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(5) Should the weight of facts demonstrate that government-owned, -rented, or -leased vehicles were in fact being used primarily for commuting purposes and were clearly not being operated primarily for the benefit of the government, then this would be in violation of Title 31, USC, Section 1344. (See MAOP, Part I, 1-3.1.2.) Employees should be reminded that Title 31, USC, Section 1349(b) requires a minimum suspension of one month without compensation for anyone who uses or authorizes the use of a government vehicle for other than official purposes. Additional penalties are optional. (See MAOP, Part I, 13-13.)

(6) The employee who is authorized to drive the Bureau vehicle between his/her residence and office is considered to be using the vehicle for "official purposes" so that the use is not prohibited by Title 31, USC, Section 1344. The employee is not, however, considered to be on official business such that he/she can use the commuting time to qualify for Availability Pay. The passengers are not on official business when they are riding to and from work with the driver and are, therefore, not eligible for benefits under the Federal Employee's Compensation Act. Any time a Special Agent who is on duty and is en route to or from his/her residence, receives instructions to proceed to an emergency situation, any passengers who are not likewise instructed are to be discharged.

(7) The addition of more passengers subjects the government to increased liability. Assuming the driver is within the scope of his/her employment, the government would be liable for damages suffered by the passengers as a result of the driver's negligence. If the driver is determined to be outside the scope of his/her employment when an accident occurs through the driver's negligence, then the "driver's statute" of the Federal Tort Claims Act, Title 28, USC, Section 2679(b), would be inapplicable, and the driver could be personally liable for damages suffered by the passengers, third parties, and the vehicle itself, as well as the penalties of Title 31, USC, Section 1349(b). The picking up of and discharging of passengers at a point not en route to and from work could place the driver outside the scope of his/her employment. Therefore, the drivers of Bureau vehicles which are authorized to be driven between the residence and office are limited to routes that may normally be traveled to and from work.

(8) Bureau vehicles may be used to transport ill or injured employees to a hospital or health-care facility. Administrative leave is not necessary where a government or personally owned vehicle is utilized to transport a sick or injured employee to a hospital or health-care facility. Form FD-661, "Waiver for

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Transporting Bureau Personnel Via FBI Vehicles" must be executed.
(See MAOP, Part II, 6-8.2(2).)

Bureau vehicles may not be used to transport ill or injured employees to their residence.

(9) Immediately following an employee's arrest or administrative finding of driving while under the influence (DUI) or while intoxicated, that employee will be prohibited from operating a government motor vehicle. Whenever an employee is found guilty of alcohol-related misconduct, a division head will determine the extent to which the employee's privilege to operate a government motor vehicle will continue to be suspended. In alcohol-related misconduct cases involving the use of a motor vehicle, a presumption will exist that there is a necessity to suspend the employee's privilege to operate a government motor vehicle for a period of not less than ONE YEAR following his/her offense. This suspension will occur regardless whether the nature of the employee's motor vehicle offense has been reduced as a result of judicial review, plea bargaining, or the employee's entry into a diversion or substance abuse program. Whenever a Special Agent is suspended from operating a government motor vehicle as a result of alcohol-related misconduct and following a determination of such misconduct by the Bureau, he/she will NOT be considered eligible to earn premium compensation, such as Sunday pay, holiday pay, night differential, and Availability Pay. Prior to discontinuing eligibility for Availability Pay, the employee will be afforded appropriate adverse action proceedings. (See MAOP, Part I, 1-30.3, 8-1.12.2 and 12-1.5.)

EFFECTIVE: 05/15/97

1-3.1.1 Home-to-Work Use of Bureau Automobiles

(1) Provided it is in the best interest of the government for an employee to start or conclude the workday from the employee's residence rather than place of employment, the SAC, or SAC's designated representative(s), may authorize the use of a government vehicle for transportation between an employee's domicile and place of employment by completing the Form FD-490, "Authorization to Maintain Bureau Vehicle Overnight at Agent's Residence on an Irregular and/or Emergency Basis."

(2) On those occasions when efficiency could be increased

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by maintaining the government vehicle at the employee's residence for extended periods of time, i.e., Title III surveillances, back-to-back road trips, etc., the FD-490 will be completed for the entire period the vehicle is anticipated to be utilized by the employee. If the period extends beyond one month, a separate FD-490 will be completed to cover each month the requirement exists.

(3) The SAC is required to perform and document a periodic review to ensure that only those Bureau vehicles with written authorization and justification, a completed FD-490, are taken home. An administrative file will be established in each field office for completed FD-490s. The documented reviews will be maintained in the administrative file and subject to review during the field office inspections. The FD-490s may be destroyed at the completion of the field office's inspection.

(4) To provide each field office with an emergency response capability, no more than 20 percent of the general investigative vehicles assigned to headquarters cities, all vehicles assigned to resident agencies and Special Operations Groups, and all vehicles assigned to offsite undercover operations are authorized to be taken home on a REGULAR BASIS by FBI Special Agents.

(5) The SAC is required to perform and document a semiannual review of the personnel authorized to take vehicles home on a regular basis to ensure that optimum emergency response coverage is provided or that the responsibilities of the position continue to require the use of a vehicle. These documented reviews will be maintained in an appropriate administrative file and subject to review during the field office inspection.

EFFECTIVE: 02/12/97

1-3.1.2 Rental/Leased Vehicles

(1) A rental/leased vehicle procured with a personal credit card or one issued under the United States Government Credit Card Program is not a government-leased OR -RENTED vehicle within the meaning of Title 31, USC, Section 1344, as described in MAOP, Part I, 1-3.1 (5). It is FBI policy that vehicles rented or leased by an employee with a personal credit card or one issued under the United States Government Credit Card Program for the primary purpose of

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conducting official business must be used within the parameters set by the employee's SAC or division head. An SAC or division head may limit the scope of use by considering such factors as the length, nature and location of the assignment. Expenses accrued for use of the rental/leased vehicle outside the scope of employment must be borne by the employee and must not be vouchered. Any employee who is determined to have intentionally violated this section will be subject to administrative action, up to and including dismissal.

(2) Should the rental/leased vehicle become involved in an accident while being driven outside the scope of the employee's duties, the employee is personally liable for damages suffered by passengers, third parties, and the vehicle itself. In order to avoid increased liability to the government while the employee is on duty, the rental/leased vehicle may NOT be used to transport individuals having no direct relationship with official business. Any employee who is determined to have intentionally transported such individuals will be subject to administrative action commensurate with the circumstances.

(3) The transport of passengers in such a vehicle subjects the government to increased liability. Assuming the driver is within the scope of his/her employment, the government would be liable for damages suffered by the passengers as a result of the driver's negligence, provided the passengers were authorized to accompany the driver. If the driver is determined to be outside the scope of his/her employment when an accident occurs through the driver's negligence, then the "driver's statute" of the Federal Tort Claims Act, Title 28, USC, Section 2679(b) would be inapplicable, and the driver could be personally liable for damages suffered by the passengers, third parties, and the vehicle.

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1-3.2 Property in Vehicles (See MIOG, Part II, 12-1.2 & 12-6.2.)

Employees are expected to take proper care of any Bureau property issued to them or used by them. [See MIOG, Part II, 12-6.2 for policy on maintaining expendable Bureau equipment related to Special Agent safety in vehicles. Any nonexpendable Bureau equipment not related to Special Agent safety is to 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.]

EFFECTIVE: 04/07/97

1-3.3 Utilization of Facilities by Special Agents Attending School

Special Agents attending school under the Government Employees' Training Act as an official assignment may avail themselves of stenographic and typing facilities in connection with their studies and preparation of assignments, provided the request for such assistance is specifically approved in advance by the SAC or the ASAC. This authorization does not extend to employees attending school at their own expense.

EFFECTIVE: 11/24/89

1-3.4 Credentials and Badges

Employees are responsible for complete security of credentials, identification cards and badges at all times. These items must be kept under the employee's control, should be immediately available, are to be displayed for official purposes only and are not to be photographed. The Bureau's name or the initials "FBI" shall not be indiscriminately or improperly used by any employee in either oral or written form.

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EFFECTIVE: 11/24/89

1-3.5 Business Cards and Stationery (See MAOP, Part I, 1-3.7.)

Authorization to use the FBI Seal on either business cards or stationery is granted to Bureau officials, Special Agents and certain support employees only for the purpose of ordering such items for their own official use. As such, an FBI employee can authorize a printer to reproduce the Seal for this purpose on an order-by-order basis. The printer, however, cannot use any items prepared with the FBI Seal for advertisement or to solicit business from the public. Authorization for support employees to utilize business cards or stationery, on a select basis, may be obtained by formal written requests to the SAC or the appropriate Assistant Director. Such requests must clearly demonstrate the necessity for the employee's use of business cards or stationery and should be limited to support personnel at the GS-7 level or above. The cards or stationery should contain the following: name, official title, Federal Bureau of Investigation, office address, telephone number and may have the FBI Seal inscribed in the upper left corner. Expenses incurred for printing the cards or stationery must be borne by the employee who desires to use the Seal.

EFFECTIVE: 05/18/94

1-3.6 Copies of Official Correspondence and Documents

Employees are not to make copies for themselves of any reports or correspondence they prepare in the course of their official duties except copies of expense vouchers, Form CA-1 (Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation), nor should they make or maintain possession of copies of official Bureau documents if they have no justifiable need to know the information contained in them. On separation from the Bureau, every employee must return any official documents made or received while in the Bureau's service except for items such as those enumerated above and originals of letters of appointment, commendation, censure or promotion. (See also MAOP, Part I, 1-19, for Bureau rule on disclosure of information, and MAOP, Part I,

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20-4.2, for instructions on FBI employees' access to their own personnel files.)

EFFECTIVE: 06/09/95

1-3.7 Bureau Seal Matters (See MAOP, Part I, 1-3.5.)

(1) It has been the position of the Bureau to deny all requests for commercial reproduction of the FBI's name and initials where a particular product was to be marketed to the public at large. The Director has, however, under certain circumstances, authorized use of the FBI Seal on items when distribution was to be limited to employees and former employees.

(2) Title 18, United States Code (USC), Section 709, prohibits, without the express written permission of the Director, the use of the name or initials "FBI" or any colorable imitation of such words or initials in any manner which reasonably conveys the impression that the FBI approves, endorses, or authorizes a particular product or business.

(3) Title 18, USC, Section 701, prohibits the manufacture, sale, possession, or colorable imitation of any insignia of the design prescribed by the head of any department or agency of the United States for use by any of its officers or employees, except as allowed by regulation.

(4) In conjunction with Section 701, the Department of Justice has issued regulations that are set forth in Title 41, Code of Federal Regulations, Section 128-1.5007, which require permission to reproduce the seal of the FBI for commercial, educational, ornamental, or other purposes by other government agencies or private entities be referred to the head of the respective departmental organization for decision. Requests are reviewed on a case-by-case basis to determine whether approval should be granted.

(5) Authorization to determine use of the FBI's name, initials, and/or seal in conjunction with the above-mentioned statutes and regulations is vested in the Employee Benefits Unit (EBU), Personnel Recruiting and Benefits Section, Personnel Division. All requests for use of the FBI's name, initials, and/or seal in any manner, whether requested by a manufacturer or by a Bureau entity for products exclusively for Bureau use, must be referred to the EBU for

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review and recommendation.

(6) Any violations of Title 18, USC, Sections 701 and 709, should be handled in accordance with the instructions set out in Part I, Section 43-2.1 and 43-3.4 and 43-3.14 (4) of the Manual of Investigative Operations and Guidelines (MIOG).

EFFECTIVE: 06/08/94

1-4 ILLEGAL ACTIVITIES

(1) Illegal activities on the part of any employee, in addition to being unlawful, reflect on the integrity of the FBI and betray the trust and confidence placed in it by the American people. Furthermore, unlawful activities can disqualify one for employment by the government or the United States. It is, therefore, expected that employees will obey not only the letter of the law but the spirit of the law as well whether they be engaged in activities of a personal or official nature. With respect to investigative activities, this admonition particularly applies to entrapment or the use of any other improper, illegal, or unethical tactics in the procurement of evidence. In this regard, it should be especially noted that, in securing information concerning mail matter, the Bureau will not tolerate a violation of law (Title 18, USC, Sections 1702, 1703, 1708, and 1709). Furthermore, employees must not tamper with, interfere with, or open mail in violation of law nor aid, abet or condone the opening of mail illegally by any employee of the U.S. Postal Service.

(2) As a member of a federal investigative agency, FBI employees must at all times zealously guard and defend the rights and liberties guaranteed to all individuals by the Constitution. Therefore, FBI employees must not engage in any investigative activity, including illegal surreptitious entries, which could abridge in any way the rights guaranteed to a citizen of the United States by the Constitution and under no circumstances shall employees of the FBI engage in any conduct which may result in defaming the character, reputation, integrity, or dignity of any citizen or organization of citizens of the United States.

(3) Employees must not install electronic surveillance equipment without FBIHQ written authority.

(4) No brutality, physical violence, duress or

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intimidation of individuals by our employees will be countenanced nor will force be used greater than that necessary to effect arrest or for self-defense. (See MIOG, Part II, |12-2.1.)

(5) All of the foregoing prohibitions, including those pertaining to illegal surreptitious entries, are applicable to all phases of the FBI's work, applicant, criminal, civil, domestic security, and foreign counterintelligence. Violations must be reported to FBIHQ as set out in this manual, Part I, Section 13, entitled "Disciplinary Matters."

EFFECTIVE: 04/07/97

1-5 PAROLE OR PROBATION OFFICERS

Employees may not act as parole or probation officers.

EFFECTIVE: 11/24/89

1-6 LAW ENFORCEMENT ORGANIZATIONS

Employees may serve as officers of law enforcement organizations only when to do so would in no way affect the conduct of official duties or present a situation wherein a conflict of interest or a lessening of Bureau efficiency would result. Should such occur, the situation must be resolved in favor of terminating the officership. In all cases, prior FBIHQ approval must be requested, accompanied by SAC analysis and recommendations. It is permissible to serve on a committee of a law enforcement organization.

EFFECTIVE: 11/24/89

1-7 LAW ENFORCEMENT SELECTION BOARDS

[FBI employees will not serve on any promotional or selection boards or committees considering local, county, or state law enforcement personnel.]

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EFFECTIVE: 11/15/78

1-8 LABOR ORGANIZATIONS

The Bureau is exempted from Federal Labor-Management Relations programs and requirements by Executive Order 11491 and will not recognize, or negotiate with, labor organizations. Labor organizations are defined as those which exist, in whole or in part, for the purpose of dealing with agencies concerning grievances, personnel policies and practices, or other matters affecting the working conditions of their employees. Bureau employees are prohibited from engaging in labor activities such as, but not limited to, strikes, picketing, organizing and campaigning. Additionally, they must not use Government time or property for such purposes nor permit the use of same by others.

EFFECTIVE: 11/15/78

1-9 CIVIC ORGANIZATIONS

Specific prior FBIHQ authority is necessary in order for an employee to serve as an officer of a civic or other type of organization. It must also be obtained for participation as a judge, sponsor or speaker in any public contest, debate, forum or similar gathering in which the theme of the meeting involves a controversial topic.

EFFECTIVE: 11/15/78

| 1-10 | DELETED |

EFFECTIVE: 06/15/94

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1-11 NON-FBI SEMINARS OR CLASSES

Prior FBIHQ approval is needed for an employee to attend, serve as an instructor, or assist in conducting seminars, classes, or similar gatherings where the employee's FBI affiliation is known with the exception of attendance as a student at a college, law school, school of accounting or other recognized institution of learning. This rule applies to all nonduty time, including leave, and in any case in which a question arises as to the desirability of such participation.

EFFECTIVE: 11/15/78

1-12 GRATUITIES AND REWARDS (See MAOP, Part I, 1-14 and 1-24.)

(1) Employees may not accept rewards or gratuities resulting from their FBI employment nor shall they accept fees from an outside source on account of public appearances, speeches, lectures, or publications, if such public appearance or the preparation of the speech, lecture, or publication was part of an employee's official duties. Also, no employee shall receive compensation or anything of monetary value for any consultation, lecture, teaching, discussion, writing, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs or operations of the Department, or which draws substantially on official data or ideas which have not become part of the body of public information. Further, in this regard, no employee shall engage, with or without compensation, in teaching, lecturing, or writing that is dependent on information obtained as a result of government employment except when that information has been made available to the general public or when the Attorney General gives written authorization for the use of nonpublic information on the basis that such use is in the public interest. However, an employee injured during a kidnapping, assault or assassination attempt against the President, Vice-President or a Member of Congress may receive contributions or payments from a tax-exempt charitable organization.

(2) Bureau officials or other employees who speak or otherwise represent the FBI at conferences, training sessions, banquets, meetings and similar affairs given by outside groups are in official duty status when making such appearances and are entitled to claim payment through the Bureau for travel, subsistence, or other reimbursable expenses incurred. Only under limited circumstances will

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approval be granted to accept reimbursement of travel expenses from a nonfederal source. Unless prior approval has been obtained from appropriate FBIHQ officials authorizing the acceptance of travel reimbursement from a nonfederal source, any payment offered by the sponsoring group as reimbursement for such expenses MUST be declined. (See MAOP, Part II, 6-1.7.)

EFFECTIVE: 01/16/97

| 1-13 GIFTS (See |MAOP, Part I, 1-14; |Legal Attache Manual, 2-23.)

EFFECTIVE: 07/12/94

| |1-13.1| Gifts Between Employees | (See MAOP, Part I, 1-13.2.1(5) & 1-14.) |

(1) GENERAL STANDARDS

(a) GIFTS TO SUPERIORS: Except as provided below, an employee may not directly, or indirectly, give a gift to, or make a donation toward a gift for an official superior OR solicit a contribution from another employee for a gift to either his/her own or the other employee's official superior.

For purposes of this section, an official superior is not just an employee's immediate supervisor, but any other employee whose official duties include directing or evaluating either the performance of the employee's official duties or the performance of any other official superior of the employee.

(b) GIFTS FROM EMPLOYEES RECEIVING LESS PAY: Except as provided below, an employee may not, directly, or indirectly, accept a gift from an employee receiving less pay unless the two employees are NOT in a subordinate/official superior relationship, and there is a personal relationship between the two employees which would justify the gift.

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(2) EXCEPTIONS

(a) GENERAL EXCEPTIONS: On an occasional basis, including any occasion on which gifts are traditionally given or exchanged, the following may be given to an official superior or accepted from a subordinate or other employee receiving less pay:

1. Items, other than cash, with an aggregate market value of \$10 or less per occasion;
2. Items such as food and refreshments to be shared in the office;
3. Personal hospitality provided at a residence which is of a type and value customarily provided by the employee to personal friends;
4. Items given in connection with the receipt of personal hospitality if similar in type and value customarily given on such occasions; and,
5. Leave transferred to an employee who is not an immediate supervisor.

(b) SPECIAL INFREQUENT OCCASIONS: A gift appropriate to the occasion may be given to an official superior or accepted from a subordinate or other employee receiving less pay:

1. In recognition of infrequently occurring occasions of personal significance such as marriage, illness, or the birth or adoption of a child;
2. Upon occasions that terminate a subordinate/official superior relationship, such as retirement, resignation, or transfer.

(c) VOLUNTARY CONTRIBUTIONS: An employee may solicit voluntary contributions of nominal amounts from fellow employees for an appropriate gift to an official superior and an employee may make a voluntary contribution of a nominal amount to an appropriate gift to an official superior:

1. On a special infrequent occasion such as described above; or

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2. On an occasional basis, for items such as food and refreshments to be shared in the office.

An employee may accept gifts of this nature to which a subordinate or other employee receiving less pay than himself/herself has contributed.

EFFECTIVE: 07/12/94

1-13.2 Gifts From Outside Sources (See MAOP, Part I, 1-14.)

EFFECTIVE: 07/12/94

1-13.2.1 General Standards (See MAOP, Part I, 1-14.)

(1) GENERAL PROHIBITIONS: An employee shall not, directly or indirectly, solicit, coerce or accept a gift:

(a) From a prohibited source;

(b) Given because of the employee's official position;

(c) In return for being influenced in the performance of an official act;

(d) From the same or different sources on a basis so frequent that a reasonable person would be led to believe the employee is using his/her public office for private gain;

(e) In violation of any statute. Relevant statutes applicable to all employees include:

1. Title 18, USC, Section 201(b), which prohibits a public official from seeking, accepting, or agreeing to receive or accept anything of value in return for being influenced in the performance of an official act or for being induced to take or

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omit to take any action in violation of his/her official duty. As used in Title 18, USC, Section 201(b), the term "public official" is broadly construed and includes regular and special Government employees as well as all other Government officials;

2. Title 18, USC, Section 209, which prohibits an employee, other than a special Government employee, from receiving any salary or any contribution to or supplementation of salary from any source other than the United States as compensation for services as a Government employee. The statute contains several specific exceptions to this general prohibition, including an exception for contributions made from the treasury of a State, county, or municipality; and

3. Title 41, USC, Section 423(b)(2), which prohibits a procurement official from seeking, accepting, or agreeing to receive any money, gratuity, or other thing of value from any officer, employee, representative, agent, or consultant of a competing contractor during the conduct of a federal agency procurement. Implementing regulations, including exceptions to the gift prohibition, are contained in the Federal Acquisition Regulation, 48 CFR 3.104; or

(f) Vendor promotional training contrary to applicable regulations, policies or guidance relating to the procurement of supplies and services for the Government.

(2) DEFINITIONS OF TERMS: GIFT includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. It does not include:

(a) Modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as part of a meal;

(b) Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation;

(c) Loans from banks and other financial institutions on terms generally available to the public;

(d) Opportunities and benefits, including favorable

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rates and commercial discounts, available to the public or to a class consisting of all Government employees or all uniformed military personnel, whether or not restricted on the basis of geographic considerations;

(e) Rewards and prizes given to competitors in contests or events, including random drawings, open to the public unless the employee's entry into the contest or event is required as part of his/her official duties;

(f) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer;

(g) Anything which is paid for by the Government or secured by the Government under Government contract;

(h) Any gift accepted by the Government under specific statutory authority, including:

1. Travel, subsistence, and related expenses accepted by an agency under the authority of Title 31, USC, Section 1353 in connection with an employee's attendance at a meeting or similar function relating to his/her official duties which takes place away from his duty station. The agency's acceptance must be in accordance with the implementing regulations at 41, CFR, Part 304-1; and

2. Other gifts provided in-kind which have been accepted by an agency under its agency gift acceptance statute; or

(i) Anything for which market value is paid by the employee.

(3) MARKET VALUE means the retail cost the employee would incur to purchase the gift. An employee who cannot ascertain the market value of a gift may estimate its market value by reference to the retail cost of similar items of like quality. The market value of a gift of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit shall be the face value of the ticket.

(4) PROHIBITED SOURCE means any person who:

(a) Is seeking official action by the employee's agency;

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(b) Does business or seeks to do business with the employee's agency;

(c) Conducts activities regulated by the employee's agency;

(d) Has interests that may be substantially affected by performance or nonperformance of the employee's official duties; or

(e) Is an organization a majority of whose members are described as prohibited sources. (See MAOP, Part I, 16-10.1.)

(5) A GIFT IS SOLICITED OR ACCEPTED BECAUSE OF THE EMPLOYEE'S OFFICIAL POSITION if it is from a person other than an employee and would not have been solicited, offered, or given had the employee not held his/her position as a federal employee. Note: Gifts between employees are subject to the limitations set forth in MAOP, Part I, Section 1-13.1.

(6) A GIFT WHICH IS SOLICITED OR ACCEPTED INDIRECTLY INCLUDES A GIFT:

(a) Given with the employee's knowledge and acquiescence to his/her parent, sibling, spouse, child, or dependent relative because of that person's relationship to the employee, or

(b) Given to any other person, including any charitable organization, on the basis of designation, recommendation, or other specification by the employee, except as permitted for the disposition of perishable items by 5 CFR 2635.205 (a) (2) of the Office of Government Ethics (OGE) standards of conduct or for payments made to charitable organizations in lieu of honoraria under 5 CFR 2636.204 of the OGE standards of conduct.

(7) VENDOR PROMOTIONAL TRAINING means training provided by any person for the purpose of promoting its products or services. It does not include training provided under a Government contract or by a contractor to facilitate use of products or services it furnishes under a Government contract.

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1-13.2.2 Exceptions (See MAOP, Part I, 1-14.)

The prohibitions set forth in OGE standards of conduct do not apply to a gift accepted under the circumstances described in paragraphs (1) through (9) of this section and a gift accepted in accordance with one of those paragraphs will not be deemed to violate the principles set forth in 5 CFR 2635.101(b) of the OGE standards of conduct. EVEN THOUGH ACCEPTANCE OF A GIFT MAY BE PERMITTED BY ONE OF THE FOLLOWING EXCEPTIONS IT IS APPROPRIATE AND FREQUENTLY PRUDENT FOR AN EMPLOYEE TO DECLINE A GIFT OFFERED BY A PROHIBITED SOURCE OR BECAUSE OF HIS/HER OFFICIAL POSITION.

(1) Gifts of \$20 or less: an employee may accept unsolicited gifts having an aggregate market value of \$20 or less per occasion, provided that the aggregate market value of individual gifts received from any one person under the authority of this paragraph shall not exceed \$50 in a calendar year. This exception does not apply to gifts of cash or of investment interests such as stock, bonds, or certificates of deposit. Where the market value of a gift or the aggregate market value of gifts offered on any single occasion exceeds \$20, the employee may not pay the excess value over \$20 in order to accept that portion of the gift or those gifts worth \$20. Where the aggregate value of tangible items offered on a single occasion exceeds \$20, the employee may decline any distinct and separate item in order to accept those items aggregating \$20 or less.

(2) Gifts based on a personal relationship: an employee may accept a gift given under circumstances which make it clear that the gift is motivated by a family relationship or personal friendship rather than the position of the employee. Relevant factors in making such a determination include the history of the relationship and whether the family member or friend personally pays for the gift.

(3) Discounts and similar benefits. An employee may accept:

(a) Reduced membership or other fees for participation in organization activities offered to all Government employees or all uniformed military personnel by professional organizations if the only restrictions on membership relate to professional qualifications; and

(b) Opportunities and benefits, including favorable rates and commercial discounts not precluded by paragraph 3. of this section:

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1. Offered to members of a group or class in which membership is unrelated to Government employment;
2. Offered to members of an organization, such as an employees' association or agency credit union, in which membership is related to Government employment if the same offer is broadly available to large segments of the public through organizations of similar size; or
3. Offered by a person who is not a prohibited source to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of type of official responsibility or on a basis that favors those of higher rank or rate of pay; provided, however, that--

An employee may not accept for personal use any benefit to which the Government is entitled as the result of an expenditure of Government funds. (See (b).)

(4) Awards and honorary degrees:

(a) An employee may accept gifts, other than cash or an investment interest, with an aggregate market value of \$200 or less if such gifts are a bona fide award or incident to a bona fide award that is given for meritorious public service or achievement by a person who does not have interests that may be substantially affected by the performance or nonperformance of the employee's official duties or by an association or other organization the majority of whose members do not have such interests. Gifts with an aggregate market value in excess of \$200 and awards of cash or investment interests offered by such persons as awards or incidents of awards that are given for these purposes may be accepted upon a written determination by an agency ethics official that the award is made as part of an established program of recognition:

1. Under which awards have been made on a regular basis or which is funded, wholly or in part, to ensure its continuation on a regular basis; and

2. Under which selection of award recipients is made pursuant to written standards.

(b) An employee may accept an honorary degree from an institution of higher education as defined at Title 20, USC, Section 1141(a) based on a written determination by an agency ethics

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official that the timing of the award of the degree would not cause a reasonable person to question the employee's impartiality in a matter affecting the institution.

(c) An employee who may accept an award or honorary degree pursuant to this section may also accept meals and entertainment given to him/her and to members of his/her family at the event at which the presentation takes place.

(5) Gifts based on outside business or employment relationships. An employee may accept meals, lodgings, transportation and other benefits:

(a) Resulting from the business or employment activities of an employee's spouse when it is clear that such benefits have not been offered or enhanced because of the employee's official position;

(b) Resulting from the employee's outside business or employment activities when it is clear that such benefits have not been offered or enhanced because of the employee's official status; or

(c) Customarily provided by a prospective employer in connection with bona fide employment discussions. If the prospective employer has interests that could be affected by performance or nonperformance of the employee's duties, acceptance is permitted only if the employee first has complied with the disqualification requirements of MAOP, Part I, Section 1-16.1(3) (a) - (c) which is applicable when seeking employment.

(d) For purposes of paragraphs (5) (a) through (c) of this section, employment includes any form of nonfederal employment or business relationship involving the provision of personal services by the employee, whether to be undertaken at the same time as or subsequent to federal employment. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner or trustee.

(6) Widely attended gatherings and other events:

(a) Speaking and similar engagements. When an employee is assigned to participate as a speaker or panel participant or otherwise to present information on behalf of the agency at a conference or other event, his/her acceptance of an offer of free attendance at the event on the day of his/her presentation is

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permissible when provided by the sponsor of the event. The employee's participation in the event on that day is viewed as a customary and necessary part of his/her performance of the assignment and does not involve a gift to him/her or to the agency. (See (d) and (f).)

(b) Widely attended gatherings. When there has been a determination that his/her attendance is in the "interest of the agency" because it will further agency programs or operations, an employee may accept a sponsor's unsolicited gift of free attendance at all or appropriate parts of a widely attended gathering of mutual interest to a number of parties. A gathering is widely attended if, for example, it is open to members from throughout a given industry or profession or if those in attendance represent a range of persons interested in a given matter. For employees subject to a leave system, attendance at the event shall be on the employee's own time or, if authorized by the employee's agency, on excused absence pursuant to applicable guidelines for granting such absence, or otherwise without charge to the employee's leave account. (See (d) and (f).)

(c) Determination of "agency interest." The determination of "agency interest" required by paragraph (6)(b) of this section shall be made orally or in writing by the agency designee.

1. If the sponsor is a person who has interests that may be substantially affected by the performance or nonperformance of an employee's official duties, or an association or organization, the majority of whose members have such interests, the employee's participation may be determined to be in the interest of the agency only where there is a written finding by the agency designee that the agency's interest in the employee's participation in the event outweighs concern that acceptance of the gift of free attendance may or may appear to improperly influence the employee in the performance of his/her official duties. Relevant factors that should be considered by the agency designee include the importance of the event to the agency, the nature and sensitivity of any pending matter affecting the interests of the sponsor of the event, the significance of the employee's role in any such matter, the purpose of the event, the identity of other expected participants and the monetary value of the gift of free attendance.

2. A blanket determination of agency interest may be issued to cover all or any category of invitees other than those as to whom a finding is required by paragraph (c)1. above. Where a finding under paragraph (c)1. above is required, a written

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determination of agency interest, including the necessary finding, may be issued to cover two or more employees whose duties similarly affect the interests of the sponsor or its members.

(d) Free attendance. For purposes of paragraphs (6) (a) and (b) above, free attendance may include waiver of all or part of a conference or other fee or the provision of food, refreshments, entertainment, instruction and materials furnished to all attendees as an integral part of the event. It does not include travel expenses, lodgings, entertainment collateral to the event, or meals taken other than in a group setting with all other attendees.

(e) Cost provided by sponsor of event. The cost of the employee's attendance will not be considered to be provided by the sponsor where a person other than the sponsor designates the employee to be invited and bears the cost of the employee's attendance through a contribution or other payment intended to facilitate that employee's attendance. Payment of dues or a similar assessment to a sponsoring organization does not constitute a payment intended to facilitate a particular employee's attendance.

(f) Accompanying spouse. When others in attendance will generally be accompanied by spouses, the agency designee may authorize an employee to accept a sponsor's invitation to an accompanying spouse to participate in all or a portion of the event at which the employee's free attendance is permitted under paragraph (6) (a) or (b) above. The authorization required by this paragraph may be provided orally or in writing.

(7) Social invitations from persons other than prohibited sources. An employee may accept food, refreshments and entertainment, not including travel or lodgings, at a social event attended by several persons where:

(a) The invitation is from a person who is not a prohibited source; and

(b) No fee is charged to any person in attendance.

(8) Meals, refreshments and entertainment in foreign areas: an employee assigned to duty in, or on official travel to, a foreign area as defined in 41 CFR 301-7.3(c) may accept food, refreshments or entertainment in the course of a breakfast, luncheon, dinner or other meeting or event provided:

(a) The market value in the foreign area of the

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food, refreshments or entertainment provided at the meeting or event, as converted to U.S. dollars, does not exceed the per diem rate for the foreign area specified in the U.S. Department of State's Maximum Per Diem Allowances for Foreign Areas, Per Diem Supplement Section 925 to the Standardized Regulations (GC,FA) available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402;

(b) There is participation in the meeting or event by non-U.S. citizens or by representatives of foreign governments or other foreign entities;

(c) Attendance at the meeting or event is part of the employee's official duties to obtain information, disseminate information, promote the export of U.S. goods and services, represent the United States or otherwise furthers programs or operations of the agency or the U.S. mission in the foreign area; and

(d) The gift of meals, refreshments or entertainment is from a person other than a foreign government as defined in Title 5, USC, Section 7342(a)(2).

(9) Gifts accepted under specific statutory authority. The prohibitions on acceptance of gifts from outside sources contained in this subpart do not apply to any item, receipt of which is specifically authorized by statute. Gifts which may be received by an employee under the authority of specific statutes include, but are not limited to:

(a) Free attendance, course or meeting materials, transportation, lodgings, food and refreshment or reimbursements therefore incident to training or meetings when accepted by the employee under the authority of Title 5, USC, Section 4111 from an organization with tax-exempt status under Title 26, USC, Section 501(c)(3) or from a person to whom the prohibitions in Title 18, USC, Section 209 do not apply. The employee's acceptance must be approved by the agency in accordance with Section 410.701 through Section 410.706 of Title 5, CFR; or

(b) Gifts from a foreign government or international or multinational organization, or its representative, when accepted by the employee under the authority of the Foreign Gifts and Decorations Act, Title 5, USC, Section 7342. As a condition of acceptance, an employee must comply with requirements imposed by the agency's regulations or procedures implementing that Act. Refer to MAOP, Part I, Section 1-13.3.1.

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1-13.2.3 Proper Disposition of Prohibited Gifts (See MAOP, Part I,
1-13.3 & 1-14.)

(1) An employee who has received a gift that cannot be
accepted shall:

(a) Return any tangible item to the donor or pay the
donor its market value. An employee who cannot ascertain the actual
market value of an item may estimate its market value by reference to
the retail cost of similar items of like quality.

(b) When it is not practical to return a tangible
item because it is perishable, the item may, at the discretion of the
employee's supervisor or an agency ethics official, be given to an
appropriate charity, shared within the recipient's office, or
destroyed.

(c) For any entertainment, favor, service, benefit
or other intangible, reimburse the donor the market value. Subsequent
reciprocation by the employee does not constitute reimbursement.

(d) Dispose of gifts from foreign governments or
international organizations in accordance with 41 CFR Part 101-49, and
dispose of materials received in conjunction with official travel in
accordance with 41 CFR 101-25.103.

(2) An agency may authorize disposition or return of
gifts at Government expense. Employees may use penalty mail to
forward reimbursements required or permitted by this section.

(3) An employee who, on his/her own initiative, promptly
complies with the requirements of this section will not be deemed to
have improperly accepted an unsolicited gift. An employee who
promptly consults an FBI ethics official to determine whether
acceptance of an unsolicited gift is proper and who, upon the advice
of the ethics official, returns the gift or otherwise disposes of the
gift in accordance with this section, will be considered to have
complied with the requirements of this section on his/her own
initiative.

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1-13.3 Receipts of Foreign Gifts and Decorations (See MAOP,
Part I, 1-14; Legal Attache Manual, 2-23.)

(1) Gifts and decorations received from foreign governments fall within one of two categories depending upon the appraised value of the gift. If the appraised value of the gift is less than "minimal" value, as determined by the consumer price index set forth by Congress, with the exception of firearms, it may be retained by the receipt for personal use or as a souvenir provided that all reporting requirements are satisfied. Foreign gifts and decorations of more than minimal value (contact the Property Management Unit (PMU), Property Procurement and Management Section (PPMS), Finance Division (FD), to determine the current minimal value) may be retained and placed into official use (i.e., displayed in reception areas) after the Supply Technician has placed the item(s) on the Property Management Application. All gifts over the minimal value that are not retained shall be declared as excess to the General Services Administration (GSA) and later sold. This declaration will be made by FBIHQ. If the original recipient desires to participate in the sale of the property by GSA, FBIHQ should be advised at the time the gift is reported so that appropriate action can be taken.

(2) In addition to tangible gifts, all foreign gifts of travel or expenses for travel taking place entirely outside the United States should be reported where the acceptance of which has not been authorized in accordance with specific instructions of FBIHQ. (See MAOP, Part II, 6-1.7 through 6-1.7.4.)

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1-13.3.1 Reporting Requirements (See MAOP, Part I, 1-13.2.2 (9)(b),
1-13.2.3, 1-14 & Legal Attache Manual, 2-23.)

All gifts or decorations, valued at greater than \$50, received from foreign individuals and all gifts valued at more than the minimal value GIVEN to foreign individuals by employees acting in an official capacity should be reported within 15 days of the property's receipt or presentation. The report should be submitted to FBIHQ, Attention: PMU, PPMS, FD, by memorandum or airtel as appropriate. A separate statement containing the following information should be submitted for each gift received or presentation made.

- (1) For tangible gifts:
 - (a) Name and title of recipient.
 - (b) Gift, date of acceptance, estimated value, and current disposition or location.
 - (c) Identity of foreign donor and government.
 - (d) Circumstances justifying acceptance.
- (2) For travel or expenses for travel:
 - (a) Name and title of recipient.
 - (b) Brief description of travel or travel expenses occurring entirely outside the United States.
 - (c) Identity of foreign donor and government.
 - (d) Circumstances justifying acceptance.
- (3) For each gift to a foreign individual:
 - (a) Identity of individual receiving gift.
 - (b) Description of gift.
 - (c) Value of gift.
 - (d) Type of funds used for gift (appropriated or nonappropriated).

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- (e) Date gift presented.
- (f) Name of individual presenting gifts.

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1-14 MONETARY MATTERS AND FINANCIAL DEALINGS (See MAOP, Part I,
1-12, 1-13 through 1-13.3.1; MIOG, Part I, 211-9.)

(1) An employee who is an official superior may not borrow money from or give or receive endorsements of promissory notes of other employees working under him/her or of lesser rank.

(2) All employees must meet their financial obligations and, in addition, are expected to abide by the laws of the United States and of the several states with respect to filing proper tax statements. Any controversy arising with taxing authorities must be brought to the attention of FBIHQ immediately. Although employees will not be required to pay unjustified claims, these matters should be resolved with reasonable promptness. In this respect, it should be noted that the U.S. Internal Revenue Service may attach salaries of federal employees who refuse to pay delinquent taxes.

(3) Failure on the part of an employee without good reason and in proper and timely manner to honor debts acknowledged by employee to be valid or reduced to judgment by a court or to make or adhere to satisfactory arrangements for settlement thereof may be cause for disciplinary action.

(4) USE OF PUBLIC OFFICE FOR PRIVATE GAIN - An employee shall not use his/her public office for his/her own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations. The specific prohibitions set forth in paragraphs (b) through (e) of this section apply this general standard, but are not intended to be exclusive or to limit the application of this section.

(a) Performance of official duties affecting a private interest. To ensure that the performance of his/her official

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duties does not give rise to an appearance of use of public office for private gain or of giving preferential treatment, an employee whose duties would affect the financial interests of a friend, relative or person with whom he/she is affiliated in a nongovernmental capacity shall comply with any applicable requirements of 5 CFR 2635.502.

(b) An employee shall not use or permit the use of his/her government position or title or any authority associated with his/her public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself/herself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

(c) Except as otherwise provided by the OGE standards of conduct, an employee shall not use or permit the use of his/her government position or title or any authority associated with his/her public office in a manner that could reasonably be construed to imply that his/her agency or the government sanctions or endorses his/her personal activities or those of another. When teaching, speaking, or writing in a personal capacity, he/she may refer to his/her official title or position only as permitted in MAOP, Part I, 1-16.2. He/She may sign a letter of recommendation using his/her official title only in response to a request for an employment recommendation or character reference based upon personal knowledge of the ability or character of an individual with whom he/she has dealt in the course of federal employment or whom he/she is recommending for federal employment. (See MAOP, Part I, 1-15.3.)

(d) An employee shall not use or permit the use of his/her government position or title or any authority associated with his/her public office to endorse any product, service or enterprise except:

1. In furtherance of statutory authority to promote products, services or enterprises; or

2. As a result of documentation of compliance with agency requirements or standards or as the result of recognition for achievement given under an agency program of recognition for accomplishment in support of the agency's mission.

(e) Nothing in this section prohibits an employee who is ordinarily addressed using a general term of address, such as "The Honorable," "Doctor" or a former military rank, from using that term of address or rank in connection with a personal activity.

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(5) No employee shall use, for the financial gain of the employee or another person, or make any other improper use of, whether by direct action on the employee's part or by counsel, recommendation, or suggestion to another person, information which comes to the employee by reason of his/her status as an employee and which has not become part of the body of public information. (See MAOP, Part I, 1-24.) Further, no employee shall make investments

(a) in enterprises which, it is reasonable to believe, will be involved in decisions to be made by the employee,

(b) on the basis of information which comes to notice as the result of the employee's status and which has not become part of the body of public information, or

(c) which are reasonably likely to create any conflict in the proper discharge of the employee's official duties.

(6) No employee shall accept free transportation for official or unofficial purposes when the offer of such transportation might reasonably be interpreted as an attempt to affect the employee's impartiality. (See MAOP, Part II, 6-1.7 through 6-1.7.4.) No employee shall solicit or accept, for the employee or any other person, directly or indirectly, any gift, favor, entertainment, loan or any other thing of monetary value from a person who has or is seeking contractual or other business or financial relations with the Department, is engaged either as a principal or attorney in proceedings before the Department or in court proceedings in which the United States is an adverse party, or has interests that may be substantially affected by the performance or nonperformance of the employee's official duties. This prohibition does not, however, prevent:

(a) solicitation or acceptance of anything from a friend, parent, spouse, child, or other close relative when the circumstances make it clear that the motivation is a personal or family relationship;

(b) acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meetings;

(c) acceptance of loans from financial institutions on customary terms for normal and ordinary activities such as home mortgage loans;

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(d) receipt of genuine reimbursement, unless prohibited by law, for actual expenses for travel and such other necessary subsistence for which no government reimbursement is made and provided the reimbursement is not excessive and employee is not traveling on official business under Bureau orders;

(e) acceptance of an award for a meritorious public contribution or achievement.

(7) Employees traveling on official business by means of public carriers, and who receive promotional items or property as a result of having purchased tickets are required to relinquish such promotional property to the SAC or other appropriate FBI official. This complies with Treasury Bulletin No. 79-09 which states, "When employees travel on official business all items given beyond the terms of contractual arrangements between the government and public carriers become the property of the government." (See MAOP, Part II, 6-1.1.2.)

(8) PUBLIC FINANCIAL DISCLOSURE REPORTS (SF-278) filing requirements:

(a) Public Financial Disclosure Reports must be filed by:

1. Presidential nominees to positions requiring the advice and consent of the Senate.

2. Officers and employees whose positions are classified above GS-15 (SENIOR EXECUTIVE SERVICE (SES)) of the General Schedule, or whose rate of basic pay which is fixed under pay schedules at a rate equal to or greater than 120 percent of the minimum rate of basic pay fixed for a GS-15 of the General Schedule.

(b) When to file SF-278:

1. Within 30 days after assuming a designated position, unless the individual has left another position, for which an SF-278 was required to be filed or has already filed a report as a nominee or candidate for position.

2. No later than May 15th annually.

3. Upon termination of a designated position, within 30 days. However, if within 30 days of the termination the individual assumes employment in another position or office for which

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a public report is required to be filed, no report shall be required.

(c) Extensions:

1. Requests for extension must be made in writing to the Personnel Management Section (PMS), Personnel Division (PD) to allow for sufficient time for coordination/referral to the Deputy Designated Agency Ethics Officer (DDAEO).

(d) Late filing fee:

1. A \$200 late filing fee will become due at the time of filing if a financial disclosure report is filed more than 30 days after the required date or the last day of any approved filing extension. Waivers to the late fee may only be obtained from the Director, Office of Government Ethics. A request for waiver of the late fee must be initiated by the filer in writing, justifying why a waiver should be granted and submitted with supporting documentation. The request for a waiver should be submitted to the DDAEO through the PMS, PD.

(e) Failure to file or falsifying reports:

1. Failure to file or the filing of false information could result in criminal and administrative action and civil penalties of up to \$10,000. (See (11) (c).)

(f) Where to file SF-278:

1. Completed SF-278s are to be signed and dated within the time frame described above, and forwarded to the PMS, PD, where they will be date-stamped upon receipt to certify compliance with the reporting requirements. The form will be reviewed, signed and dated by the designated Personnel Officer ("Other Reviewer") and forwarded to the FBI's DDAEO for final review, signature and date.

(g) Where SF-278s are maintained:

1. All completed SF-278s are maintained by the PMS, PD.

2. Forms are to be maintained for a minimum of six years and thereafter may be destroyed.

3. Inspection by the public is permitted by any person who makes written application. Requests for a copy of the

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report will be honored. It is unlawful for any person to obtain or use a public report for:

- a. any unlawful purpose;
- b. any commercial purpose, other than by news and communications media for dissemination to the general public;
- c. for determining or establishing the credit rating of any individual; or
- d. use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(9) Resolution of questionable SF-278s:

Should the Personnel Officer and/or the DDAEO determine that an actual or apparent financial conflict of interest exists, additional information may be requested from the filer to assist in taking appropriate action to resolve the conflict. Actions that may be taken to resolve the conflict include: divestiture of the financial interest; recusal from the matter; procurement of a waiver pursuant to Title 18, United States Code (USC), Section 208(b); or the establishment of a qualified trust as permitted by Title 5, Code of Federal Regulations (CFR), Section 2634.401 ET SEQ. for the financial interest.

(10) CONFIDENTIAL FINANCIAL DISCLOSURE REPORT (SF-450) filing requirements:

(a) Confidential Financial Disclosure Reports must be filed by employees who occupy a position at GS-15 or below (or its equivalent), where their duties and responsibilities require them to personally, and substantially through decision or the exercise of significant judgment in taking government action: 1) regarding contracting or procurement; 2) regarding the administration or monitoring of grants, subsidies, licenses or other benefits; 3) as a special government employee serving with or without compensation; or 4) resulting in a final decision or action which will have a direct and substantial economic effect on the interests of any nonfederal entity. Pursuant to the above criteria, the following categories of employees have been determined by FBIHQ as being required to file the SF-450:

1. FBIHQ PERSONNEL REQUIRED TO FILE:

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a. All GS-15 personnel (including those assigned to Legal Attaches, detail assignments, etc.) who are supervisors or whose duties meet the criteria set forth in (10)(a) above;

b. All procurement and contracting officials, including all supply technicians;

c. All Unit Chiefs, regardless of their grade; and

d. All Government Purchase Card holders, regardless of their grade.

2. FIELD DIVISION PERSONNEL REQUIRED TO FILE:

a. All Assistant Special Agents in Charge (ASACs) who are non-SES and all Supervisory Special Agents;

b. All Administrative Officers (AOs), Office Services Managers (OSMs), Office Managers (OM) and/or appropriately designated assistants such as Supervisory Administrative Specialists (SAS), Assistant Office Services Managers (AOSM), etc.;

c. All procurement and contracting officials, including Supply Technicians;

d. Employees acting in a covered position for more than 60 days;

e. All Chief Division Counsels at the GS-14 level; and

f. All Government Purchase Card holders, regardless of their grade.

(b) When to file the SF-450:

1. Annually by October 31 for the 12 months ending September 30;

2. New entrants into covered positions within 30 days of assuming the position unless they have previously satisfied the reporting requirements in another covered position or filed a report in consideration for appointment to the position;

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3. Whenever an employee is acting in a position for more than 60 days in a 12-month period ending September 30;

(c) SF-450 reviewing requirements:

1. Initial review to be conducted by an Intermediate Reviewer (IR) within 30 days. The IR should have first-hand knowledge of the assignments of the employee to ensure that no potential financial conflicts of interest are present. Consequently, the IR shall be the same individual who acts as the Rating Official for the employee's annual performance appraisal. The IR will date-stamp the SF-450 upon receipt, to certify compliance with established deadlines and is to ensure designated employees annually submit a completed SF-450 by the established deadline, or a Conflict of Interest Certification (CIC) whenever such is required, and sign the form.

2. Secondary review is to be performed by the individual designated by the headquarters division head as being the Final Reviewer (FR). In the field, the FR is the field office's Chief Division Counsel (CDC), except for the CDC's report, which will be reviewed in final by the SAC.

If the CDC reports directly to the SAC, the SAC will serve as the FR and there will be no IR. In those offices with an Assistant Director in Charge (ADIC), the ADIC will serve as the FR.

(11) CONFLICT OF INTEREST CERTIFICATION (CIC), filing in lieu of the SF-450:

(a) The CIC is a one-page abbreviated version of the SF-450 designed to ensure that the employee has no actual or apparent financial conflicts of interest. A CIC must be executed each time a project is assigned or reassigned to a Contracting Officer's Technical Representative (COTR). Supervisors, coordinators, contracting and procurement officials will be responsible for ensuring the required CIC filing is performed for projects under their responsibility. For the field and all FBIHQ division heads, these individuals are defined as:

1. Employees who occasionally serve as a COTR; which may include Special Agents and/or certain support employees such as Senior Electronics Technicians, Information Systems Analysts or Warehousepersons.

2. Employees acting in a covered position for

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more than 60 days.

(b) When to file the CIC:

1. Each time a project is assigned or reassigned to a COTR.

(c) Penalty for failure to file:

1. See (8) (e) above.

(d) CIC reviewing requirements:

1. CICs need only be reviewed by the individual designated by the field office or division head as being the Initial Reviewer (IR) for the SF-450. The IR should date-stamp the CIC upon receipt to certify compliance with established deadlines.

(12) Designation and responsibility of the Final Reviewer (FR):

(a) The designation of the FR rests with the division head or other designated entity. The FR shall review each SF-450 within 30 days of its receipt from the IR to ensure it is complete and that no apparent or actual conflict of interest exists. Once the FR determines these requirements are met, he/she shall sign the SF-450 (not necessary on the CIC) and maintain the form in accordance with the guidelines set forth in (14) below.

(13) Resolution of questionable SF-450s:

(a) Should the IR and/or the FR determine that an actual or apparent financial conflict of interest exists, additional information may be requested from the filer to assist in taking appropriate action to resolve the conflict. Actions that may be taken to resolve the conflict include: divestiture of the financial interest; recusal from the matter; procurement of a waiver pursuant to Title 18, USC, Section 208(b); or the establishment of a qualified trust as permitted by Title 5, CFR, Section 2634.401 ET SEQ. for the financial interest. Should resolution prove difficult or further problems arise, the FR should forward the signed or unsigned report to the SAC or division head for further consideration.

(b) Upon receipt of a questionable SF-450 or CIC, the SAC or division head shall take whatever action is necessary to resolve the actual or apparent conflict to ensure compliance with the

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law. Conflicts which cannot be satisfactorily resolved should be brought to the attention of the Personnel Management Section, PD, for advice, guidance and resolution.

(14) Maintenance of SF-450s and CICs: (See (12) above and MAOP, Part II, 2-4.2.1.)

(a) Field offices will maintain SF-450s in a 66 administrative control file captioned "Confidential Financial Disclosure Reports." CICs will be maintained in a Sub A volume of the main control file captioned "Conflict of Interest Certifications." As with personnel files, these folders should be afforded proper security and every effort should be made to ensure privacy considerations are met.

(b) Division heads at FBIHQ will maintain official folders within their front office titled "Confidential Financial Disclosure Reports." CICs will be maintained in a second folder captioned "Confidential Financial Disclosure Reports/CICs." As with personnel files, these two folders should be maintained with personnel appraisal folders, afforded appropriate security and every effort should be made to ensure privacy considerations are met.

(c) Both the SF-450s and the CICs will be maintained in date order only and must be maintained for a period not to exceed six years from the date of filing. In the field only, to ensure the integrity of the system and easy retrievability in the event of an OGE audit or inspection, each SF-450 and CIC should be indexed by the employee's name. The employee's personnel file is to be cross referenced to the administrative control file for further information.

(d) Should an employee transfer out of a field office or division, his/her previously submitted SF-450s and/or CICs, should be permanently charged out and transferred with the employee's personnel file to his/her new assignment. In the event an employee terminates employment, previously submitted SF-450s are to be placed in a 1-A envelope (FD-340), sealed and filed in the back of the employee's personnel file. At FBIHQ, if an employee transfers from one division to another, previously submitted SF-450s and CICs should be forwarded in a sealed envelope to the employee's new division of assignment front office, for maintenance as described above. In the event an employee terminates employment, previously submitted SF-450s are to be placed in a sealed envelope, labeled with the employee's name and "Confidential Financial Disclosure Reports," and forwarded to Personnel Records for filing in the employee's official personnel file.

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(e) SACs and division heads shall be responsible for ensuring that any employee who falls within one of the categories detailed above files the appropriate report or certifications, and that the required documentation is properly maintained according to the guidelines set out above.

(15) No Public Accessibility

(a) SF-450s are confidential. No member of the public can have access to such reports except pursuant to the order of Federal Court or as otherwise provided under the Privacy Act.

EFFECTIVE: 01/16/97

1-14.1 Financial Relationships with Witnesses, Subjects, and Individuals Furnishing Information to the FBI (See MIOG, Part I, 137-8 (11).)

(1) Because of the appearance of improper conduct or conflict of interest usually involved in such relationships as well as the high potential for actual impropriety inherent in such relationships, Bureau employees are prohibited from engaging in private business and financial relationships with subjects, witnesses, individuals furnishing information to the FBI (including informants), and counsel or other representatives of such persons without prior FBIHQ approval. This prohibition includes giving or receiving gifts, selling, purchasing, or exchanging property, making or receiving loans, and engaging in other transactions or business relationships in which some financial or tangible benefit is bestowed upon either the employee or third party.

(2) In seeking FBIHQ approval for an exception to this general prohibition, employees must be able to demonstrate that the proposed transaction or relationship will not create an appearance of impropriety, involve a conflict of interest, or otherwise reflect adversely upon the FBI.

(3) Requests for exceptions should be directed to the
Attention: Personnel Management Section, Personnel Division.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

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EFFECTIVE: 04/21/94

1-14.2 Restriction on Financial Involvement with Employees,
Relatives, or Friends of Employees

The FBI is prohibited from any type of financial involvement with its employees, relatives or friends of employees, business concerns or organizations owned or substantially owned or controlled by one or more employees, unless specifically approved by FBIHQ in advance. All such requests must be submitted in writing to the Accounting Section, Finance Division. The restriction on government agencies which prohibits financial involvement with its employees or relatives of employees is to avoid either actual or perceived conflicts of interest which may arise with respect to the government showing favoritism or preferential treatment toward its employees.

EFFECTIVE: 11/27/95

1-15 ADMINISTRATIVE MATTERS

EFFECTIVE: 06/28/91

1-15.1 Promotions, Transfers, Administrative Action

(1) Recommendations for the promotion of any employee shall come only from the official superior of the employee. This procedure shall be followed, too, concerning any recommendations tending to initiate, retard, or rescind any order or administrative action of the Bureau. Failure to abide by these regulations will result in severe administrative action as well as possible removal from the service. See 1-15.4 for further policy on personnel actions concerning relatives of Bureau managers.

(2) In connection with any pending, contemplated or recommended personnel action, such as promotions, reassignments, transfers, commendations, incentive awards, and disciplinary action, every precaution should be taken to ensure existing files and records

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are provided adequate security. Except for considering access to such records in response to a request submitted under the Privacy Act, disclosure of the existence of such contemplated action must be kept to a minimum. There should be no unnecessary discussions of the proposed action until a final decision is made by FBIHQ.

(3) In this regard, it should be understood by all employees that the matter of promotions, demotions, transfers, and any other similar, official personnel action must be decided solely on the merits of the individual case. The welfare of the Bureau must take precedence over desires and convenience of the employee involved, particularly with respect to transfers of investigative personnel who are expected to be available for service wherever the needs of the Bureau may require their assignment. Any attempt, either directly or indirectly, to bring outside influence to bear on the Bureau to promote, rescind, or alter official actions in any manner is contrary to the above-stated policy.

(4) In accordance with the provisions of the Privacy Act, the employee may request access to FBI records concerning his/her employment, including those compiled during the course of an internal administrative inquiry. To access his/her employment records, the employee should execute an FD-488, the Privacy Act Request Form. The Field Privacy Control Officer is responsible for ensuring prompt attention to each request. Requests must be processed without delay, and the employee provided with copies of whatever records are accessible to him/her under the law. The submission and processing of Privacy Act requests by employees should not be impeded by management personnel.

EFFECTIVE: 06/28/91

1-15.2 Employee Arrests or Involvement with Police

(1) Under no circumstances, except in an official capacity, should any SAC or other FBI personnel become involved in any matter directly or indirectly concerning an employee or nonemployee who has been arrested or is otherwise in difficulty with a law enforcement agency; nor should any Bureau employee attempt to mitigate the action of any arresting officer, agency, or prosecuting officer, or in any way try to minimize publicity concerning such incident. Any incidents of this nature must be reported immediately to FBIHQ as set out in this manual, Part I, Section 13 entitled "Disciplinary Matters."

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(2) All employees are to report promptly to their supervisors any incident in which they are involved with law enforcement authorities.

EFFECTIVE: 06/28/91

1-15.3 Testimonials and/or Personal Recommendations Regarding FBI Employees and Personal Acquaintances | (See MAOP, Part I, 1-14, 20-15.3; II, 9-4.4 (2)(d).) |

(1) | Except as authorized in subparagraph (2) below, FBI employees shall not provide oral or written testimonials, opinions, or letters of recommendation to non-FBI personnel regarding the official status or performance of current or former Bureau employees. "Official status or performance" includes such information as current or former positions or titles held in the Bureau, salaries, duty stations, evaluations, reasons for separation, and so forth. Persons making such inquiries should be advised that their questions should be addressed to: Personnel Verification and Records Subunit, Field Services Unit, Information Resources Division, FBIHQ, 935 Pennsylvania Avenue, Washington, D.C. 20535. (See MAOP, Part I, 20-15, regarding service record and credit inquiries.) |

(2) | FBI employees may, however --

(a) Sign a letter of recommendation regarding a current or former Bureau employee using their official titles and official stationery in response to a request for an employment recommendation or character reference based upon personal knowledge of the abilities or character of an individual with whom the writer has dealt in the course of federal employment or whom the writer is recommending for federal employment. All such recommendations must include a disclaimer that the information provided is based solely on PERSONAL KNOWLEDGE and should not be construed as the official views of the FBI. Persons seeking the OFFICIAL views of the FBI in such matters should be advised to direct their questions to: Personnel Verification and Records Subunit, Field Services Unit, Information Resources Division, FBIHQ, 935 Pennsylvania Avenue, Washington, D.C. 20535. (See MAOP, Part I, 20-15, regarding service record and credit inquiries.)

(b) Respond to inquiries from non-FBI personnel asking for their PERSONAL opinions about the nonofficial aspects or

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characteristics of current or former FBI employees. Such inquiries include questions about an individual's loyalty, character, habits, community reputation, and so forth. Responses must: be approved in advance by the declarant's SAC or division head; make no reference to official performance or status; not disclose information concerning or from any FBI investigation, inquiry, operation or file; reveal any confidential or sensitive information; disclose any information protected from disclosure by any law or regulation, including the Privacy Act; and include a disclaimer that all information provided is based solely on personal knowledge and should not be construed as the official views of the FBI. Official stationery may NOT be used in responding to such inquiries.

(3) Employees may, in regard to friends or acquaintances that are NOT former or present Bureau employees, furnish PERSONAL opinions based upon PERSONAL ASSOCIATION pertaining to loyalty, character, habits, conduct, reputation, etc., to individuals collecting information as part of a background investigation gathering information relating to suitability for employment or issuance of a security clearance. BUREAU STATIONERY MAY NOT BE USED TO PROVIDE WRITTEN COMMENTS.

(4) Any employee interviewed during the conduct of an employment or clearance background investigation conducted by the FBI may provide his/her PERSONAL opinions based on PERSONAL ASSOCIATION with the subject of the investigation, but must recuse himself/herself from participation in the conduct of that investigation to avoid the appearance of bias or partiality by the FBI. The employee must ask the interviewer to include in the report of the interview the fact that the views expressed are the employee's own. Field managers (Assistant Director in Charge, Deputy Assistant Director in Charge, SAC, ASAC or Supervisory Special Agent) must be interviewed at the conclusion of the investigation to avoid any concerns that the field manager's remarks could influence the outcome or direction of the investigation. (See MAOP, Part II, 10-17.11.2 (1).)

(5) In background investigations conducted by the FBI, Agents routinely select for interview representatives of the federal law enforcement community, from whom official observations are solicited. Agents are permitted to use their own discretion in selecting the interviewee but are encouraged to interview representatives outside the FBI. (See MIOG, Part I, 77-4.5.)

(6) Employees may not offer opinions or conclusions drawn from information gained from FBI or other agency investigations to those conducting background investigations.

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(7) CAUTION: Information obtained solely from FBI or other agency records cannot be disclosed outside the FBI, except pursuant to established dissemination procedures.

EFFECTIVE: 11/20/96

1-15.4 Nepotism

(1) No Bureau managers shall advocate one of their relatives for appointment, employment, promotion, or advancement to a position in the FBI or any other component of the Department of Justice (DOJ).

(2) No Bureau managers shall appoint, employ, promote, or advance their relatives to any post within the FBI.

(3) No Bureau managers shall appoint, employ, promote, or advance the relatives of other Bureau or DOJ managers to any post within the FBI if those other managers have advocated the appointment, employment, promotion or advancement of their relatives for positions within the FBI.

(4) No Bureau managers, as either Rating or Reviewing Officials, shall appraise the performance of any of their relatives.

(5) For the purpose of this section, Bureau managers who recommend relatives or refer relatives for consideration by a Bureau manager lower in the chain of command (i.e., the line of supervisory personnel that runs from position of Bureau manager to the Director) for appointment, employment, promotion or advancement are deemed to have advocated the appointment, employment, promotion or advancement of those relatives.

(6) All Bureau managers whose assignments cause them to confront any of the circumstances described in paragraphs (1) through (4) must immediately contact their superiors to effect a prompt resolution of the matter. In this respect, the Personnel Management Section should be included in the resolution process.

(7) The resolution of each appointment, employment, promotion, advancement or appraisal incident with nepotistic potential will be coordinated on a case-by-case basis by the respective SAC or

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division head with the Personnel Officer at FBI Headquarters. Once each situation is satisfactorily resolved, documentation of that resolution will be filed in the respective personnel files of the affected employees.

(8) Failure to properly address a nepotism matter may cause a loss of pay to the individual appointed, employed, promoted or advanced in violation of law. Bureau managers who fail to address any personnel matters which contain potential for nepotism will be subjected to appropriate administrative action.

(9) See MIOG, Part I, Section 67-4, regarding FBI applicant matters affected by this policy.

EFFECTIVE: 06/28/91

1-16 OUTSIDE EMPLOYMENT

Employees shall not engage in other work, employment, occupation, profession, business or partnership without receiving prior FBIHQ approval. This rule applies whether the outside employment is self-employment or employment by a third party. Any case of doubt should be referred to FBIHQ for decision. Furthermore, no employee, even though having FBIHQ approval to engage in part-time outside employment in a sales capacity, may solicit business on Bureau premises at any time, whether during the workday or on own time before or after working hours or during lunch or rest periods. In no case may Bureau premises be used for storage or display of merchandise. Special Agents are further restricted in outside employment as set forth in Part I, 20-6.3.2 of this manual.

EFFECTIVE: 03/28/89

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1-16.1 Conflicting Outside Employment and Activities (See MAOP,
Part I, 1-27.)

(1) An employee shall not engage in outside employment or any other outside activity that conflicts with his/her official duties. An activity conflicts with an employee's official duties:

(a) If it is prohibited by statute or by an agency supplemental regulation; or

(b) If it would require the employee's disqualification from matters so central or critical to the performance of his/her official duties that the employee's ability to perform the duties of his/her position would be materially impaired.

(2) Employees are cautioned that even though an outside activity may not be prohibited under this section, it may violate other principles or standards or require the employee to disqualify himself/herself from participation in certain particular matters under either subpart D or subpart E of 5 CFR Part 2635.

(3) Disqualification while seeking employment: (See MAOP, Part I, 1-13.2.2(5).)

(a) Obligation to disqualify. Unless the employee's participation is authorized in accordance with (2) above, the employee shall not participate in a particular matter that, to his/her knowledge, has a direct and predictable effect on the financial interests of a prospective employer with whom he/she is seeking employment. Disqualification is accomplished by not participating in the particular matter.

(b) Notification. An employee who becomes aware of the need to disqualify himself/herself from participation in a particular matter to which he/she has been assigned should notify his/her immediate supervisor. An employee who is responsible for his/her own assignment should take whatever steps are necessary to ensure that he/she does not participate in the matter from which he/she is disqualified. Appropriate oral or written notification of the employee's disqualification may be made to coworkers by the employee or a supervisor to ensure that the employee is not involved in a matter from which he/she is disqualified.

(c) Documentation. An employee need not file a written disqualification statement unless he/she is required by 5,

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CFR, Part 2634 to file written evidence of compliance with an ethics agreement with the Office of Government Ethics or is specifically asked by the FBI's ethics official or the person responsible for his/her assignment to file a written disqualification statement. However, an employee may elect to create a record of his/her actions by providing written notice to their supervisor or other appropriate official.

(d) Agency determination of substantial conflict.

Where the FBI determines that the employee's action in seeking employment with a particular person will require his/her disqualification from matters so central or critical to the performance of his/her official duties that the employee's ability to perform the duties of his/her position would be materially impaired, the FBI MAY allow the employee to take annual leave or leave without pay while seeking employment, or may take other appropriate administrative action.

(4) Waiver or authorization permitting participation while seeking employment:

(a) Waiver. Where an employee is engaged in discussions that constitute employment negotiations for purposes of Title 18, USC, Section 208(a), the employee may participate in a particular matter that has a direct and predictable effect on the financial interests of a prospective employer only after receiving a written waiver issued under the authority of Title 18, USC, Section 208(b) (1) or (b) (3).

(b) Authorization. Where an employee is seeking employment, a reasonable person would be likely to question his/her impartiality if he/she were to participate in a particular matter that has a direct and predictable effect on the financial interests of any such prospective employer. The employee may participate in such matters only where the Bureau's ethics officer has authorized his/her participation.

(5) Disqualification based on an arrangement concerning prospective employment or otherwise after negotiations.

(a) Employment or arrangement concerning employment.

An employee shall be disqualified from taking official action in a particular matter that has a direct and predictable effect on the financial interests of the person by whom he/she is employed or with whom he/she has an arrangement concerning future employment, unless authorized to participate in the matter by a written waiver issued

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under the authority of Title 18, USC, Section 208(b) (1) or (b) (3).

(b) Offer rejected or not made. The Bureau's ethics officer may, in an appropriate case, determine that an employee not covered by the preceding paragraph who has sought but is no longer seeking employment nevertheless shall be subject to a period of disqualification upon the conclusion of employment negotiations. Any such determination shall be based on a consideration of all the relevant factors, including those listed in MAOP, Part I, 1-1, and a determination that the concern that a reasonable person may question the integrity of the Bureau's decision-making process outweighs the Government's interest in the employee's participation in the particular matter.

EFFECTIVE: 07/12/94

1-16.2 Teaching, Speaking and Writing

(1) An employee, shall not receive compensation from any source other than the Government for teaching, speaking or writing that relates to the employee's official duties.

(2) Definitions of Terms: TEACHING, SPEAKING OR WRITING relates to the employee's official duties if:

(a) The activity is undertaken as part of the employee's official duties;

(b) The circumstances indicate that the invitation to engage in the activity was extended to the employee primarily because of his/her official position rather than his/her expertise on the particular subject matter;

(c) The invitation to engage in the activity or the offer of compensation for the activity was extended to the employee, directly or indirectly, by a person who has interests that may be affected substantially by performance or nonperformance of the employee's official duties;

(d) The information conveyed through the activity draws substantially on ideas or official data that are nonpublic information; or

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(e) The subject of the activity deals in significant part with:

1. Any matter to which the employee presently is assigned or to which the employee had been assigned during the previous one-year period;

2. Any ongoing or announced policy, program or operation of the agency.

3. In the case of a noncareer employee as defined in 5 CFR 2636.303(a), the general subject matter area, industry, or economic sector primarily affected by the programs and operations of his/her agency.

(3) Reference to official position. An employee who is engaged in teaching, speaking or writing as outside employment or as an outside activity shall not use or permit the use of his/her official title or position to identify him/her in connection with his/her teaching, speaking or writing activity or to promote any book, seminar, course, program or similar undertaking, except that:

(a) An employee may include or permit the inclusion of his/her title or position as one of several biographical details when such information is given to identify him/her in connection with his/her teaching, speaking or writing, provided that his/her title or position is given no more prominence than other significant biographical details;

(b) An employee may use, or permit the use of, his/her title or position in connection with an article published in a scientific or professional journal, provided that the title or position is accompanied by a reasonably prominent disclaimer satisfactory to the agency stating that the views expressed in the article do not necessarily represent the views of the agency or the United States; and

(c) An employee who is ordinarily addressed using a general term of address, such as "The Honorable," "Doctor," or former military rank, may use or permit the use of that term of address or rank in connection with his/her teaching, speaking or writing. (See MAOP, Part I, 1-14(4).)

(4) See MAOP, Part I, 1-24, Prepublication Review Matters; 1-26.2, Types of Employee Public Speech; 1-26.3, Factors

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Determining Appropriateness of Employee Public Speech:

EFFECTIVE: 07/12/94

1-17 ACTIVE PARTICIPATION IN MILITARY RESERVE OR NATIONAL GUARD
UNITS (READY RESERVE STATUS)

(1) According to Department of Defense Directive 1200.7, heads of Federal agencies should make determinations identifying key agency positions and the key personnel occupying such positions and then take the necessary action to assure that agency key employees holding key positions are not permitted to hold conflicting mobilization assignments with military Ready Reserve. If employees are permitted to hold conflicting mobilization assignments, the agency's emergency operating capabilities may be seriously eroded, which is contrary to the purpose and intent of preparedness planning.

(2) Due to the key Federal employee status of Special Agents, following appointment of a New Agent with Ready Reserve Status the employee is required, as a condition of employment, either to request the appropriate branch of the military to transfer (screen) him/her from the Ready Reserve to the Standby Reserve, or request to be discharged from Reserve or National Guard obligation. Due to availability requirements of all Special Agent personnel, and in order to permit adequate contingency planning in the event of an emergency which would necessitate the mobilization of the Ready Reserve, Bureau policy precludes any Special Agent from enlisting, reenlisting, or reactivating into a Ready Reserve Unit. It is permissible under Bureau policy for Special Agents to join either the Active or Inactive Standby Reserve; however, Special Agents are not authorized to volunteer for active duty for training purposes (ACDUTRA).

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1-18 POLITICAL ACTIVITIES

(1) The Hatch Act, Title 5, United States Code (USC), Section 7324 et seq., prohibits federal employees from using their official authority or influence to interfere with or affect the result of an election and from taking an active part in partisan political management and partisan political campaigns. Partisan campaigns and issues are ones which are identified with a national or state political party or political party of a territory or possession of the United States. Permissible nonpartisan political activity includes campaigns and issues relating to constitutional amendments, referendums, approval of municipal ordinances and others of a similar character. In addition, other federal laws control certain political contributions and services; prohibit the political use of authority and influence; and prohibit most federal executive agency employees requesting or receiving from, or giving to, another federal employee, member of Congress, or officer of a uniformed service any thing of value for political purposes. See Title 5, USC, Sections 7321-7323.

(2) Under the Hatch Act, federal employees do retain the right to vote as they choose and to express opinions on political subjects and candidates.

(3) The prohibitions of the Hatch Act are in effect whether an employee is on or off duty, and they apply to employees on leave, including employees on leave without pay. Violation of the Hatch Act is punishable by discharge or suspension for not less than 30 days.

(4) Beyond the above-mentioned administrative directives found in Chapter 73 of Title 5, USC, which pertain to political activities, employees should also be aware that there are federal criminal statutes and penalties relating to (a) promises of, or deprivation of, employment in connection with political contributions; (b) soliciting or making certain political contributions; or (c) intimidation to secure political contributions. See Title 18, USC, Sections 600-607.

(5) The Office of Personnel Management (OPM) has compiled a list of permissible and prohibited political activities derived from the Hatch Act. This list, as set forth below, is published in Title 5, Code of Federal Regulations (CFR), Section 734, Subpart D. These provisions apply to FBI employees, among others. In addition, the Department of Justice (DOJ), through regulation (Title 28, CFR, Section 45.735-19), has adopted the strictures on partisan political activities found in the above-cited OPM regulations.

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EFFECTIVE: 08/09/95

1-18.1 Permissible Activities (Title 5, CFR, Section 734, Subpart D) | (See MAOP, Part I, 1-18.1(2), 1-18.3(1).) |

(1) All employees are free to engage in political activity to the widest extent consistent with the restrictions imposed by law and this subpart. Each employee retains the right to --

(a) Register and vote in any election;

(b) Express (his or her) opinion as an individual privately and publicly on political subjects and candidates (note FBI policy limitations set forth below); | (See MAOP, Part I, 1-18.3.) |

(c) Display a political picture, sticker, badge, or button (except in situations that are connected to his (or her) official duties, i.e., such items may not be displayed while on duty, on government property, including government vehicles);

(d) Participate in the nonpartisan activities of a civic, community, social, labor, or other professional organization, or of a similar organization;

(e) Be a member of a political party or other political organization and participate in its activities to the extent consistent with FBI policy limitations set forth below and with federal law; |

(f) Attend a political convention, rally, fund-raising function; or other political gathering (note FBI policy limitations set forth below);

(g) Sign a political petition as an individual;

(h) Make a financial contribution to a political party or organization (BUT SEE Title 18, USC, Section 603, dealing with contributions to one's federal employer);

| (i) | Take an active part, as a candidate or in

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support of a candidate, in a nonpartisan election (BUT SEE MAOP, Part I, Sections 1-7, 1-8, 1-9, 1-16, and 20-6.1 ET SEQ. which require FBIHQ approval for outside employment);

(j) Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character;

(k) Serve as an election judge or clerk, or in a similar position to perform nonpartisan duties as prescribed by state or local law (BUT SEE MAOP, Part I, Sections 1-7, 1-8, 1-9, 1-16, and 20-6.1 ET SEQ. which require FBIHQ approval for outside employment); and

(l) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not compromise his/her efficiency or integrity as an employee or the neutrality, efficiency, or integrity of his/her agency.

(m) Each employee has the right to engage in any of the activities listed in subsections (b), (c), (g), (j), and (l), as long as such activity is not performed in concert with a political party, partisan political group, or a candidate for partisan political office.

(2) Paragraph (1) of this section does not authorize an employee to engage in political activity in violation of law; while on duty; while wearing a uniform, badge, or insignia that identifies the employing agency or the position of the employee; while in any room or building occupied in the discharge of official duties; or while using a government-owned or leased vehicle or while using a privately owned vehicle in the discharge of official duties. The head of an agency may prohibit or limit the participation of an employee or class of employees of his/her agency in an activity permitted by paragraph (1) of this section, if participation in the activity would interfere with the efficient performance of official duties, or create a conflict or apparent conflict of interests. (The FBI policy, which is more restrictive, is set forth below, under "FBI Policy.") (See MAOP, Part I, 1-18.3(1).)

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1-18.2 Prohibited Activities (Title 5, CFR, Section 734, Subpart D) (See MAOP, Part I, 1-18.3.)

(1) An employee may not take an active part in political management or in a political campaign, except as permitted by this subpart.

(2) Activities prohibited by paragraph (1) of this section include but are not limited to--

(a) Serving as an officer of a political party, a member of a National, State, or local committee of a political party, an officer or member of a committee of a partisan political club, or being a candidate for any of these positions;

(b) Organizing or reorganizing a political party organization or political club;

(c) Soliciting, accepting, or receiving political contributions.

(d) Organizing, selling tickets to, promoting, or actively participating in a fund-raising activity of a candidate in a partisan election or of a political party, or political club;

(e) Taking an active part in managing the political campaign of a candidate for public office in a partisan election or a candidate for political party office;

(f) Becoming a candidate for, or campaigning for, an elective public office in a partisan election;

(g) Soliciting votes in support of or in opposition to a candidate for public office in a partisan election or a candidate for political party office;

(h) Acting as a recorder, watcher, challenger, or similar officer at the polls on behalf of a political party or a candidate in a partisan election;

(i) Driving voters to the polls on behalf of a

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political party or a candidate in a partisan election;

(j) Endorsing or opposing a candidate for public office in a partisan election or a candidate for political party office in a political advertisement, a broadcast, campaign, literature, or similar material;

(k) Serving as a delegate, alternate, or proxy to a political party convention;

(l) Addressing a convention, caucus, rally, or similar gathering of a political party in support of or in opposition to a partisan candidate for public office or political party office;

(m) Initiating or circulating a partisan nominating petition;

(n) Soliciting, collecting, or receiving a contribution at or in the federal workplace from any employee for any political party, political fund, or other partisan recipient;

(o) Paying a contribution at or in the federal workplace to any employee who is the employer or employing authority of the person making the contribution for any political party, political fund, or other partisan recipient; and

(p) Deleted

EFFECTIVE: 08/09/95

1-18.3 FBI Policy

(1) As noted above in Section 1-18.1(2) "the head of an agency may prohibit or limit the participation of an employee or class of employees of his/her agency in an activity permitted by Section 1-18.1(1), if participation in the activity would interfere with the efficient performance of official duties or create a conflict or apparent conflict of interests." This discretionary authority has been exercised by the FBI, and, as a matter of policy concerning FBI standards of conduct, FBI employees are restricted in the nature of their participation in political activities, partisan or otherwise.

(2) Of course, FBI employees retain the right to vote as

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they choose and to register and vote in any election. Also, FBI employees are entitled to express their opinions on political matters and matters of public interest. However, sound discretion and judgment dictate that such activity be conducted with the utmost care so as not to interfere with the efficient performance of the employee's official duties, or create a conflict or apparent conflict of interest.

(3) By virtue of our role and status in law enforcement, the FBI as an organization, and its employees individually, have assumed some special responsibilities. Employees must recognize that their participation in political activities can easily be subject to misinterpretation and criticism by the public, which can readily impact on the efficiency, effectiveness, and integrity of the FBI as an organization. Clearly, the more actively and overtly the employee participates in a political activity and the more directly the employee is identified as an FBI employee, the more likely the potential for interference with the efficient performance of the employee's official duties. Likewise, FBI employees should avoid any political activity which has the slightest partisan connection (thereby suggesting that the FBI favors any political party) or which, by virtue of the employee's participation, will hamper or render less effective the performance of the employee or adversely reflect upon the integrity of the FBI. Employees must fully understand the inherent difficulty involved in separating themselves personally from their positions as FBI employees where participation in political activities is concerned. Also, when an employee participates in political activity, his/her conduct must comport with the standards of professionalism and good judgment which are required generally of FBI personnel.

EFFECTIVE: 03/28/89

1-18.3.1 Off-Duty Political Activities

While off duty, FBI personnel may participate in permissible political activities, as set forth above. However, employees must take steps to make it absolutely clear that the opinions they express are their own personal opinions, not those of the FBI. In this regard, employees must not highlight their FBI employment status unnecessarily through volunteering the fact that they are employed by the FBI or through conspicuously displaying FBI insignia when engaging in permissible political activities. Further, since professionalism and good judgment are required of all FBI

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personnel, off duty as well as on duty, employees must not engage in political activities in a manner which is clearly offensive, outrageous, nonpeaceful or otherwise unprofessional.

EFFECTIVE: 03/28/89

1-18.3.2 On-Duty Political Activities

(1) While on duty, FBI personnel are prohibited from engaging in otherwise permissible political activities when in contact with the public. Exchanging political views with members of the public while on duty may suggest favoritism or bias on the part of the FBI toward political candidates or parties. The FBI, like all law enforcement agencies, must be perceived by the public as nonpartisan and apolitical. While on duty, employees are prohibited from displaying to members of the public any button, sign, advertisement, etc., of a partisan nature. Likewise, no advertisement supporting any political candidate/party or any public issue may be placed on Government property, including Government vehicles.

(2) In order to ensure harmonious and close working relations with co-workers in the workplace, no political buttons, signs or other advertisements may be displayed within FBI or Government office space or vehicles. Similarly, FBI employees must avoid protracted political discussions or debate with co-workers in the workplace, since such activity can easily disrupt or negatively impact upon harmonious working relations and efficient office operations.

(3) Failure to adhere to Federal laws and regulations, and FBI policy, as set forth above, regarding participation in political activities may result in an employee's discharge, suspension, or other administrative action.

(4) In the event an FBI employee desires to participate in some form of political activity (other than partisan political activity) beyond voting and discreet expressions of opinion on matters of political or public concern, and if there is any doubt about whether the activity is prohibited, the employee is advised to seek guidance from the Administrative Summary Unit, Personnel Division, FBIHQ.

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EFFECTIVE: 04/21/94

1-19 CONFIDENTIAL NATURE OF FBI OPERATIONS

(1) Employees must afford confidential orders involving special assignments and, in some instances, transfers appropriate secrecy in accordance with the exigencies thereof. Should there be any doubt in these matters, the advice of the SAC or ASAC should be sought.

(2) Employees are required to keep strictly confidential all information secured in their official capacities. Failure to abide by this provision violates Department of Justice regulations and may violate certain statutes providing severe penalties. (See also regulations set out in Foreign Counterintelligence Manual and Manual of Investigative Operations and Guidelines on unauthorized disclosure of classified security information.)

EFFECTIVE: 03/28/89

1-19.1 Unofficial Contact with Nationals from Foreign Nations
Whose Interests may be Hostile to the Interest of the
United States

All FBI employees who have unofficial written or personal contact with nationals of foreign nations listed in the Foreign Counterintelligence Manual, Part III, Section 1-1, are required to report these contacts in writing to the FBI Security Programs Manager.

EFFECTIVE: 03/28/89

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1-20 TRAVEL OUTSIDE THE UNITED STATES AND ITS POSSESSIONS

(1) All FBI employees planning official and unofficial travel outside the United States and its possessions should notify their field office or FBIHQ division Security Officer and the Security Programs Manager (SPM), FBIHQ, of such by completing Form FD-772. This is to be submitted 30 days prior to the intended departure date. Whenever 30 days' notice is impossible, the notification should be made as soon as practicable. Those employees anticipating frequent official and/or unofficial foreign travel to Mexico or Canada should submit one FD-772 form with the notation appearing in number nine of the form which indicates frequent travel is anticipated. Thereafter, one FD-772 form can be submitted each January for foreign travel in the following calendar year. A log to include date/place/duration/purpose of travel is to be maintained by the field office/division Security Officer for those employees.

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EFFECTIVE: 03/26/92

1-21 EMPLOYEES' RIGHTS UNDER THE PRIVACY ACT OF 1974

EFFECTIVE: 03/26/92

1-21.1 Privacy Act of 1974

In accordance with a provision of the Privacy Act (Title 5, USC, Section 552a(e) (3)), each FBI employee who is requested to provide personal information about himself/herself or his/her personal activities must be apprised of the authority which allows the solicitation of information, whether providing the information is mandatory or voluntary, the purpose and use to be made of that information, and the effects on that individual if individual does not provide this information. This notice need not be provided if the solicitation of information from the employee is related to an investigation of alleged criminal activity. Each applicant for employment with the FBI is furnished a statement contained in our Application for Employment (FD-140) and in the form entitled Applicant Background Survey (FD-804). This statement includes the FBI authority to conduct personnel investigations pursuant to Title 28, Code of Federal Regulations, Section 0.137, the reasons and uses of the solicitation of information which was to determine the suitability for employment, and advises that willfully making a false statement or concealing a material fact would be the basis for dismissal if an applicant received an appointment. In addition to the above, each employee should be aware that he or she may be asked to furnish information concerning themselves by completing various forms during their tenure with the Bureau in order for the Bureau to carry out its many administrative duties and responsibilities.

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EFFECTIVE: 10/13/93

1-21.2 Standards of Conduct

(1) All employees are expected to abide by the standards of conduct set forth in Executive Order 12764 dated 4/12/89, Departmental Order 350-65 and rules and regulations of the FBI pursuant to the above-mentioned authority set forth in the Code of Federal Regulations.

(2) According to these regulations, investigations will be conducted in connection with violations of the standards and will include an interview of the employee involved. The purpose of the inquiry will be to determine whether disciplinary action is warranted. The inquiry may encompass any conduct which is reasonably related to work performance. Thus, a disciplinary inquiry is not restricted to activities within the critical elements and performance standards of the employee's position and may also include on- or off-duty conduct when such conduct affects an employee's ability to perform his or her job or adversely affects the Bureau's ability to secure needed cooperation from members of the public. If an employee refuses to cooperate in an interview during an administrative inquiry regarding work performance or other conduct which affects job performance, that employee could be disciplined for insubordination. Failure by an employee to follow all regulations will result in appropriate disciplinary action, including possible dismissal. (See MAOP, Part I, 1-2.1 (13).)

It is not intended that an administrative inquiry will involve an unreasonable intrusion into the private lives of FBI employees. These inquiries will be pursued only where there are indications that the conduct in question impacts upon work performance and/or the ability of the FBI to discharge its responsibilities.

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1-21.3 Penalties

The Privacy Act of 1974 sets forth the following provisions which you should be aware of regarding criminal penalties which may be imposed under certain circumstances:

(1) Any officer or employee of an agency, who by virtue of employment or official position, has possession of, or access to, agency records which contain individually identifiable information, the disclosure of which is prohibited by this section or by rules or regulations established thereunder; and, who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(2) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e) (4) of this section shall be guilty of a misdemeanor and fined not more than \$5,000.

(3) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.

EFFECTIVE: 03/26/92

1-22 INTELLIGENCE OVERSIGHT BOARD (See NFIPM, Part I, |6-7,
6-7.3.1.) |

(1) The President, by Executive Order 12863 of September 13, 1993, established the Intelligence Oversight Board as a standing committee of the President's Foreign Intelligence Advisory Board (PFIAB). The Board is composed of no more than four members appointed from among the PFIAB membership by the PFIAB Chair. The Board is charged with reviewing activities of the Intelligence Community and informing the President of any activities that any member believes are in violation of the Constitution or laws of the United States Executive Orders, or Presidential Directives. The activities to be reviewed by the Board are those conducted by the Intelligence Community as part of government business. With respect to the FBI, the Board reviews those activities relating to foreign intelligence and counterintelligence. Such activities are conducted

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in accordance with the applicable Executive Orders, Presidential Directives, rules, agreements, statutes, guidelines and investigative procedures and techniques set forth in the NATIONAL FOREIGN INTELLIGENCE PROGRAM MANUAL. In this regard, the Board will receive and consider reports from Inspectors General and General Counsels of the Intelligence Community concerning any intelligence activities of their organization that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. In the FBI, reports to the Board are submitted jointly by the General Counsel, and the Assistant Director, Inspection Division. Employees may refer matters that they believe may require reporting to the Assistant Director, Inspection Division. It is important to emphasize that the Board is not to review illegal or improper personal activities of government employees.

(2) Pursuant to provisions of Executive Order 12333, each employee is instructed to cooperate fully with the Intelligence Oversight Board. Further, the Intelligence Oversight Board has advised that the Executive Order does not explicitly establish a system by which employees of the Intelligence Community would report to the Board. The Board was not established as a substitute for the FBI's normal procedures for receiving complaints and allegations from employees. Nonetheless, the President has made it clear that he expects the Board to accept information from individual employees which falls within the Board's jurisdiction. Although the Board does not feel an obligation to investigate all allegations received, it will, as it deems appropriate, follow up on serious allegations received from employees bearing on activities conducted by the Intelligence Community as part of government business. Accordingly, although only a fraction of the Bureau's work relates to foreign intelligence and counterintelligence, employees are advised that with respect to foreign intelligence and counterintelligence they do have the ability to report directly to the Board on matters coming within its purview.

(3) On a quarterly basis, each division will submit to FBIHQ (Attention: Inspection|Division, Compliance Management Unit)|a communication certifying that all the employees of that division have been contacted concerning intelligence activities and that they have no reason to believe any activities may be unlawful or contrary to Executive Order or Presidential Directive. This communication will be signed out personally by the SAC, Assistant Director, or Bureau Executive, and this responsibility cannot be delegated. Should a question of a violation of law, Executive Order, or Presidential Directive arise, it must be reported promptly without waiting for the normal quarterly response. Failure to report such activity will

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subject the employees sharing the responsibility for the failure to severe administrative action up to and including dismissal from the service.

EFFECTIVE: 09/04/97

||1-23| DEPARTMENT OF JUSTICE OFFICE OF PROFESSIONAL
RESPONSIBILITY

(1) By Departmental Order No. 635-75, the Department of Justice Office of Professional Responsibility (DOJ-OPR) was created to oversee investigations of allegations of criminal or ethical misconduct by departmental employees. The office, headed by a Counsel, is responsible for reviewing allegations against departmental employees involving violations of law, regulations or standards of conduct. To this end, DOJ-OPR serves as a special review and advisory body, reporting directly to the Attorney General or, in appropriate cases, to the Deputy Attorney General or the Solicitor General.

(2) Each employee has the responsibility to report promptly, any indication of possible exploitation or misuse of Bureau resources; information as to violations of law, rules or regulations; personal misconduct; or improper performance of duty as stated in MAOP, Part I, 13-1. Reporting may be to supervisors, the Director, the Office of Professional Responsibility, Inspection Division, FBIHQ, or directly to the Department of Justice Office of Professional Responsibility, Washington, D.C.

(3) Each SAC and division head is to bring the above reporting requirement to the attention of all employees on June 1, and December 1, of each year. Forward a letter to the attention of Office of Professional Responsibility, Inspection Division, when this has been accomplished.

(4) Whenever any employee provides information pursuant to this requirement, that employee's confidentiality shall be maintained unless the employee consents to the release of his or her identity or it is determined by DOJ-OPR that the disclosure of the identity is necessary to resolve the allegation.

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EFFECTIVE: 07/18/88

||1-23.1| Protecting Employees (Whistleblowers) From Official Reprisals

(1) Pursuant to the Civil Service Reform Act of 1978, Section 2303 of Title 5, United States Code, as added by Section 101(a), employees of the FBI who disclose information of violation of law, mismanagement, gross waste of funds, or other misconduct are protected from official reprisals. Official reprisal includes, but is not limited to, punitive personnel action taken or favorable action not taken in order to penalize an employee for having discharged the duty to report. This protection is assured by the monitoring of such employee's subsequent career by Office of Professional Responsibility, Inspection Division, in order to detect any official reprisal.

(2) Office of Professional Responsibility, Inspection Division, will receive complaints of reprisal and furnish any evidence to the Director and DOJ-OPR. Complaints may also be made directly to DOJ-OPR. If the Counsel, DOJ-OPR, determines that reasonable grounds exist to believe that personnel action was taken or favorable action not taken as a reprisal for disclosure of information, the Attorney General may, upon request by the Counsel, DOJ-OPR, stay such action.

EFFECTIVE: 07/18/88

| 1-24 PREPUBLICATION|REVIEW|

(1) |CROSS-REFERENCES: MAOP, Part I, 1-16 (Outside Employment); 1-18 (Political Activities); 1-26 (Employee Public Speech Rights and Obligations); 1-27 (Service as an Expert Witness); 20-6 (Outside Employment), and 20-28.3 (Administration and Requirements of PTAP). See also 28 CFR Section 17.144 (Nondisclosure of Classified Information) and 5 CFR Part 2635 (Standards of Conduct).|

(2) |BACKGROUND (See MAOP, Part I, 1-14 (4).)

(a) This section promulgates regulations and provides guidance on the FBI's prepublishation review program. It applies to both current and former employees and is meant to regulate

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individual conduct as well as to set forth organizational policy.

(b) As a condition of employment, all FBI personnel signed an "Employment Agreement" (FD-291) in which they promised to never divulge, publish, reveal, or otherwise disclose any information or material from or relating to FBI files or any other information acquired by virtue of their official employment, duties, or status, without the written permission of the Director. Each employee also promised to present the full text of any proposed disclosure in writing for the Director's consideration at least 30 days in advance of the proposed disclosure. BREACH OF THESE OBLIGATIONS IS GROUNDS FOR DISCIPLINARY ACTION, A CIVIL SUIT AGAINST THE OFFENDER, OR BOTH. IN SOME INSTANCES, UNAUTHORIZED DISCLOSURE MAY ALSO CONSTITUTE CAUSE FOR REVOCATION OF A SECURITY CLEARANCE OR BE A CRIMINAL OFFENSE. For example, Title 5, USC, Section 552a(i)(1) makes it a crime to wrongfully disclose individually identifiable information from a system of records protected by the Privacy Act; and Title 18, USC, Section 1905 makes it a crime for federal employees to wrongfully disclose trade secrets acquired during the course of their employment.

(c) The FBI prepublication review program is designed to implement the Employment Agreement by establishing a process by which employees and former employees who wish to make disclosures--WHETHER ORAL, ELECTRONIC, OR WRITTEN--within the scope of the agreement may request permission to do so. By its nature, the prepublication review process contemplates a tangible expression of information. Most often this involves a writing but, regardless of the medium through which a disclosure is to be made (written, oral, electronic, etc.), an employee's obligation under the Employment Agreement is NOT to disclose ANY information within the scope of the agreement without written permission to do so.

1. Thus, outlines of oral presentations, drafts and manuscripts of fictional or nonfictional written works, software and other electronic works, and so forth must be submitted for prepublication review if their subject matter falls within the scope of the Employment Agreement.

2. Disclosures made in the performance of official duties are outside the scope of the prepublication review program. Official speeches, writings, and publications are reviewed and authorized by cognizant FBI officials and need not be further reviewed. (See MAOP, Part I, 1-12.)

3. Completely extemporaneous oral disclosures

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by their very nature cannot be reviewed in advance. This does not mean that an employee or former employee can disregard the terms of the Employment Agreement when making such disclosures; on the contrary the Agreement covers ALL disclosures, not just written ones. It does, however, mean that as a practical matter, compliance with the prepublication review program is impossible in such situations. Thus, while an employee or former employee may be held accountable for making an extemporaneous oral disclosure of information obtained during the course of FBI employment without permission to do so, he or she will not be sanctioned for failing to comply with the prepublication review program.

(d) Compliance with the prepublication review program does not relieve a current employee from the obligation to comply with the FBI's outside employment rules or the Standards of Ethical Conduct for the Executive Branch. Thus, current employees must ensure that any acceptance of compensation for speaking or writing conforms to these rules and standards.

(3) BASIC RULE (See MAOP, Part I, 1-14 (5).)

(a) Current and former employees must submit to the Office of Public and Congressional Affairs (OPCA) for prepublication review any nonfiction or fiction work, regardless of the medium in which the work is to be memorialized, that they intend to publish or otherwise divulge which discusses, concerns, is based on, derived from, or otherwise relates to any data, information, files, documents, or materials acquired from or relating to FBI files or any other information acquired by virtue of official employment, duties, or status.

1. No disclosure is authorized prior to the completion of the prepublication review process. Thus, oral disclosures and disclosures of drafts, initial manuscripts, and so forth to prospective publishers, co-authors, ghost writers, attorneys, or other persons not properly authorized to have access to the information in question are prohibited if the subject of the disclosure falls within the scope of the basic rule.

2. Works that clearly have nothing to do with the FBI or its activities, investigations, mission, or which are not otherwise related to any information, documents, or materials acquired by virtue of FBI employment, duties, or status need not be submitted for review. For example, a book of children's stories, an article on stamp collecting, or an outline of a presentation on religion need not be submitted for prepublication review.

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3. For further information, see 28 CFR
Section 17.144.

(4) PROCEDURES

(a) The following procedures govern the
prepublication review process:

1. Submissions must be made in writing even if
an oral disclosure is contemplated. Submissions must be presented to
OPCA at least 30 WORK days in advance of the proposed disclosure.
(Some oral presentations are not scheduled that far in advance. In
such cases, the concerned employee must submit the related written
materials as far in advance as possible. The Bureau will endeavor to
review the material in a timely manner but disclosure is not
authorized until the review is complete.)

2. OPCA will coordinate the
prepublication review process for the Director. In this regard, OPCA
will --

a. provide assistance to persons with
questions about the prepublication review process.

b. prepare the FBI response to each request
for prepublication review not later than 30 work days after the
request and all related materials are received by the FBI. (The day
of receipt is not counted for purposes of calculating the 30 work day
period but the day of response is.)

c. screen all requests:

(i) If no further review is required,
then OPCA will inform the requester in writing that the FBI has no
objection to disclosure or publication of the material in question.

(ii) If further review is required,
then OPCA will refer the work, in writing, to a prepublication review
panel (see below), via the responsible division Assistant Director
(AD), and inform the requester in writing that the work has been
received and is under review.

(iii) If the request reveals that the
author has breached his or her Employment Agreement by making an
unauthorized disclosure prior to submitting the work for review, then

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OPCA will forward copies of the request and the work to the Deputy General Counsel, Litigation Branch, Office of the General Counsel (OGC) for possible institution of civil suit against the author. If the author is a current employee, then OPCA shall also forward copies to the Personnel Security Unit, National Security Division, for evaluation of the effect of the disclosure on the employee's continued trustworthiness and security clearance, and to the Office of Professional Responsibility (OPR) for further investigation. OPCA will also simultaneously pursue the actions described in subparagraphs (i) or (ii) above, as appropriate in such cases, unless directed to the contrary by OGC or OPR.

3. A prepublication review panel shall review all works referred by OPCA for further review:

a. Three panels shall be constituted. Each panel shall be comprised of one FBI employee from each of the following: the Criminal Investigative Division, the National Security Division, the Information Resources Division, the Laboratory Division, and the Training Division. Members will be appointed in writing by their respective division AD and shall serve one-year terms. Designated attorneys appointed by the General Counsel shall provide legal advice and counsel to the panels, as needed.

b. OPCA shall refer a work to a panel via the AD who, in OPCA's judgment, has the greatest interest in the subject matter of that particular work. (Advance copies of the work will be provided directly to the panel members by OPCA to permit them to begin their substantive review.) That AD shall then be responsible to OPCA, acting for the Director, for ensuring that the panel to which the work is assigned completes its review in a timely and substantively correct manner. The panel member from the division through which the work is referred by OPCA shall act as the chairperson for the review panel for that particular work and is responsible to his or her respective AD for completing the review in a timely and substantively correct manner.

c. When a work is referred to a panel, each member shall review the work in question using the standards set forth below and such guidelines as may be provided by OPCA. (OPCA will provide the panel with five copies of the work at the time of the referral, one for each member.) The panel may request the assistance of any FBI employee with specialized knowledge or skills in reviewing the work. Additionally, the panel may request the assistance of personnel from other agencies or entities if the work pertains or relates to matters under the cognizance of or involves

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the expertise of such agencies or entities.

d. The panel may meet to discuss the work or otherwise determine how to proceed at the discretion of the chairperson. The panel will either authorize disclosure in full or provide written objections to specific portions (by page and paragraph number) specifying why the FBI should withhold permission to disclose. The chairperson shall be responsible for writing up the panel's findings but may task any member of the panel with assisting. The panel's findings must be submitted to OPCA not later than five work days before the date when the FBI response is due to the author. OPCA may presume that the panel has no objections to the work if this deadline is not met.

4. If a panel objects to disclosure of any portion of a work, OPCA shall notify the requester that the FBI withholds permission to disclose or publish the portions to which the board has objected and request such modifications as may be necessary. If the author submits corrected portions for further review, OPCA will continue to work with the requester and the concerned panel until final clearance is authorized. If a particular matter cannot be resolved, then the requester may appeal to the Director. The decision of the Director is final, except that decisions relating to the deletion of classified information may be appealed to the Deputy Attorney General per 28 CFR Section 17.144(s) (3).

5. If a current or former employee publishes or otherwise discloses information within the scope of the Employment Agreement without obtaining the requisite FBI authorization, and OPCA (or any other FBI entity or employee) learns of the violation, then they will refer the case to the Deputy General Counsel, Litigation Branch, OGC and to OPR and the Personnel Security Unit if the individual is a current employee. OGC will determine whether institution of civil suit is warranted. OPR will investigate the matter and refer the case, if warranted, for consideration of appropriate disciplinary action to the Administrative Summary Unit. The Personnel Security Unit will evaluate the effect of the disclosure on the employee's continued trustworthiness for security access and clearance.

6. Any work submitted for prepublication review is presumed to be proprietary and shall not, with the exceptions set forth in paragraph 3.c. above, be disseminated to any person not involved in the prepublication review process or in the enforcement of that process. In general this means that the work shall not be

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disclosed outside OPCA and the concerned prepublication review panel except on a "need-to-know" basis during the prepublication review process, and to OGC and OPR during the enforcement process. No copies of the work may be made without the approval of OPCA.

(5) STANDARDS

(a) The following standards will be observed during the review process:

1. Proposed disclosure or publication by current or former employees of the following ordinarily will be grounds for objection:

a. Information protected from agency disclosure by the Privacy Act;

b. Information that is classified or the disclosure of which could otherwise harm national security;

c. Information that reveals sensitive law enforcement, intelligence, or counterintelligence techniques, sources or methods; or that reveals the sensitive, confidential, or proprietary techniques, sources, or methods of other agencies or governmental entities;

d. Information that would reveal grand jury material protected from disclosure by Rule 6(e) of the Federal Rules of Criminal Procedure;

e. Information that would reveal the identity of a confidential source or informant;

f. Information that relates to any sensitive operational details or the substantive merits of any ongoing or open investigation, inquest, probe, prosecution, appeal, or case;

g. Information that consists of the proprietary information of another, including trade secrets;

h. Information pertaining to wiretaps or intercepts protected or regulated by Title III (Title 18, USC, Sections 2510-2520);

i. Information pertaining to currency

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transaction reports regulated or protected by Title 31, USC, Section 5319;

j. Tax return information regulated or protected by Title 26, USC, Section 6103;

k. Information pertaining to contractor bids or proposals or source-selection information before the award of the procurement contract to which the information relates;

l. Information protected from disclosure by any other federal statute or regulation; and

m. Information exempt from disclosure under the Freedom of Information Act (Title 5, USC, Section 552) unless the material is clearly already in the public domain.

2. No objection to disclosure or publication by a current or former employee will be interposed solely because a work is critical or disparaging of the FBI, the government, or its officers and employees. If, however, a work by A CURRENT EMPLOYEE contains material the disclosure of which would adversely affect the ability of the FBI to effectively and efficiently fulfill its responsibilities to the public (including speech concerning private grievances or that impairs discipline or harmony among co-workers or exerts a detrimental impact on close working relationships for which personal loyalty and confidence are necessary), then the declarant or author shall be informed that disclosure or publication may result in adverse consequences, including disciplinary action. In other words, the FBI will not object to the disclosure or publication of such material but the declarant or author may be warned that disclosure is not without potential consequences.

3. No objection will be interposed solely because of errors (factual, grammatical, or otherwise) in the work.

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1-25

DRUG DETERRENCE PROGRAM (DDP)

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EFFECTIVE: 11/27/90

1-25.1 Background and Purpose

(1) On May 7, 1986, the FBI and the DEA adopted a joint policy statement that sets forth the details of the FBI/DEA DDP. All employees were notified of the new FBI/DEA policy by the Director's June 3, 1986, Memorandum to All Employees. On July 28, 1986, Agent applicant testing commenced.

(2) On September 15, 1986, President Reagan signed Executive Order (EO) 12564 establishing the goal of a drug-free Federal workplace. The order made it a condition of employment for all Federal employees to refrain from using illegal drugs on or off duty.

(3) The EO recognized that illegal drug use seriously impairs a portion of the national work force. The FBI is concerned with the well-being of its employees, the successful accomplishment of its missions, and the need to maintain employee productivity. The intent of a drug-testing policy is to offer a helping hand to those who need it, while sending a clear message that any illegal drug use is incompatible with Federal service.

(4) On July 11, 1987, legislation was enacted affecting implementation of the EO under Section 503 of Public Law 100-71 in an attempt to establish uniformity among Federal agency drug-testing plans, reliable and accurate drug testing, employee access to drug-testing records, confidentiality of drug test results and centralized oversight of the Federal Government's drug-testing program.

(5) The purpose of the FBI/DEA DDP is to set forth objectives, policies, procedures, and implementation guidelines to achieve a drug-free Federal workplace, consistent with the EO and the mandatory guidelines required by subsection (a) (1) (A) (ii) of Section 503 of Public Law 100-71. The intent of Congress and the President is clear: illegal drug use by Federal employees, on or off duty, particularly in agencies such as the FBI, is inconsistent with the national security and with the public's health and safety.

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1-25.2 Statement of Policy

(1) The FBI has been charged with enforcing the Federal narcotics laws and is expected to be drug-free. It has been a longstanding FBI policy that employees should never cause themselves to be mentally or physically unfit for duty. (See MAOP, Part I, Section 1-2 supra.) The use of illegal drugs is strictly prohibited at any time. As employees of the nation's chief Federal law enforcement agency, FBI employees must not themselves engage in criminal conduct. See the Memorandum to all Employees dated May 15, 1981, captioned "Disciplinary Matters," regarding the FBI Personal Conduct Policy.

(2) The very nature of the FBI's investigative work and unique mission in the criminal, domestic security, foreign counterintelligence and security-loyalty background areas demands that a high degree of special trust be required not only in the conduct of these investigations but also by all personnel who are involved in the reporting, processing and filing of our investigative results. The unauthorized dissemination of material or information developed during our investigations or maintained in our files (by employees such as Office Automation Clerks/Assistants as well as by Special Agents) would significantly affect our mission, endanger the lives or safety of our Agents or informants, destroy or diminish their usefulness and invade personal privacy. Thus, it is imperative that all employees conduct their lives in such a way that they are free from potential blackmail or other possible pressure from agents of hostile foreign governments who wish to procure sensitive information contained in the FBI's records.

(3) Pursuant to Office of Personnel Management (OPM) guidelines, all positions within the FBI are designated "critical sensitive," permitting employees access to classified information. Federal drug testing can be done on all jobs labeled "critical sensitive"; therefore, all FBI positions are testing designated. Furthermore, EOs 10450 and 12356 and Director of Central Intelligence Directive 1/14 make it clear that drug use by Federal employees with access to classified information is not consistent with the interests of national security.

(4) In carrying out the FBI's mission, Special Agents conduct many types of investigations over which the FBI has jurisdiction; must be available for general and special assignments whenever and wherever their services are required; must apprehend subjects, many of whom are armed and dangerous; participate in undercover assignments; operate automobiles at high speed; be able to

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subdue persons and defend themselves and others as required; and must operate scientific crime detection devices and investigative equipment, and firearms, explosives and gases. Therefore, they must remain alert and in total control of their physical and mental faculties and unencumbered by drugs. The FBI believes that the threat to public safety posed by Special Agents (as well as a wide variety of support employees with investigative duties) whose judgment may be impaired by illegal drug use is a legitimate factor in establishing a mandatory urinalysis drug-testing program.

(5) Assignments for Special Agents and many support employees alike necessitate appearing and testifying before courts, grand juries, and other judicial and administrative tribunals. Hence, FBI employees who are themselves violating the drug laws would be impeachable and lose all credibility as witnesses.

As a result of the above, the FBI has an especially compelling obligation to deter and eliminate illegal drug use from its workplace. FBI officials have a legitimate interest in assuring that all employees are not under the influence of illegal drugs and that they are fully capable of performing their duties. The FBI believes this summary of the necessity for Special Agents to be unencumbered by the effects of illegal drug use to be equally applicable to all support positions within the FBI as job functions associated with these positions directly and immediately relate to public health and safety, the protection of life and property and/or to the national security.

(6) The FBI/DEA DDP therefore established a comprehensive drug-testing program which, as applied to FBI employees, consists of the following:

- (a) The testing/screening of all applicants seeking employment;
- (b) The testing of probationary Special Agents during the initial first year of employment;
- (c) The testing of employees when there is reasonable suspicion of illegal drug use;
- (d) The testing of all employees under a "random testing" program;
- (e) Follow-up testing; and
- (f) The testing of employees on a voluntary basis.

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EFFECTIVE: 08/30/93

1-25.3 Employee Notifications

(1) Memorandum to All Employees dated June 3, 1986, from Director Webster advised of the provisions of the DDP.

(2) Memorandum to All Employees dated November 14, 1989, from Director Sessions advised of random testing.

EFFECTIVE: 11/27/90

1-25.4 Drugs to be Screened

In accordance with Department of Health and Human Services (HHS) guidelines, the testing process involves the detection of the following categories of drugs:

- (1) Amphetamines
 - (a) Amphetamine
 - (b) Methamphetamine
- (2) Cocaine
- (3) Cannabinoids
- (4) Opiates
 - (a) Codeine
 - (b) Morphine
- (5) Phencyclidine (PCP)

In the case of reasonable suspicion testing, any drug in Schedule I and II can be tested for in accordance with HHS guidelines.

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EFFECTIVE: 11/27/90

1-25.5 Detection Method

The FBI's DDP urinalysis is performed by a two-step screening-confirmation process.

(1) Initial screening immunoassay (IA) is a rapid semi-quantitative chemical test which uses a specific antibody to react with the drug or metabolite of interest.

(2) Confirmation assay used in the drug analysis procedure is GC/MS, Gas Chromatography/Mass Spectrometry, which is scientifically acknowledged to be the most sensitive and accurate method for confirming the presence of drugs in biological samples.

EFFECTIVE: 11/27/90

1-25.6 Scope of Testing

The FBI's DDP establishes a comprehensive drug-testing program in the test/screening of all applicants seeking employment with the FBI, testing of probationary Special Agents during their first year of service, testing of employees when there is "reasonable suspicion" of illegal drug use, the testing of all FBI employees under a random selection program and voluntary testing. In addition, all employees who undergo a counseling and rehabilitation program for illegal drug use through the Employee Assistance Program (EAP) will be subject to unannounced follow-up testing.

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1-25.8.1 Applicant Testing

(1) All tests confirmed positive for drugs will be reviewed by the FBI's medical review officer (MRO) prior to the initiation of any official action. If the MRO determines, after contacting the donor, that there is no alternate medical explanation for the positive test, the DDP|Administrator|will be notified. A communication will be immediately prepared by the DDP|Administrator| identifying the donor and describing the drugs identified upon testing. This communication will be forwarded to the Personnel Division, Attention: Special Agent Applicant Unit (SAAU) or Bureau Support Applicant Unit (BSAU), and will become a permanent part of the applicant record. Upon receiving a communication regarding a verified positive test, the SAAU or BSAU will immediately notify the field office through which the applicant is being processed to discontinue the processing of that applicant. The SAAU or BSAU will, over the signature of the Personnel Officer, prepare an appropriate letter notifying the applicant that he or she is no longer being considered for employment.

(2) Inquiries and appeals received from applicants being denied employment with the FBI due to positive drug tests will be handled by the Personnel Officer, PD. Cases in which illegal drugs, such as marijuana, cocaine, or PCP, were detected will not be given further consideration for employment with the FBI. In the event that the drug detected was a legitimate prescription drug and the applicant had failed to inform the FBI that he or she was taking such a drug prior to testing, the applicant may appeal to the Personnel Officer, who will refer the appeal to the MRO for review prior to a final decision. Such appeals will be reviewed on an individual basis taking into consideration the verification of the legitimacy of the drug and possible lack of candor on the part of the applicant.

EFFECTIVE: 11/25/97

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1-25.8.2 Testing On-Board Employees

(1) Random Selection and Probationary Testing

(a) Notification of employees to be tested by random selection and probationary Special Agents within their first year of employment will be made to field offices and FBIHQ divisions by the FBIHQ DDP. The field office will follow the established collection procedures and forward collected specimens to the testing laboratory.

(b) All examinations confirmed positive for drugs will be reviewed by the FBI's MRO prior to the initiation of any official action. It is the responsibility of the MRO to review all positive test results and medical information provided by the employee for an alternate medical explanation for the positive test. The MRO may interview the employee, review medical history, consult with laboratory personnel and order retesting as determined necessary. If no alternate medical explanation can be determined, the test will be designated a "verified positive" by the MRO.

(c) In the event of a "verified positive" test, the MRO will notify the DDP Coordinator who will prepare an appropriate memorandum outlining the selection procedures and test results. This memorandum will be forwarded through the Assistant Director, |PD,| to the Director, FBI, Attention: Assistant Director, Inspection Division, requesting that the Office of Professional Responsibility (OPR) initiate an appropriate investigation.

(d) Investigations conducted by OPR will be conducted in accordance with the FBI regulations regarding investigation of employee misconduct. The results of such investigations will be forwarded to the Administrative Summary Unit (ASU), |PD,| for review. The degree of severity of administrative action will be determined on a case by-case basis.

(e) A copy of the memorandum prepared for a "verified positive" test will be forwarded to an EAP counselor who will immediately initiate contact with the employee and extend the assistance and rehabilitation services mandated by EO 12564. A letter will be sent by the DDP to the employee outlining the services available and providing names of EAP contacts. This letter will be sent by registered mail, return receipt requested.

(2) Reasonable Suspicion Testing

(a) If an employee is suspected of using illegal

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drugs; the first-line supervisor will gather information, specific facts, and circumstances leading to and supporting this suspicion. This information is then brought to the second-line supervisor who then decides if there is enough documentation to substantiate reasonable suspicion. This information is then brought to the attention of the SAC or division head who will then determine whether to recommend to OPR that an employee be tested. When such a recommendation is made, a written communication will be prepared to include, at a minimum, the appropriate dates and times of reported drug-related incidents, reliable/credible sources of information and any other justification for a test. This communication is to be forwarded to the OPR, FBIHQ. It is the responsibility of the Assistant Director, Inspection Division, or his/her designee to review the facts in each case and to authorize the institution of an investigation and the collection of a urine specimen for testing.

(b) All test results will be forwarded to OPR by the DDP staff after the MRO has conducted the required review to ensure that an alternate medical reason for the presence of a drug does not exist. Where testing is conducted based on reasonable suspicion, the urine specimen will be obtained by direct observation by a collecting official of the same sex using set collection procedures. A refusal to provide a specimen will be considered refusal to participate in testing, and administrative action for insubordination may be instituted. Following investigation by OPR, the investigative results will be forwarded to the ASU which will act upon each case as outlined under random and probationary testing.

(3) Follow-up Testing

(a) Follow-up testing, on an unannounced basis, may be required during or after EAP counseling or rehabilitation up to one year after completion of rehabilitation.

(b) In such cases, the DDP Coordinator is authorized, at his/her discretion to initiate the collection of a urine specimen for testing. Thereafter, the reporting procedures will be the same as those detailed for reasonable suspicion testing, including direct observation.

(4) Voluntary Testing

In order to demonstrate their commitment to the FBI goal of a drug-free workplace, employees may volunteer for testing by contacting the DDP Coordinator. The DDP Coordinator, at his/her discretion, is authorized to initiate the collection of a urine

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specimen for testing. Thereafter, the reporting procedures will be the same as those detailed for random selection testing.

EFFECTIVE: 04/21/94

1-25.9 Supervisory Responsibilities

(1) All supervisors will be trained to recognize and address illegal drug use by employees and will be provided information regarding referral of employees to the EAP, procedures and requirements for drug testing and behavioral patterns that give rise to a reasonable suspicion that an employee may be using illegal drugs. First- and second-line supervisors shall:

(a) Be responsible for developing reasonable suspicion of illegal drug use by employees under their supervision after first making appropriate factual observations, documenting those observations and obtaining approval from the next higher supervisor or manager;

(b) Notify the SAC or division head that reasonable suspicion drug tests may be warranted for employees under their supervision; and

(c) Refer employees to the EAP for assistance in obtaining counseling and rehabilitation when there is a finding of illegal drug use.

(2) The SAC or division head shall:

(a) Be responsible for developing reasonable suspicion of illegal drug use by a direct subordinate after making factual observations and documenting those facts;

(b) Determine whether a request to test for reasonable suspicion should be made to OPR for any employee under his or her supervision; and

(c) Ensure that employees under his or her supervision have been referred to the EAP for assistance in obtaining counseling and rehabilitation when there is a finding of illegal drug use.

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EFFECTIVE: 11/27/90

1-25.10 Records and Reports

EFFECTIVE: 11/27/90

1-25.10.1 Confidentiality of Test Results

(1) Laboratory results will be forwarded to the MRO. Any positive result which the MRO justifies by appropriate medical or scientific documentation to account for the result as other than the intentional ingestion of an illegal drug will be reported as a negative test result and may not be released for purposes of identifying illegal drug use. The MRO may maintain only those records necessary for compliance with this program and such records shall be the records of the FBI. Records of the MRO may be released to any supervisor or management official having authority to take adverse personnel actions or for purposes of auditing the activities of the MRO.

(2) In order to comply with the Privacy Act and Section 503(e) of Public Law 100-71, the results of a drug test of an FBI employee may not be disclosed without the prior written consent of such employee, unless the disclosure would be to:

(a) The MRO;

(b) The Employee Assistance Administrator (EAA) when the employee is receiving counseling or treatment or is otherwise participating;

(c) Any supervisory or management official within the FBI having authority to recommend or approve adverse personnel action against such employee; or

(d) A court of competent jurisdiction, pursuant to an order of the court, and where required by the United States Government to defend against any challenge against any adverse personnel action.

Test results with all identifying information removed shall also be

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made available to FBI personnel for data collection and auditing.

EFFECTIVE: 11/27/90

1-25.10.2 Confidentiality of Records

All drug-testing information specifically relating to individuals is confidential and shall be treated as such by anyone authorized to review or compile program records. All records and information of the personnel actions taken on employees with "verified positive" test results shall be maintained in accordance with previously established procedures in regard to the maintenance of records of alleged employee misconduct.

EFFECTIVE: 11/27/90

1-25.10.3 Maintenance of Records

(1) The FBI shall establish or amend a recordkeeping system to maintain the records of the DDP consistent with the FBI's Privacy Act System of Records and with all applicable Federal laws, rules and regulations regarding confidentiality of records.

(2) If necessary, records may be maintained as required by subsequent administrative or judicial proceedings, or at the discretion of the Director of the FBI. The recordkeeping system should capture sufficient documents to meet the operational and statistical needs of legislation and regulations and include:

(a) Numbers of "verified positive" test results referred by the MRO;

(b) Written material justifying reasonable suspicion testing or evidence that an individual may have altered or tampered with a specimen;

(c) Anonymous statistical reports; and

(d) Other documents the DDP Coordinator, MRO, or EAA deems necessary for efficient compliance with this program and which satisfy the records and confidentiality requirements of law.

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EFFECTIVE: 11/27/90

1-25.10.4 Records Maintained by Government Contractors

Any contractor hired to satisfy any part of this program shall comply with the confidentiality requirements of this program, and with all applicable Federal laws, rules, regulations and guidelines.

EFFECTIVE: 11/27/90

1-25.10.5 Statistical Information

The DDP Coordinator shall collect and compile anonymous statistical data for reporting the number of:

- (1) Random, reasonable suspicion, follow-up, probationary, voluntary and applicant tests;
- (2) "Verified positive" test results;
- (3) Voluntary drug counseling referrals;
- (4) Involuntary drug counseling referrals; and
- (5) Terminations or denial of employment offers resulting from refusal to submit to testing.

EFFECTIVE: 11/27/90

1-25.10.6 Validity of Preemployment Drug Tests

To ensure the integrity of the DDP, it is essential that all applicant drug tests are done within one year of EOD.

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1-25.11 Disciplinary Actions

(1) Determination

An employee may be found to use illegal drugs on the basis of any appropriate evidence including, but not limited to:

- (a) Direct observation;
- (b) Evidence obtained from an arrest or criminal conviction;
- (c) A "verified positive" test result; or
- (d) An employee's voluntary admission.

(2) Administrative Actions

The FBI shall immediately refer an employee found to use illegal drugs to the EAP. The FBI shall initiate action to remove or suspend from service any employee the first time that employee is found to illegally use drugs. However, as part of an EAP rehabilitation program, an employee may remain on duty or return to duty if the employee's continued employment would not endanger public health and safety or national security.

(3) Range of Consequences

In determining the severity of the disciplinary action to be taken against an employee found to use illegal drugs, the FBI may consider the nature of the position, the risk to the public of the employee's illegal drug use, and the employee's personnel and/or performance records. The FBI shall initiate disciplinary action against any employee found to use illegal drugs, provided that such action is not required for an employee who voluntarily admits to illegal drug use, obtains counseling or rehabilitation and thereafter refrains from using illegal drugs.

Such disciplinary action may include any of the following measures, but some disciplinary action must be initiated:

- (a) Reprimand the employee in writing;
- (b) Place the employee in an enforced leave status;
- (c) Suspend the employee for 14 days or less;

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(d) Suspend the employee for 15 days or more;

(e) Suspend the employee until he or she successfully completes the EAP or until the FBI determines that action other than suspension is more appropriate; or

(f) Dismiss the employee from the FBI.

(4) Initiation of Mandatory Removal From Service

The FBI shall initiate action to dismiss an employee for:

(a) Refusing to obtain counseling or rehabilitation through the EAP as required by the EO 12564 after having been found to use illegal drugs; or

(b) Having been found not to have refrained from illegal drug use after a first finding of illegal drug use.

(5) Refusal to Take Drug Test When Required

An employee who refuses to be tested when so required will be considered insubordinate and subject to the full range of disciplinary action, up to and including dismissal. Attempts to alter or substitute the specimen provided will be deemed a refusal to take the drug test when required. No applicant who refuses to be tested shall be extended an offer of employment.

(6) Voluntary Referral

(a) Pursuant to EO 12564, the FBI is required to discipline any employee found to use illegal drugs in every circumstance except one: If an employee (1) voluntarily admits his or her drug use; (2) completes counseling and rehabilitation through the EAP; and (3) thereafter refrains from drug use, such discipline is not required and may be waived.

(b) The decision whether to discipline a voluntary referral will be made on a case-by-case basis depending upon the facts and circumstances. Although an absolute bar to discipline cannot be provided because of the extreme sensitivity of all FBI positions, the FBI, in determining whether to discipline, shall consider that the employee has come forward voluntarily.

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EFFECTIVE: 11/27/90

1-26 POLICY AND GUIDELINES REGARDING EMPLOYEE
PUBLIC SPEECH RIGHTS AND OBLIGATIONS

EFFECTIVE: 11/26/93

1-26.1 General Statement

(1) This policy is intended to inform FBI employees of their rights and obligations prior to engaging in public speech that is or may be perceived as related to the duties, responsibilities or administration of the FBI. FBI employees enjoy rights protected by the First Amendment, including freedom of expression. However, the FBI has interests as an employer in regulating the speech of its employees that may affect its mission.

(2) This policy seeks to balance the interests of FBI employees in commenting publicly upon matters of public concern, on the one hand, and the interests of the FBI, as their employer, in promoting efficiency and effectiveness in the discharge of its responsibilities, on the other.

(3) The policy and guidance provided herein is based on an analysis of cases decided in the state and Federal courts under the First Amendment. It is founded on generally accepted principles of First Amendment law which address the rights and obligations of public employees who desire to engage in public comment.

(4) Public comment or speech as referred to in this section includes, but is not limited to, interviews given members of the media or others knowing that it is intended to be used in magazines or other publications, letters to editors, and contacts with Congress, its committees and investigative arms.

(5) Any questions concerning the implementation or application of this policy should be directed to the National Press Office, Office of Public and Congressional Affairs, FBIHQ.

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EFFECTIVE: 05/19/94

1-26.2 Types of Employee Public Speech

(1) Public Speech Regarding Matters Unrelated to FBI
Employment

(a) FBI employees ordinarily may speak publicly about matters unrelated to their employment if they are expressing their personal views. However, when speaking publicly about such matters, employees should make clear that they are stating their personal opinion, not the opinion of the FBI and not their official opinion as an employee of the FBI. Particular care in this regard should be taken if the employee is somehow identified as an FBI employee. For example, an employee may wish to publicly comment on topical social issues, school board issues or other similar matters. Such speech is deemed unrelated to FBI employment and protected under the First Amendment so long as the employee solely and clearly expresses his/her opinions as an individual.

(b) Employees' speech regarding matters unrelated to their employment is subject to the general guidance contained in Title 28, Code of Federal Regulations, entitled "Standards of Conduct" and in Departmental Order 960-81 (10/26/81), which provides that employees shall conduct themselves in a manner that creates and maintains respect for the DOJ and the United States Government.

(2) Public Speech Regarding Issues Closely Related to FBI
Mission

(a) Certain matters of significant public concern may be so closely related to the responsibilities and mission of the FBI as to create a substantial likelihood that personal comments on such matters by FBI employees would be perceived as reflecting their official views as FBI employees or the views of the agency. Employee comments regarding such matters as whether use of certain controlled substances should be legalized, whether the Government should punish certain crimes by use of capital punishment or whether a certain criminal statute is constitutional and enforceable are examples of when such misperceptions might occur. When speaking about matters closely related to the responsibilities and mission of the FBI, employees have an obligation to make absolutely clear that they are expressing their personal opinions. Further, certain employees may be

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precluded from stating publicly their personal opinions on a particular matter. For example, it may be inappropriate for a senior FBI official to express publicly his/her personal view regarding matters within the investigative jurisdiction of the FBI. This is because, as a practical matter, others may perceive the personal views of a senior management employee possessing substantial policy-making authority as indistinguishable from his/her official position as a senior FBI manager. The public expression of personal views in such situations could undermine the ability of the FBI to enunciate official policy or to remain neutral on some issues.

(b) Employees should be alert to situations in which the public expression of their personal views on matters closely related to the responsibilities or mission of the FBI may be perceived as expressing the official views of FBI employees. When such circumstances are identified, the employee should seek guidance from his/her immediate supervisor or division head.

(3) Public Speech Regarding FBI Enforcement Operations or Investigations

(a) Employee public speech regarding specific FBI enforcement operations or investigations is subject to relatively strict regulation. The FBI's policy and guidelines for contact with the news media are contained in the Manual of Administrative Operations and Procedures (MAOP), Part II, Section 5. That section requires that all inquiries by representatives of the news media concerning information under the control of the FBI be referred to designated media representatives of the field office or the National Press Office, FBIHQ. Additionally, disclosure of certain types of information, such as classified information or information relating to pending criminal investigations, may be unlawful or regulated by statute, rule or regulation. Therefore, FBI employees must not publicly comment on investigations or enforcement operations unless authorized to do so.

(4) Public Speech Regarding FBI Administration, Personnel Practices or Disciplinary Matters

(a) Employee public speech concerning the administration of the FBI in matters such as investigative programs, personnel practices and procedures, disciplinary matters, the conduct or integrity of its managers and other matters has the potential to undermine the discipline, efficiency, and effectiveness of the agency. Such speech may also affect morale, weaken or destroy necessary working relationships and erode public confidence in the agency.

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Though public comment on matters such as corruption or racial discrimination may have significant public value, such speech must nonetheless be balanced against the concerns and interests of the Bureau, such as those discussed above. If the public value of the speech outweighs the interests of the FBI, the speech is protected under the First Amendment and may not be the basis for discipline against an employee.

(b) The FBI may effectively address an employee's work-related concerns only if the employee brings the matter to the attention of appropriate supervisory personnel. Therefore, employees are required to express their work-related comments and criticisms to their immediate supervisor, division head, or an appropriate ombudsman at least seven days prior to commenting publicly about such a matter. This rule is not intended to require that an employee in each case obtain the approval of his/her supervisor prior to commenting publicly on a matter he/she believes is of public concern. The rule is, however, intended to accomplish several objectives. First, it will notify the employee's supervisor that the employee believes that a grievance or an issue warrants his/her speaking out publicly. Second, it will assist in channeling the employee's comments and criticisms to the appropriate supervisors, who can then investigate and seek to resolve the matter. Third, it enables supervisors to alert the employee that his/her intended public statement may be inappropriate or impermissible, based upon a balancing of the employee's First Amendment right to comment upon matters of public concern and the FBI's legitimate interests in effectively managing the agency.

(c) If after seven days, the employee still desires to publicly comment on the matter, the employee must notify his/her SAC or Assistant Director of the intent to do so. The SAC or Assistant Director must, in turn, notify the Office of Public and Congressional Affairs.

(5) Speech Protected Under the FBI "Whistleblower"
Statute

(a) Federal law expressly prevents the FBI from engaging in adverse employment actions or reprisal against most employees who disclose to the Attorney General, the Department of Justice Office of Professional Responsibility, or the FBI Office of Professional Responsibility, information which is reasonably believed to evidence a violation of law, rule, or regulation; mismanagement; gross waste of funds; abuse of authority; or a substantial and specific danger to public health or safety. See, Title 5, United States Code, Section 2303; Title 28, Code of Federal Regulations,

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Section 0.39(c); MAOP, Part I, Section 1-23.1.

(b) Employees who possess such information and bring it to the attention of the Department of Justice or the FBI under the procedures set forth in paragraph (4), above, before making public comment on it will be considered to have complied with and be protected under this statute.

EFFECTIVE: 05/19/94

1-26.3 Factors Determining Appropriateness of Employee Public Speech

Applicable law regarding the necessary balancing of an employee's First Amendment right to speak publicly regarding a matter of public concern and an agency's legitimate law enforcement interests is complex. It is not possible to list all of the factors that would be considered in determining whether to counsel an employee that his/her proposed public statements may be inappropriate and, therefore, possibly subject the employee to discipline, or whether to discipline an employee for making such comments. However, the following factors are among those that would be considered in determining whether disciplinary action would be appropriate:

(1) The speech violated a specific provision of FBI policy or DOJ regulation (e.g., it concerned a particular FBI investigation and was made by an unauthorized employee).

(2) The speech related only to a personal internal grievance of the employee or other matter that did not implicate a significant public concern. For example, an employee's concern about his/her performance appraisal report, or failure to receive a particular bonus or award is generally a personal matter which does not involve political, social or community concerns and would not, absent other significant factors, constitute protected speech.

(3) The speech compromised or contained classified or sensitive information relating to an investigation or administrative matter.

(4) The public comment was delivered in an intemperate, offensive, caustic or unprofessional manner. For

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example, if the speech identifies a specific fellow employee or supervisor by name or position and characterizes that person in an intemperate manner as a racist, thief or bigot, the manner of such speech may subject the employee to discipline.

(5) The speech interfered with a pending civil, criminal, personnel or administrative proceeding.

(6) The level and responsibility of the employee and his/her concomitant obligation to support FBI management and its policies. Generally, as employees gain higher positions in the FBI's supervisory and management ranks, there is a corresponding higher duty of loyalty to publicly support FBI policies and executives. The failure to do so, particularly by one who holds a supervisory or management position, can increase the degree of harm to the efficiency and effectiveness to FBI operations and administration.

(7) The employee criticized another employee or supervisor in a way that undermined discipline or a close working relationship.

(8) The employee made the comments knowing they were false, or with reckless disregard for their truth or falsity.

(9) The employee failed without sufficient cause to use the required seven-day notice of intended public comment.

(10) The speech constituted a disclosure of information prohibited by law. For example, public disclosure of information governed by the Privacy Act, Title 5, United States Code, Section 552a, or Rule 6(e), Federal Rules of Criminal Procedure, could lead to disciplinary action as well as possibly subjecting the employee to potential criminal, civil, or contempt of court sanctions.

EFFECTIVE: 11/26/93

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1-26.4 Existing Procedures

(1) Part I of the MAOP contains procedures for addressing certain matters of interest and/or concern to FBI employees. Section 14 establishes a grievance system for the orderly and effective resolution of employee grievances. Section 3 contains procedures relating to Special Agent Career Development Matters, and Section 4 contains procedures relating to Equal Employment/Upward Mobility matters. Employees are encouraged to use these established mechanisms for the resolution of their concerns and grievances.

(2) Employees are also reminded of their obligation under FBI and Department of Justice policies and regulations to submit any written product for which they seek publication to the Office of Public and Congressional Affairs for review prior to publication. See, MAOP, Part I, Section 1-24; Title 28, Code of Federal Regulations, Section 17.144."

EFFECTIVE: 11/26/93

1-27 SERVICE AS AN EXPERT WITNESS

(1) Restriction. An employee shall not serve, other than on behalf of the United States, as an expert witness, with or without compensation, in any proceeding before a court or agency of the United States in which the United States is a party or has a direct and substantial interest, unless the employee's participation is authorized by the agency under paragraph (3) of this section.

(2) Authorization to serve as an expert witness. Provided that the employee's testimony will not result in compensation for an appearance in violation of 5 CFR 2636.201 or violate any of the principles or standards set forth in the Office of Government Ethics standards of conduct, authorization to provide expert witness service otherwise prohibited by paragraph (1) of this section may be given by the Designated Agency Ethics Official of the agency in which the employee serves when:

(a) After consultation with the agency representing the Government in the proceeding or, if the Government is not a party, with the Department of Justice and the agency with the most direct and

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substantial interest in the matter, the Designated Agency Ethics Official determines that the employee's service as an expert witness is in the interest of the Government; or

(b) The Designated Agency Ethics Official determines that if the subject matter of the testimony does or does not relate to the employee's official duties as defined in MAOP, Part I, Section 1-16.1.

(3) Nothing in this section prohibits an employee from serving as a fact witness when subpoenaed by an appropriate authority. (See (1).)

EFFECTIVE: 07/12/94

1-28 STANDARDS OF ETHICAL CONDUCT FOR EXECUTIVE BRANCH
EMPLOYEES ON DETAIL OUTSIDE THE FBI (See MAOP, Part I,
1-1 (6).)

(1) DETAILS TO OTHER AGENCIES: Except as provided in paragraph (4) of this section, an employee on detail to another agency for a period in excess of 30 calendar days shall remain subject to the Office of Government Ethics (OGE) standards of conduct codified at 5, CFR, Part 2635, and shall be subject to any supplemental agency regulations to the OGE standards of conduct of the agency to which he/she is detailed rather than to any supplemental agency regulations of his/her employing agency.

(2) DETAILS TO THE LEGISLATIVE OR JUDICIAL BRANCH: An employee on detail to the legislative or judicial branch for a period in excess of 30 calendar days shall be subject to the ethical standards of the branch or entity to which detailed. For the duration of any such detail or assignment, the employee shall not be subject to the OGE standards of conduct, except this section, or, except as provided in paragraph (4) of this section, to any supplemental agency regulations of his/her employing agency, but shall remain subject to the conflict of interest prohibitions in Title 18 of the United States Code.

(3) DETAILS TO NON-FEDERAL ENTITIES: Except to the extent exempted in writing pursuant to this paragraph, an employee detailed to a non-Federal entity remains subject to the OGE standards

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of conduct, the FBI standards of conduct and any supplemental agency regulation of the FBI. When an employee is detailed pursuant to statutory authority to an international organization or to a State or local government for a period in excess of six months, the Designated Agency Ethics Official may grant a written exemption from the restrictions of 5, CFR, subsections 2635.201 - 2635.205, based on his/her determination that the entity has adopted written ethical standards covering solicitation and acceptance of gifts which will apply to the employee during the detail and which will be appropriate given the purpose of the detail.

(4) APPLICABILITY OF SPECIAL AGENCY STATUTES:

Notwithstanding paragraphs (1) and (2) of this section, an employee who is subject to an agency statute which restricts his/her activities or financial holdings specifically because of his/her status as an employee of that agency shall continue to be subject to any provisions in the supplemental agency regulations of his/her employing agency that implement that statute.

(5) The Department of Justice has submitted and obtained preliminary approval of the following supplemental regulation to the OGE standards of conduct:

Any employee of the Federal Bureau of Investigation or the Drug Enforcement Administration who is subject to any supplemental regulations or standards of ethical conduct by reason of detail or assignment from his/her component to any other entity shall also remain subject to the supplemental regulations and/or standards of ethical conduct of the Department of Justice (including, without limitation, his/her component's internal standards and guidelines, if any); provided, however, that in case of conflict between applicable supplemental regulations and/or standards of ethical conduct, the more restrictive shall govern and control.

EFFECTIVE: 07/12/94

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1-29 USE OF AN INDEFINITE SUSPENSION IN MATTERS INVOLVING
REVOCATION OF A SECURITY CLEARANCE

(1) All positions within the FBI are Special-Sensitive, as defined in Department of Justice (DOJ) Order 2610.2A, and require a Top Secret (TS) security clearance as a condition of employment. The FBI's Security Programs Manager (SPM) has been delegated authority from the DOJ's Security Officer to grant security clearances.

(2) Executive Order (EO) 12356, "National Security Information," requires an affirmative determination of trustworthiness as a prerequisite for a security clearance. EO 10450, "Security Requirements for Government Employment," authorizes the head of the agency or designee, the SPM in the FBI, to conduct investigations to determine whether an individual's access to classified information is clearly consistent with national security interests. If the SPM develops information that establishes that an individual's continued employment with the FBI is not clearly consistent with the interests of national security, the SPM may either suspend access to classified information or revoke the employee's TS clearance.

(3) Suspension of an employee's access to classified information necessarily results in his/her loss of access to any FBI controlled space. During this period of suspension of access, the employee will be placed on administrative leave with pay. Upon reaching a determination to revoke an employee's TS clearance, the SPM will notify the employee and will propose to the FBI's Personnel Officer that the employee be placed on indefinite suspension. Indefinite suspension is defined in MAOP, Part I, 13-11(1). The indefinite suspension will continue for the duration of any appellate proceedings. The SPM's written notification to an employee will include:

(a) the specific basis for the security clearance revocation and

(b) notice concerning an employee's opportunity to appeal the revocation action to the DOJ Security Officer. (See (5).)

(4) Executive Order 10450 sets forth criteria that will be considered when assessing an employee's trustworthiness for employment or retention in employment consistent with the interests of national security. These criteria include, but are not limited to, the following:

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(a) Depending on the relation of the government employment to the national security:

1. Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

2. Any deliberate misrepresentations, falsifications, or omissions of material facts.

3. Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, and/or sexual perversion.

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

5. Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him/her to act contrary to the best interests of the national security.

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

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

(d) Advocacy of the use of force or violence to overthrow the government of the United States or of the alteration of the form of government of the United States by unconstitutional means.

(e) Knowing membership with the specific intent of furthering the aims of, or adherence to and active participation in, any foreign or domestic organization, association, movement, group, or combination of persons (hereinafter referred to as organizations)

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which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the government of the United States or any State or subdivision thereof by unlawful means.

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

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

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

(5) A suspension pursuant to Title 5, United States Code (USC), Section 7532 is available to an agency as an alternative to the indefinite suspension described in (3), above. Section 7532 provides that "the head of an agency may suspend without pay an employee of his/her agency when he/she considers that action necessary in the interests of national security." An employee suspended pursuant to this section may be entitled to certain procedural rights (e.g., a written statement of the charges against him/her), but will not be entitled to the rights afforded to preference eligible employees pursuant to Title 5, USC, Section 7513 (See MAOP, Part I, 13-10 and 13-11).

(6) See MAOP, Part I, 13-11 for further information concerning the use of an indefinite suspension in personnel matters.

EFFECTIVE: 12/01/94

1-30 ALCOHOL POLICY (SEE MAOP, PART I, 1-2.)

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EFFECTIVE: 03/16/95

1-30.1 Background and Purpose (See MAOP, Part I, 1-2 and 15-3.3.)

In, September, 1994, the Director personally reviewed incidents involving employees having been criminally charged with Driving Under the Influence (DUI) of alcohol to determine the FBI's response to the problem posed by alcohol abuse within the FBI. He was convinced that it was necessary to firmly promulgate the FBI's policy regarding alcohol-related misconduct and, in particular, to establish harsh consequences for anyone who operates a motor vehicle while under the influence of alcohol. He addressed the problem both from a preventive and disciplinary standpoint. The policy set forth below, in 1-30.2 through 1-30.4, should in no way be construed to indicate any lack of sensitivity to problems faced by FBI employees or any lessening in his strong endorsement of our Employee Assistance Program (EAP).

EFFECTIVE: 03/16/95

1-30.2 Statement of Policy (See MAOP, Part I, 1-2, 1-30.1 and 15-3.3.)

(1) It has long been the policy of the FBI to forbid employees to consume alcohol while "on duty." This prohibition is closely tied to the role of FBI Special Agents as law enforcement officers and the perception of the American public that our organization should serve as a role model for law enforcement. With limited exceptions necessary for Special Agents in certain undercover or surveillance assignments, the requirement for all employees to abstain from alcohol during duty hours is reaffirmed.

(2) Special Agents are expected to be available for duty on a 24-hour basis. Consequently, they must take affirmative steps to remain fit for duty at all times.

(3) Every employee is strongly recommended to take steps to avoid operating a motor vehicle after consumption of any alcoholic

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beverages. Steps such as making prior arrangements for a designated driver at social events are not only a prudent but reasonable course of action which should be taken by all employees despite the minor inconvenience which may be involved.

(4) All employees must redouble their efforts -- as coworkers, as "brick agents" and as supervisors and managers -- to intervene directly to assist those who need EAP help. We must ensure that employees plagued by substance abuse do not endanger themselves, their families, fellow employees, or the public we have all sworn to protect. We must not tolerate or seek to hide problems such as alcoholism which so gravely threaten members of our Bureau or the public's safety.

EFFECTIVE: 03/16/95

1-30.3 Alcohol-Related Misconduct (See MAOP, Part I, 1-2, 1-3.1, 1-30.1, 8-1.12.2, 12-1.5, 13-13 and 15-3.3.)

In the interest of public safety and the Bureau's integrity, the FBI is obligated to take severe administrative action for alcohol-related misconduct. Employees must be held accountable for their on- and off-duty alcohol-related misconduct, WHETHER OR NOT they are specifically charged with an alcohol-related offense by a local law enforcement agency.

(1) Upon an employee's FIRST offense of driving under the influence or while intoxicated, whether established by a conviction in court or as the result of an administrative inquiry, he/she will be suspended from duty, without pay, for a period of not less than 30 days. If aggravating circumstances are present, he/she may be terminated from employment. A SECOND offense will result in termination, absent compelling mitigating circumstances.

(2) Immediately following an employee's arrest for driving while under the influence (DUI) or while intoxicated (DWI), an employee will be prohibited by his/her division/office head from operating a government motor vehicle for an indefinite period of time. This indefinite suspension of an employee's privilege to operate a government motor vehicle will continue until an administrative determination has been reached regarding the employee's guilt or innocence of the alleged misconduct. In such matters, renewal of an employee's privilege to operate a government motor vehicle will be

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resolved by an administrative determination of the Bureau made in association with adjudication of employee's alleged misconduct. While the result of a judicial review of the employee's actions, his/her plea bargaining, or entry into a diversion or substance abuse program as a result of his/her arrest will be considered in reaching this administrative determination, such factor(s) will NOT, in and of themselves, determine the appropriateness of the Bureau's renewal of an employee's privilege to operate a government motor vehicle. That decision will be made on the merits of each case and the government's responsibility to ensure the public's safety through proper licensing of the operator of official motor vehicles.

(3) An employee's arrest for driving while under the influence or while intoxicated MUST be reported to the Office of Professional Responsibility (OPR) as an issue of serious misconduct. An administrative inquiry will be conducted by the division/office head under the direction of OPR regarding the employee's alleged misconduct. Sufficient information/evidence must be obtained in this inquiry to facilitate an administrative determination of the employee's guilt or innocence of the noted charge. Such information should include, but not be limited to, the result of the adjudication of the employee's arrest by the judicial system in which charges were filed against the employee.

(4) In those instances in which an employee is found guilty in an administrative inquiry of alcohol-related misconduct while operating a motor vehicle, his/her privilege to operate a government motor vehicle will continue to be suspended following such determination of guilt. This suspension will occur REGARDLESS whether the nature of the employee's motor vehicle offense has been reduced as a result of judicial review, plea bargaining, or the employee's entry into a diversion or substance abuse program. A presumption will exist that there is a necessity to suspend the employee's privilege to operate a government motor vehicle for a period of not less than ONE YEAR following his/her offense. During the period of a Special Agent's suspension of his/her privilege to operate a government motor vehicle, and following a determination of his/her alcohol-related misconduct by the Bureau, he/she will NOT be considered eligible to earn premium compensation, such as Sunday pay, holiday pay, night differential, and Availability Pay. Prior to discontinuing eligibility for Availability Pay, the employee will be afforded appropriate adverse action proceedings. (See MAOP, Part I, 1-3.1 and 1-8-1.12.2.)

(5) As the suspension of a Special Agent's entitlement to earn Availability Pay compensation is an adverse personnel action, it

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is dependent upon completion of adverse action procedures set forth in, MAOP, Part I, 13-14. These procedures are designed to afford employees due process as well as procedural entitlements which arise from an employee's personnel status. For example, a preference-eligible veteran has specific procedural entitlements which are set forth in MAOP, Part I, 13-10.

(6) When suspension of an employee's privilege to operate a government motor vehicle is continued as a result of an adverse personnel action, it will be the responsibility of a division/office head to determine the extent to which the employee's privilege to operate a government motor vehicle will be suspended. In reaching that determination in alcohol misconduct cases involving the use of a motor vehicle, a presumption will exist that there is a necessity to suspend the employee's privilege to operate a government motor vehicle for a PERIOD OF NOT LESS THAN ONE YEAR following the occurrence of the offense. Any reduction of that period must be fully justified by the division/office head on the merits of the case involved. Such a determination must be documented in the employee's official personnel file. Any continuation of the period of suspension of a Special Agent's privilege to operate a government motor vehicle beyond one year from date of the offense, which has predicated suspension of his/her entitlement to Availability Pay, will require the initiation of a SEPARATE adverse personnel action. Such an action may be requisite in situations in which a Special Agent fails to comply with a program of rehabilitation determined necessary by his/her fitness for duty examination, or other appropriate cause.

(7) When an FBI employee is involved in alcohol-related misconduct, REGARDLESS WHETHER THAT MISCONDUCT IS ASSOCIATED WITH OPERATION OF A MOTOR VEHICLE, his/her division head, in addition to notifying OPR, will conduct an inquiry specifically focused on whether the employee suffers from alcohol-related problems. The result of that inquiry will be documented in the employee's official personnel file.

(a) If the inquiry determines that the employee is experiencing an alcohol-related problem, the division/office head will instruct the employee to seek counseling and/or assistance through the EAP or some outside source.

(b) Employees subject to a medical standard for fitness for duty - such as Special Agents - who are suspected to have an alcohol abuse problem, will be referred for a fitness for duty exam. This examination will confirm whether the problem exists, and, if appropriate, will enable management to refer the employee through

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EAP for professional treatment and assistance. In addition, it will facilitate the Bureau's issuance of a notice to employees with alcohol abuse problems to avoid misconduct/performance deficiencies arising from alcohol abuse which are contrary to the efficiency of the Bureau's operations. Such a "firm choice" notice may be required for the Bureau to finalize adverse personnel action against the employee if he/she fails to correct his/her misconduct/performance which arises from alcohol abuse.

(c) In all such matters, it will be the responsibility of the division/office head to determine whether there is a necessity to suspend the employee's privilege to operate a motor vehicle. Such a determination will consider the merits of each case and the government's responsibility to ensure the public's safety through proper licensing of the operator of official motor vehicles.

EFFECTIVE: 04/02/96

1-30.4 Manager and Supervisor Responsibilities (See MAOP, Part I, 1-2, 1-30.1, and 15-3.3.)

Since sensitivity to employee problems and support of the EAP are integral to good leadership, FBI managers are expected to facilitate employee assistance and outreach efforts. To underscore the importance of these efforts, all management and supervisory personnel will be held directly accountable for any inaction on their part under circumstances which reasonably require their intervention. Such intervention would include:

(1) Encouraging any employee who experiences problems with substance abuse to seek professional assistance on an immediate basis.

(2) Assertively reaching out to co-workers in need of EAP services and take steps to ensure those in need are promptly afforded whatever counseling, treatment or assistance may be necessary. Managers, in particular, are to facilitate employee assistance and outreach efforts.

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SECTION 2. EMPLOYEE INDOCTRINATION PROCEDURES

2-1 REQUIREMENTS FOR INDOCTRINATION

Support and Special Agent personnel must be given detailed indoctrination on rules, regulations, procedures, and policies of the FBI as soon as they enter on duty. Additional indoctrination must continue during the course of their Bureau careers. All employees (field and Headquarters) must enter on duty on the Monday following a pay period Sunday. The effective date of appointment will be recorded by the Bureau on SF-50, Notification of Personnel Action, as Sunday, the beginning of the pay period.

EFFECTIVE: 09/13/93

2-2 NONINVESTIGATIVE PERSONNEL AT FBIHQ

EFFECTIVE: 08/25/89

2-2.1 Five-Day Orientation Class

A new support employee must initially receive an oath of office and complete the required entry-on-duty forms. He/She is required to attend a five-day training course where topics mentioned in the "Handbook for FBI Employees" are discussed. He/She must promptly read and digest the contents of this handbook. He/She should receive housing assistance if needed and be otherwise helped as indicated. A tour of FBIHQ is part of his/her initial indoctrination.

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2-2.2 Division of Assignment Indoctrination

(1) |In|the|second week|a new support employee (including transferee) reports to his/her Assistant Director's Office for introduction. The division head reiterates rules concerning safeguarding confidential Bureau data and maintaining high standards of conduct and describes the nature of the division's duties and responsibilities. The division head advises that his/her door (and the door of every official in the division) is open to any employee who has a problem of any type to discuss. The division head must make a record of such interviews. Thereafter, the section or unit chief greets and briefs the employee on (a) the division's administrative organization, (b) the confidential aspect of Bureau records, (c) any special divisional regulations, and (d) personal conduct desired.

(2) A tour of the division is also arranged. The immediate supervisor meets the new employee and explains rest periods, working hours, lunch periods, maintenance of property, supplies, and the duties of employee's new position. Thereafter, the supervisor provides continuous on-the-job training and indoctrination.

EFFECTIVE: 08/25/89

| 2-2.3 | Deleted |

EFFECTIVE: 07/24/96

2-3 NONINVESTIGATIVE FIELD OFFICE EMPLOYEES

EFFECTIVE: 06/28/91

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2-3.1 Field Orientation

Orientation similar to that afforded new support employees at FBIHQ must also be given. A formal five-day course is not practical since new employees usually enter on duty singly in the field. The "Handbook for FBI Employees" must be given to each support employee for ready reference and to be studied and digested.

EFFECTIVE: 06/28/91

| 2-3.2 | Deleted |

EFFECTIVE: 07/24/96

2-4 INVESTIGATIVE EMPLOYEES

See Part II, 8-1.1.2 of this manual.

EFFECTIVE: 06/28/91

2-5 OATH OF OFFICE

When executing appointment affidavits incident to entry on duty of new employees, authority to administer the oath of office is limited to incumbents of the following positions: Assistant Director; Inspector-Deputy Assistant Director; Personnel Officer; Assistant Personnel Officer; SAC; ASAC; and Office Services Manager (Support Services-Supervisor). This authority is automatically rescinded when the incumbent leaves the specified position. Only employees occupying a specified position may administer such oath unless otherwise authorized by FBIHQ.

EFFECTIVE: 06/28/91

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2-6 FORMS EXECUTED BY NEW EMPLOYEES

Submit following executed forms to FBIHQ on same day new employee enters on duty via overnight express:

Application for membership in SATI (executed within 31 days after entry-on-duty date)

Application for Social Security Account Number - SS-5 (if applicable)

Appointment Affidavits - SF-61

Change in Marital Status - FD-292 (if applicable)

Change of Address - FD-310 (Do not forward to FBIHQ)

Classified Information Nondisclosure Agreement - SF-312

Designation of Beneficiary (Life Insurance) - SF-2823 (if desired)

Designation of Beneficiary (Retirement) - SF-3102
(Federal Employees Retirement System) (if applicable and if desired)

Designation of Beneficiary (Unpaid Compensation) - SF-1152
(if desired)

Direct Deposit Sign-Up Form - SF-1199A (completed within 45 days after entry-on-duty-date)

Employee's Withholding Exemption Certificate - Form W-4

Employment Agreement - FD-291

Employment Eligibility Verification Form - Form I-9

FBI Skills Survey - X422 (Do not forward to FBIHQ)

Federal Savings Bond Payroll Allotment Authorization and Record - FD-308 (if desired)

Five-Year Reinvestigation Questionnaire - FD-814

Health Benefits Registration Form - SF-2809 (executed

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within 31 days after entry-on-duty date) SAMBA
Application for Life Insurance for employees enrolling
in SAMBA Health Benefit Plan.

Information Concerning Last Federal Employment (Other Than
Naval or Military) - FD-173

Information for Federal Civilian Employees and U.S. Postal
Service Employees - SF-2809-A

Life Insurance Election - SF-2817

Notice of Change in Enrollment Status - SF-2810 (if
required)

Personnel Record Card - FD-380

Race and National Origin Identification - FD-758

Request and Authorization for, or Cancellation of,
Allotment of Compensation for City and State Income Tax
Purposes - FD-361 (if applicable)

Request for Change in Your Social Security Records - Form
OAAN-7003 (if applicable)

Selective Service - Reserve Status - FD-295 (if
applicable)

Self-Identification of Reportable Handicap - SF-256

Statement of Federal Service - FD-195

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2-7 INFORMATION PAMPHLETS FURNISHED TO NEW EMPLOYEES

Beware! Be Safe (distributed by FBIHQ)

Brochure and application for membership in SATI. (Special Agents' Trust for Insurance)

Enrollment Information Guide and Plan Comparison Chart (for Federal Employees' Health Benefits) - RI 70-1

FBI Career Opportunities

FEGLI (Federal Employees' Group Life Insurance) booklet - RI 76-21 (distributed by FBIHQ if applicable)

FERS (Federal Employees Retirement System) pamphlet - RI 90-1 (distributed by FBIHQ if available)

Form CA-13 (U.S. Department of Labor) Card

Handbook for FBI Employees - Noninvestigative Personnel

Health and Immunization Record Form (no number)

Leave Record Chart and Calendar (distributed by FBIHQ)

SAMBA (Special Agents Mutual Benefit Association) Group Insurance Plan Brochure and Application for Membership in SAMBA

EFFECTIVE: 10/14/93

2-8 SPECIAL INDOCTRINATION SERVICES

Some useful tools which provide additional indoctrination should include active streamlining committees, specialized tours, membership and participation in the FBI Recreation Association, divisional and field office dances, picnics, other outings, and field office tours for the staff's spouses.

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SECTION 3. SPECIAL AGENT CAREER DEVELOPMENT MATTERS

| 3-1 SPECIAL AGENT PROMOTIONS | (See MAOP, Part I, 8-10.) |

(1) Special Agent (SA) promotions are based on merit. Certification that the individual is performing at the next higher grade level and has performed at least at a Fully Successful level in each critical element on their most recent performance appraisal must accompany each recommendation for promotion. Consideration will be given to advancing an SA to the next higher grade level following two years as a GS-10, one year as a GS-11 and two years as a GS-12 (in investigative work). (One year means 52 weeks; two years means 104 weeks, etc.)

(a) An SA assigned to the San Juan Office will be considered for advancement from grades GS-12 to GS-13 after successful completion of one year at the lower grade (in investigative work).

(2) Acceleration will be considered for promotion to GS-11, GS-12, GS-13, and GS-14, when an SA is approved as a full field supervisor or Supervisory Senior Resident Agent in a resident agency of eight or more SAs, or is assigned to FBIHQ in accordance with the Executive Development and Selection Program (EDSP). Such accelerations are subject to time-in-grade restrictions which require the individual to serve one year in the lower grade with promotion effective the first pay period after the incumbent assumes the supervisory position.

(3) Waiting periods could lengthen by a corresponding amount of time if, during that period of time, the SA received an overall Unacceptable or Minimally Acceptable Performance Appraisal Report (PAR) or received less than Fully Successful on any individual critical element of his/her latest PAR.

(4) When Leave Without Pay (LWOP) is granted to an SA for more than ten days (80 hours) (nonwork-related reason) during any year of the waiting period for promotion to the next higher grade of progression, the eligibility date will be delayed by the amount of time that exceeds the ten days. For example, an SA becomes eligible for promotion to GS-11 at the completion of two years of Fully Successful performance in GS-10. Should the SA use over ten days of LWOP in either year, the promotion eligibility date would be extended

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by the total LWOP in each year that exceeds ten days (80 hours) and the promotion to GS-11, if approved, would be effective the first pay period following this adjusted promotion eligibility date.

(5) Agents in full-time supervisory assignments in GS-12 may be considered for promotion to GS-13 upon approval effective the first pay period after assumption of the supervisory position. Any of these grade promotions are subject to the time-in-grade restriction which requires the individual to serve one year in the lower grade before being eligible for promotion to the next higher grade. Agents in full-time supervisory assignments in GS-13 and Senior Resident Agents in GS-13 in resident agencies comprised of eight or more Agents, may be considered for GS-14 upon approval effective the first pay period after incumbent assumes the supervisory position and subject, of course, to the previously mentioned time-in-grade restriction. When an Agent is advanced to a supervisory position and has not satisfied the provisions of the EDSP, such as an assignment to fill a scientific need in the Information Resources and Laboratory Divisions, Agent will be promoted to the next higher grade upon becoming fully operational in the special assignment he or she fills.

(6) Any time an Agent is promoted or changes position, office of assignment, or work specialty/squad, that Agent is responsible to ensure his/her Skills information is updated in the Skills portion of the Bureau Personnel Management System (BPMS) by the appropriate designated individual. Special attention should be paid to Section C, Special Agent Assignment Area. Each office has at least one copy of the Skills Survey Instruction Booklet and Code Tables.

(7) At the discretion of management, a vacant position may be filled by the temporary or term promotion or the temporary assignment of a qualified and eligible Special Agent. In the case of a temporary assignment, the affected Agent must hold a permanent position at the same or higher grade level as that of the temporary position. Competitive selection is required when the Agent will be promoted and the assignment will extend for a period of 120 days or more. When a position is filled with a temporary or term promotion, unless otherwise specified in the announcement which advertised the vacant position, the Agent will be returned to his/her permanent grade at the conclusion of the term. When a vacant position is filled by the temporary assignment of a qualified Agent at the same or higher grade level, there will be no effect upon that Agent's permanent grade or pay status.

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3-1.1 Initiation of Consideration for Promotion of Special Agents

(1) Promotion action with respect to nonsupervisory Special Agents or supervisory Special Agents who have met time-in-grade restrictions is generally initiated by the Personnel Division at FBIHQ requesting a recommendation submitted by electronic Standard Form 52-B from the appropriate SAC or division head. However, in any case in which the SAC or division head believes that an Agent is performing his/her duties in such a manner as to warrant advancement, a recommendation submitted by electronic Standard Form 52-B with appropriate justification may be submitted at any time by the SAC or division head and this recommendation will be afforded appropriate consideration at FBIHQ.

(2) Deleted

(3) Rate of pay for supervisors returning to investigative assignments - Special Agent personnel in supervisory positions at FBIHQ, or in the field, who request to be returned to nonsupervisory investigative assignments, at the employee's request and not demoted for personal cause, will be eligible to receive their "highest previous rate." An FBIHQ Supervisory Special Agent in grade GS 15, who voluntarily requests reallocation to a grade GS 14 field supervisory position in order to qualify for further advancement as part of the career development program, will be granted the greater of indefinite pay retention or highest previous rate. (See MAOP, Part I, Section 8-9 for information concerning the highest previous rate.) For example:

(a) If upon a change to a lower grade, the SSA's GS 15 pay rate falls within the rate range for the GS 14 level (i.e., between Steps 1 and 10), the highest previous rate (HPR) rule applies and the salary will be set at the appropriate step within the GS 14 rate range; if the SSA's current salary falls between two steps of the GS 14 rate range, the salary will be set at the higher step.

(b) If upon a change to a lower grade the SSA's GS 15 pay rate exceeds GS 14, Step 10, pay retention applies. Under pay retention, the SSA will be entitled to one-half of any general increase in the General Schedule until the basic salary established for GS 14, Step 10, equals or exceeds the SSA's retained rate of pay,

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| at which time pay retention terminates. |

EFFECTIVE: 06/10/94

3-1.2 Guidelines in the Submission of Recommendations for the
Promotions of Special Agents

EFFECTIVE: 08/29/90

3-1.2.1 Promotion to Grades GS-11, GS-12, and GS-13

(1) Agents will be considered for promotion from grade GS-10 to grade GS-11, from grade GS-11 to GS-12, and from GS-12 to GS-13, contingent upon the work record of the individual.

(2) The most current performance appraisal on the Agent being considered for promotion must be at least at the Fully Successful level in each critical element. |(See MAOP, Part I, 3-1.2.5.)|

(3) The Agent must be completely available for general or special assignment wherever his/her services may be required. |(See MAOP, Part I, 3-1.2.2(4).)|

(4) Any probationary action taken against an Agent during the pertinent period will be taken into consideration. However, this action may be offset by otherwise exceptional or outstanding performance. |(See MAOP, Part I, 3-1.2.2(3).)|

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| 3-1.2.2 Promotions to Grade GS-13 | (See MAOP, Part I, 3-1.2.5.) |

(1) Agents will be considered for advancement from GS-12 to grade GS-13 contingent upon the work record of the individual. The Agent's most current performance appraisal must be at least at the Fully Successful level in each critical element.

(2) An Agent being considered for grade GS-13 promotion on the basis of supervisory service (as distinguished from investigative service) must be interested in and ambitious to progress in the Bureau's service either in the field or at FBIHQ, must be potential material for advancement, and his/her services must have been entirely satisfactory in all aspects during his/her period of supervisory assignment.

(3) An Agent being considered for GS-13 promotion on the basis of investigative service (as distinguished from supervisory service) must meet the following qualifications:

His/Her services in all aspects must be entirely satisfactory. Any adverse administrative action against the individual during the pertinent period will be taken into consideration, but full consideration will also be given to favorable action recognizing above-average and meritorious performance or may be offset by otherwise exceptional or outstanding performance. (See Part I, 13-13(6), of this manual, "Disciplinary Matters.") (See 3-1.2.1(4).)

(4) The Agent must be completely available for general or special assignment wherever his/her services may be required. (See Part I, Section 13, (13-13(6)) of this manual, "Disciplinary Matters.") (See 3-1.2.1 (3).)

EFFECTIVE: 11/30/95

| 3-1.2.3 | Deleted |

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EFFECTIVE: 06/14/93

3-1.2.4 Deleted

EFFECTIVE: 04/10/96

3-1.2.5 Denial of Promotions of Special Agents to GS-11, GS-12,
and GS-13 (See MAOP, Part I, 3-1.2.1 & 3-1.2.2.)

(1) No consideration will be given to the promotion of a Special Agent (SA) who has been rated below Fully Successful in any critical element of the most recent PAR.

(2) The SAC may recommend an SA for promotion 90 days after the denial. An SA previously denied a promotion due to performance below the Fully Successful level will not be considered for promotion unless a special PAR in which the SA is rated at or above the Fully Successful level in each critical element is issued. This PAR must contain a narrative for each critical element of the SA's Performance Plan regardless of the rating level assigned. A minimum of 90 days must elapse between the issuance of PARs.

(3) The SAC's personal recommendation to promote the SA must be set forth in a cover communication forwarding the PAR to the Personnel Officer (Attention: Performance, Recognition and Awards Unit (PRAU), Personnel Management Section, Personnel Division). This recommendation must be based on the SA's performance since the denial, must specifically describe the achievements or accomplishments that warrant the SA's promotion, and must explain why the SA's performance has been determined to be commensurate with the next grade level.

(4) The Personnel Officer will make a decision regarding the SA's promotion based on an analysis of the information contained in the SAC's recommendation and the accompanying PAR. The office will be notified in writing of the Personnel Officer's decision regarding the SA's promotion and the reason(s) for this decision. The decision of the Personnel Officer, who has been delegated this authority by the Director, is final.

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(5) In the event the Personnel Officer determines a promotion is warranted, the PRAU will coordinate all actions necessary to effect the promotion with the requesting office and the Policy, Pay and Leave Unit.

(6) In the event that the Personnel Officer determines that a promotion is not warranted, the SAC may again recommend the SA for promotion once the SA is eligible to receive another PAR in compliance with the 90-day time requirement.

EFFECTIVE: 11/30/95

3-1.2.6 Term Promotions for Special Agents

(1) A term promotion is a promotion of an employee to a higher grade level for a defined period of time to handle a specific assignment, project or duties and responsibilities which can be accomplished within that time frame. Term positions, once approved by the Resource Management and Allocation Board, should be posted Bureauwide by the EDSP. If equally or better qualified candidates apply from within the division, then those candidates will be given preference for the term position. If no such candidates exist, or if the division head/career board makes the judgment that a candidate from outside the division possesses qualifications that significantly exceed those of candidates from within, then selection of a candidate from outside the division, even if it requires a cost transfer, may be justified. Should the position be converted from a term to permanent position, the selectee could be converted to a permanent GS-14 or GS-15 since appropriate competitive posting procedures had been employed when the term position was originally filled.

(2) The experience obtained by employees who have been given a term promotion may be considered when selecting an employee for permanent promotions to that position. Management personnel have the discretion to end a term promotion at any time. When a determination is made by management to end the term, the employee must be returned to his/her permanent position or to a position at or above his/her permanent grade level for which he/she is qualified unless he/she successfully competes for another position. The candidate will receive supervisory credit for the amount of time spent in the term supervisory assignment.

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(3) The duration of a term promotion may be set by a division/office head with the concurrence of the Personnel Officer for any period of time not less than 120 days or more than three years' duration. A term promotion may be extended by the Personnel Officer in one-year increments, for a maximum period, to include extension(s), not to exceed five years.

(4) At the conclusion of a term promotion, an employee will be placed in another position at his/her permanent grade and for which he/she is qualified. Consideration may be given to placement of that individual at the conclusion of a term promotion in a vacant position in the division/office in which he/she has been serving on a temporary basis. However, if a suitable position at the appropriate grade level is not vacant in that division/office/duty station, or if the needs of the Bureau dictate, the individual may be afforded a transfer to a different duty station for purposes of placement. The Personnel Officer may temporarily detail an employee at the conclusion of a term assignment to a position in the division in which he/she has been temporarily assigned, if there is a reasonable expectation of a staffing vacancy at the employee's permanent grade in the immediate future. Such detail assignment(s) should not exceed a period of six months and must be considered only an interim measure to permanent placement.

(5) When a GS-15 SSA position is staffed in a non-FBIHQ division/office as a term position, individuals who hold the permanent grade of GS-15 may be considered and selected to staff that vacancy. At the conclusion of the term assignment, action will be necessary to place the GS-15 SSA in another GS-15 position for which he/she is qualified. As the overwhelming majority of GS-15 SSA positions are located at FBIHQ, it is likely that it will be necessary to transfer the individual back to FBIHQ for placement. Nothing would preclude assignment of the individual to a lower grade, i.e., a GS-14 SSA position, or GS-13 SA position, for which he/she is qualified and from which assignment he/she obtains no competitive advantage within the EDSP, if the individual is willing to voluntarily demote to the permanent grade. It will not be permissible for an individual completing a GS-15 term assignment to be placed in a vacant ASAC position inasmuch as ASAC selections are made using the new Special Agent Mid-Level Management Selection System (SAMMSS). Selection of ASACs under SAMMSS is made only from the competitive list of eligible ASAC candidates. Therefore, an individual completing a GS-15 term assignment may compete, if eligible, for such a vacant ASAC position, but he/she will not be placed into such a position without competition.

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EFFECTIVE: 09/22/97

3-1.2.7 Temporary Promotions for Special Agents

(1) A temporary promotion is a nonpermanent promotion of a Special Agent on an immediate basis to a higher grade position for any specified period of time not more than one year in duration. As with term positions, new temporary supervisory positions require Resource Management and Allocation Board approval. Candidates for temporary positions will be limited to qualified Special Agents assigned to the field offices or FBIHQ component in which the vacancy occurs. Such candidates will be identified through posting the position only in the office where the vacancy exists. With the exception of the Bureauwide posting of the notification of vacancy, competitive selection procedures consistent with EDSP policy must be employed. When filling a temporary field Supervisory Special Agent position, the most qualified candidates will be those who are relief supervisors in the EDSP. However, if extenuating circumstances exist, the Special Agent Mid-Level Management Selection (SAMMS) Board may approve the consideration of a candidate who is not a relief supervisor.

(2) Upon identifying an SSA position which will be temporarily vacated, a division/office head has the discretion to temporarily fill the position or leave it vacant for the duration. If the division/office head intends to temporarily fill the position, he/she must advise the Administrator, EDSP, in writing, to request authority to post the temporary vacancy within the office, indicating the reason for the vacancy and the expected duration of the temporary assignment. It should be noted that the justification must show that the length of time of the temporary assignment will be at least 180 days, but not more than one year. Upon securing approval, a memorandum, patterned after the position postings in the EDSP, a copy of which must be provided to EDSP, will be posted for a period of ten calendar days. The vacancy announcement must include a statement that a temporary promotion may be ended at any time. Interested Special Agents should provide a memorandum of interest to the division/office head before the deadline of the posting. Thereafter, a division/office career board must review the candidate pool and make a recommendation through the division/office head to the SAMMS Board. The SAMMS Board will make the final decision regarding temporary promotions unless the selected candidate is the subject of a pending

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disciplinary action or has been disciplined within the past three years. The SAMMS Board will forward to the Director the candidate's name along with two other candidates from which the Director will make the final decision. The selected individual will be advised, in writing, that the promotion is temporary in nature. At the conclusion of a temporary promotion, an employee must be returned to his/her permanent grade level. Individuals selected for temporary promotion will not receive supervisory credit since there is no Bureauwide posting. If a temporary assignment is converted to a permanent position, the selectee must recompute for the position through a Bureauwide posting.

(3) Temporary promotions of Special Agent personnel may be made for any specified period of time not more than one year. (In most instances, a variety of constraints associated with review and approval of temporary promotions for SA personnel will preclude consideration of such action if the initial term does not equal or exceed 180 days.) The Personnel Officer may extend the period of a temporary promotion in 60-day increments. The maximum period of a temporary promotion, to include extension(s), will not exceed one year. At management discretion, a temporary promotion may be ended at any time prior to its anticipated conclusion.

EFFECTIVE: 09/22/97

3-1.2.8 Temporary Assignments

A temporary assignment is the filling of a vacant position for a fixed period of time with a Special Agent whose grade is equal to or greater than that associated with the position. The Agent placed in a temporary assignment must be notified that he/she will not remain in the position on a permanent basis and can expect reassignment at the conclusion of a given period of time. Unless otherwise specified by management at the outset of the assignment, at the conclusion of the term the Special Agent will be returned to his/her former position or will be reassigned to a position at his/her permanent grade level for which he/she is qualified. Competitive advantage, i.e., advancement or reassignment to a position offering greater promotion potential, may not result from placement at the conclusion of a temporary assignment. There is no limitation upon the period for which a temporary assignment may be established.

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EFFECTIVE: 04/04/96

3-2 SPECIAL AGENT CAREER PATHS (See Legal Attache Manual,
4-1.)

(1) Career development within the FBI targets both investigative and managerial components of the Special Agent career path. With regard to the investigative path, specialized training courses and on-the-job training assignments are utilized to develop skills and knowledge necessary for successful investigative performance. For those Special Agents who desire to pursue a horizontal path as a career investigator, the FBI provides training opportunities designed to update and enhance their professional investigative skills. (Refer to Part II, Section 8-1.5, of this manual.)

(2) This section on career development matters will deal exclusively with Special Agent promotional opportunities and administrative advancement procedures within the FBI. One of the most critical responsibilities of FBI managers, at all levels, is to provide for the continuation of sound management within the FBI. Each manager in the Bureau must be personally involved in identifying those Special Agents who have expressed an interest in administrative advancement and have demonstrated some level of potential. There will be occasions, however, when requirements of a particular expertise or the lack of fully qualified personnel necessitate exceptions to the regular management career path. The Special Agent Mid-Level Management Selection (SAMMS) Board will have primary responsibility for each exception. Such exceptions will be held to an absolute minimum and each exception will be fully justified and documented by the SAMMS Board.

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3-2.1 Relief Supervisor (See MAOP, Part I, 3-2.2; Part II, 1-1.1(4).)

(1) Management development and selection in the FBI begins with the appointment of relief supervisors. Special Agents who are interested in administrative advancement should be considered for the position of relief supervisor. Application for entrance into the EDSP as a relief supervisor should be by formal memorandum from the candidate to the SAC.

(2) SACs are responsible for the recruitment of talented Special Agent personnel as relief supervisors. If a suitable number of relief supervisors cannot be enlisted, the SAC is authorized to employ temporary relief supervisors. The use of the temporary relief supervisory status should not be used unless an SAC deems it absolutely necessary. Temporary relief supervisors are not part of the EDSP.

(3) Deleted

(4) Each SAC is responsible for verification of the Agent's qualifications to assume relief supervisory status. If there is any question of an Agent's qualifications to become a relief supervisor, it should be resolved with FBIHQ prior to designating the Agent as a relief supervisor. The qualifications for recommending a Special Agent for relief supervisor status are:

(a) Candidates must have two years of investigative experience in the FBI and field career board approval.

(b) Candidates must not be on probation as the result of administrative action. If the candidate is currently on probation, he or she will not be eligible for consideration as a relief supervisor until such time as the probationary period has concluded.

(c) Candidate's most recent performance appraisal must be at the superior level or higher. (See MAOP, Part I, 3-11.)

(5) Deleted

(6) Administrator, EDSP, need only be advised by electronic communication (EC) when the relief supervisor requests removal from relief supervisory status. This advisement must state the reasons for withdrawal from the EDSP and describe in detail any equal employment opportunity impact on the Agent's decision.

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(7) The field office career board must select each relief supervisor in the division, with the exception of those relief supervisors transferred in from a different division. The SAC must make certain that every relief supervisory position is fully justified and that each relief supervisor is given sufficient administrative assignments to meet managerial development needs. Relief supervisors should be kept advised of current problems and pertinent matters on the supervisory desk.

(8) Newly appointed relief supervisors must receive ten days of initial training. This should include on-the-job training with the regularly appointed supervisor and a thorough indoctrination in the various aspects of the service and support functions of the field division. Facts concerning the training of relief supervisors shall be included in an EC prepared for the field office training file.

(9) It is the responsibility of the SAC to ensure that Agents approved for supervisory or relief supervisory assignments are fully aware of their responsibilities. It should be impressed upon them that when serving in such capacity they are acting for the SAC and the division. Any questions or doubts they may have regarding the proper course of action to take in connection with the performance of their duties should be resolved before action is taken.

(10) An Agent approved for the position of relief supervisor will maintain relief supervisory status when transferred from one office to another provided the Agent is still interested in administrative advancement and continues to meet the criteria set forth above regarding the selection of supervisors. This is not true of a full-time supervisor transferred from one office to another. In these cases, specific SAMMS Board approval is necessary for the retention of the supervisory position.

(11) Before being considered for further advancement in the management career path, an Agent should generally serve as a relief supervisor for at least two years during which time the Agent should receive as much administrative experience as possible to assist in evaluation of potential candidates for administrative advancement.

(12) Relief supervisors serving on hardship transfer orders may participate in the EDSP to the extent that they can serve as relief supervisors and participate in the developmental aspects of the EDSP. However, the individuals will not be allowed to vie for openings in the EDSP until such time as their hardship transfers are

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rescinded and they are available for transfer. See 3-6.13 (4).

(13) Deleted

(14) Deleted

(15) Deleted

(16) Deleted

EFFECTIVE: 05/19/97

3-2.2 | Principal/Secondary Relief Supervisors (See MAOP, Part
II, 3-2.1.)

(1) One principal relief supervisor and one secondary relief supervisor are to be designated for each supervisory desk by the field division career board. Criteria to be reviewed in selecting a principal and secondary relief supervisor include experience, length of time and performance as a relief supervisor as well as the knowledge, skills and abilities (KSAs) described in MAOP, Part I, 3-2.10.2(1). A temporary relief supervisor is not eligible for selection as a principal or secondary relief supervisor. There is no limit to the number of relief supervisors that a field office or squad may have; however, only one principal and one secondary relief supervisor are designated per squad. While it is recognized that the optimum number of relief supervisors will vary among squads, this should not preclude qualified candidates from entering the EDSP.

(2) Principal and secondary relief positions will be rotated on an annual basis among the qualified relief supervisors within the division and will not be restricted to relief supervisors assigned to the squad with the vacancy. It is emphasized that selection for a principal or secondary relief supervisor position will not constitute the basis for a cost or noncost transfer.

(3) Each principal and secondary relief supervisor vacancy must be advertised within the division by an all Agent memorandum from the SAC and posted for ten calendar days in an area accessible to all Agents. However, it is recognized that in large field divisions an advertisement delineated by branches, divisions, sections or other similar configuration may be appropriate. If such

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a process is utilized, documentation setting forth the basis for this methodology must be maintained by the field division and reported to FBIHQ. Agents who are interested in applying for the posted positions should submit a memorandum to the SAC setting forth their interest and background. Although candidates for these positions are encouraged to use their KSAs (described in MAOP, Part I, 3-2.10.2(1)) to explain their investigative and management experience, local field office career boards may also consider overall FBI experience and performance as well as length of time and performance as a relief supervisor before reaching a final decision.

(4) The same individuals are not to serve consecutively in principal or secondary relief supervisor positions unless no other qualified Agents request to be considered for the position. The secondary relief supervisor may serve as principal relief supervisor in the following year if that individual is the best qualified of all applicants. The principal relief supervisor may not serve as secondary relief supervisor in the following year unless no other qualified Agents request to be considered for the position. In the event the former principal relief supervisor is the only candidate for the position, the local career board may recommend that SA's selection. The SAC may delay the rotation of the principal or secondary relief supervisor if warranted by operational or administrative necessity. In such a circumstance, to extend the time served, the SAC must submit written documentation to the EDSP. Time extensions will be approved by the Special Agent Mid-Level Management Selection (SAMMS) Board. It is the responsibility of the SAC to ensure that appropriate ticklers are in place so that the principal and secondary relief supervisors are rotated within their divisions on a yearly basis.

(5) The secondary relief will perform the duties of the principal relief at the direction of the squad supervisor or in the absence of supervisor and/or principal relief supervisor.

(6) The principal/secondary relief supervisor rotation policy is not intended to require selection of relief supervisors who lack the investigative or program experience needed to function effectively on the new squad. Thus, if the only candidates for these positions are determined by the supervisor and field office career board to lack the necessary investigative or program experience, the board may recommend that the former principal relief supervisor be permitted to remain in place for another year.

(7) Principal relief supervisors may be granted cash awards (see MAOP, Part I, 5-15.5). Secondary relief

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supervisors are not eligible for principal relief supervisor awards, but are eligible for other applicable performance recognition.

EFFECTIVE: 10/18/95

3-2.3 Supervisory Special Agent

The next step in progression under the management career path is an assignment to FBIHQ as a Supervisory Special Agent or directly to a field supervisory position.

EFFECTIVE: 12/12/91

3-2.4 FBIHQ Supervisory Special Agent (See Legal Attache Manual, Part I, 4-1.4.)

(1) As a Supervisory Special Agent at FBIHQ, the Agent will participate in the formulation of Bureau policy and programs thereby gaining insight into the impact of policy on field operations. This assignment would allow the Agent to acquire a conceptual viewpoint of FBI operations and provide opportunities for administrative development for those Agents in the management career path.

(a) Headquarters GS-14 supervisors will be required to have (1) a minimum three years' FBI field investigative experience; (2) relief supervisory experience; and (3) a current (minimum) superior performance appraisal. For GS-14 Agent supervisory vacancies in the Office of the General Counsel and Laboratory Division, relief supervisory experience is strongly preferred but not required.

(b) Agents are required to serve in the Supervisory Special Agent position at FBIHQ a minimum of two years before consideration for further progression on the management career path. An Agent assigned at FBIHQ must have at least 18 months' service at FBIHQ before he/she can apply for GS-14 field supervisory positions. In the event an Agent transfers from one division to another at FBIHQ, all service at FBIHQ will count toward the minimum 18 months. FBIHQ candidates who are selected for field supervisory positions will still be required to serve the full 24 months at FBIHQ prior to reporting to the field office assignment. In the event Agents transfer from one

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FBIHQ division to another, the minimum length of service in the new assignment should be agreed upon between the Agent and the head of the division. In this case he/she should be advised as to their minimum commitment at the beginning of their new assignment so there is no misunderstanding when the GS-14 wishes to apply for a field supervisory assignment.

(c) Deleted

(d) Agents promoted to GS-14 supervisory positions will be credited with FBIHQ supervisory time beginning from the date that the Agent reports to the assignment, regardless of time-in-grade requirements for promotion to GS-14. This does not apply to temporary supervisors who are not credited with supervisory time.

(2) There are currently two paths to becoming an FBIHQ Supervisor. One path entails becoming a field supervisor or SSRA and serving at least two years in a field division in this capacity.

(3) The second path would be for a relief supervisor to become an FBIHQ Supervisor.

(4) Accelerated promotion within Bureau guidelines will be available to those Special Agents transferred to FBIHQ under the EDSP.

(5) SAMMS Board action is not required for supervisory reorganization within an office.

EFFECTIVE: 05/19/97

3-2.5 Field Supervisor and Supervisory Senior Resident Agent
(SSRA)

(1) Field supervisors will be required to have: (1) a minimum three years' FBI field investigative experience; (2) relief supervisory experience; and (3) a current (minimum) superior performance appraisal. A relief supervisor may progress directly to the position of field supervisor or SSRA without having first served a minimum of two years in a supervisory position at FBIHQ. However, Agents who advanced directly from relief supervisor to field supervisor positions will be required to serve at FBIHQ as their next level of progression under the management career path.

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(2) The SAMMS Board views the field supervisor/SSRA position as a critical first-line management position and, as such, the unique experience acquired in occupying this position will greatly enhance one's competitive qualifications for future executive-type, field management positions.

(3) SAMMS Board action is not required for supervisory reorganization within an office.

(4) Agents promoted to GS-14 supervisory positions will be credited with field supervisory time beginning from the date that the Agent reports to the assignment, regardless of time-in-grade requirements for promotion to GS-14. This does not apply to temporary supervisors who are not credited with supervisory time.

EFFECTIVE: 05/19/97

3-2.6 Assistant Inspectors

(1) GS-14 Assistant Inspectors

(a) Minimum requirements for GS-14 Assistant Inspectors are: (1) current FBIHQ supervisory experience, (2) current (minimum) superior performance appraisal; (3) division head recommendation. A minimum tenure of 18 months' FBIHQ supervisory experience is also necessary.

(b) GS-14 Assistant Inspectors may begin to apply for other EDSP positions after nine months, provided all other criteria have been met. An individual may serve in the GS-14 Assistant Inspector position for a maximum of 12 months with the continued concurrence of the Assistant Director, Inspection Division. If after 12 months the individual has not yet been selected for another EDSP position, he/she will return to the FBIHQ division of his/her prior assignment. If an individual is selected for another EDSP supervisory position before successfully completing nine inspections, he/she will be given credit for the number of inspections completed, but will need to complete the remaining number to receive inspection staff certification.

(2) GS-15 Assistant Inspectors

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(a) Only current or former field supervisors are eligible to be considered for assignment as permanent GS-15 Assistant Inspectors.

(b) The SAMMS Board views the assignment as an Assistant Inspector as a valuable step within the EDSP. Assignment as a GS-15 Assistant Inspector is based on the needs of the Inspection Division as well as the demonstrated ability of the Agent Supervisor. Candidates who may apply for the GS-15 Assistant Inspector position are: (1) field supervisors with a minimum of two years' field supervisory experience who have not served at FBIHQ and who have participated in two inspections assisting the inspection staff in evaluating investigative programs or; (2) supervisors with two years' field supervisory experience and one year of FBIHQ supervisory experience and who have completed two inspections as an Assistant Inspector-in-Place. All candidates for the GS-15 Assistant Inspector position must be recommended by their division head and have concurrence of the Office of Inspection.

(c) The period of assignment as GS-15 Assistant Inspector is a minimum of one year and may be extended while the Assistant Inspector satisfies the eligibility for the ASAC position and/or competes for another position. The GS-15 Assistant Inspector position may be used as part or all of the two years required to satisfy FBIHQ supervisory requirement for the ASAC position.

EFFECTIVE: 09/22/97

3-2.7 Assistant Inspectors-in-Place

(1) Participation in the Assistant Inspector-in-Place (AIIP) Program is mandatory for all Supervisory Special Agents (SSAs) who have two years' experience as a field supervisor or one year's field supervisory experience with prior FBIHQ experience. Participation as an AIIP is predicated upon the recommendation of the SAC, a minimum superior performance appraisal report, and approval by the Special Agent Mid-level Management Selection (SAMMS) Board. SSAs assigned to FBIHQ who have two years' field supervisory experience will also be eligible to participate in the AIIP program upon arrival at FBIHQ. Exceptions to this position will be permitted with the personal justification of the division/office head for hardship situations that preclude an SSA from participation.

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(2) AIIPs must successfully complete nine field office inspections, or their equivalent, to be certified by the Assistant Director, Inspection Division, except AIIPs assigned to the San Juan Division on the Island of Puerto Rico, who will be certified after seven inspections or their equivalent.

EFFECTIVE: 09/22/97

3-2.8 FBIHQ Special Agent Unit Chief (See MAOP, Part I, 3-11(4).)

(1) Minimum requirements for Special Agent GS-15 FBIHQ vacancies include: (a) three years' FBI investigative experience, (b) relief supervisory experience and (c) a current minimum superior performance appraisal. Applicants are advised that individual competition for GS-15 positions is enhanced by possession of one or more of the following: (a) two years' managerial experience at FBIHQ, (b) two years' field supervisory experience, and (c) certification by the Inspection Division. Possessing two years' managerial experience at FBIHQ, two years' field supervisory experience or certification by the Inspection Division makes an individual more competitive for GS-15, but none of those qualifications are essential for applying for the Unit Chief position. An individual promoted to a Unit Chief position (from a field office position) will be required to serve at least nine months prior to making application for consideration for an ASAC position.

(2) When a GS-15 Unit Chief is assigned to a tour on the Inspection Staff and plans to return to his/her position at the end of that tour, the Assistant Director may replace him/her with another employee in an "acting" capacity by posting the position within his/her division as a temporary promotional opportunity. The temporary promotion is allowed when the individual serves in an "acting" capacity for more than 180 days or at the outset if it is known that the term of service will exceed 180 days.

EFFECTIVE: 04/15/96

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3-2.9 Deleted

EFFECTIVE: 10/12/94

3-2.10 Assistant Special Agent in Charge

(1) The Special Agent Mid-Level Management Selection System (SAMSS) is being utilized for filling ASAC vacancies. SAMSS is a job-related, validated selection system which allows candidates an opportunity to provide detailed examples of core Knowledge, Skills and Abilities (KSAs).

(2) The minimum requirements for ASAC eligibility are: two (2) years' FBIHQ supervisory experience, two (2) years' field supervisory experience, Inspection Certification, and a minimum superior rating on the most recent Performance Appraisal Report (PAR). In order to compete for an ASAC vacancy, candidates must have a completed Career Development Evaluation (CDE) and be in the top 50 percent of the ASAC candidate pool.

EFFECTIVE: 07/07/95

3-2.10.1 Initial Application

(1) Candidates may begin the SAMSS process when they are within 120 days of meeting the minimum requirements for ASAC eligibility (FBIHQ or field supervisory time), or are within one inspection from certification. Eligible candidates will be queried at that time by the Administrator, EDSP, through a "Letter of Intent" (LOI). The LOI will query the candidate regarding his/her desire to obtain a Career Development Evaluation (CDE). The LOI will be provided to a candidate only once in a candidate's career. If the candidate declines an evaluation at that time, future consideration must be initiated by the candidate.

(2) Upon receipt of an affirmative response to an LOI, the EDSP will furnish to the candidate, among other items, an

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evaluation package called an Achievement Inventory (AI), as well as detailed instructions for its completion. The submission of this AI by the candidate will begin the SAMSS process. It is the responsibility of the candidate to comply with all of the SAMSS deadlines and instructions provided in the AI. As a result of the amount of time necessary to administer a candidate's package through the evaluation process, failure to comply with these deadlines and instructions could result in a minimum four-month delay of ASAC eligibility.

EFFECTIVE: 07/07/95

3-2.10.2 Achievement Inventory

(1) Significant accomplishments are documented in the Achievement Inventory (AI) which is prepared by the candidate. The candidate is required to describe specific and verifiable accomplishments which demonstrate possession of core Knowledge, Skills and Abilities (KSA) which have been identified as important for success as an ASAC. The KSAs and their definitions are as follows:
|(See MAOP, Part I, 3-2.2(1) & (3).)|

(a) Leadership: The ability to motivate and inspire others; to develop and mentor others; to gain the respect, confidence, and loyalty of others; to articulate a vision; to give guidance and to direct others in accomplishing goals.

(b) Interpersonal Ability: The skill required to deal effectively with others; to establish and maintain rapport with management, colleagues, and subordinates; to treat others with respect and courtesy; and to recognize and show sensitivity to differences in the needs and concerns of others.

(c) Liaison: The ability to establish contacts and to interact effectively with federal, state, and local investigative agencies; government officials; the media; the community (business, academic, local); internal Bureau contacts; and other organizations and agencies.

(d) Organizing and Planning: The skill to establish priorities, timetables, and goals/objectives; to structure a plan of action for self and/or others; and to develop both strategic and tactical plans.

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(e) Problem Solving/Judgment: The ability to critically evaluate conditions, events, and alternatives; to identify problems, causes, and relationships; to base decisions or recommendations on data or sound reasoning; and to formulate objective opinions. Included is the ability to make effective decisions without undue hesitancy, to defend decisions when challenged, and to accept responsibility for decisions made.

(f) Flexibility/Adaptability: The ability to respond positively to and to successfully manage change at work; to willingly accept new priorities, procedures, or goals; to adapt to unanticipated problems or conflicts; to respond positively and productively to work challenges.

(g) Initiative: The ability and willingness to begin projects/work or to address issues/problems; to persist and follow through to complete all aspects of work; to respond proactively/creatively to problems/issues/tasks.

(h) Communication: The skill to express thoughts and ideas clearly, concisely, persuasively, and effectively orally and in writing; to interpret and understand verbal or written communications; and to tailor the communication to the experience, exposure, or expertise of the recipient.

For each of these KSAs, (with the exception of "communication" which will be addressed separately) the candidate will describe two examples of achievements that, in their opinion, best demonstrate the possession of the KSA. The examples may result from the individual's activities in any kind of setting, current or previous job assignments, within or outside the FBI, volunteer work, educational endeavor, hobby, etc. The examples should provide good evidence regarding the individual's capabilities. At least one of the examples for each KSA MUST, however, be related to work performed at the FBI.

(2) For each Achievement Inventory example, the candidate must identify a supervisor who can verify the achievement described by the candidate. The candidate must provide the name, current address, and telephone number of their immediate supervisor at the time of the achievement. If the immediate supervisor has separated from the Bureau, that individual should still be used as the verifier unless no current address can be identified. An alternate verifier should be provided only if the immediate supervisor is deceased or the example is an achievement performed outside the FBI.

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(3) Each example must be limited to one page in length and contain:

(a) The job or position held at the time of achievement;

(b) What the problem or objective was;

(c) What was actually done and when (approximate date);

(d) What the outcome or result was; and

(e) Any formal recognition received for the achievement (awards, citations, etc.).

(4) Once an Achievement Inventory is completed by the candidate and submitted to the EDSP for verification, the candidate cannot submit modifications to examples/achievements.

EFFECTIVE: 10/18/95

3-2.10.3 Verification of Achievements

The EDSP Staff will forward to the verifier identified by the candidate a copy of the applicable accomplishment and an Achievement Inventory Verification Form. The verifier is to carefully review the accomplishment and indicate on the verification form whether the accomplishment described by the candidate is accurate and if the accomplishment is representative of the quality of performance that can be expected from this candidate on a day-to-day basis. Comments are encouraged and space is provided.

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3-2.10.4 Competency Profile

(1) The Competency Profile (CP) is completed by the candidate's current rating official. The CP has been designed to focus on the candidate's managerial potential, not current job performance. The rating official considers behaviors associated with each of the eight core knowledge, skills, and abilities (KSAs) and evaluates the extent to which the candidate has demonstrated and/or developed these KSAs. For each KSA, the rating official documents the relationship between the candidate's performance and the core managerial KSAs with SPECIFIC OBSERVATIONS of the candidate's behavior. The rating official is to consider any and all relevant candidate behaviors. If the rating official has supervised the candidate for several years, the official should consider the quality and consistency of performance throughout the years. However, if the rating official has supervised the candidate for less than three months, he/she should NOT complete the evaluation. In this instance, the CP will be completed by the candidate's previous rating official. If the rating official has supervised the candidate for more than three months but less than one year, the PREVIOUS rating official MUST be contacted by the current rating official to obtain additional input. Thereafter, the CP is reviewed by the candidate's reviewing official and forwarded to the EDSP.

(2) Once the candidate's AI has been completed and all of the subsequent KSA verifications and the CP have been received by the EDSP staff, the candidate's package will be ready for evaluation.

(3) It is noted that, in rare circumstances, candidates who are one inspection away from certification when they began completing their AI, might still not be certified when their AI packages have been completed. When so identified by the Inspection Division, the candidates WILL NOT BE EVALUATED until they are certified. Their AI packages will be stored at FBIHQ until they have met ASAC qualification.

EFFECTIVE: 04/15/96

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3-2.10.5 Career Counsel Boards

(1) Candidates will be evaluated with respect to their core KSAs by a panel called the Career Counsel Board (CCB). The evaluation performed by the CCB is referred to as the Career Development Evaluation (CDE) and is based on input received from the candidate in the Achievement Inventory and verifications, the results of the Competency Profile and an interview conducted with each candidate.

(2) The CCBs are centralized boards composed and managed by the EDSP Administrator. The members are either executive-level managers (Senior Executive Service) with prior ASAC experience, or incumbent ASACs with at least one year of experience at the ASAC level. Final selection of CCB members will be at the Deputy Director level. Each CCB will consist of three members at least one grade level above the candidate being evaluated. Incumbent ASACs will only participate in evaluations of GS-14 candidates. All CCB members receive formal training in the evaluation process prior to participating on a CCB.

(3) All CCB evaluators will be given the opportunity to review a list of prospective candidates for evaluation. They are instructed that they can opt themselves out of evaluating any specific candidate(s) if they believe that they would be unable to fairly evaluate, or that there might be the PERCEPTION of an unfair evaluation. Matching the CCB evaluators to candidates is the responsibility of the EDSP Administrator.

(4) CCBs will be called for evaluations THREE TIMES A YEAR, during January, May and September.

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3-2.10.6 Evaluating the Candidates

(1) Before a CCB meets as a group, each member will independently review the candidate's achievements and the results of the verifications of those achievements. Each member will then independently rate each achievement using the rating guidelines provided for this evaluation which are contained in their Implementation Guide. The RATING GUIDELINES for each KSA include: a definition of the KSA; behaviors representative of the KSA; and a 7-point rating scale ranging from 1 - 7.

(2) The following is the scale used in the evaluation of candidates:

- 1 = Inexperienced/Ineffective - A lack of skill/ability; "green"; needs extensive training/development to achieve competence.
- 2 = Marginal
- 3 = Minimally Acceptable - Demonstrates some skill/ability; needs to fine tune, hone or expand skill/ability to achieve competence.
- 4 = Competent/Acceptable
- 5 = Skilled/Effective - Demonstrates considerable skill; is adept; exceeds an acceptable level of competence.
- 6 = Highly Skilled/Highly Effective
- 7 = Exemplary - Demonstrates exceptional skill/ability -- so exceptional as to warrant special merit/recognition; a role model.

(3) Preliminary ratings are assigned by each CCB member for each behavioral element. Pluses and minuses may be used with the numerical rating to accurately describe the level of performance. (Note, however, that there is no "1-" or "7+").

(4) Thereafter, the CCB will convene and determine what questions need to be asked during the candidate's interview. Interviews are for the purpose of clarifying the AI and are not scored separately. All CCB interviews will be conducted telephonically regardless of the proximity of the CCBs to their candidates.

(5) Following the completion of the candidate's interview, each CCB member will have an opportunity to modify their individual rating for each of the candidate's achievements using the same rating guidelines and 7-point scale described previously. Following the interview, each CCB member will assign a final rating for EACH KSA. The rating takes into account all information obtained about both examples cited for EACH KSA as well as information obtained

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during the interview and represents the rater's best assessment of the level at which the candidate is functioning on the 7-point scale. Each KSA rating must fall within the range of ratings assigned for the two examples cited. For example, if the lower rating assigned for one example of the KSA was a 3+ and the higher was a 5-, the final rating must be within the range of a 3+ and 5- (a 3+, 4-, 4, 4+ or 5-). The KSA score is not necessarily an arithmetic average of the two achievement examples. After discussion and deliberation, the CCB members come to a final consensus rating for each KSA.

(6) A final step for the CCB is to integrate the Achievement Inventory/interview information with the Competency Profile (CP) scores provided by the rating official to arrive at the Board's final overall rating of the candidate for each KSA. The Board members compare their ratings and rationale with those contained in the CP. A final rating is agreed upon by the CCB and recorded. If a consensus cannot be achieved, the final rating assigned to a KSA is that of a majority.

(7) It is noted at this point that the final KSA rating for Communication is based primarily upon the input of the rating official through the CP. The system recognizes that the CCB does not have as great an exposure to the candidate's oral/written abilities as his/her immediate supervisor. It is feasible that the CCB might be favorably or unfavorably influenced by the candidate's interview and disagree with the CP score. In that event, the CCB may make an adjustment to the candidate's CP communication score by only +/- . As an example, if the candidate's CP score is 5+, the CCB may only make an adjustment to 5 or 6-.

(8) The CCB will also prepare a Career Development Evaluation (CDE) narrative which is a summary of the consensus evaluation of the candidate by KSA, citing examples of the behaviors and accomplishments on which the rating was based. The CDE narrative will be provided to the candidate and utilized by the EDSP for feedback purposes. It also becomes a part of the overall candidate profile package reviewed by the SAC and SAMMS Board for selection decisions.

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3-2.10.7 CDE Scores

(1) Upon completion of each evaluation by the CCBs, the candidate's final score for each of the eight KSAs will then be processed by the EDSP staff to obtain a candidate's overall CDE score. In order to accomplish this, each of the KSA scores is "weighted." The weights are used to contrast the importance of each KSA. It is referred to as the "Importance Scale" and is a 4-point system. The scale is defined as: 1 = No Importance, 2 = Moderately Important, 3 = Very Important, and 4 = Critical. The following is the Importance Scale for the ASAC position by KSA.

Leadership.....	3.68
Interpersonal.....	3.82
Liaison.....	3.04
Organizing and Planning.....	3.39
Problem Solving & Judgment....	3.66
Flexibility & Adaptability....	3.36
Initiative.....	3.43
Communication.....	3.51

(2) Each KSA will be multiplied by the weighted factors. If a score contains a +/-, it is converted to a numerical value. As an example: if a score is 6+, it is converted to 6.3; if a score is 6-, it is converted to a 5.7. Ultimately, each candidate will receive a final CDE score which will be carried out to two decimal places. Every four months each candidate will receive documented feedback to include: ranking within the ASAC candidate pool, CDE score by KSA, overall CDE score, CDE narrative, and competitive status.

(3) The candidate's ASAC CDE score will be subject to the Privacy Act and, as such, under normal circumstances will be provided ONLY to the candidate. A candidate's decision to advise his/her supervisor, or others, of the results of the evaluation is a personal decision. However, candidates must NOT discuss their CDE score with an SAC during the course of an interview for an ASAC vacancy. (See 3-2.10.14.)

(4) A candidate's ASAC CDE score CANNOT be used in any way with respect to a candidate's annual performance appraisal.

(5) The ASAC CDE score ONLY pertains to the ASAC selection process. Noncompetitive ASAC candidates are still eligible and competitive for future Unit Chief vacancies.

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(6) ASAC CDE scores MAY NOT be utilized in ANY Career Board deliberation, to include ASAC selections (see MAOP, Part I, 3-2.10.13).

(7) The CDE score will remain valid until:

- (a) The candidate is promoted to ASAC,
- (b) The candidate requests to be reevaluated, or
- (c) The candidate requests removal from further consideration.

EFFECTIVE: 07/07/95

3-2.10.8 Feedback

All candidates can request additional oral feedback from the EDSP staff. Additionally, if so desired, the candidate can contact a member of their Career Counsel Board to obtain additional oral feedback.

EFFECTIVE: 07/07/95

3-2.10.9 CDE Reevaluation

A candidate may request a CDE reevaluation eighteen (18) months after receiving a CDE score. The candidate will be required to submit an entirely new Achievement Inventory for the reevaluation. A candidate must select investigations/efforts to highlight which were not previously submitted. The examples set forth in the new package could also address the same investigations previously utilized, but could not use the same KSA. For example, a candidate who previously presented a KSA on Leadership regarding his/her efforts during the Pan Am 103 investigation could again use the Pan Am 103 investigation, but would have to use it for a different KSA, such as Organizing and Planning. In the event that a candidate requests reevaluation, the last score received will be the score of record, regardless of the previous CDE score.

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EFFECTIVE: 04/15/96

3-2.10.10 Voluntary Removal From ASAC Candidate Pool

A candidate may remove himself/herself from future consideration for ASAC, either temporarily or permanently, by notifying the EDSP Administrator, in writing, of his/her request. In that event, the candidate's name will be removed from consideration for a period of not less than eight months from the date of their submission. Once a candidate is removed from the list at their request, they may request reactivation, following the minimum eight-month period, by requesting same in writing. However, actual reactivation will not take effect until the candidate's name and CDE score are again factored into an official candidate pool, which is prepared triannually. Inactive candidates may request CDE re-evaluation in accordance with SAMSS policy. The candidate's CDE score, upon reactivation, will be his/her most recent score.

EFFECTIVE: 09/25/96

3-2.10.11 Establishing the Competitive and Noncompetitive Pool

(1) Inasmuch as the FBI's pool of qualified ASAC candidates is so large, as compared to the actual number of vacancies, allowing the bottom half of the pool to continue to apply for the limited vacancies creates an unrealistic expectation of success. Advising the candidates who score low in the total pool of candidates that they are not currently competitive offers the candidates the feedback and impetus they need to accurately assess their future career goals.

(2) As a result, the candidates whose scores and rankings place them in the bottom 50 percent of each triannual evaluation compilation will be advised that they are noncompetitive for the position of ASAC. These noncompetitive candidates will not be allowed to compete for any ASAC vacancies until their scores place them within the top 50 percent ranking of the candidate pool. Whenever a candidate within the top 50 percent of the candidate pool is either selected for an ASAC position or cannot apply for an ASAC

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position for a period of time due to opting out voluntarily or because he/she has become ineligible to compete due to other policy considerations (e.g., if an ASAC-competitive field office candidate is selected for a Unit Chief position, he/she cannot compete for the ASAC position until he/she has served in the Unit Chief position for nine months; or selection of an ASAC-competitive candidate for a Legat assignment which requires a minimum period of service in that assignment, etc.), the highest-ranked, yet noncompetitive, candidate from the triannual list will move into the competitive category. For example, if the cutoff for the top 50 percent is at candidate number 79 and a candidate is selected for ASAC out of this pool of 79 eligible candidates, then the individual ranked number 80 would move into the competitive rank, and this would continue to occur until the succeeding ASAC list is published. Candidates who become competitive during this process will be notified by the EDSP.

(3) Candidates should be aware that the competitive pool will change with each triannual evaluation. At that time candidates who have been selected will be removed, new candidates' and re-evaluation scores will be added, and those who request removal will be removed. As a result, it is conceivable that several candidates who were either just above, or below, the 50 percent line could find that their ability to compete for an ASAC position may change as a result of the newest four-month computer run of the CDE scores, even though their own CDE score did not change.

(4) Only those candidates whose scores place them in the top 50 percent of the evaluation list will be allowed to compete for an ASAC vacancy.

(5) Each ASAC-competitive candidate who is listed on any and each triannual potential ASAC ranking list for the full period of time that list is utilized as a part of the ASAC application process must apply and compete during the utilization period for each list for at least one ASAC or Unit Chief vacancy. Failure to do so will preclude the individual from being a competitive candidate on the next two successive triannual potential ASAC ranking lists.

EFFECTIVE: 09/25/96

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3-2.10.12 ASAC Application Process (See MAOP, Part I, 3-6.4.2.)

(1) ASAC VACANCY POSTINGS

All ASAC vacancies will continue to be posted on-line through the Job Posting Application.

(2) ASAC APPLICATION PROCESS

(a) Candidates for specific ASAC vacancies are to complete and submit only Page 1 of the FD-638 directly to the SAMSS Board Chairman, EDSP, Room 4981, FBIHQ. Division head recommendations are no longer required and should not be solicited. All applications must be received no later than the close of business on the last day of the posting deadline. FD-638s received after the deadline will not be accepted.

(b) The EDSP staff will compile all qualified applicants for each ASAC vacancy and arrange their candidacy by their respective CDE score. A total of ten candidates for each vacancy will be presented to the SAC for consideration. If there are ten or more competitive voluntary candidates for a position, the top ten candidates, based upon their individual CDE score, will constitute the entire pool of candidates for the vacancy. (See also MAOP Part I, 3-6.4.2(1)(b).)

(3) Drafting

(a) On those occasions where an ASAC vacancy posting does NOT attract at least ten competitive volunteers, the EDSP Administrator will DRAFT into consideration an appropriate number of candidates (from the highest scoring candidate downward) from the ASAC candidate pool, resulting in a candidate pool totaling ten candidates. Nonvolunteers will be identified to the advertising SAC as draftees. It will be the prerogative of the advertising SAC to determine if any of the draftees are considered to be the best qualified for the advertised position.

(b) It is important to note that any draftee who is selected for an ASAC position may choose to turn down the position. In such cases, the draftee will not be required to step out of the Executive Development and Selection Program, but he/she will be immediately removed from the competitive ASAC pool for two (2) years.

(c) All ASAC candidates who are drafted into a candidate pool for an advertised vacancy will be notified of that fact

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by the EDSP staff when the ASAC package is sent to the advertising SAC.

EFFECTIVE: 05/19/97

3-2.10.13 Banding

(1) "Banding" is a common and professionally accepted practice for identifying ranges of scores (or "bands") as equivalent for decision making purposes. It is a statistical measurement of the final CDE scores in each triannual evaluation list which will result in a "standard error of measurement" (SEM). The EDSP staff will utilize this SEM to indicate to the advertising SACs whether the scores for their top ten candidates are "substantially different." Banding the candidates provides an indication of potential statistically significant differences which might be evident between some of the ten candidates, as measured by the SEM.

(a) As an example, assume that the SEM for CDE scores computes to 8.0, for the triannual list. For each pool of candidates (volunteer and, if necessary, draftees included), the top ten candidates will be identified. If the CDE scores for all of the top ten candidates range within 8 points of the top candidate, then all ten are simply referred to the selecting SAC, alphabetically. The selecting SAC is free to select any of the ten. Their qualifications, as measured by the SEM, are considered to be "equivalent."

(b) However, if the top ten candidates do not fall within the SEM (in this example, 8 points) of the highest scoring candidate, then "bands" will be identified. That is, all candidates within 8 points (for this example) of the highest scoring candidate will be assigned to Band 1. Band 2 will include the next group, all of whom are within 8 points of the highest scoring applicant in Band 2. If necessary, bands can continue to be identified until ten candidates are included. Because only the top 50 percent of the candidate pool are allowed to compete and because there are so many competitive candidates, it is unlikely that more than three bands would ever be utilized.

(c) Of the ten names furnished to the SAC, only the volunteer candidates will be banded. If any draft candidates are included in the list of ten names, they will not be banded.

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(2) Neither ASAC CDE scores nor rankings will be identified to the advertising SAC. Applicants in each band will be arranged in alphabetical order. (See MAOP, Part I, 3-2.10.7.)

(3) The EDSP staff will advise the top ten candidates for each vacancy (including any draftees) that they are in the package going to the advertising SAC and, if applicable, what Band they are within for that vacancy.

EFFECTIVE: 09/25/96

3-2.10.14 Responsibilities of the Advertising SAC

(1) The EDSP will provide the advertising SAC with the names of the ten applicants/draftees, arranged alphabetically within bands. Additionally, for each applicant, the SAC will receive a Single Page Agent Profile, the candidate's Achievement Inventory and the CDE Narrative.

(2) The advertising SAC must confine his/her selection to this group of ten candidates. The SAC is required to start the interviews for the vacancy within 21 days of the receipt of the ASAC package from EDSP. The SAC must contact the Administrator of the EDSP prior to the start of the interviews to determine if any of the ten candidates had been selected for another vacancy, thus allowing an opportunity for the EDSP to replace those candidates before the required interviews commence.

(3) The SAC's evaluation process will include a mandatory interview of each candidate. The candidates are cautioned that they must NOT discuss their individual ASAC CDE score with the advertising SAC during the course of their interview. At the conclusion of the SAC's review of available material and interviews, the SAC must articulate and justify his/her selection/ranking. Inasmuch as other ASAC vacancies may run concurrently with identical applicants, the SACs should recommend at least three candidates in rank order. (See 3-2.10.7.)

(4) Should an SAC select a candidate outside of Band 1, the SAC must provide additional justification for his/her selection. Although all ten applicants are considered the most competitive, the SEM recognizes the substantial statistical differences which can occur from one band to another.

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EFFECTIVE: 06/12/96

3-2.10.15 SAMMS Board

The SAMMS Board will review the SAC's selection for adherence to policy and procedure. In those instances where identical applicants exist in multiple vacancies, the SAMMS Board may make its own recommendation to the Director in addition to the SAC's recommendation. The SAMMS Board must also confine its deliberations to the original ten candidates for each vacancy.

EFFECTIVE: 07/07/95

3-2.10.16 Final ASAC Selection

The SAMMS Board will furnish to the Director its observations/recommendations along with the SAC's recommendations, and all documentation relative to each of the ten candidates. The Director has the final selection authority. The Director may select any of the original ten candidates. If an individual below Band 1 is selected, the Director will set forth justification for that selection.

EFFECTIVE: 07/07/95

3-2.10.17 Grievances and Appeals

See MAOP, Part I, 3-9 and 3-10, wherein detailed guidance is provided relative to the Career Development Grievance Process and SAMMS Board Selection Appeals.

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EFFECTIVE: 07/07/95

3-2.11 Inspectors-in-Place

Recommendations for this position are made by the SAMMS Board and provided to the Director for approval. The candidates are selected from ASAC, Deputy Assistant Director, Section Chief, and Unit Chief positions, based on recommendations made by the Agent's respective division head. ASACs must have successfully completed one year in the ASAC assignment before being considered for Inspector-in-Place position. ASACs who receive lateral transfers either to another ASAC position or to FBIHQ are required to successfully complete one year in that new assignment before being considered for Inspector-in-Place. If an ASAC has been identified for a lateral transfer, he/she cannot be considered for Inspector-in-Place until that transfer has occurred and the one year's successful service has been completed. After completion of this one-year period in either situation, the ASAC/Section Chief/Unit Chief may be recommended by his/her SAC or Assistant Director for Inspector-in-Place. A current (minimum) superior performance appraisal is required. Under normal circumstances, an Inspector-in-Place will not be called upon more than once each quarter.

EFFECTIVE: 10/12/94

3-2.12 Inspector

(1) Recommendations to fill Inspector vacancies on the Inspection Staff will be made by the Senior Executive Service Career Board to the Director for approval. Candidates for this position will come from the following levels:

(a) ASACs

(b) Section Chiefs

(2) Those candidates selected to serve as Inspectors have the option of transferring to FBIHQ or being placed in a temporary duty status for duration of assignment. The length of assignment as a full Inspector is contingent upon the needs of the Bureau but will usually not exceed 24 months.

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EFFECTIVE: 06/14/93

3-2.13 Section Chief

The Senior Executive Service (SES) Board will recommend to the Director for approval qualified candidates from the structured career management path from either Inspectors on the Inspection Staff or qualified ASACs for vacancies as Section Chief at FBIHQ. Any exceptions must be documented by the SES Board and based on the need for a specific skill or experience.

EFFECTIVE: 05/19/97

3-2.14 Associate Special Agent in Charge

The Senior Executive Service (SES) Board will recommend to the Director for approval qualified candidates from the structured career management path from either qualified ASACs, Inspectors on the Inspection Staff, Section Chiefs who have served as ASAC or ASACs who are Inspectors-in-Place for vacancies as Associate Special Agents in Charge. Any exceptions must be documented by the SES Board and based on the need for a specific skill or experience.

EFFECTIVE: 05/19/97

3-2.15 Special Agent in Charge (SAC) (Formerly 3-2.14)

Full Inspectors serving on the Inspection Staff, Associate SACs, or Section Chiefs who have served as ASAC or ASACs who are Inspectors-in-Place will be the primary candidates for SAC vacancies.

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EFFECTIVE: 05/19/97

||3-2.16| Exceptions to Method of Progression | (Formerly 3-2.15) |

Any exceptions to the method of progression to the positions of Inspector, Section Chief, or SAC must be fully justified and documented in the FBIHQ Senior Executive Service Career Board recommendations to the Director.

EFFECTIVE: 05/19/97

||3-2.17| Separate Career Paths for Operational and Service Divisions | (Formerly 3-2.16) |

(1) The Laboratory Division will identify minimum time limits for service required of GS-14 Special Agents in order to meet divisional needs for special skills.

(a) Supervisory Special Agents (SSAs) within the Laboratory Division, excluding SSAs assigned as Polygraph Examiners and to the Bomb Data Center, will be eligible for consideration of reassignment to Assistant Inspector or SSA positions outside the Laboratory Division upon the completion of an assignment of four years' service within the Laboratory Division. The SSAs excluded above bring the requisite skills with them and do not require the 1- to 1 1/2-year training period required of other Agent examiners; therefore, they will be eligible after the two years required of all FBI supervisors.

(b) Laboratory Division SSAs will be eligible for consideration of promotion and reassignment to positions at the GS-15 or higher level upon the completion of two years of service within the Laboratory Division.

(2) Minimum requirements for Office of the General Counsel GS-14 vacancies are the same as for other GS-14 FBIHQ vacancies; i.e., three years' FBI investigative experience, relief supervisory experience, and a current (minimum) superior performance

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appraisal. However, requirements of a particular expertise, such as a law degree and admission to a state bar, or lack of fully qualified personnel may necessitate exceptions to the regular management career path.

(3) For additional information on separate career paths for operational and service divisions, see MAOP, Part I, Section 3-6.2(2).

EFFECTIVE: 05/19/97

||3-2.18| Critical Incident Response Group |(Formerly 3-2.17)|

The Critical Incident Response Group (CIRG) is a separate entity from FBIHQ and the field and concerns the support of special investigations and crisis management situations.

(1) Supervisors assigned to the Hostage Rescue Team (HRT) are given field supervisory credit in the Executive Development and Selection Program (EDSP). |(See also MIOG, Part I, 244-6.)|

(2) All other Supervisors assigned to CIRG are given credit for FBIHQ time in the EDSP.

(3) The Special Detail Group is supervised by a permanent GS-14 SSA who will be given credit for FBIHQ time in the EDSP and will be selected by the Director. Personnel vacancies in the Special Detail Group are limited to volunteers at grades GS-13 or below from ||WFO,| Baltimore, or CIRG and are assigned to CIRG only during their tenure on the Special Detail Group. The term assignment will be a minimum of two years with options to continue tenure on the Special Detail Group in one-year increments based on job performance. No special incentives are offered for assignments to the Special Detail Group.

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3-2.19 San Juan Division (See MAOP, Part I, 11-3.2.)

The following incentives apply only to supervisory positions in San Juan and on the Island of Puerto Rico. They do not apply to the SSRA position in St. Thomas:

(1) Special Agent supervisors from other field divisions are encouraged to apply for field supervisory vacancies in the San Juan Division. These candidates will be eligible to compete on an equal basis with FBIHQ candidates for nonstationary San Juan field supervisory vacancies.

(2) FBIHQ supervisors may apply for San Juan supervisory vacancies after completing nine months at FBIHQ. Any individual selected for one of these supervisory positions will be required to complete a minimum of 12 months at FBIHQ prior to assuming the San Juan supervisory position. Such individuals will be determined to have fulfilled their FBIHQ supervisory time for future promotional opportunities.

(3) FBIHQ and field supervisors who successfully compete for San Juan GS-14 supervisory positions and have three years of successful performance as a San Juan field supervisor and a minimum superior performance appraisal report will be allowed to compete for all nonstationary field supervisory positions Bureauwide on an equal basis with FBIHQ candidates.

(4) FBIHQ and field supervisors who successfully compete for any supervisory positions in San Juan Division will be offered an opportunity to transfer out of the San Juan Division AFTER THREE YEARS. IF, AFTER THE THREE-YEAR PERIOD, the SSA has not successfully competed and been selected for another supervisory position, he/she may opt to be transferred to an FBIHQ position based on the needs of the Bureau as determined by the SAMMS Board.

(5) Local career boards and the SAMMS Board will give appropriate consideration to all highly qualified San Juan candidates when they apply for other supervisory positions consistent with aforementioned incentives.

(6) San Juan supervisors who are designated Assistant Inspectors-in-Place will become inspection certified after completing seven inspections.

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| 3-2.20 | Detail/Term Assignments Within the Executive Development
and Selection Program | (Formerly 3-2.18) |

As noted in MAOP, Part I, Section 3-6.1 (3), all vacancies for GS-14 and GS-15 mid-level management positions will be advertised Bureauwide through the Job Posting Application System. This will include all detail assignments at these grade levels, regardless of the length of the assignment. This policy does not preclude division heads from laterally assigning a manager of equal grade from an FBIHQ position to a detail assignment within his/her own division.

(1) Special Agents serving in detail assignments at the GS-14 and GS-15 level will receive credit for management service at FBIHQ, unless stated otherwise in the job posting. This policy is NOT retroactive to individuals who have served in management detail assignments and were not competitively selected for those assignments.

(2) Upon completion of the detail assignment, Special Agents will be returned to the FBIHQ division responsible for the detail assignment, unless the candidate has successfully competed for a management position at another level or in another field or FBIHQ division, or unless specified to the contrary in the job posting. (Also see MAOP, Part I, 3-6.1 (11).)

(3) Division heads are responsible for the performance appraisals of Special Agents on detail assignment, and for ensuring that the candidates are included, where appropriate, in recommendations of candidates for career development activities, i.e., Inspection Staff, Executive Development Institute.

(4) Candidates selected by the Special Agent Mid-Level Management Selection Board for management detail assignments will be evaluated as they would be for any management position at the GS-14 or GS-15 level.

(5) Special Agents serving on detail assignments on a reimbursable basis may be promoted to a higher grade by the agency to which they are detailed provided they have competed for that position. However, this promotion will only be for the duration of the assignment, and upon return to a nondetail assignment, the Agent will revert to his/her previous grade level unless otherwise successful in

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competing for a higher-level position.

(6) Special Agents who are currently serving in term GS-14 or GS-15 positions and are in assignments which receive credit as Headquarters supervisors (such as the International Criminal Investigative Training Assistance Program) may compete for supervisory vacancies provided that he/she is otherwise qualified. Agents who do not successfully compete for promotions under this policy will revert to their permanent grade level at the end of their term and will be placed in an appropriate position.

EFFECTIVE: 05/19/97

|3-2.21| Term Chief Division Counsel (CDC) (See MAOP, Part II, 4-7.) |(Formerly 3-2.19)|

(1) CDC positions in field offices specifically identified by the General Counsel will be designated term GS-14 for a period of two years, which can be renewable in one-year increments not to exceed five years, during which term the position could be converted to a permanent position in appropriate cases.

(2) CDC positions are not considered a part of the Executive Development and Selection Program. However, once a CDC position is upgraded to GS-14, it is subject to competitive selection and will be posted on-line in the Job Posting Application. The Office of the General Counsel career board will review the candidates who apply, solicit and then consider the SAC's recommendation and evaluate the candidates against the criteria set forth in the job posting. The General Counsel will review the Office of the General Counsel career board recommendations and support or object by electronic communication. | Final selection will be made by the SAMMS Board.

(3) Associate Division Counsel (ADC) positions, as approved by the General Counsel for qualifying field offices, will be designated term GS-14 under the same terms and conditions set forth above for the CDC positions, and with the same eligibility for conversion to permanent position. Selection of the ADCs will occur in the same manner as selection of the CDCs.

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EFFECTIVE: 05/19/97

3-3 | SPECIAL AGENT | CAREER BOARDS | (See 3-6.4.2(2) (d).)

Field office/divisional | Special Agent | career boards are utilized in each field office having two or more field supervisory positions and may be ad hoc or permanent. For those field offices having less than two supervisory positions, the career board should include the ASAC and field supervisor.

EFFECTIVE: 06/14/93

3-3.1 Field Office/Divisional Career Boards

(1) The purpose of the field office/divisional career boards is to recommend to the SAMMS Board candidates for promotions to the Supervisory Senior Resident Agent and field supervisory positions. In addition, the field office/divisional career boards select Special Agents to become relief supervisors, secondary relief supervisors, principal relief supervisors, and Senior Resident Agents. The SAC may provide his/her views to the field office/divisional career board, but may not override the decision of the board. For information regarding field office/divisional career boards as they relate to EEO Counselors, see MAOP, Part I, Section 4-5.1. It also recommends Special Agents to the SAC for attendance at relief supervisory training at Quantico. If feasible and efficient for field office operations, the SAC may utilize the field office career board to assist him/her in other personnel matters such as: intraoffice transfers, quality increases, new Agent training matters, and selection of Agents to attend specialized in-services. The Special Agent career board should not be utilized to handle support personnel matters.

(2) Field office career boards will be chaired by an Assistant Special Agent in Charge and FBIHQ divisional career boards will be chaired by a Deputy Assistant Director or Section Chief. Field offices having an Assistant Director in Charge may opt to have the field career board chaired by either an SAC or ASAC. Field offices having Associate SACs may opt to have the career board chaired by either an Associate SAC or ASAC. The Board will consist of a

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minimum of three members, at least one of whom will be of minority (race or sex) status, if possible. All members of the board should be of a rank equal to or greater than the position(s) being considered. If no minority member of appropriate rank is available, a minority member of a lower rank should be included in the career board process as an observer rather than as a voting member.

(3) Complete documentation of all field office/divisional career board deliberations must be maintained, to include audio or stenographic recording of deliberations. Interviews of candidates conducted by the career board must be recorded. Appropriate security and classification is to be afforded the maintenance of the recording. Deliberations should be neutral with regard to the protected characteristics of age, color, religion, disability, national origin, race, sex, sexual orientation, marital status or political affiliation. Any discussion of these factors must be documented in the communication described below. In addition, no undocumented informal recommendations to members of the SAMMS Board are permitted. Documentation regarding the deliberative process must include the following information: (1) Names of all candidates applying for the position; (2) Names of all career board committee members and identification of minority member; (3) Date of deliberation, affirmation regarding the recording of deliberations; (4) Description of selection procedure including criteria utilized to make the selection and the basis for the rank order of candidates. This document must reflect the basis for the selection of the top candidates and the nonselection of others, to include evaluations of all those individuals who applied or were considered. A general grouping of candidates can be provided if they possess common deficiencies such as insufficient experience. All references to an individual that cannot be verified by a review of the FD-638 must be fully documented; (5) Identification of candidates recommended, including a summary of candidates' careers. Career boards should recommend at least three candidates, if possible, in rank order; (6) This communication must state the SAC/division head recommendation and, if different from that of the career board, provide explanation; (7) Names of all candidates appearing before field/divisional career boards must be indexed in order that retrieval can be made at a later date; and (8) A matrix containing relevant data on each candidate must be included with documentation. (See 3-6.4.2(2)(b).)

(4) All Special Agent career boards, including the SAMMS Board, the Senior Executive Service and all field office and Headquarters division career boards' documentation and recording of career board deliberations should be retained for a period of ten years following a final determination by the Board. Any documentation

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and recording of career board action which is the subject of litigation will be retained for the purposes of litigation, regardless of the passage of time.

EFFECTIVE: 03/07/97

3-3.1.1 Career Board Selections for In-Service Training

(1) All field offices that have 13 or more supervisors assigned to the field office will use a field office career board to make all selections for in-service training when both of the following conditions are met:

(a) The field office has received enough advance notice of the in-service training opportunity so that the training vacancy can be posted, and each Agent has the opportunity to apply and be considered for the training vacancy at the next regularly scheduled field office career board meeting; and

(b) More than one Agent who meets the minimum qualifications for the training vacancy has applied for the training vacancy.

(2) Field office career boards are not required for conferences, meetings or non-FBI sponsored training courses.

(3) It is not necessary to convene a field office career board when there is only one candidate who meets the minimum qualifications for a particular training vacancy.

(4) When a field office has not received enough advance notice to comply with the above requirements for using the field office career board to make the training vacancy selection, or where a substitution is necessary due to the unavailability of the initial selectee, the field office should utilize an alternative career board as described for smaller field offices. In such situations, the field office should document the reasons for the use of the alternative career board.

(5) All other field offices that do not meet the requirements of (1) above should consider using some form of a career board to oversee the selection of attendees at in-service training.

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This alternative career board can consist of as few as two supervisors or an ASAC and one supervisor, if necessary. The use of field office career boards or an alternative form in the smaller offices will help ensure that all in-service training selections are based on objective criteria that are documented and reviewed before being sent to the SAC for final approval.

EFFECTIVE: 05/22/96

| 3-3.2 | Deleted |

EFFECTIVE: 07/07/95

| 3-3.2.1 | Moved to 3-3.3 |

EFFECTIVE: 07/07/95

| 3-3.2.2 | Moved to 3-3.4 |

EFFECTIVE: 07/07/95

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3-3.3 Senior Executive Service (SES) Board (Formerly 3-3.2.1.)

This board, chaired by the Deputy Director, is comprised of six members selected from the ranks of Assistant Directors and Assistant Directors in Charge. The SES Board must include in its membership the Assistant Directors of the Criminal Investigative Division and the National Security Division. The Director will select the six members upon recommendation of the Deputy Director. When the SES Board meets to consider candidates for field office management vacancies, including SACs and Associate SACs, the Assistant Directors from the Criminal Investigative and National Security Divisions must be present. In the event that the Assistant Directors from the Criminal Investigative Division and/or National Security Division cannot be present when the SES Board considers SAC and/or Associate SAC vacancies, they will designate another Assistant Director or Assistant Director in Charge, whether a current SES Board member or not, with concurrence of the Deputy Director, to act on his/her behalf. A quorum of the SES Board to conduct business is the Deputy Director or, when required, an Acting Chairperson designated by the Deputy Director, and four members of the Board. All SES vacancies will be announced by electronic communication and interested candidates should contact the Administrator, EDSP, in order to be considered.

EFFECTIVE: 05/19/97

3-3.4 SAMMS Board (Formerly 3-3.2.2.)

(1) The SAMMS Board is comprised of: Deputy Assistant Directors, Criminal Investigative, National Security and Inspection Divisions, all of whom will have previously served as SAC and/or ASAC. Three SACs, with three alternates, will also serve as voting members of the SAMMS Board, rotating throughout the field every six months on a staggered schedule to ensure the continuity of field representation. The Chairperson, who will also be a voting member, will serve for a one-year term and will be of Assistant Director rank, having previously served as an SAC. While the remaining FBIHQ divisions will no longer have a voting member of the SAMMS Board, they will be permitted to send one nonvoting representative to each meeting. These nonvoting representatives should provide input on candidates assigned to their divisions and who are competing for selection by the SAMMS Board. Additionally, they may make presentations/recommendations to

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the SAMMS Board regarding vacancies under consideration in their respective divisions. Nonvoting members will also include a minority representative when there is no minority representative among the voting membership, an observer and a representative from the Director's Office. The FBIHQ EDSP Staff is responsible for coordinating SAMMS Board activities and attending meetings. The Director personally approves each member of the career board.

(2) The Chairperson of the SAMMS Board must be an Assistant Director from a service division and will be selected by the Director from the pool of Assistant Directors who have served as SAC. The Chairperson will serve for one year and be succeeded by the Alternate Chairperson. The Chairperson will cast a tie-breaking vote only.

(3) The Alternate Chairperson will be selected from a service division and from the pool of Assistant Directors who have served as SAC. The Alternate Chairperson will attend meetings in lieu of the Chairperson. The Alternate Chairperson, when serving as Chairperson, will cast a tie-breaking vote only.

(4) A nonvoting EDSP Manager will be an ex officio member of the board. Responsibilities of this position will focus on the compilation of background material, manpower forecasting, and policy formulation relative to career development. This position will also serve as an ombudsman role with respect to questions and concerns regarding career movement within the FBI.

(5) By personal delegation from the Director, the Chairperson of the SAMMS Board is authorized to make the final decision on all GS-14 supervisory positions and GS-15 Unit Chief positions. ASACs, GS-15 Legats and GS-14 Assistant Legats, Inspectors-in-Place, Ombudsman, and the GS-14 Supervisor of the Director's and Attorney General's Special Detail Group are selected by the Director based on recommendation of the SAMMS Board. (See 3-6.4.2(2).)

(6) Only after the SAMMS Board selects/ranks a candidate will the SAMMS Board be informed of any relevant disciplinary or EEO matter concerning the candidate in the past three years.

If the selected candidate is the subject of a pending disciplinary action or has been disciplined within the past three years, the SAMMS Board will forward his/her name and a summary of the allegations and/or disciplinary action, along with two additional candidates from which the Director will make the final decision. Additionally, if

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the selected candidate has been named a Responding Management Official in an EEO-related allegation of discrimination that has yet to be adjudicated or if there has been a determination that the candidate was culpable for an act of discrimination within the past three years, the SAMMS Board will forward his/her name with two additional candidates from which the Director will make the final decision. A summary of the allegations against the candidate, including the facts known at the time of selection and any information regarding the terms of any settlement agreement and/or reasons for settlement, will also be provided to the Director.

EFFECTIVE: 05/19/97

3-4 TRAINING SCHOOLS

Various supervisory/management training courses are available to those Special Agents in the Executive Development and Selection Program. Courses include the Relief Supervisory Seminar, FBI Supervisors Management Seminar, and Executive Development Institute (EDI). A description and career development prerequisite(s) of each training course is set forth below:

EFFECTIVE: 02/24/95

3-4.1 Relief Supervisors Training Program

The Relief Supervisors Training Program is a three-day program designed to provide management training on EEO issues, cultural diversity, team building, leadership and improving interpersonal skills. Relief supervisors who attend this program should be interested in becoming a part of the FBI's EDSP. The relief supervisor attending this school will be selected by the local career board based on overall assessment of individual's commitment to, and the potential for, management training. This course can be conducted regionally or at Quantico.

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EFFECTIVE: 06/14/93

3-4.2 Relief Supervisor Computer-Based Training Program

The computer-based training program was developed for relief supervisors to improve their management skills. After a short introduction to various management principles, the computer places the participant in the position of a field supervisor with approximately one hour to complete an "in-basket" of various types of FBI communications (electronic communication, etc.). The program then assists the participant in reviewing decisions reached by displaying the positives and negatives of each course of action. The relief supervisor will learn the importance of the management principles applied to the FBI such as control, delegation, leadership, and decisiveness and time management techniques.

Computer-based training exercises on mail handling, the in-basket and problem analysis are obtained through the Computer-Based Training Unit at the FBI Academy.

EFFECTIVE: 05/31/96

3-4.3 Deleted

EFFECTIVE: 02/24/95

3-4.4 Deleted

EFFECTIVE: 02/24/95

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| 3-4.5 | Deleted |

EFFECTIVE: 02/24/95

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EFFECTIVE: 02/24/95

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EFFECTIVE: 10/12/94

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EFFECTIVE: 10/12/94

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| 3-4.10 | Deleted |

EFFECTIVE: 10/12/94

|| 3-4.11 | Deleted

EFFECTIVE: 06/14/93

3-4.12 FBI Supervisors Management Seminars

A one-week, intensive program at the FBI Academy has been crafted for FBI field supervisors. With the use of active learning techniques, participants, nominated for attendance by their SAC, concentrate on the practical managerial skills needed to plan, direct, and control the work of FBI employees. The topical areas covered include field office inspection preparation, advanced leadership, employee assistance matters, EEO matters, performance appraisal matters, and Automated Case Support (ACS) matters. Opportunities are presented at each seminar to meet and confer with senior Bureau executives. This seminar is to be afforded all field supervisors, upon appointment, to introduce them to fundamental managerial skills.

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3-4.13 Executive Development Institute (EDI)

EDI I is a two-week course to develop managerial skills for experienced FBIHQ and field Supervisory Special Agents, GS-14 and above, FBIHQ support employees, and field Administrative Officers. EDI II is for ASAC candidates and newly assigned ASACs. The courses focus on personal and operational development and organizational issues.

(1) EDI I (Individual Development) - Selection for attendance at EDI I is made by the SAMMS Board and is prioritized in the following order: (1) experienced GS-14 and GS-15 Special Agents who are in either the field or FBIHQ and have completed their inspections; and (2) experienced GS-14 and GS-15 Supervisory Special Agents with the most number of completed inspections. Candidates should be recommended and ranked (if more than one candidate) by their division head and slots will be filled as they become available.

(2) EDI II (Operational Development) - Candidates are selected by the SAMMS Board from a pool of candidates who have recently been assigned as ASAC or who are otherwise ASAC candidates.

EFFECTIVE: 05/31/96

3-5 | MOVED TO 3-4.12 |

EFFECTIVE: 06/14/93

3-6 GENERAL POLICY STATEMENTS PERTAINING TO THE OPERATION OF
| EDSP |

EFFECTIVE: 12/12/91

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3-6.1 General Principles

(1) Entry into the EDSP is voluntary and withdrawal from the EDSP is also voluntary.

(2) An Agent may remove himself/herself at any stage of career development. Agents who voluntarily remove themselves from the EDSP are permitted to request reentry into the program, if they desire to do so, after a period of one year. The divisional career board must then evaluate the candidate and make a recommendation to the division head or SAC regarding reinstatement as a relief supervisor. Reentry into the EDSP as a supervisor or relief supervisor is based on the selection/recommendation of the field office career board.

(3) All vacancies for GS-14 and GS-15 Special Agent mid-level management positions will be advertised Bureauwide through the Job Posting Application System. (See 3-2.20.)

(4) The EDSP definition of "current performance appraisal report" as it relates to qualifications for job vacancies is: the most recent performance appraisal entered into BPMS by the closing date of the advertisement of a given vacancy. If the candidate has recently been given a performance appraisal, it is the candidate's responsibility to follow up with his/her division/office to ensure the appraisal has been entered and approved in the BPMS before the job posting deadline date. (See 3-6.4.2.)

(5) The SAMMS Board reviews the qualifications of volunteers as well as other qualified candidates and makes its selection based on the needs of the Bureau in conjunction with the qualifications of the candidates. The candidate selected may be required to transfer. Except as indicated in the next paragraph, Agents not accepting the selection and/or transfer within ten days of issuance of orders will be required to withdraw from the EDSP. (See 3-7.1.)

(6) Should a candidate volunteer for selection but then decline the selection and/or transfer due to personal reasons arising subsequent to that selection, he/she may request to remain in the EDSP by fully documenting the circumstances in an electronic communication (EC) and sending it without delay to the Administrator, EDSP. The same procedure is to be followed by a candidate who did not volunteer but was selected by the SAMMS Board, but the personal reasons forming the basis for his/her decision to decline the selection and/or transfer can arise before, during, or after the selection. The employee's division head should submit an EC with a recommendation as

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to whether the selectee should be permitted to remain in the EDSP. Each refusal to accept a selection/transfer will be addressed on a case-by-case basis by the SAMMS Board. The SAMMS Board will determine, based upon the record before it, whether such refusal is based upon compelling personal reasons and, therefore, in the interest of the Bureau to permit the employee to remain in the EDSP. (See 3-7.1(8).)

(7) A decision by the SAMMS Board to allow an employee to remain in the EDSP due to compelling personal reasons as discussed in the previous paragraph should not be construed as protecting the employee from being considered as a candidate for future selections by the SAMMS Board.

(8) A preference-eligible employee who will experience a reduction in grade as a result of his/her involuntary removal from the EDSP may be entitled to certain rights such as advanced written notice and an opportunity to respond. These are the same rights as are provided to preference-eligible employees who face certain proposed disciplinary-based adverse actions. See MAOP, Part I, 13-10.

(9) Personnel Resource List promotions are permissible for EDSP participants if organizational needs are served.

(10) Agents in the EDSP should not have direct supervisory or rating responsibility for their spouse. For senior executives with husbands or wives in the EDSP, some form of recusal may be appropriate.

(11) Individuals who are participating in assignments outside of normal FBIHQ divisions, i.e., the War College, State Department School, Assistant Inspector, Legal Attache, are encouraged to apply for positions for which they are qualified and in which they have an interest prior to completion of their detail assignment. If the individual is unable to secure a position of interest, they will be returned to the division from which they came, either as an overage or to fill a vacant position. (See MAOP, Part I, 3-2.20 (2).)

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3-6.2 Voluntary Policy

(1) Current EDSP policy requires that all entry-level FBIHQ supervisory positions be advertised Bureauwide. This procedure will ensure a Special Agent lawyer, firearms instructor, or any other Agent possessing a needed specialty and not seeking advancement through the structured EDSP, may advance within a specialized field. Persons selected for FBIHQ assignment will receive accelerated promotions to the GS-14 level, if applicable.

(2) When a person promoted to FBIHQ is not in the structured career path leading to future field management assignment and has not yet served as a relief supervisor or has had limited (usually less than five years) field experience, the SAMMS Board at the time of selection reserves the right to have a caveat placed on the Agent's transfer orders. This caveat places the Agent on notice as to what status the Agent is eligible to return to field operations in the future. (See 3-2.17 (3).)

(3) Regardless of prior field experience, all persons appointed to FBIHQ positions will have the opportunity to rise to higher levels of responsibility within the division or area of expertise according to their capabilities, work performance and division recommendations. However, in the event an FBIHQ supervisor, not having field supervisory experience, is promoted to Unit Chief, Section Chief, or above, and then seeks to return to the structured field management career path, the SAMMS Board, on a case-by-case basis, reserves the right to require the Agent return to field operations as a field supervisor or other appropriate level.

(4) While the advertising policy allows interested candidates to volunteer for a particular position, all qualified candidates are considered with final selections being made on the basis of the best person for the position. The individual selected will be required to transfer or remove himself/herself from the EDSP. (See 3-7.1.)

(5) The EDSP policy must call for a balanced interchange of personnel between field office assignments and FBIHQ assignments and more specifically to a balanced exchange of field office supervisors to FBIHQ supervisory assignments. In the event SAMMS Board notices an imbalance occurring where very few field supervisors are volunteering for posted FBIHQ positions, the following measure would be enacted:

(6) The SAMMS Board reserves the right to include the

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name(s) of supervisors who have served a minimum of two years in the nonstationary field supervisory position or a minimum of five years in the stationary field supervisory position, along with the name(s) of individual(s) who apply for advertised FBIHQ vacancies to make an appropriate selection.

EFFECTIVE: 05/19/97

3-6.3 Supervisory Advertising Policy

(1) It is the responsibility of the division in which a Special Agent mid-level supervisory vacancy (GS-14/GS-15) occurs to advertise the position through the FBI computer network, "Job Posting Application (JPA)" process. (This policy does not preclude division heads/SACs from reassigning managers in their respective divisions to other management positions at the same grade level.)

(2) The job posting announcement will be entered into the JPA and electronically transmitted to the Administrator, EDSP, where it will be reviewed, approved and transmitted Bureauwide. The deadline for applications for the position will be close of business two weeks from the date of approval and will be noted in the job posting announcement. No FD-638s will be accepted after the deadline.

(3) The job posting announcement is limited to the space available in the JPA system and will include the following information:

(a) Field supervisory positions will be designated as stationary or nonstationary

(b) Description of the duties of the position and work-related conditions

(c) The nature of the work and the number of persons supervised

(d) Qualifications for the position in order of priority

(e) Location of the position

(f) Name and phone number of points of contact

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(g) Instructions for submitting FD-638s

(4) It is the responsibility of the divisions to ensure that all Special Agents who are interested in management assignments become familiar with the JPA system. Copies of each job posting are to be posted in a prominent location specifically dedicated to this purpose. However, it is ultimately the responsibility of the Agent to be aware of postings in the JPA.

EFFECTIVE: 10/12/94

3-6.4 Reporting Procedures for Advertised Vacancies

(1) A standard, mandatory Form FD-638 has been developed for candidates to announce their interest in a particular supervisory vacancy either at FBIHQ or in a field office. Only Form FD-638 is to be utilized by an Agent requesting consideration for a supervisory vacancy.

(2) It is imperative that the FD-638 be utilized in every instance when requesting consideration for a supervisory vacancy. FD-638 includes self-explanatory instructions of how form is to be completed. Instructions should be strictly followed to ensure proper filing at FBIHQ and information set forth should not exceed the allotted space.

EFFECTIVE: 12/12/91

3-6.4.1 Legat Use of FD-638

Agent personnel assigned to Legal Attaches who respond to an advertised vacancy should submit background data by facsimile or teletype. Information set forth on teletype should follow format of FD-638. Legat should ensure his/her recommendation is included in any teletype and facsimile being forwarded for consideration.

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EFFECTIVE: 06/14/93

3-6.4.2 Application and Selection Process

(1) Application Process

(a) Special Agents interested in applying for specific positions advertised in the JPA will prepare two Supervisory Vacancy Request Forms (FD-638), complete with the exception of Item 11 - Division Head Comments. No classified information should be included in any FD-638. One copy is to be forwarded directly to the Administrator, EDSP, FBIHQ, Room 4981. The other copy is to be provided to the candidate's SAC or division head so that the appropriate recommendation may be added. The SAC/division head is to comment on the candidate's qualifications for the job advertised, leadership ability, interpersonal skills and potential for advancement. The SAC/division head will then forward the FD-638 to the Administrator, EDSP, FBIHQ, Room 4981. In order not to influence the field office/division career board, the SAC/division head will not comment on the FD-638s for vacancies WITHIN HIS/HER DIVISION. Once the field office/division career board has met and submitted a recommendation for selection, the SAC/division head will, at that time, make his/her recommendations regarding selection for the vacancy and forward both the field office/division career board and SAC/division head recommendations to the Administrator, EDSP for presentation to the SAMMS Board. The SAC/division head will continue to comment on FD-638s on candidates for vacancies that are NOT within his/her division. If it is known that the candidate is the subject of an administrative inquiry, the division head should notify the SAMMS Board of this by attaching a routing slip to the FD-638. Special Agents are to be advised of the substance of the recommendation by their SAC/division head so as to provide realistic expectations and developmental activities where necessary.

(b) All Special Agents who are competing for promotional opportunity are required to designate whether they wish either (a) the most recent performance appraisal report of record, or (b) the three most recent performance appraisal reports of record to be considered in connection with promotion decisions. It is the Agent's sole obligation to indicate his/her choice of options on all copies of the FD-638 by checking the appropriate box on the bottom of page 1 of the FD-638. If no box is checked, the three most recent performance appraisal reports will be considered. The EDSP definition of "current performance appraisal report" as it relates to

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qualifications for job vacancies is: the most recent performance appraisal entered into BPMS by the closing date of the advertisement of a given vacancy. If the candidate has recently been given a performance appraisal, it is the candidate's responsibility to follow up with his/her division/office to ensure the appraisal has been entered and approved in the BPMS before the job posting deadline date. (See 3-6.1.)

(2) Selection Process

(a) Once the application deadline is reached, the Administrator, EDSP, will identify all qualified candidates, ensure that SAC/division head recommendations are included for each candidate, and provide this information to the advertising entity. This package will be sent to the chairperson of the career board of the advertising entity within 10 calendar days of the job posting deadline as listed in the JPA. It is essential that FD-638s be submitted on a timely basis, and where necessary, facsimile transmissions will be accepted. Except in exigent circumstances, applications received by the Administrator, EDSP, after 5:30 p.m. Eastern time on the posted deadline will NOT be considered. SACs and division heads should not request FD-638s from any source other than the Administrator, EDSP.

(b) Once the local career board chairperson receives the FD-638s from the Administrator, EDSP, a local career board meeting should be scheduled and conducted as soon as possible. If the local career board is unable to evaluate the candidates within 90 days after the job posting announcement deadline, the advertising entity will be directed to re-post the advertisement and obtain a new list of candidates. Upon completion of its evaluation, the local career board will document its review and recommendations as described in Section 3-3.1 and forward pertinent material to the Administrator, EDSP.

(c) Interviews of candidates may be conducted at the discretion of the advertising entity. However, should the division choose to conduct interviews, then all candidates who apply must be interviewed, either in person or by telephone. The interviews may be conducted by the chairperson, his/her designee, or by the entire career board. Interviews must be recorded if conducted by the entire career board. In any case, the same individual(s) should conduct all interviews. Only in unusual circumstances and with the concurrence of the Administrator, EDSP, will Agents be allowed to travel for interviews. Interviews should be structured so as to elicit information not available on the FD-638, i.e., the candidate's oral communication skills, decision-making abilities, and leadership

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potential. It is recognized that this is a partially subjective process and the career board chairperson may confer with the Management Science Unit, Quantico, or the Administrator, EDSP, for assistance in structuring interviews.

(d) THE CAREER BOARD'S SELECTION PROCEDURE IS DETERMINED BY THE ADVERTISING ENTITY; HOWEVER, ONCE ESTABLISHED, IT MUST BE APPLIED CONSISTENTLY TO EACH APPLICANT FOR THE ADVERTISED POSITION. Career boards may obtain information from interviews of the candidates, the candidate's FD-638s, division head comments, current rating officials and PAR information (as selected by the candidate and provided to the local career boards by EDSP). If solicited or unsolicited comments of rating officials are considered by the local career board, then comments from the rating officials of all candidates must be sought. If comments of the candidate's rating official are in conflict with the documented comments of the division head, the candidate's division must reconcile these differences in a communication to the local advertising entity and the EDSP in the form of an addendum to the division head comments. Career boards will not consider such information received that is in conflict with the division head comments until it is reconciled in this communication. Administrative inquiry/action must NOT be part of the deliberative process in the field office/divisional career boards. These matters will be addressed at the SAMMS Board level. (See Section 3-3 for additional information regarding the career board process.)

(e) Local career boards are required to maintain all documents prepared as a result of their board meetings. In instances where it is determined to be necessary and appropriate to set aside and disregard a particular career board and reconvene another career board, all written documents and audio recordings of the initial career board that were set aside should be retained. Records for any subsequently held career board should reflect the following: that there was a previously held career board; the reason/basis for disregarding the previous career board; and that the original career board records have been sealed and placed in a secure location. There should be no mention made or documented concerning information discussed during or recommendations made by the previous career board.

(f) Field and Headquarters division career board recommendations are presented to the SAMMS Board during regularly scheduled SAMMS Board meetings. The SAMMS Board makes selections for most GS-14 and GS-15 positions and makes recommendations to the Director for ASAC, Legat, Assistant Legat, Inspector-in-Place, Ombudsman and the GS-14 Supervisor of the Director's and Attorney General's Special Detail Group positions. Once final selections are

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made, this information is transmitted by electronic communication to all FBI divisions, and is entered in JPA where it is maintained for 30 days. (See 3-3.4.)

(g) See MAOP, Part I, 3-2.10.12 for the selection process for the ASAC position.

(3) Feedback

(a) Special Agent candidates may contact the EDSF staff for feedback and counseling with respect to particular positions or their overall competitiveness for management assignments. No information will be provided which may infringe on the privacy rights of any of the other candidates.

(b) Career counseling also occurs at the local level, by the advertising entity SAC, division head or career board, should an inquiry be made. The Agent candidate should be advised as to his/her rating by the local career board and the reasons for the rating. Any deficiencies detected or discussed by the local career board should be raised with the candidate as part of the developmental process. If the candidate is already assigned to the division having the vacancy, he/she should be given appropriate developmental opportunities where necessary.

EFFECTIVE: 05/19/97

3-6.5 Stationary/Nonstationary Supervisors - General Policy

This program was implemented to provide supervisory continuity within a field office.

(1) Each SAC has the option of designating up to 50 percent (rounded down) of the supervisory personnel in his/her division as stationary supervisors. "Supervisory personnel" in this context means those holding GS-14 squad and resident agency positions, but not the ASAC or SAC positions. The SAC may also designate any fraction of his/her stationary supervisors, or may choose not to exercise the option at all. The SAC should secure the consent of an individual before recommending him/her as a stationary supervisor and is encouraged to consult with the field office career board.

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(2) Once a person is so designated, the stationary status attaches to the INDIVIDUAL for a five-year period, not to the position he/she occupied when designated. Persons designated will remain in place for five years unless, in what is anticipated will be a rare exception, a change is necessary for the best interests of the Bureau or required by the supervisor's inadequate performance. The stationary period begins upon designation and must include time already spent as a field supervisor. Thus, if a supervisor had served on one or more desks for 18 months before appointment as a stationary supervisor, his/her term could be expected to run for an additional 42 months. At the conclusion of the term, the former "stationary supervisor" again becomes available for transfer, but HIS/HER TRANSFER IS NOT AUTOMATIC.

(3) At the end of the five-year stationary period, FBIHQ will request the SAC to determine if the stationary supervisor desires at this time to resume investigative duties or is interested in continuing in the EDSP, thus making himself/herself available for transfer. AGAIN, THE TRANSFER IS NOT AUTOMATIC.

(4) It is important to note, however, that any stationary supervisor having fulfilled the five-year commitment will continue to be charged against the office as a stationary supervisor until such time as he/she is transferred or is removed from supervisory duties. This is done to ensure no field office accrues more than its authorized stationary supervisory quota.

(5) The SAMMS Board reserves the right to transfer stationary supervisors who have not served at FBIHQ, and who have served for five years in a supervisory position in a field office to a management position at FBIHQ. If the supervisor declines to accept a transfer, he/she will be removed from the EDSP and returned to investigative responsibilities. If the field office has a full share of stationary supervisors, and the remainder of nonstationary supervisors have in excess of three to five years in place, the SAMMS Board could deny the SAC authority to replace or remove a stationary supervisor with another stationary supervisor. The SAC could be instructed to advertise the vacancy as a nonstationary position to afford qualified, eligible candidates from FBIHQ the opportunity to apply. This would provide the necessary flexibility for healthy interchange of supervisory personnel and is consistent with the original policy established for the stationary supervisor program.

(6) Under unusually exceptional circumstances a stationary supervisor, with the concurrence of the SAC, may remove himself/herself from that status anytime within the five-year

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"protection" period. Inasmuch as the objective of the stationary supervisory program is to provide for continuity, stability and accountability at the critical field supervision level, such request will be carefully reviewed on a case-by-case basis by the SAMMS Board which has final authority.

(7) During stationary supervisor status, the supervisor is not considered for promotion. A stationary supervisor can apply for position at FBIHQ after he/she has served two years in this capacity and with SAC concurrence.

EFFECTIVE: 05/19/97

3-6.6 | SAMMS Board Selections - Field Supervisors |

EFFECTIVE: 05/19/97

3-6.6.1 | Stationary/Nonstationary Field Supervisor - Selections
(See also MAOP, Part I, 3-2.19.)

(1) Selections made by the SAMMS Board for stationary supervisory positions will be from the pool of qualified candidates currently assigned to the field office where the vacancy exists. If no candidates in that pool are deemed qualified, the SAMMS Board will make a selection from among the qualified FBIHQ candidates.

(2) Selections made by the SAMMS Board for nonstationary supervisory positions will be from the pool of qualified FBIHQ candidates. If no FBIHQ candidates in that pool are deemed qualified, the SAMMS Board will make a selection from among the qualified candidates currently assigned to the field office where the vacancy exists.

(3) The SAMMS Board will consider candidates for field supervisory positions who are currently field supervisors or relief supervisors in other field divisions only in instances where there

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are no qualified candidates from FBIHQ or the division in which the vacancy exists.

(4) To permit the SAMMS Board to satisfy specific and often-changing managerial needs, the SAMMS Board may, on occasion, deem it necessary to select non-FBIHQ candidates for nonstationary positions and candidates for stationary positions from among the candidates who are outside the field office with the vacancy. In all such instances, the SAMMS Board will attempt to select the individual most suited to fill the needs of the Bureau, while recognizing the individual's potential for service in other management assignments.

EFFECTIVE: 05/19/97

3-6.6.2 Promotions of Relief Supervisors to Field Supervisor

Relief supervisors in one field division can apply for field supervisory positions in other field divisions; however, these promotions will be extremely rare and approved only in the most unique situations.

EFFECTIVE: 05/19/97

3-6.6.3 Lateral Transfer of Field Supervisors to other Field Divisions (Formerly 3-6.9)

Field supervisors in one field division can apply for lateral field supervisory positions in another field division; however, these transfers will be extremely rare and approved only in the most unique situations.

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| 3-6.6.4 | Return of Former Field Supervisor to Field Supervisory
Assignments | (Formerly 3-6.7) |

Former field supervisors who are serving at FBIHQ will be allowed to apply for field supervisory positions after they have completed a minimum of two years at FBIHQ.

EFFECTIVE: 05/19/97

| 3-6.6.5 | Return of Former FBIHQ Supervisors to FBIHQ Supervisory
Assignments | (Formerly 3-6.8) |

Field supervisors with prior FBIHQ experience may apply for lateral transfer back to FBIHQ after serving two years as a field supervisor. This transfer will be in response to FBIHQ needs for talented, experienced supervision and will require concurrence of the respective SACs.

EFFECTIVE: 05/19/97

| 3-6.7 | Moved to 3-6.6.4 |

EFFECTIVE: 05/19/97

| 3-6.8 | Moved to 3-6.6.5 |

EFFECTIVE: 05/19/97

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| 3-6.9 | Moved to 3-6.6.3 |

EFFECTIVE: 05/19/97

3-6.10 Return of FBIHQ Supervisors Having Less Than Three Years'
Investigative Experience to Field Office Investigative
Duties

A procedure has been established whereby Agents having less than three years' (investigative) experience can submit a request to be reassigned from FBIHQ to the field as an investigator and a relief supervisor. This allows the Agent to become sufficiently experienced in an investigative capacity to become more competitive for promotion to a field supervisory position. The request should be submitted to the Personnel Division, Attention: Special Agent Transfer Unit, with a copy to the Administrator EDSP. The Agent must agree, in writing, to a voluntary reduction to a grade GS-13 if necessary. Such requests would have to receive the necessary approval from the Assistant Director to be released for an assignment in the field prior to the request coming to the Administrator, EDSP, and the Personnel Division. The requests should include the individual's listing of three major field offices and/or preferred geographical area should the needs of the FBI require them to be transferred.

EFFECTIVE: 04/21/94

3-6.11 ASAC and SAC Rotation

In order to prepare for potential turnover in the executive ranks and to address stagnation at these levels, ASACs and SACs due for rotation are reviewed on an annual basis. The Annual Succession Planning Conference first identifies these individuals and recommends their rotation for either lateral assignments to other field divisions, lateral assignments to FBIHQ, or promotional assignments to FBIHQ or other field divisions. These recommendations which are nonspecific as to exact location, are then reviewed by a joint board consisting of the membership of the SAMMS and SES Boards. The recommendations of this board are then submitted to the Director

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for his information and approval. Thereafter, the names are submitted to the SAMMS and SES Boards for their consideration as openings occur.

(1) ASAC Rotation

ASACs who have served in the same position for five years or more are reviewed for possible rotation by the Succession Planning Conference on an annual basis. ASACs identified for rotation will be contacted by the Deputy Director or his/her designee regarding the basis for reassignment. The affected ASAC will have 14 days to respond in writing to the Deputy Director setting out any facts and circumstances supportive of reconsideration by the Deputy Director. If the decision to reassign the ASAC stands, the ASAC will be advised by the Deputy Director or his/her designee of that decision and that ASAC should exercise due diligence in reviewing the Job Posting Application (JPA) and apply for vacancies for which the ASAC believes he/she is competitive. If after 90 days the affected ASAC does not successfully compete for another assignment, the Deputy Director, with the assistance of the Executive Development and Selection Program, will identify an appropriate assignment for direct placement. Nothing in this policy would preclude the affected ASAC from requesting other appropriate reassignment which is in the best interest of the candidate, the Bureau, and is not in violation of law and/or policy prior to direct placement.

(2) SAC Rotation

SACs will generally be kept in their offices of assignment for a minimum of three years and an average of five years before being considered for rotation into other assignments. Thereafter, on a case-by-case basis, an SAC could remain in place for five to seven years. At seven years, barring any strong reasons to the contrary, the SAC should expect to be rotated out of the division. This policy does not condone poor or marginal performance. Therefore, any time the Board identifies an SAC whose performance has fallen to a level which it considers detrimental to the continued success of the office and the FBI, the Board will recommend to the Director that swift action be taken to remove that manager to a position of lesser responsibility, regardless of his/her tenure in that office.

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| 3-6.12 | Deleted |

EFFECTIVE: 02/24/95

3-6.13 Hardship Transfer Policy for Special Agents in the EDSP

(1) The SAMMS Board, with the approval of the Director, has established a hardship transfer policy for supervisory personnel. Henceforth, hardship requests will be sent by the SAMMS Board to Personnel Division for review by the same system that presently reviews hardship transfer requests before the grade 14 level. The Personnel Division, after determining if the individual is eligible for hardship consideration, based on standards applied to all other such requests, will furnish this information back to the SAMMS Board.

(2) If the Personnel Division advises that the situation qualifies for a hardship transfer, and an appropriate opening within the EDSP exists, it will then be necessary for that position to be advertised just as any such opening is required to be advertised. Thereafter, the SAMMS Board will review the candidate with the hardship along with the other candidates and make the final determination.

(3) It is possible to envision a situation where the Personnel Division decides a hardship exists but the SAMMS Board cannot identify a transfer to alleviate it. It will then be necessary for the EDSP participant to decide if he/she wants to remove himself/herself from the EDSP in order to accomplish the transfer to the desired location.

| (4) See Section 3-2.1 | (12) | for policy with respect to relief supervisors under hardship transfer.

EFFECTIVE: 10/18/95

| 3-7 REMOVAL FROM | EDSP |

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EFFECTIVE: 12/12/91

3-7.1 General (See MAOP, Part I, 3-6.1, 3-6.2 and 11-7.)

(1) All SAs who accept transfer to FBIHQ will remain assigned to the greater Washington, D.C., area for a minimum of two years regardless of their standing on the PRL, unless staffing or specialty needs dictate they be transferred elsewhere.

(2) A Supervisory Special Agent (SSA) who has served two years at FBIHQ and requests removal in writing from the EDSP will be afforded a PRL transfer only if that Agent is number one on the PRL for the desired office and that office has a staffing need.

(3) An SSA assigned to FBIHQ who requests removal in writing from the EDSP and does not qualify for a PRL transfer as set forth in (2) above, will be reverted to a GS-13 and transferred, at no cost to the government, to Washington Field Office or Baltimore (unless staffing needs dictate otherwise) and, thereafter, be afforded the same PRL considerations as any other Agent.

(4) An SSA assigned to a field division who requests removal in writing from the EDSP will be afforded a PRL transfer only if that Agent is number one on the PRL for the desired office and a staffing need exists; otherwise, the Agent will remain assigned, in an investigative capacity, in that same division with the same PRL eligibility as any other Agent and revert to a GS-13.

(5) Under exceptional circumstances and where critical operational/administrative needs dictate, an SSA assigned to FBIHQ (having completed two years at FBIHQ) who requests removal in writing from the EDSP but does not stand number one on the PRL for the desired office, or that office does not have a current staffing need, may request removal from the EDSP and remain in his/her current assignment. This is contingent upon the approval of the division head and concurrence of the Special Agent Mid-Level Management Selection Board, until attaining number one standing on the PRL and a staffing need exists in the respective office; otherwise, he/she will be transferred in accordance with (3) above. The Agent will not be considered for further administrative advancement and will not be allowed to apply for positions in the EDSP while awaiting movement into the desired office.

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(6) Requests by SSAs for removal from the EDSP should be forwarded through the employee's SAC or division head to the Administrator, EDSP, with a copy to SATU. The request must contain the statement that the SSA is willing to accept a reduction in grade in connection with the request, if appropriate, and should identify particular offices of assignment preferred by the Agent. An SSA requesting removal from the EDSP resulting from the directed transfer of his/her Bureau-employed spouse must also be willing to accept a reduction in grade, however, may remain in the EDSP as a relief supervisor.

(7) An Agent may remove himself/herself from the EDSP at any stage of career development. Removal from the EDSP makes an individual ineligible to apply for any vacancy until he/she reenters the Program. Agents who voluntarily remove themselves from the EDSP are permitted to request reentry into the program, if they desire to do so, after a period of one year. The division career board must then evaluate the candidate and make a recommendation to the division head or SAC regarding reinstatement as a relief supervisor. Reentry into the EDSP as a relief supervisor is based on the selection/recommendation of the field office career board.

(8) When an Agent is transferred by the SAMMS Board and that Agent's SSA spouse must "step down" from the current grade in order to maintain a common household, the spouse may retain relief supervisory status and will not be required to remove himself/herself from the EDSP. If the SSA is a GS-13, he/she need not "step down" in grade, he/she will simply lose the SSA title.

EFFECTIVE: 03/25/97

3-8 HOUSE APPROPRIATIONS COMMITTEE - SURVEYS AND
INVESTIGATIONS STAFF (See MAOP, Part I, |11-18.4.4.)

(1) Many of the programs handled by the House Appropriations Committee - Surveys and Investigations Staff (hereinafter referred to as Staff) have national or worldwide significance and can include such studies as national energy problems, military readiness and deployment and worldwide intelligence activities. The responsibilities inherent in this highly visible, complex and important assignment require individuals who have strong potential to develop executive ability in order to accomplish the desired ends of the committee. Individuals considered for selection

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must exhibit personal responsibility; have initiative, resourcefulness and versatility; and possess outstanding qualities of logic, perception and organizational and literary ability. Special Agents assigned to the Staff will be dealing with persons representing the highest level of Government and, therefore, it is imperative that they be capable of representing the FBI in an outstanding manner.

(2) The Surveys and Investigations Staff is directed by an Executive Staff composed of a permanent Chief, a Director and two Assistant Directors. The Director and two Assistant Directors are selected from the ranks of the FBI and GAO.

(3) As stated in MAOP, Part I, Section 11-18.4.3, Special Agents serving on the House Appropriations Committee, Surveys and Investigations Staff, may be promoted to the temporary position of Team Leader, GS-14. Upon returning to the rolls of the FBI, they will revert to their previous grade level unless they have successfully competed for another FBI management position.

(4) Special Agents assigned to the Staff will not be allowed to compete for FBI management assignments unless they have previously served as relief supervisors.

(5) See MAOP, Part I, Section 11-18.4.2 for House Appropriations Committee staff personnel selection process.

(FOR FURTHER DETAILS CONCERNING SELECTION, ASSIGNMENT, AND PROMOTION WITHIN THE RANKS OF THE HOUSE APPROPRIATIONS COMMITTEE, SEE PART I, 11-18.4, OF THIS MANUAL.)

EFFECTIVE: 06/21/94

3-8.1 Deleted

EFFECTIVE: 12/12/91

3-8.2 Deleted

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EFFECTIVE: 12/12/91

3-8.3 Deleted

EFFECTIVE: 12/12/91

3-8.4 Deleted

EFFECTIVE: 12/12/91

3-9 CAREER DEVELOPMENT GRIEVANCE PROCESS | (See MAOP, Part I,
3-2.10.17.) |

(1) Grievances regarding the selection process utilized by the SAMMS Board should first be discussed with the Administrator of the EDSP. Agents in the EDSP may have access to the documentation regarding career board deliberations which affect them through the Freedom of Information and Privacy Acts.

(2) Individuals who believe that they have not been selected for specific promotions based on discrimination relative to race, color, sex, sexual orientation, national origin, religion, age, disability, or reprisal, should contact their Equal Employment Opportunity Counselor within 45 days of the selection.

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3-10 SAMMS BOARD SELECTION APPEALS COMMITTEE (See MAOP, Part I,
3-2.10.17.)

The Appeals Committee provides a formal process for Special Agents to appeal decisions of the FBI SAMMS Board and the Career Counsel Board (CCB) under the Special Agent Mid-Level Management Selection System (SAMSS) based on misapplication or perceived misapplication of the published SAMMS Board policies and procedures. The Appeals Committee, when deemed necessary, will provide advice to SAMMS Board as to the effectiveness of established procedures and may recommend policy changes as a result of its review of appeals.

(1) The Appeals Committee is an independent body, under the general supervision of the Deputy Director, consisting of five voting members: an Assistant Director (AD) who chairs the committee and four Deputy Assistant Directors (DADs) and/or Section Chiefs (SCs); and one representative each from the Executive Development and Selection Program (EDSP), the Office of the General Counsel (OGC), and the Personnel Division (PD). The representatives from the EDSP, the OGC, and the PD are nonvoting members. The EDSP representative provides an authoritative interpretation of current SAMMS Board and SAMSS policies; the OGC representative provides legal advice; and the PD representative provides advice and authoritative interpretation of personnel management rules, as well as staff support, to the Committee members. The term of all voting members is one year, which may be extended at the discretion of the Director.

(2) Inasmuch as promotion is not an employee entitlement, it is the policy of the federal government that agency appeal procedures should not include grievances for nonselection for promotion from a group of properly ranked and qualified candidates. Accordingly, FBI employees may not appeal actions solely based on nonselection; such appeal must be based on a claim of misinterpretation or misapplication of SAMMS Board or SAMSS policies and/or procedures.

(3) Career development participants having questions/concerns regarding the application of governing SAMMS Board or SAMSS should contact the EDSP Administrator. While such a contact is not required before formally appealing a selection decision, the Administrator may resolve a particular inquiry or concern. Although informal, this is highly recommended as the first step in the appeals process.

(4) Aggrieved career development participants have the

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right to file a formal appeal with the Appeals Committee at FBIHQ. Such an appeal must be submitted in writing, within 30 calendar days of the posting of the SAMMS Board decision in the On-line Job Posting Application or official notification of the CDE score. All formal appeals and/or correspondence should be directed to the SAMMS Board Appeals Committee Chairperson. Unusual circumstances adversely affecting an Agent's ability to file his/her grievance in a timely manner may be cause for the Appeals Committee to extend the submission period. It is the Agent's responsibility to bring such circumstances to the attention of the Committee as soon as possible.

(5) Agents may be afforded administrative leave up to a maximum of four hours to prepare the written communication, which must include: (1) the title of the position for which application was made; (2) the participant's personal qualifications for the vacancy; (3) the reason for the appeal/the impropriety suspected in the application of the selection procedures; and (4) the requested corrective action or remedy. Any information/document(s) believed pertinent by the Agent should be included with the written communication.

(6) The Appeals Committee will review the specific appeal and the action taken by the SAMMS Board or CCB to determine its compliance with governing procedures. A written communication advising of the Committee's decision on the matter and of any corrective action(s) will be provided to the Agent and the SAMMS Board. Should the Agent file a complaint in any other forum, including an EEO complaint or civil action, based on substantially the same set of operative facts, the Committee will set aside the appeal with no action and advise the Agent. All Appeals Committee correspondence related to an appeal will remain under the strict control of the Appeals Committee and will be purged ten years from the date of the response letter. Appeals Committee written decisions will not be made a part of any Agent's official personnel file.

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3-11

REQUIREMENTS FOR CAREER PATH POSITIONS

(1) Relief Supervisor (See MAOP, Part I, 3-2.1(4).)

- (a) Two years' investigative experience
- (b) Field office career board approval
- (c) Superior performance appraisal
- (d) Deleted

(2) Field Supervisor

- (a) Three years' investigative experience
- (b) Relief supervisor experience
- (c) Selection by SAMMS Board
- (d) Superior performance appraisal
- (e) Deleted

(3) HQ Supervisor

- (a) Three years' field investigative experience
- (b) Relief supervisor experience
- (c) Selection by SAMMS Board
- (d) Superior performance appraisal

(e) For Office of the General Counsel and Laboratory Divisions, relief supervisory experience is strongly preferred but not required.

(4) GS-15 HQ Positions (See MAOP, Part I, 3-2.8.)

- (a) Three years' field investigative experience
- (b) Relief supervisor experience
- (c) Superior performance appraisal

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Applicants are advised that individual competition for GS-15 positions is enhanced by possession of one or more of the following:

- (d) Two years' managerial experience at FBIHQ
 - (e) Certification by Inspection Division
 - (f) Two years' field supervisor experience
- (5) ASAC
- (a) Two years' field supervisor experience
 - (b) Two years' FBIHQ supervisor experience
 - (c) Certification by Inspection Division
 - (d) Deleted
 - (e) Superior performance appraisal
 - (f) Completed career development evaluation
- (6) SAC, DAD, ASSOCIATE SAC, SECTION CHIEF
- (a) Proven performance at mid-level management
 - (b) Selection by Senior Executive Service Board

EFFECTIVE: 05/19/97