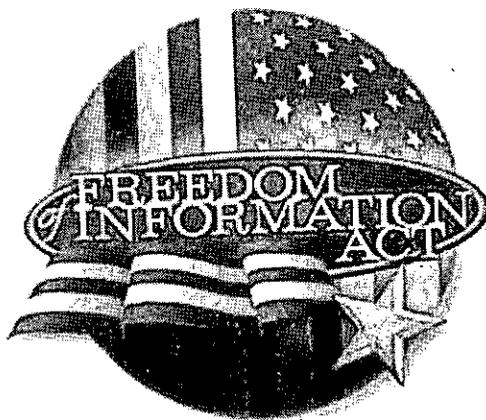


**FREEDOM OF INFORMATION
AND
PRIVACY ACTS**

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

Volume: 2 PART 1



FEDERAL BUREAU OF INVESTIGATION

**THE BEST COPY
OBTAINABLE IS
INCLUDED IN THE
REPRODUCTION OF
THESE DOCUMENTS.
PAGES INCLUDED THAT
ARE BLURRED, LIGHT, OR
OTHERWISE DIFFICULT
TO READ ARE THE
RESULT OF THE
CONDITION OF THE
ORIGINAL DOCUMENT.
NO BETTER COPY CAN BE
REPRODUCED.**



VOLUME II

PART I

*Manual of
Investigative
Operations
and Guidelines*

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 102 - 1

SECTION 102. VOORHIS ACT

102-1 STATUTE

Title 18, USC, Section 1386.

EFFECTIVE: 01/31/78

102-1.1 Registration of Certain Organizations

This act provides that the following organizations shall be required to register with the Attorney General:

"Every organization subject to foreign control which engages in political activity;

"Every organization which engages both in civilian and military activity and in political activity;

"Every organization subject to foreign control which engages in civilian military activity; and

"Every organization, the purpose or aim of which, or one of the purposes or aims of which, is the establishment, control, conduct, seizure, or overthrow of a government or subdivision thereof by the use of force, violence, military measures, or threats of any one or more of the foregoing."

EFFECTIVE: 01/31/78

102-2 DEPARTMENTAL POLICY

Very rarely has the Department authorized prosecution under this statute.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 102 - 2

EFFECTIVE: 01/31/78

102-3 VENUE

Where the violation is failure to register, venue will lie only
in the District of Columbia.

EFFECTIVE: 01/31/78

102-4 CHARACTER - VOORHIS ACT

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 103 - 1

SECTION 103. INTERSTATE TRANSPORTATION OF STOLEN|LIVESTOCK|

103-1 STATUTES

| Title 18, USC, Sections|667,|2311 (in part), 2316, and
2317

EFFECTIVE: 07/11/85

| 103-1.1 |Section 667 - Theft of Livestock

"Whoever obtains or uses the property of another which has a value of \$10,000 or more in connection with the marketing of livestock in interstate or foreign commerce with intent to deprive the other of a right to the property or a benefit of the property or to appropriate the property to his own use or the use of another, shall be fined not more than \$10,000 or imprisoned not more than five years or both."

EFFECTIVE: 07/11/85

||103-1.2 Section|2316 - Transportation of Stolen|Livestock|

||livestock,|knowing the same to have been stolen, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

EFFECTIVE: 07/11/85

||103-1.3 Section|2317 - Sale or Receipt of Stolen|Livestock|

|"Whoever receives, conceals, stores, barter, buys, sells or disposes of any|livestock,|moving in or constituting a part of interstate or foreign commerce, knowing the same to have been stolen, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 103 - 2

EFFECTIVE: 07/11/85

103-1.4 Section 2311 - Definitions

"... 'Livestock' means any domestic animals raised for home use, consumption or profit, such as horses, pigs, llamas, goats, fowl, sheep, buffalo, and cattle, or the carcasses thereof."

EFFECTIVE: 10/24/94

103-1.5 Elements (Title 18, U.S. Code, Sections 2316 and 2317)

- (1) That livestock were stolen.
- (2) That the livestock were transported in interstate or foreign commerce.

(3) The person transporting the livestock knew them to have been stolen; or, the person receiving, concealing, storing, bartering, selling, or disposing of the livestock knew them to have been stolen. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the livestock were stolen, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

EFFECTIVE: 10/23/95

103-1.6 Elements (Title 18, U.S. Code, Section 667)

- (1) Unlawfully obtaining the property of another having a value of \$10,000 or more.
- (2) Marketing livestock in interstate or foreign commerce.
- (3) Intent to deprive or defraud another through larceny, embezzlement, misapplication, fraud, deception or conduct of a similar

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 103 - 3

nature.

EFFECTIVE: 07/11/85

103-1.7 Gist of the Offense

Under Section 667 the gist of the offense is unlawfully obtaining the property of another having a value of \$10,000 or more, or its use, in connection with the marketing of livestock in interstate or foreign commerce. The property could be the livestock itself, or any money, checks, or other property paid to acquire the livestock. The deprivation need not be permanent. Thus, Section 667 can reach the situation involving a defrauded purchaser who does not receive the livestock he/she has paid for, as well as the situation involving a defrauded seller who does not receive payment for the livestock he/she has sold and delivered.

EFFECTIVE: 07/11/85

103-2 INVESTIGATIVE PROCEDURE

(1) Definitely establish actual theft has occurred.

(a) Many reported thefts are results of straying.

(b) If information obtained from other than owner, interview owner or owner's representative.

(c) If scene of theft located, make complete crime scene search with attention directed to [REDACTED]

(2) If facts indicate a violation, obtain information regarding owner's brand, evidence of ownership, tattoos, ear tags, description of the livestock, peculiar markings, full particulars surrounding the theft, and the names and descriptions of suspects and of any vehicles they may utilize or that were seen in the area of the theft. Some states have laws requiring owners to designate a brand and register same. Others have laws providing that a certified copy of a recorded brand is prima-facie evidence of ownership.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 103 - 4

(3) If violation indicated

(a) Immediately notify state brand inspector in state where livestock taken, and request that inspector's organization be alert for livestock bearing owner's brand, for activities of suspects, and for vehicles that may have been seen in area of the theft.

(b) State brand inspectors, and/or local law enforcement officers, frequently have authority to stop and inspect livestock in transit.

(c) Some states require that livestock being transported from or into these states have permits requiring such transportation.

b2
b7E

(e) Brand inspectors often have book listing all registered brands for comparison purposes.

(4) If facts indicate stolen livestock may be disposed of through large stockyard, set out leads for offices covering stockyards or other large concentration points of livestock, and request that stops be placed. Same holds true for regional livestock auctions.

(5) If possibility exists stolen livestock slaughtered and sold to butchers.

(a) Determine through sources and local law enforcement agencies which butchers may deal in stolen meat, and

(b) Determine from meat-packing house and their salespeople whether any customer has had sudden, unexplained decrease in purchases.

EFFECTIVE: 07/11/85

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 103 - 5

103-3 PRESENTATIONS TO U.S. ATTORNEY'S OFFICE

(1) If livestock obtained through the giving of fraudulent check or security, present facts to USA for prosecutive opinion prior to extensive investigation.

(2) If facts indicate transportation of portions of slaughtered livestock, obtain opinion of USA to determine if such portions fall within statutory term "carcass."

(3) Present facts to USA in single animal theft cases to determine if USA will prosecute such a case. If not, close case administratively and notify brand inspectors and/or local law enforcement agency.

EFFECTIVE: 07/11/85

103-4 REPORT WRITING RULES

(1) Forward to FBIHQ copy of any prosecutive summary report prepared in this classification of investigation for the USA's Office, utilizing current Bureau guidelines for the preparation of such reports.

(2) No report need be forwarded under any other circumstances unless it is determined to be the most logical means to disseminate the results of investigation accumulated, or when it is decided that a report is the best means to disseminate such results to other Federal agencies through FBIHQ rather than via an LHM.

EFFECTIVE: 07/11/85

103-5 VENUE

In an district from, through, or into which such livestock have been transported (Title 18, USC, Section 3237).

EFFECTIVE: 07/11/85

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 103 - 6

| 103-6 CHARACTER - INTERSTATE TRANSPORTATION OF STOLEN | LIVESTOCK |

EFFECTIVE: 07/11/85

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 105 - 1

SECTION 105. FOREIGN COUNTERINTELLIGENCE INVESTIGATIONS

105-1 FOREIGN COUNTERINTELLIGENCE INVESTIGATIONS

Information concerning the 105 classification is set forth
in a separate FBI manual, the NATIONAL FOREIGN INTELLIGENCE PROGRAM
MANUAL (NFIPM).

EFFECTIVE: 02/14/97

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 109 - 1

SECTION 109. FOREIGN POLITICAL MATTERS

109-1 FOREIGN POLITICAL MATTERS

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

Information in this file is broken down by Country.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 110 - 1

SECTION 110. FOREIGN ECONOMIC MATTERS

110-1 FOREIGN ECONOMIC MATTERS

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

Information in this file is broken down by Country.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 111 - 1

SECTION 111. FOREIGN SOCIAL CONDITIONS

111-1 FOREIGN SOCIAL CONDITIONS

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

Information in this file is broken down by Country.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 112 - 1

SECTION 112. FOREIGN FUNDS

112-1 FOREIGN FUNDS

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

Information in this file is broken down by Country.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 113 - 1

SECTION 113. FOREIGN MILITARY AND NAVAL MATTERS

113-1 FOREIGN MILITARY AND NAVAL MATTERS

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

Information in this file is broken down by Country.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 115 - 1

SECTION 115. BOND DEFAULT

115-1 BACKGROUND

|The Bail Reform Act of 1984, enacted October 12, 1984, as part of the Comprehensive Crime Control Act of 1984, replaced Sections 3141-3151 of Title 18, United States Code. Sections 3141-3149 were later amended in the Criminal Law and Procedure Technical Amendments Act of 1986, enacted November 10, 1986. Sections 3142 and 3143 were amended, and 3151 added, in Public Law 100-690, enacted November 18, 1988. The new provisions are designed to assure a forthright means of detaining a dangerous offender, and an offender who is likely to flee while pending trial and/or during appeal. Specifically, the new provisions: (1) allow judges and magistrates to consider danger to the community or individuals in setting pretrial release conditions other than financial conditions; (2) permit the imposition of additional types of release conditions, including probationary-type supervision, and permit the rejection of bail money if its source is illegal income; (3) allow pretrial detention of a defendant if no condition of release will assure his/her appearance or ensure the safety of specific individuals or the community in general; (4) provide procedures for revoking the release; (5) bar post-sentence release unless a defendant proves that such release would not pose flight or safety risks and that the case is likely to be reversed on appeal; and (6) raise penalties for bail jumping and provide mandatory penalties for crime committed while on pretrial release. (See 115-3, "Policy," and MIOG, Part II, Section 21-28, regarding the Attorney General guidelines for instructions on the FBI's conduct of these investigations.)|

EFFECTIVE: 01/22/90

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 115 - 2

115-2 PRINCIPAL STATUTES AND PENALTIES

| The following is a list of statutes pertaining to this section:

- Section 3141. Release and detention authority generally
- Section 3142. Release or detention of a defendant pending trial
- Section 3143. Release or detention of a defendant pending sentence or appeal
- Section 3144. Release or detention of a material witness
- Section 3145. Review and appeal of a release or detention order
- Section 3146. Penalty for failure to appear
- Section 3147. Penalty for an offense committed while on release
- Section 3148. Sanctions for violation of a release condition
- Section 3149. Surrender of an offender by a surety
- Section 3150. Applicability to a case removed from a state court
- Section 3151. Refund of forfeited bail
- Section 3152. Establishment of pretrial services
- Section 3153. Organization and administration of pretrial services
- Section 3154. Functions and powers relating to pretrial services
- Section 3155. Annual reports
- Section 3156. Definitions |

EFFECTIVE: 01/22/90

| 115-2.1 | Deleted |

EFFECTIVE: 01/22/90

| 115-2.2 | Deleted |

EFFECTIVE: 01/22/90

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 115 - 3

| 115-2.3 | Deleted |

EFFECTIVE: 01/22/90

115-3 POLICY

| (1) By Department of Justice directive dated |8/11/88, | the FBI was relieved of the responsibility for handling bond default investigations, in favor of such cases being handled by the U.S. Marshals Service (USMS).

(2) In cases where the FBI is the originating agency and the defendant fails to appear while released on bond, the FBI shall retain jurisdictional responsibility.

(3) If and after the defendant is adjudicated guilty and he/she remains on bond and fails to appear for further court proceedings or fails to surrender to begin serving his/her sentence, the USMS shall assume investigative responsibility.

| (4) If, after |8/11/88, | a new bond default subject within the primary jurisdiction of the USMS also becomes an FBI substantive fugitive, of course, we will seek his/her apprehension under the substantive case, but "00" must advise the USM in the district holding the warrant of its fugitive involvement and notify USM's office promptly upon apprehension. This notification will, of course, not change the existing procedure of advising the USM in the district where the subject is located.

| (5) Should, after |8/11/88, | a bond default violator within the responsibility of the USMS become a suspect in an FBI substantive case and "00" desired to actively seek the subject's apprehension under the ongoing substantive matter, this may be done provided the USMS is notified and the fugitive aspects of the case are an FBI-USMS coordinated effort. Of course, when the fugitive is apprehended or eliminated as a suspect in the substantive case which no longer demands FBI fugitive involvement, the appropriate USM must be notified.

(6) If any subject of an existing USMS responsibility bond default matter is wanted as a fugitive in an FBI substantive case, the existing "115" case should be consolidated and handled as a dual character substantive case.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 115 - 4

(7) If for some reason it should be imperative for an "OO" to initiate a new "115" fugitive investigation involving a non-FBI case, advise FBIHQ on a UACB basis of the facts demanding FBI involvement.

(8) When a bond default case has been referred to and accepted by an office for investigation, promptly ensure that the proper process has been issued and is currently outstanding.

(9) The process issued will be a bench warrant charging the subject with either bond default violation of Title 18, USC, Section 3146, or failure to appear. A failure to appear warrant does not have a USC citation and is not capable of Federal prosecution. It is merely a means by which the subject is ordered arrested and brought before the court to face the original underlying charge for which subject made bond.

(10) Even if the bench warrant issued charged the subject with failure to appear, the proper Bureau character is bond default and failure to appear should not be utilized.

(11) Since a failure to appear warrant is not capable of Federal prosecution, the USA should be promptly contacted for a prosecutive opinion while the subject is in fugitive status for the purpose of indictment for bond default, Title 18, USC, Section 3146, or to attempt to secure future prosecution for bond default upon subject's ultimate apprehension.

(12) In the above instance, the USA may decline prosecution of the subject for bond default while in fugitive status or indicate USA will not attempt to prosecute him/her for bond default when apprehended. As long as the failure to appear warrant remains outstanding, the Bureau's fugitive investigation must continue in order that the subject may be ultimately prosecuted on the underlying Federal charge.

(13) Although a bond default violation is primarily a fugitive-type investigation, it is also a Bureau substantive offense capable of Federal prosecution. During the fugitive investigation, evidence should be obtained to establish his/her willful failure to appear. In addition, upon the subject's apprehension he/she should be interviewed regarding the bond default offense to ensure successful prosecution.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 115 - 5

EFFECTIVE: 01/22/90

115-4 OFFICE OF ORIGIN

(1) Deleted

(2) Where the subject, charged with a Bureau substantive violation, is arrested by the office of origin or an auxiliary office, and is released on bond and fails to appear within the office of origin's territory as required, that office will continue to act as the office of origin since the bond default violation occurred within their territory.

(3) Where the subject, charged with a Bureau substantive violation, is apprehended by an auxiliary office, and is released on bond and fails to appear within their territory as required, the following developments may occur which shall determine who shall act as the office of origin.

(a) Since the substantive warrant issued for the subject has been executed upon subject's apprehension by the auxiliary office, it is no longer outstanding. If the office of origin's USA causes the executed warrant to be reissued or a new warrant to be issued for the subject charging him/her with the original substantive offense, that office shall continue to act as the office of origin regardless if the auxiliary office's USA causes a bond default or failure to appear warrant to be issued for the subject.

(b) If the office of origin's USA does not cause the original executed warrant to be reissued or a new warrant to be issued for the subject charging subject with the original substantive offense, the apprehending auxiliary office will assume office of origin based on the bond default or failure to appear warrant issued in their territory.

(4) In those rare situations, where for whatever reasons the original warrant is not reissued or a new warrant issued within the office of origin's territory and a bond default or failure to appear warrant is not issued within the apprehending auxiliary office's territory, the full details should be promptly furnished FBIHQ via routine teletype by the office of origin for presentation to the Department of Justice for a final determination.

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 115 - 6

EFFECTIVE: 01/22/90

115-5 VENUE

Prosecution shall be in the district in which the bond default offense was committed.

EFFECTIVE: 09/10/79

115-6 CLASSIFICATION

(1) When the investigation of the underlying offense was not originally conducted by the Bureau the classification is 115. These should be very infrequent. Approval for same required from FBIHQ.

(2) If the bond default offense arose from a Bureau investigation, it should be handled under the substantive classification.

EFFECTIVE: 09/10/79

115-7 REPORTING PROCEDURES (See MIOG, Part I, 25-10, 76-1.8, 76-2.9, 76-3.13, 88-12, 115-7 & Part II, 21-2.9.)

(1) Upon the initiation of a bond default investigation and the placing of its subject in a fugitive status, two copies of an FD-65 should be promptly forwarded to FBIHQ, and one copy submitted directly to the Savannah Information Technology Center (SITC), by the office of origin. Upon the fugitive's apprehension or location, the locating office must promptly notify FBIHQ by teletype (at least ROUTINE in precedence), followed by Form FD-515 entry into the Integrated Statistical Reporting and Analysis Application (ISRAA). The office of origin must ensure that all auxiliary offices are notified by teletype to discontinue.

(2) One copy of a Prosecutive Report should be submitted to FBIHQ upon the authorization of prosecution by the USA, or when a specific request for such report is made by the USA or FBIHQ.

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 115 - 7

(3) In reporting the results of prosecutive action following the submission of a Prosecutive Report, while Form R-84 (if applicable) is to be forwarded to FBIHQ, a separate letter (airtel with LHM if dissemination desired) should also be submitted detailing the final disposition of each subject. The required letter should note that Form FD-515 has been entered into the ISRAA.

EFFECTIVE: 10/11/94

115-8 CHARACTER

(1) BOND DEFAULT, when the investigation of the original underlying offense was not conducted by the Bureau. | These should be very infrequent. Approval for same required from FBIHQ. |

(2) Substantive offense - BOND DEFAULT, if the bond default offense arose from a Bureau substantive investigation such as bank robbery, it is a dual character. BANK ROBBERY - BOND DEFAULT.

EFFECTIVE: 09/10/79

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 116 - 1

SECTION 116. SPECIAL INQUIRY - DEPARTMENT OF ENERGY;
SPECIAL INQUIRY - NUCLEAR REGULATORY COMMISSION

116-1 GENERAL INSTRUCTIONS

These instructions supplement those contained in Part II,
Section 17 of this manual, and deal with cases other than those
referred to FBIHQ by OPM.

EFFECTIVE: 03/23/89

116-1.1 Deleted

EFFECTIVE: 03/23/89

116-1.2 Deleted

EFFECTIVE: 03/23/89

116-2 AUTHORITY

See Part II, Section 17-1, of this manual for the
authority to conduct these investigations.

EFFECTIVE: 03/23/89

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 116 - 2

116-3 PRIVACY ACT - REQUIREMENTS

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

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

EFFECTIVE: 03/23/89

116-4 NATURE OF CASES

All Department of Energy (DOE) and Nuclear Regulatory Commission (NRC) cases are personnel background investigations conducted pursuant to specific written request of the DOE or NRC for persons who are being considered for employment with DOE or NRC or with a DOE or NRC contractor, or are being reinvestigated for their current position.

EFFECTIVE: 03/23/89

116-5 TYPE OF CASES

(1) Full Field Investigation (FFI) - Conducted when no previous background investigation (BI) has been done concerning the individual and covers the past fifteen years as set forth in Part II, Section 17 of this manual.

(2) Update Investigation (UI) - Conducted when there has been a previous BI concerning the individual completed by the FBI or another Government agency which uses the same investigative standards. FBIHQ will determine whether or not an update investigation is appropriate and will advise the field as to the period of time which the BI should cover. Any areas not covered during the previous BI will be set out by FBIHQ in the opening communication for investigation so as to render total coverage commensurate with present standards.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 116 - 3

EFFECTIVE: 03/23/89

116-5.1 Sensitive Compartmented Information (SCI) Cases

Individuals that the DOE has designated as being considered for SCI access are subject to investigation similar in scope to an FFI. However, the scope of these background investigations covers only the last 15 years. SCI cases require that the following checks should also be conducted:

(1) Verify the applicant's date and place of birth at the Bureau of Vital Statistics. Verify naturalization (if applicable);

(2) Check the records of the Immigration and Naturalization Service on any immediate family members (described as spouse, parents, siblings, and children) or current cohabitant(s) (residents of same household, living in spousal-type, or roommate type, relationships, but not domestic/other employees) who are United States citizens other than by birth, or who are resident aliens. (In view of time constraints, naturalization verification through review of court records may prove to be more time efficient.)

(3) Review military records, regardless of military service falling within the 15-year scope.

EFFECTIVE: 07/23/90

116-6 DEADLINES

(1) Budeds in these cases generally will be set from the date of the opening communication as follows: Buded in FFIs will be 30 calendar days; Buded in UIs will be 60 calendar days. Occasionally, the client agency will request expedite cases in which the Buded will be 21 calendar days.

(2) Refer to Part II, 17-3.5 of this manual for specific instructions regarding those situations in which circumstances preclude reporting the complete investigation of a case on or before the deadline.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 116 - 4

EFFECTIVE: 07/23/90

116-7 ORGANIZATION OF REPORT

Reports should be organized to follow the general sequence presented in Part II, Section 17-6, which outlines the scope of FFIs. Reports are directly disseminated to DOE and NRC and, therefore, should be free of typographical errors and administrative information.

EFFECTIVE: 07/23/90

116-7.1 Interviews

(1) While FBIHQ will not specifically state the number of interviews to be conducted, a sufficient number of interviews of persons knowledgeable about applicant/employee must be conducted to cover the individual's entire adult life in an FFI or during the period since the last investigation in UI cases.

(2) Field offices are also expected to conduct whatever number of interviews are required to thoroughly and completely address any unfavorable information or issues developed during an investigation.

EFFECTIVE: 07/23/90

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 1

SECTION 117. ATOMIC ENERGY ACT OF 1954
| (SEE MIOG, PART I, SECTION 279.) |

117-1 STATUTES

Title 42, USC, Sections 2011-2284 | (AEA of 1954, as amended).

Title 18, USC, Section 831 (Prohibited Transactions Involving Nuclear Materials). (See MIOG, Part I, 46-1.11(2) and 249-1.) |

EFFECTIVE: 05/25/93

| 117-2 | JURISDICTION

| The | FBI | shall investigate | all alleged or suspected criminal violations | of the AEA of 1954, as amended (Section 2271), and of Title 18, USC, Section 831. |

EFFECTIVE: 05/25/93

| 117-3 | DEFINITIONS

(1) "Atomic Weapon" - any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for the use as, or for the development of, a weapon, a weapon prototype, or a weapon test device. (Section 2014(d))

(2) "By-product Material" - (1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 2

utilizing special nuclear material, and (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source. (Section 2014(e))

(3) "Production Facility" - any equipment or device determined by rule of the Department of Energy (DOE) or Nuclear Regulatory Commission (NRC) to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or any important component part especially designed for such equipment or device as determined by the DOE or NRC. (Section 2014(v))

(4) "Restricted Data" - all data concerning the design, manufacture, or utilization of atomic weapons; the production of special nuclear material; or the use of special nuclear material in production of energy, but does not include data declassified or removed from the Restricted Data category pursuant to Section 2162 of the Act. (Section 2014(y))

(5) "Source Material" - uranium, thorium, or any other material which is determined by the DOE or NRC pursuant to the provisions of the Act to be source material; or ores containing one or more of the foregoing materials, in such concentration as the DOE or NRC may by regulation determine. (Section 2014(z))

(6) "Special Nuclear Material" - plutonium, uranium enriched in isotope 233 or in isotope 235, and any other material which the DOE or NRC, pursuant to the provisions of the Act, determines to be special nuclear material; or any material artificially enriched by any of the foregoing, but does not include source material. (Section 2014(aa))

(7) "Utilization Facility" - any equipment or device, except an atomic weapon, determined by rule of the DOE or NRC to be capable of making use of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect public health and safety, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or any important component part especially designed for such equipment or device as determined by the DOE or NRC. (Section 2014(cc))

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 3

EFFECTIVE: 05/25/93

117-4 | VIOLATIONS - Title 42, USC, Sections 2011-2284
(Atomic Energy Act of 1954, As Amended)

(1) Section 2077 (Unauthorized Dealings in Special Nuclear Materials):

It shall be unlawful for any person to possess or transfer any special nuclear material; transfer or receive any special nuclear material in interstate commerce; export from or import into the United States any special nuclear material; or directly or indirectly engage in the production of any special nuclear material outside of the United States except as authorized by DOE or NRC. (See entire text for exceptions.)

(2) Section 2092 (Unauthorized Dealings in Source Material):

Unless authorized by a general or specific license issued by DOE or NRC, no persons may transfer or receive in interstate commerce, transfer, deliver, receive possession of or title to, or import into or export from the United States any source material, except that licenses shall not be required for quantities of source material which, in the opinion of DOE or NRC, are unimportant.

(3) Section 2111 (Unauthorized Dealings in By-Product Material):

No person may transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, own, possess, import, or export any by-product material, except to the extent authorized by specific or general licenses issued by DOE or NRC. (See entire text for exceptions.)

(4) Section 2098 (Public Lands - Conflict of Interest):

No individual, corporation, partnership, or association which had any part, directly or indirectly, in the development of the atomic energy program may benefit by any location, entry, or settlement upon the public domain made after such individual, corporation, partnership, or association took part in such project, if

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 4

such individual, corporation, partnership, or association, by reason of having had such part in the development of the atomic energy program, acquired confidential official information as to the existence of deposits of such uranium, thorium, or other materials in the specific lands upon which such location, entry, or settlement is made and subsequent to the date of the enactment of this act made such location, entry, or settlement or caused the same to be made for his, or its, or their benefit.

(5) Section 2122 (Prohibitions Governing Atomic Weapons):

It shall be unlawful for any person to transfer or receive in interstate or foreign commerce, manufacture, produce, transfer, acquire, possess, import, or export any atomic weapon, except as may be authorized by DOE or NRC pursuant to the provisions of the act.

(6) Section 2131 (Equipment Prohibitions):

It shall be unlawful for any person within the United States to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export any utilization or production facility except under and in accordance with a license issued by the DOE or NRC.

(7) Section 2274 (Communication of Restricted Data):

Whoever, lawfully or unlawfully, having possession of, access to, control over, or being entrusted with any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating Restricted Data, communicates, transmits, or discloses the same to any individual or persons, or attempts or conspires to do any of the foregoing, with intent to injure the United States or with intent to secure an advantage to any foreign nation, upon conviction thereof, shall be punished (by imprisonment for life or by imprisonment for any term of years or a fine of not more than \$20,000 or both); or communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with reason to believe such data will be utilized to injure the United States or to secure an advantage to any foreign nation, shall, upon conviction, be punished by a fine of not more than \$10,000 or imprisonment for not more than ten years, or both.

(8) Section 2275 (Receipt of Restricted Data):

Whoever, with intent to injure the United States or with intent to secure an advantage to any foreign nation, acquires or

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 5

attempts or conspires to acquire any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating restricted data shall, upon conviction thereof, be punished by imprisonment for life or any term of years or a fine of not more than \$20,000 or both.

(9) Section 2276 (Tampering With Restricted Data):

Whoever, with intent to injure the United States or with intent to secure an advantage to any foreign nation, removes, conceals, tampers with, alters, mutilates, or destroys any document, writing, sketch, photograph, plan, model, instrument, appliance, or note involving or incorporating restricted data and used by any individual or person in connection with the production of special nuclear material, or research or development relating to atomic energy, conducted by the United States, or financed in whole or in part by Federal funds, or conducted with the aid of special nuclear material, shall be punished by imprisonment for life, or by imprisonment for any terms of years or a fine of not more than \$20,000 or both.

(10) Section 2277 (Disclosure of Restricted Data):

Whoever, being or having been an employee of the DOE, NRC, a member of the armed forces, an employee of any agency of the United States, or being or having been an employee of a contractor of DOE, NRC, or of an agency of the United States, or being or having been a licensee of DOE or NRC, knowingly communicates, or whoever conspires to communicate or to receive, any restricted data, knowing or having reason to believe that such data is restricted data pursuant to the provisions of the act or under rule or regulation of DOE or NRC issued pursuant thereto, knowing or having reason to believe such person is not so authorized to receive restricted data shall, upon conviction thereof, be punishable by a fine of not more than \$2,500.

(11) Section 2278a (Trespass Upon DOE or NRC Installations):

Whoever willfully violates DOE or NRC regulations relating to the entry upon or carrying, transporting, or otherwise introducing or causing to be introduced any dangerous weapon, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or property, into or upon any facility, installation, or real property subject to the jurisdiction, administration or in the custody of DOE or NRC shall be punished by a fine of not more than \$1,000.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 6

Whoever willfully violates DOE or NRC regulations relating to the above subsection with respect to any installation or other property which is enclosed by fence, wall, floor, roof, or other structural barrier shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not to exceed \$5,000 or to imprisonment for not more than one year, or both.

(12) Section 2278b (Photographing, etc., of DOE or NRC Installations):

Whoever shall:

(a) make any photograph, sketch, picture, drawing, map, or graphical representation, while present on property subject to the jurisdiction, administration, or in the custody of the DOE or NRC, of any installation or equipment designated by the President as requiring protection against the general dissemination of information relative thereto, in the interest of the common defense and security, without first obtaining the permission of the DOE or NRC, and promptly submitting the product obtained to the DOE or NRC for inspection or such other action as may be deemed necessary; or

(b) uses or permits the use of an aircraft or any contrivance used, or designed for navigation or flight in air, for the purpose of making a photograph, sketch, picture, drawing, map, or graphical representation of any installation or equipment designated by the President as provided in paragraph (1) above (not in this manual), unless authorized by the DOE or NRC, is punishable by a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

(13) Section 2283 (Protection of Nuclear Inspectors):

(a) Whoever kills any person who performs any inspections which:

1. are related to the activity or facility licensed by the DOE or NRC and

2. are carried out to satisfy requirements under this chapter or under any other Federal law governing the safety of utilization facilities required to be licensed under Section 2133 or 2134(b) of this title, or the safety of radioactive materials, shall be punished as provided under Sections 1111 and 1112 of Title 18. The preceding sentence shall be applicable only if such person is

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 7

killed while engaged in the performance of such inspection duties or on account of the performance of such duties.

(b) Whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person who performs inspections as described under subsection (a) of this section, while such person is engaged in such inspection duties, or on account of the performance of such duties, shall be punished as provided under Section 111 of Title 18. (See MIOG, Part I, 89-2.18.)

(14)Section 2284 (Sabotage or Interruption of Nuclear Facilities or Fuel):

(a) Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to:

1. any production facility or utilization facility licensed under this chapter,

2. any nuclear waste storage facility licensed under this chapter,

3. any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility, shall be fined not more than \$10,000 or imprisoned for not more than ten years, or both.

4. any uranium enrichment facility licensed by the NRC.

(b) Any person who intentionally and willfully causes or attempts to cause an interruption of normal operation of any such facility through the unauthorized use of or tampering with the machinery, components, or controls of any such facility, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

EFFECTIVE: 05/25/93\

Sensitive
PRINTED: 02/18/98

Sensitive

117-4.1 Additional AEA Penalties

(1) Section 2272 (Violation of Specific Sections):

Whoever willfully violates, attempts to violate, or conspires to violate, any provision of Sections 2077, 2122, or 2131 of this Title, or whoever unlawfully interferes, attempts to interfere, or conspires to interfere with any recapture or entry under Section 2138 of this Title shall upon conviction thereof, be punished by a fine of not more than \$10,000 or by imprisonment for not more than ten years, or both, except that whoever commits such an offense with the intent to injure the United States or with intent to secure an advantage to any foreign nation shall, upon conviction thereof, be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than \$20,000, or both.

(2) Section 2273 (Conspiracy):

Whoever willfully violates, attempts to violate, or conspires to violate, any provision of this chapter for which no criminal penalty is specifically provided or of any regulation or order prescribed or issued under Section 2095 or 2201 (b), (i), or (o) of this Title shall, upon conviction thereof, be punished by a fine of not more than \$5,000 or by imprisonment for not more than two years, or both, except that whoever commits such an offense with intent to injure the United States or with intent to secure an advantage to any foreign nation, shall upon conviction thereof, be punished by a fine of not more than \$20,000 or by imprisonment for not more than 20 years, or both.

(3) Section 2278 (Statute of Limitations):

Except for a capital offense, no individual or person shall be prosecuted, tried, or punished for any offense prescribed or defined in Section 2274 to 2276 of this Title unless the indictment is found or the information is instituted within ten years next after such offense shall have been committed.

EFFECTIVE: 05/25/93

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 9

117-4.2 Violations - Title 18, USC, Section 831 (Prohibited Transactions Involving Nuclear Materials)

(1) Whoever, if one of the circumstances described in paragraph (3) of this section occurs -

(a) without lawful authority, intentionally receives, possesses, uses, transfers, alters, disposes of, or disperses any nuclear material and

1. thereby knowingly causes the death of or serious bodily injury to any person or substantial damage to property;
or

2. knows that circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property;

(b) with intent to deprive another of nuclear material, knowingly,

1. takes and carries away nuclear material of another without authority;

2. makes an unauthorized use, disposition, or transfer of nuclear material belonging to another;

3. uses fraud and thereby obtains nuclear material belonging to another;

(c) knowingly -

1. uses force; or

2. threatens or places another in fear that any person other than the actor will imminently be subject to bodily injury; and thereby takes nuclear material belonging to another from the person or presence of any other;

(d) intentionally intimidates any person and thereby obtains nuclear material belonging to another;

(e) with intent to compel any person, international organization, or governmental entity to do or refrain from doing any act, knowingly threatens to engage in conduct described in paragraph (b)1. or (c) of this section;

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 10

(f) knowingly threatens to use nuclear material to cause death or serious bodily injury to any person or substantial damage to property under circumstances in which the threat may reasonably be understood as an expression of serious purposes;

(g) attempts to commit an offense under paragraph (a), (b), (c), or (d) of this section; or

(h) is a party to a conspiracy of two or more persons to commit an offense under paragraph (a), (b), (c), or (d) of this section, if any of the parties intentionally engages in any conduct in furtherance of such offense; shall be punished as provided in paragraph (2) of this section.

(2) The punishment for offense under -

(a) paragraphs (a) through (g) of paragraph (1) of this section is -

1. a fine of not more than \$250,000; and,
2. imprisonment -

a. for any term of years or for life; (I) if, while committing the offense, the offender knowingly causes the death of any person; or (II) if, while committing the offense under paragraph (a) or (c) of paragraph (1) of this section, the offender, under circumstances manifesting extreme indifference to the life of an individual, knowingly engages in any conduct and thereby recklessly causes the death of or serious bodily injury to any person; and

b. for not more than 20 years in any other case; and

(b) paragraph (h) of paragraph (1) of this section is -

1. a fine of not more than \$250,000; and
2. imprisonment -

a. for not more than 20 years if the offense which is the object of the conspiracy is punishable under paragraph (a)2.a. of this section; and

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 11

b. for not more than 10 years in any other case.

(3) The circumstances referred to in paragraph (1) of this section are that -

(a) the offense is committed in the United States or the special maritime and territorial jurisdiction of the United States, or the special aircraft jurisdiction of the United States, as defined in section 46501 of title 49;

(b) the defendant is a national of the United States, as defined in Section 101 of the Immigration and Nationality Act (Title 8, USC, Section 1101);

(c) at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and after the conduct required for the offense occurs, the defendant is found in the United States, even if the conduct required for the offense occurs outside the United States; or

(d) the conduct required for the offense occurs with respect to the carriage of a consignment of nuclear material for peaceful purposes by any means of transportation intended to go beyond the territory of the state where the shipment originates beginning with the departure from a facility of the shipper in that state and ending with the arrival at a facility of the receiver within the state of ultimate destination and either of such states is in the United States.

(4) The Attorney General may request assistance from the Secretary of Defense under Chapter 18 of Title 10 in the enforcement of this section and the Secretary of Defense may provide such assistance in accordance with Chapter 18 of Title 10, except that the Secretary of Defense may provide such assistance through any Department of Defense (DOD) personnel.

(5) The Attorney General may also request assistance from the Secretary of Defense under this subsection in the enforcement of this section. Notwithstanding Section 1385 of this Title, the Secretary of Defense may, in accordance with other applicable law, provide such assistance to the Attorney General if -

(a) an emergency situation exists (as jointly determined by the Attorney General and the Secretary of Defense in their discretion) and

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 12

(b) the provisions of such assistance will not adversely affect the military preparedness of the United States (as determined by the Secretary of Defense in such Secretary's discretion).

(6) As used in this section, the term "emergency situation" means a circumstance -

(a) that poses a serious threat to the interests of the United States; and in which -

1. enforcement of the law would be seriously impaired if the assistance were not provided and

2. civilian law enforcement personnel are not capable of enforcing the law.

(7) Assistance under this section may include -

(a) use of personnel of the DOD to arrest persons and conduct searches and seizures with respect to violations of this section and

(b) such other activity as is incidental to the enforcement of this section or to the protection of persons or property from conduct that violates this section.

(8) The Secretary of Defense may require reimbursement as a condition of assistance under this section.

(9) The Attorney General may delegate the Attorney General's function under this subsection only to a Deputy, Associate, or Assistant Attorney General.

(10) As used in this section -

(a) the term "nuclear material" means material containing any -

1. plutonium with an isotopic concentration not in excess of 80-percent plutonium 238;

2. uranium not in the form of ore or ore residue that contains the mixture of isotopes as occurring in nature;

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 13

3. uranium that contains the isotope 233 or 235 or both in such amount that the abundance ratio of the sum of those isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; or

4. uranium 233;

(b) the term "international organization" means a public international organization designated as such pursuant to Section 1 of the International Organizations Immunities Act (Title 22, USC, Section 288) or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs;

(c) the term "serious bodily injury" means bodily injury which involves -

1. a substantial risk of death;
2. extreme physical pain;
3. protracted and obvious disfigurement; or
4. protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

(d) the term "bodily injury" means -

1. a cut, abrasion, bruise, burn, or disfigurement;
2. physical pain;
3. illness;
4. impairment of a function of a bodily member, organ, or mental faculty; or
5. any other injury to the body, no matter how temporary.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 14

EFFECTIVE: 12/23/96

117-5 | PROSECUTIVE POLICY

(1) No action shall be brought against any individual or person for any violation under the AEA unless and until the Attorney General of the United States has advised the DOE or the NRC with respect to such action and no such action shall be commenced except by the Attorney General of the United States: Provided, however, that no action shall be brought under Section 2272, 2273, 2274, 2275, or 2276 of this Title except by the express direction of the Attorney General: and provided further, that nothing in this section shall be construed as applying to administrative action taken by the DOE or NRC. (Section 2271c)

(2) Do not discuss AEA cases with the United States Attorney (USA) until advised to so by FBIHQ. When investigation reaches a point where prosecutive opinion is desirable, FBIHQ will present the case directly to the DOJ. When a case arises in which facts indicate possible violation of the AEA, as well as violations of other criminal statutes (e.g., Fraud Against the Government or Theft of Government Property), refer case to FBIHQ indicating you wish to present facts to the USA. The Department has no objection to a field division working an investigative matter which also involves other Federal violations in conjunction with the AEA allegations as long as the case is coordinated with FBIHQ and DOJ as required by the AEA of 1954.

EFFECTIVE: 05/25/93

117-6 | INVESTIGATIVE PROCEDURES

(1) General Procedures

(a) Conduct preliminary investigation to determine what, if any, violation of the AEA of 1954, or Title 18, Section 831, has occurred. This includes conducting appropriate interviews, as necessary.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 15

(b) Telephonically contact the Domestic Terrorism Unit (DTU), Violent Crime and Major Offenders Section (VCMOS), Criminal Investigative Division (CID), FBIHQ, to resolve any investigative, legal, or operational questions pertaining to this section.

(c) All requests for technical assistance, either from the DOE, NRC, or internal FBI components, should be coordinated directly with the DTU, VCMOS, CID.

(d) Do not contact DOE or NRC Headquarters components directly without the express authorization of FBIHQ. The VCMOS has established effective procedures to facilitate all requests for such assistance.

(e) The requisite intent necessary to prove violations for sections other than Section 2277 (Disclosure of Restricted Data) is a matter to be evaluated by the jury, but evidence of subject's affiliation with subversive groups, association with officials of foreign nations, or evidence of clandestine conspiratorial incidents should be fully developed as indicative of such intent.

EFFECTIVE: 05/25/93

117-6.1 | Violation of Section 2077 (Unauthorized Dealings in Special Nuclear Material) (See 117-6.2(4).)

(1) Initiate preliminary investigation to determine if material in question is special nuclear material, or some other type of controlled nuclear material;

[REDACTED]

b2
b7E

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 16

b2
b7E

[REDACTED]

(2) Provide the above information by teletype, or in an emergency, by telephone, to the DTU, VCMOS, CID, FBIHQ for an assessment of the credibility of the case.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 17

(3) Should the subject(s) offer to provide a sample of the material for testing or if material is recovered as evidence, immediately notify FBIHQ. The DTU, VCMOS, CID, will contact the appropriate agency and arrange for experienced and qualified individuals to take custody of the material.

(4) FBIHQ will disseminate information regarding foreign transactions to the appropriate agencies.

EFFECTIVE: 05/25/93

117-6.2 | Violations of Section 2092 (License Requirements for Transfers), Section 2111 (Domestic Distribution, License), and Section 2131 (License Required)

(1) Ascertain whether a license is required and, if so, determine if subject has been issued such. If information is not available locally, request assistance from FBIHQ to obtain license information.

(2) Initiate appropriate interview(s) to determine if amount of source, by-product, or Special Nuclear Material in possession of subject(s) is within the quantitative or qualitative limits requiring a license.

(3) Obtain cooperation of local DOE or NRC office to obtain analysis of uranium, thorium, plutonium, or other material, as required.

(4) Consider use of investigative questions outlined in Section 117-6.1(1)(a), to assist DOE in assessing the credibility of the case.

EFFECTIVE: 05/25/93

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 18

117-6.3 | Violation of Section 2098 (Public Land - Conflict of Interest)

(1) Determine if individual, corporation, partnership, or association is involved directly or indirectly, in the atomic energy program. If so, ascertain nature and scope of involvement.

(2) Ascertain if confidential official information was acquired as to the existence of deposits of uranium, thorium, or other materials on public domain, pursuant to involvement in the atomic energy program.

(3) Determine if the deposits were located for the benefit of the individual, corporation, partnership, or association, and the extent of benefit.

(4) Signed statements should be obtained from all subjects and potential witnesses. If subject is an employee or agent of the United States, signed statements under oath should be obtained from the subject and potential witnesses, as provided in Title 5, USC, Section 303. If subject declines to furnish a signed statement or refuses to be placed under oath, an unsigned statement should be taken in accordance with existing instructions and such facts should be recorded in your report.

EFFECTIVE: 05/25/93

117-6.4 | Violation of Section 2122 (Prohibitions Governing Atomic Weapons)

(1) Initiate preliminary investigation to determine if the principal purpose of the device is for the use as, or for the development of, a weapon, a weapon prototype, or a weapon test device.

(2) Determine if the device or any part of the device is classified as restricted data.

(3) Immediately provide the results of the preliminary investigation to the DTU, VCMOS, CID, for coordination with the DOE, DOJ, and other appropriate agencies.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 19

EFFECTIVE: 05/25/93

117-6.5 | Violations of Section 2274 (Communication of Restricted Data), Section 2275 (Receipt of Restricted Data), and Section 2276 (Tampering with Restricted Data)

(1) Initiate preliminary investigation to determine what type of information (document, writing, sketch, photograph, model, instrument, etc.) was allegedly communicated, transferred, acquired or tampered with; the classification of the information; and, whether it may be declassified for prosecutive purposes. If necessary, contact the DTU, VCMOS, CID, for assistance in determining the classification of the information.

(2) Initiate investigation immediately where there is an allegation that documents were stolen, concealed, or misappropriated under circumstances indicating a violation of the Atomic Energy Act of 1954, or other statutes within FBI jurisdiction. Where there is an indication of loss through gross negligence, consideration should be given to investigation under provisions of the espionage statutes.

(3) Promptly notify FBIHQ of any investigations involving employees of the DOE or NRC. FBIHQ will coordinate investigative results with the DOJ.

(4) Where classified documents are reported missing, a statement should be obtained from the referring agency as to why the matter is being referred for investigation. Confirm in writing to the referring agency the receipt of the complaint, include a statement as to whether or not an investigation is being conducted and, if not, under what conditions an investigation will be conducted. Advise FBIHQ promptly of facts and action being taken.

EFFECTIVE: 05/25/93

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 20

||117-6.5.1| Administrative Misfiling |(See FCI Manual, Part I,
65-8 through 65-8.3.)|

| The DOE and the NRC have the primary responsibility for the security of their documents. | Administrative misplacement or misfiling of documents, or compromise of documents in transmission, are matters to be handled by DOE, NRC, or other Government agency involved, and no investigations should be conducted. If missing documents are of significant importance, maintain close liaison with the interested agency.

EFFECTIVE: 05/25/93

||117-6.5.2| Lax Security |(See MAOP, Part II, Section 9-3.3.3.)|

All facts regarding lax security and negligence should be referred to FBIHQ in letterhead memorandum form suitable for dissemination to the interested agency.

EFFECTIVE: 05/25/93

117-6.6 |Violation of Section 2277 (Disclosure of Restricted Data)

(1) Obtain a signed statement regarding the exact disclosures made, if possible.

(2) Obtain the classification and security significance of the information disclosed, whether the data may be declassified for prosecution, and determine the circumstances surrounding the disclosure.

(3) Obtain background data concerning persons involved, including evidence that individuals making disclosures were aware of security regulations concerning the information disclosed.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 21

(4) An early interview of the subject is generally advisable. If admissions are obtained, corroborate through investigation.

(5) Proof of intent is not necessary under this section, provided it can be shown the person has knowledge restricted data has been disclosed to a person not authorized to receive it, and the person disclosing same meets the requisites of the statute.

EFFECTIVE: 05/25/93

117-6.6.1 Information Required In Communications

Include in final communication a statement regarding administrative action taken by DOE or NRC or, if military personnel are involved, action to be taken by armed forces.

EFFECTIVE: 05/25/93

117-6.6.2 Leaks of Classified Data to the Press

(1) If requests for investigations of cases of this type are received locally, advise the referring agency in writing that the decision as to investigation will be made at FBIHQ. Furnish details to FBIHQ promptly and take no further action pending FBIHQ authority.

(2) If investigation is authorized, the following information must be obtained:

(a) Date and identity of the article; exact statements alleged to be classified; whether data published is accurate; was data classified properly; can data be declassified for purposes of prosecution, and, if so, name of the person competent to testify concerning classification.

(b) Extent of official dissemination of classified data; whether data had been subject to prior official releases; or if

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 22

declassification had been decided upon prior to publication.

(c) Whether the classified information came from a specific document; if so, origin of the document,

(d) Name of the individual in DOE, NRC, DOD, or other Government agency responsible for security of the classified information published,

(e) Whether the material, background data, or portions thereof, have been previously officially released or published in the press, to make educated speculation on the matter possible.

(f) Whether clearance for publication was sought from proper authorities prior to publication.

EFFECTIVE: 05/25/93

117-6.7 | Violations of Section 2284 (Sabotage of Nuclear
Facilities or Fuel)

(1) Allegations indicating possible sabotage directed at the atomic energy program must be thoroughly investigated and resolved. Communications carry dual character, "Atomic Energy Act; Sabotage."

(2) In the case of a possible violation of Section 2284, the field division must immediately notify FBIHQ by telephone.

(3) Prosecution must be authorized by DOJ.

(4) Investigations of sabotage at atomic energy facilities must conform to investigative procedures of Part I, Section 98, of this manual and satisfy the elements of Title 42, USC, Section 2284.

(5) Other possible violations of Federal law may also be applicable during investigation of a sabotage incident at a nuclear facility, such as foreign-inspired strikes, slowdowns, and destruction of Government property. Although the FBI is not interested in legitimate labor-management disputes, it must be alert, through

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 23

adequate informant coverage, for the possibility of planned incidents affecting national security.

(6) In the case of a labor dispute, include full name of international or local union involved; summary of the incident; effect on security of the facility; facts indicating violation within the Bureau's jurisdiction; and other information of value.

(7) The legislative history states that this section is intended to cover a situation when a person willfully and intentionally interrupts, or attempts to interrupt, a power plant's operation by tampering or improperly using the machinery, components, or controls of any nuclear facility.

(8) The phrase "unauthorized use" is described as use without the permission of the licensee. The word "tampering" is described as altering for improper purposes or in an improper manner. The phrase "interruption of normal operation" is described as a cessation of actual production, utilization, or storage operations which, if accomplished, would result in substantial economic harm or cost to the licensee.

(9) This section applies only to specified actions which could cause substantial damage, economic harm, or costs to the licensee, and to willful acts performed with a criminal intent.

(10) This section applies to nuclear power facilities, and nuclear waste storage facilities, licensed under the AEA of 1954, as amended, and any nuclear fuel for a utilization facility or spent nuclear fuel from a utilization facility. It is the policy of the Federal government to include Federal buildings, not licensed under the AEA, that contain Special Nuclear Material, in that damage to Federal buildings, and/or theft of special nuclear materials still fall within the provisions of the U.S. criminal code.

EFFECTIVE: 05/25/93

Sensitive
PRINTED: 02/18/98

Sensitive

117-7 | INVESTIGATIVE PROCEDURES FOR OTHER RELATED
VIOLATIONS

(1) Threat/Extortion under the AEA: (See MIOG, Part I,
9-9(1).)

(a) All threats and extortions which are investigated as a result of a possible violation of the AEA, or Title 18, USC, Section 831, should be handled in the same manner as prescribed under Part I, Section 9, of this manual. However, DOJ prosecutive opinions will still be necessary, prior to discussion with the USA.

(b) Immediately contact the DTU, VCMOS, CID, as soon as possible and provide an exact copy of the wording of the threat for dissemination to the DOE for a threat assessment.

(c) Upon receipt of the results of the assessment, FBIHQ will notify the appropriate field divisions as to the credibility of the threat.

(d) In the event the extortion or threat is determined to be a hoax, or is not a violation under the AEA of 1954, the field divisions may proceed to investigate this matter as a conventional extortion or threat utilizing guidelines under Part I, Section 9, of this manual, without the requirement of obtaining DOJ opinions.

(e) After coordinating with FBIHQ, the appropriate United States Attorney (USA) may be contacted to proceed with the conventional threat or extortion investigation which is not a violation of the AEA.

(2) Missing Source Material, Special Nuclear Material, or By-Product Material:

(a) Notify FBIHQ and initiate preliminary investigation to determine if materials have been stolen, misappropriated, or diverted. If so, conduct investigation promptly. In cases of uncertainty, submit facts to FBIHQ for evaluation.

(b) Where preliminary investigation indicates loss involving items of little security significance; is the result of inadequate accountability records; or is process loss, submit closing communication.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 25

(c) Where complicated accountability records are involved, Special Agents with specific training in the accountability of radioactive materials should be utilized wherever possible. If warranted, a request should be made of FBIHQ for a laboratory technician familiar with this type of investigation.

EFFECTIVE: 05/25/93

117-8 | REPORTING PROCEDURES

(1) Immediately advise the DTU, VCMOS, CID, in the following instances of major violations by teletype, or telephone, as facts warrant:

(a) Violations involving foreign-directed espionage or sabotage.

(b) Serious damage to plants or facilities.

(c) Loss of critical Restricted Data or Special Nuclear Material under circumstances indicating a violation of the AEA.

(d) Cases which may receive wide publicity.

(e) Other major and important violations.

(2) Submit a summary communication within two weeks of initiating a preliminary investigation under the AEA, or Title 18, USC, Section 831, to FBIHQ, Attention: DTU, VCMOS, CID.

(3) Submit a Letterhead Memorandum (LHM) (original and four copies) to the DTU, VCMOS, CID, within 30 days of the initiation of an Atomic Energy Act, or Title 18, USC, Section 831 investigation. The LHM should be suitable for dissemination to the DOJ, DOE, and the NRC. The LHM should, at a minimum, detail the predication for initiating the investigation, the names of the other agencies notified, a summary of the investigation, and, if possible, a prosecutive opinion.

(4) A closing LHM (original and four copies) must be

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 26

prepared at the conclusion of each investigation, and submitted to FBIHQ, Attention: DTU, VCMOS, CID. The closing LHM must restate the predication for initiating the investigation, summarize investigation findings, and detail the disposition of the investigation, including prosecutive opinions or administrative action initiated by the DOE or NRC. Ensure that a complete description of all significant events are dated in the closing LHM.

(5) Prosecutive reports should be submitted to FBIHQ, when applicable.

EFFECTIVE: 05/25/93

117-8.1 Dissemination of Reports

(1) Do not disseminate FBI communications to the USA, DOE, or NRC locally without FBIHQ approval. Bureau communications will be disseminated by FBIHQ, through DOE and NRC Headquarters when possible. In the event of an emergency situation necessitating immediate local dissemination, FBIHQ should be advised.

(2) Close liaison should be maintained regarding investigations of individuals of interest to the local DOE and NRC offices.

EFFECTIVE: 05/25/93

117-9 | CONTINGENCY PLANS

(1) Every field office shall develop and maintain a contingency plan for responding to potential nuclear terrorism incidents that may occur within their division. The plan should include a complete security survey of every major DOE and NRC nuclear facility located within their territory. The plans must be updated on an annual basis and changes submitted to the Counterterrorism Planning Unit (CPU), Counterterrorism Section (CTS), Intelligence Division (INTD), by June 1st of each year.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 27

(2) For the purpose of this section, a major nuclear facility is any NRC-licensed nuclear power plant, or nuclear fuel facility, or a DOE research and weapons laboratory or production facility.

(3) Each field office with one or more major nuclear facilities within its territory shall maintain a list of selected Special Agents for use on investigations requiring immediate access to highly classified information, material, or exclusion areas. The names of these Special Agents must be furnished by each field office to the security officer of the atomic energy installation in order that he/she may effect arrangements for those Agents to be granted immediate appropriate access in connection with official investigations. Each SAC shall select and designate Special Agents for such squads and promptly notify the atomic energy installation security officer of any changes made to the squad.

EFFECTIVE: 05/25/93

117-10 COORDINATION OF FBI TRAINING EXERCISES CONDUCTED AT
NRC-LICENSED NUCLEAR POWER PLANTS

(1) FBI participation in all field training exercises conducted at NRC-licensed nuclear power plants must be coordinated directly with FBIHQ in advance of the exercise so that the necessary coordination between FBIHQ and NRC Headquarters may be accomplished.

(a) Prior notification must be made to the CPU, CTS, INTD by appropriate communication, providing the following essential information:

1. The name of the NRC-licensed nuclear power plant.
2. The dates of the planned exercise.
3. The nature of the training.
4. The projected number of FBI personnel involved.
5. A notation of special assets, such as

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 28

helicopters and technical equipment, which will be used in the exercise.

6. The names of other agencies involved in the exercise.

7. The projected number of other agency personnel involved.

8. The name of the FBI point of contact on scene.

9. The name of the local utility point of contact.

10. Whether or not regional NRC officials have been advised of the planned exercise, and, if so, the names of those officials.

(2) Upon receipt of the information, the CPU, CTS, INTD will coordinate directly with NRC Headquarters and will obtain the necessary authorization for the exercise from the NRC.

EFFECTIVE: 05/25/93

117-11 REWARDS FOR INFORMATION RECEIVED REGARDING ATOMIC WEAPONS

Title 50, USC, Section 47a-f, provides:

(1) Any person who furnishes original information to the United States-

(a) leading to the finding or other acquisition by the United States of special nuclear material or an atomic weapon which has been introduced into the United States or manufactured or acquired therein contrary to the laws of the United States, or

(b) with respect to the introduction or attempted introduction into the United States or the manufacture or acquisition or attempted manufacture or acquisition of, or a conspiracy to introduce into the United States or to manufacture or acquire, special

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 29

nuclear material or an atomic weapon contrary to the laws of the United States, or

(c) with respect to the export or attempted export, or a conspiracy to export, special nuclear material or an atomic weapon from the United States contrary to the laws of the United States, shall be rewarded by the payment of an amount not to exceed \$500,000.

(2) The Attorney General shall determine whether a person furnishing information to the United States is entitled to a reward and the amount to be paid. Rewards will be authorized by the Awards Board, consisting of the Secretary of the Treasury (Chairman), Secretary of Defense, Attorney General, Director of Central Intelligence, and the Administrator of DOE or one NRC Commissioner. A reward of \$50,000 or more may not be made without the approval of the President.

(3) If the information leading to an award under Section 47b of this Title is furnished by an alien, the Secretary of State, the Attorney General, and the Director of Central Intelligence, acting jointly, may determine that the entry of such alien into the United States is in the public interest and, in that event, such alien and the members of his/her immediate family may receive immigrant visas and may be admitted to the United States for permanent residence.

(4) Any awards granted under Section 47b of this Title shall be certified by the Attorney General and, together with approval of the President in those cases where such approval is required, transmitted to the Director of Central Intelligence for payment out of funds appropriated under National Security Act of 1947, as amended.

(5) Information regarding smuggling of atomic weapons or their components or the illegal manufacture or acquisition of same should be reported promptly and in detail to FBIHQ.

EFFECTIVE: 05/25/93

Sensitive
PRINTED: 02/18/98

Sensitive

117-12 HANDLING OF RADIOACTIVE MATERIALS (See MIOG, Part I,
249-1.)

(1) Millions of packages of radioactive materials are transported in the United States annually. Most shipments consist of medical and industrial products. Other shipments include nuclear power plant fuel, nuclear weapons and weapons material, and radioactive waste generated by hospitals, laboratories, nuclear reactors, and military facilities.

(2) Radioactive materials are packaged, marked, labeled, and placarded with public safety as the foremost goal. The degree of packaging used is commensurate with the hazardousness of the contents. Extremely hazardous radioactive materials are shipped in packaging which does not break under accident conditions. Low-level radioactive materials are shipped in less resistant packages which may break, and the radioactive material could be dispersed. However, if dispersed, these materials would present only a minimal health risk.

EFFECTIVE: 05/25/93

117-12.1 Radiation Protection

The following factors should be considered when evaluating available protection:

(1) If all containers of radioactive material are sealed or closed and are intact, it is unlikely that radioactive hazards are associated with the incident. Efforts should be made to protect the integrity of the containers during handling or transportation.

(2) There are three important factors in protecting individuals from radiation: Time, Distance, and Shielding.

(a) Time. The less time an individual remains in a radiation field, the less exposure that individual will receive.

(b) Distance. The further an individual remains from a radiation source, the less exposure that individual will receive. The intensity of a radiation field decreases as the distance from the source increases.

Sensitive

(c) Shielding. The more material placed between an individual and a radiation source, the less exposure that individual will receive. The intensity of radiation is reduced by the absorption and scattering processes associated with such material. For gamma radiation, dense material such as lead is most effective as a shield. Beta radiation can be shielded by relatively thin amounts of wood or plastic. Alpha is shielded by virtually any material.

EFFECTIVE: 05/25/93

117-12.2 Emergency Procedures

(1) Radioactive materials released at the scene of an incident, even at levels of little consequence, can result in very small levels of contamination being spread a great distance. The spread of contamination can be controlled by limiting access to and egress from the incident scene. Although, in some cases, the contamination spread would be of insignificant radiological consequence, any detectable amount can prove to be of great concern to the public and news media. RADIOACTIVE MATERIAL SHOULD BE HANDLED BY QUALIFIED PERSONS FROM THE DOE, NRC OR COMPARABLE STATE AGENCY. DO NOT HANDLE ANY MATERIAL SUSPECTED OF BEING RADIOACTIVE UNTIL IT HAS BEEN EXAMINED BY QUALIFIED PERSONNEL.

(2) It is important to treat everything that has been near the incident as potentially radioactive and contaminated until it has been verified by qualified radiation protection personnel to be free of radioactive contamination. Individuals who have contacted potentially contaminated materials should remain on hand until they have been checked by qualified personnel. Only qualified personnel should attempt to clean up a spill of any hazardous materials-- radioactive or not.

(3) Emergency advisory support, or other assistance, may be obtained from the DOE or NRC via FBIHQ.

EFFECTIVE: 05/25/93

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 117 - 32

||117-13| CHARACTER - ATOMIC ENERGY ACT

EFFECTIVE: 05/25/93

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 119 - 1

SECTION 119. FEDERAL REGULATION OF LOBBYING ACT

119-1 STATUTES

EFFECTIVE: 01/31/78

119-1.1 Title 2, USC, Section 261-270

(1) The Act provides for the registration of lobbyists active in matters pending before Congress and the filing by them of quarterly reports of receipts and expenditures.

(2) Elements

That the accused:

(a) Prior to registering with the Secretary of the Senate and the Clerk of the House of Representatives for pay or for other consideration attempted to influence passage or defeat of any legislation pending before the Congress of the U. S.; or

(b) After registration failed to file under oath between the first and tenth of each calendar quarter a detailed report of all receipts and expenditures during the preceding calendar quarter in carrying on his work; or

(c) After having been convicted on the above violations, shall within a period of three years from the date of such conviction attempt to influence directly or indirectly legislation before the Congress of the U.S.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 119 - 2

119-1.2 Section 261 (Definitions)

(1) The term "contribution" includes a gift, subscription, loan, advance, or deposit of money or anything of value and includes a contract, promise or agreement, whether or not legally enforceable, to make a contribution.

(2) The term "expenditure" includes a payment, distribution, loan, advance, deposit, or gift money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable, to make an expenditure.

(3) The term "person" includes an individual, partnership, committee, association, corporation, and any other organization or group of persons.

(4) The term "Clerk" means the Clerk of the House of Representatives of the United States.

(5) The term "legislation" means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House.

EFFECTIVE: 01/31/78

119-1.3 Section 262 (Detailed Accounts of Contributions; Retention of Receipted Bills of Expenditures)

(1) It shall be the duty of every person who shall in any manner solicit or receive a contribution to any organization or fund for the purposes hereinafter designated to keep a detailed and exact account of --

(a) All contributions of any amount or of any value whatsoever:

(b) The name and address of every person making any such contribution of \$500 or more and the date thereof;

(c) All expenditures made by or on behalf of such organization or fund; and

(d) The name and address of every person to whom any

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 119 - 3

such expenditure is made and the date thereof.

(2) It shall be the duty of such person to obtain and keep a receipted bill, stating the particulars, for every expenditure of such funds exceeding \$10 in amount, and to preserve all receipted bills and accounts required to be kept by this section for a period of at least two years from the date of the filing of the statement containing such items.

EFFECTIVE: 01/31/78

119-1.4 Section 263 (Receipts for Contributions)

Every individual who receives a contribution of \$500 or more for any of the purposes hereinafter designated shall within five days after receipt thereof render to the person or organization for which such contribution was received a detailed account thereof, including the name and address of the person making such contribution and the date on which received.

EFFECTIVE: 01/31/78

119-1.5 Section 264 (Statements of Accounts Filed with Clerk of House)

(1) Every person receiving any contributions or expending any money for the purposes designated in subparagraph (1) or (2) of Section 266 of this title shall file with the Clerk between the first and tenth day of each calendar quarter, a statement containing complete as of the date next preceding the date of filing--

(a) The name and address of each person who has made a contribution of \$500 or more not mentioned in the preceding report; except that the first report filed pursuant to this title shall contain the name and address of each person who has made any contribution of \$500 or more to such person since August 2, 1946;

(b) The total sum of the contributions made to or for such person during the calendar year and not stated under paragraph (a) of this subsection;

(c) The total sum of all contributions made to or

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 119 - 4

for such person during the calendar year;

(d) The name and address of each person to whom an expenditure in one or more items of the aggregate amount of value, within the calendar year, of \$10 or more has been made by or on behalf of such person, and the amount, date, and purpose of such expenditure;

(e) The total sum of all expenditures made by or on behalf of such person during the calendar year and not stated under paragraph (d) of this subsection;

~~(f) The total sum of expenditures made by or on behalf of such person during the calendar year.~~

(2) The statements required to be filed by subsection (1) of this section shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous statement only the amount need be carried forward.

EFFECTIVE: 01/31/78

119-1.6 Section 265 (Preservation of Statements)

A statement required by this chapter to be filed with the Clerk--

(1) Shall be deemed properly filed when deposited in an established post office within the prescribed time, duly stamped, registered, and directed to the Clerk of the House of Representatives of the United States, Washington, District of Columbia, but in the event it is not received, a duplicate of such statement shall be promptly filed upon notice by the Clerk of its non-receipt;

(2) Shall be preserved by the Clerk for a period of two years from the date of filing, shall constitute part of the public records of his office, and shall be open to public inspection.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 119 - 5

119-1.7 Section 266 (Persons to Whom Applicable)

The provisions of this statute shall apply to any person (except a political committee as defined in chapter 8 of this title, and duly organized State or local committees of a political party), who by himself, or through any agent or employee or other persons in any manner whatsoever, directly or indirectly, solicits, collects, or receives money or any other thing of value to be used principally to aid, or the principal purpose of which person is to aid, in the accomplishment of any of the following purposes:

- (1) The passage or defeat of any legislation by the Congress of the United States.
- (2) To influence, directly or indirectly, the passage or defeat of any legislation by the Congress of the United States.

EFFECTIVE: 01/31/78

119-1.8 Section 267 (Registration of Lobbyists with Secretary of the Senate and Clerk of House; Compilation of Information)

(1) Any person who shall engage himself for pay or for any consideration for the purpose of attempting to influence the passage or defeat of any legislation by the Congress of the United States shall, before doing anything in furtherance of such object, register with the Clerk of the House of Representatives and the Secretary of the Senate and shall give to those officers in writing and under oath, his name and business address, the name and address of the person by whom he is employed, and in whose interest he appears or works, the duration of such employment, how much he is paid and is to receive, by whom he is paid or is to be paid, how much he is to be paid for expenses, and what expenses are to be included. Each such person so registering shall between the first and tenth day of each calendar quarter, so long as his activity continues, file with the Clerk and Secretary a detailed report under oath of all money received and expended by him during the preceding calendar quarter in carrying on his work; to whom paid; for what purposes; and the names of any papers, periodicals, magazines, or other publications in which he has caused to be published any articles or editorials; and the proposed legislation he is employed to support or oppose. The provisions of this section shall not apply to any person who merely appears before a committee of the Congress of the United States in support of or opposition to legislation; nor to any public official acting in his

Sensitive

official capacity; nor in the case of any newspaper or other regularly published periodical (including any individual who owns, publishes, or is employed by any such newspaper or periodical) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge the passage or defeat of legislation; if such newspaper, periodical, or individual, engages in no further or other activities in connection with the passage or defeat of such legislation, other than to appear before a committee of the Congress of the United States in support of or in opposition to such legislation.

(2) All information required to be filed under the provisions of this section with the Clerk of the House of Representatives and the Secretary of the Senate shall be compiled by said Clerk and Secretary, acting jointly, as soon as practicable after the close of the calendar quarter with respect to which such information is filed and shall be printed in the Congressional Record.

EFFECTIVE: 01/31/78

119-1.9 Section 268 (Reports and Statements Under Oath)

All reports and statements required shall be made under oath, before an officer authorized by law to administer oaths.

EFFECTIVE: 01/31/78

119-1.10 Section 269 (Penalties and Prohibitions)

(1) Any person who violates any of these provisions shall, upon conviction, be guilty of a misdemeanor, and shall be punished by a fine of not more than \$5,000 or imprisonment for not more than twelve months, or by both such fine and imprisonment.

(2) In addition to the penalties provided for in subsection (1) of this section, any person convicted of the misdemeanor specified therein is prohibited, for a period of three years from the date of such conviction, from attempting to influence, directly or indirectly, the passage or defeat of any proposed legislation or from appearing before a committee of the Congress in support of or opposition to proposed legislation; and any person who violates any provision of this subsection shall, upon conviction

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 119 - 7

thereof, be guilty of a felony, and shall be punished by a fine of not more than \$10,000, or imprisonment, for not more than five years, or by both such fine and imprisonment.

EFFECTIVE: 01/31/78

119-1.11 Section 270 (Exemptions)

These provisions shall not apply to practices or activities regulated by chapter 8 of this title nor be construed as repealing any portion of said chapter 8 of this title.

EFFECTIVE: 01/31/78

119-2 POLICY

(1) The Attorney General has advised that copies of reports in Federal Regulation of Lobbying Act cases be furnished in all instances only to the Criminal Division.

(2) Upon receipt of a complaint, full details should be obtained from the complainant and incorporated into a closing prosecutive report which should be transmitted immediately to FBIHQ. If deemed necessary FBIHQ should be advised of the details of the complaint by more expeditious means.

(3) USA should not be consulted and no investigation should be initiated pending receipt of instructions from FBIHQ.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 119 - 8

119-3 INVESTIGATIVE PROCEDURES

Investigative effort should be directed to ascertain:

(1) Whether or not the "person" involved solicited, collected, or received contributions of money or things of value;

(2) If so, whether one of the main purposes of the "person" so soliciting, collecting, or receiving the contribution or whether one of the main purposes of the contribution itself, was to influence the passage or defeat of legislation by Congress, and

(3) If the first two conditions prevail, whether the intended method of accomplishing the purpose was by means of direct communication with members of Congress. Such direct pressures may be accomplished either by the lobbyist or through hirelings or by means of an artificially stimulated letter campaign.

EFFECTIVE: 01/31/78

119-4 CHARACTER - FEDERAL REGULATION OF LOBBYING ACT

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 120 - 1

SECTION 120. FEDERAL TORT CLAIMS ACT

120-1 STATUTE

Title 28, USC, Sections 2671 to 2680, permits the U.S. to be sued in tort.

EFFECTIVE: 01/31/78

120-1.1 Section 2674, Liability of United States

"The United States shall be liable, respecting the provisions of this title relating to tort claims, in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages.

"If, however, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, the United States shall be liable for actual or compensatory damages, measured by the pecuniary injuries resulting from such death to the persons respectively, for whose benefit the action was brought, in lieu thereof."

EFFECTIVE: 01/31/78

120-1.2 Section 2672

Provides for the administrative adjustment of claims under this act of (\$25,000) or less by the head of each Federal agency.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 120 - 2

120-1.3 Venue

(1) Title 28, USC, Sections 1346(b) and 1402(b)

(a) Section 1346(b) provides that the U. S. district courts, together with the U.S. District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims arising under this act.

(b) Section 1402(b) provides any civil action on claims under the act may be prosecuted only in the judicial district where the plaintiff resides or wherein the act or omission complained of occurred.

EFFECTIVE: 01/31/78

120-2 INVESTIGATIVE JURISDICTION

(1) Bureau at specific request of Department or USA accepts for investigation cases involving claims or potential claims in excess of \$1,000 except:

(a) Suits brought against Government employees in state or local courts unless they arise out of the operation of a motor vehicle and the provisions of Title 28, USC, Section 2679(b), et seq., are applicable. (Government will assume defense of employee if acting within scope of his employment).

(b) Special investigations for congressional committees which are considering legislation for the relief of the plaintiff.

(2) Investigations should be instituted upon specific request of USA without FBIHQ authorization.

(3) Bureau also has agreed to conduct investigations for agencies and bureaus of Department of Justice in cases of serious personal injury or death. These investigations may be instituted without FBIHQ authorization at the request of agency or bureau of Department. If they desire to conduct their investigations of accidents, Bureau has no objection, although Bureau will receive and conduct investigations which are referred under FTCA. Promptly advise FBIHQ of institution of such investigations.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 120 - 3

EFFECTIVE: 01/31/78

120-2.1 Investigative Suggestions

(1) Examine files of USA and interested governmental agency for background material and investigative leads.

(2) Obtain from USA at the time he specifically requests an investigation:

(a) Facts surrounding accident

(b) Type of vehicle involved, auto, truck, airplane, etc.

(c) Name of governmental agency involved

(d) Amount of civil suit filed by plaintiff

(e) Name of law firm representing plaintiff

(f) Specific scope of inquiry desired to enable USA to prepare his defense of civil suit against Government.

(g) Definitely determine if USA desires any contact with plaintiff. If so, necessary arrangements should be made by USA with plaintiff's attorney.

(3) When practicable, obtain signed statements from all parties involved and from all potential witnesses. During such interviews ascertain, in addition to regular address, where or through whom individual may be reached on short notice.

(4) Obtain description of scene with accompanying photographs and charts when such material will be of evidentiary or informative value.

(5) Obtain complete information on property damages or personal injuries sustained by all parties, including estimates on amount of property damage and medical reports on personal injuries. Where hospital records are examined, in addition to results of interviews conducted, obtain and report name and address of hospital official who has custody of and can introduce records in court.

(6) Obtain copy of report submitted by local police where they conducted investigation.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 120 - 4

(7) With respect to automobile accidents, additional suggestions and instructions are set forth in the Manual of Administrative Operations and Procedures.

(8) Be alert for contributory negligence on part of plaintiff which would provide grounds for countersuit. In this connection, if USA desires investigation relative to plaintiff's financial ability, conduct investigation specifically requested.

(9) If request for foreign investigation received from USA, advise him Bureau has no facilities with which to conduct such investigations in FTCA cases. Suggest he make such request through Department.

EFFECTIVE: 01/31/78

120-3 STATUTE OF LIMITATIONS

See Title 28, USC, Section 2401(b). A tort claim is barred unless action is begun within two years after such claim accrues.

EFFECTIVE: 01/31/78

120-4 EXCEPTIONS TO FEDERAL TORT CLAIMS ACT

(1) Title 28, USC, Section 2680, lists a number of exceptions wherein the provisions of FTCA do not apply. Those most directly related to Bureau's work are as follows:

(a) Any claim based upon an action or omission of an employee of the Government, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Government, whether or not the discretion involved be abused.

(b) Any claim arising out of an action or omission of an employee of the Government in administering the provisions of the Trading with the Enemy Act, as amended.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 120 - 5

(c) Any claim arising out of libel, slander, misrepresentation, deceit or interference with contract rights.

EFFECTIVE: 01/31/78

120-5 POLICY

(1) Open case file on each individual plaintiff or group of plaintiffs who file a single civil suit against Government in connection with a particular accident.

(2) Major disasters

(a) Conduct immediate preliminary investigation to determine if Government has or may have an interest.

(b) If so, USA should be immediately apprised of information developed and advised that, in order to preserve evidence and obtain necessary facts, an investigation will be conducted by Bureau in event he so desires.

(c) Advise FBIHQ by telephone or teletype of facts ascertained, whether Government is or may be involved, and whether USA desires an FTCA investigation.

(3) Status

Tort cases should be kept in a pending status until final action has been concluded in U.S. district court. (Case should not be held open to follow results of appeals.) Thereafter closing report should be submitted. |Accomplishment Report| should also be submitted showing:

(a) Amount of suit

(b) Settlement or award

EFFECTIVE: 02/12/92

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 120 - 6

120-7 PRIVACY ACT - REQUIREMENTS

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

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

EFFECTIVE: 02/12/92

120-8 CHARACTER - FEDERAL TORT CLAIMS ACT

EFFECTIVE: 02/12/92

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 122 - 1

SECTION 122. LABOR MANAGEMENT RELATIONS ACT, 1947

122-1 STATUTE

Title 29, USC, Sections 161(2), (6), 162, 176-178, and
| 186|(a), (b), and (c).|

EFFECTIVE: 11/12/80

122-1.1 Section 161(2)

(1) Contempt of court - failure to answer subpoena

"(2) In case of contumacy or refusal to obey a subpoena issued to any person, any district court of the United States or the United States courts of any Territory or possession, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Board shall have jurisdiction to issue to such person an order requiring such person to appear before the Board, its member, agent, or agency, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof."

EFFECTIVE: 11/12/80

122-1.1.1 Procedure

Bureau will assist in locating any individual to testify in proceedings within U.S. District Court after bench warrant has been issued by district court and returned non est by U.S. Marshal.

EFFECTIVE: 11/12/80

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 122 - 2

| 122-1.2 Section 161(6)

EFFECTIVE: 11/12/80

| 122-1.2.1 Elements

(1) Requests for information from National Labor
Relations Board (NLRB)

"(6) The several departments and agencies of the
Government, when directed by the President, shall furnish the Board,
upon its request, all records, papers, and information in their
possession relating to any matter before the Board."

EFFECTIVE: 11/12/80

| 122-1.2.2 Procedure

| Information may be furnished to the NLRB provided
adequate consideration has been given to the provisions of the
Privacy Act as it pertains to the type material being requested.
Any questions should be resolved by contact with FBIHQ. |

EFFECTIVE: 11/12/80

| 122-1.3 Section 162

EFFECTIVE: 11/12/80

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 122 - 3

122-1.3.1 Elements

(1) Interference with an NLRB Member or Agent--

"Any person who shall willfully resist, prevent, impede, or interfere with any member of the Board or any of its agents or agencies in the performance of duties pursuant to this subchapter shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than one year, or both."

(2) Related Statute - Obstruction of Justice (OOJ)

Title 18, USC, Section 1505, OOJ, covers obstruction of the proceedings before any Federal departments or agencies, which include the NLRB. (See Part I, Section 72, of this manual.)

EFFECTIVE: 11/12/80

122-1.3.2 Procedure

Complaints or information concerning interference with an NLRB member or agent should be discussed immediately with USA to ascertain whether or not there is sufficient indication of a violation to justify investigation.

EFFECTIVE: 11/12/80

122-1.4 Section 176

EFFECTIVE: 11/12/80

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 122 - 4

122-1.4.1 Elements

- (1) Conciliation of labor disputes, national emergencies
- contempt of court

"Whenever in the opinion of the President of the United States, a threatened or actual strike or lock-out affecting an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, will, if permitted to occur or to continue, imperil the national health or safety, he may appoint a board of inquiry to inquire into the issues involved in the dispute and to make a written report to him within such time as he shall prescribe. Such report shall include a statement of the facts with respect to the dispute, including each party's statement of its position but shall not contain any recommendations. The President shall file a copy of such report with the Service and shall make its contents available to the public."

EFFECTIVE: 11/12/80

122-1.4.2 Procedure

Attorney General will request Bureau investigations. Should an investigation be authorized under this section, specific instructions will be given field as to nature and extent of investigation desired. Investigations have been requested by Department to establish violations of injunctions under this section as contempt of court.

EFFECTIVE: 11/12/80

122-1.5 Section 177

EFFECTIVE: 11/12/80

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 122 - 5

| 122-1.5.1 Elements

- (1) Conciliation of labor disputes, national emergencies
- contempt of court

"(a) A board of inquiry shall be composed of a chairman and such other members as the President shall determine, and shall have power to sit and act in any place within the United States and to conduct such hearings either in public or in private, as it may deem necessary or proper, to ascertain the facts with respect to the causes and circumstances of the dispute."

EFFECTIVE: 11/12/80

| 122-1.5.2 Procedure

Attorney General will request Bureau investigations. Should an investigation be authorized under this section, specific instructions will be given field as to nature and extent of investigation desired. Investigations have been requested by Department to establish violations of injunctions under this section as contempt of court.

EFFECTIVE: 11/12/80

| 122-1.6 Section 178

EFFECTIVE: 11/12/80

| 122-1.6.1 Elements

- (1) Conciliation of labor disputes, national emergencies
- contempt of court

"(a) Upon receiving a report from a board of inquiry the President may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lock-out or the continuing thereof, and if the court finds that such threatened or actual strike or lock-out--

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 122 - 6

"(i) affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce; and

"(ii) if permitted to occur or to continue, will imperil the national health or safety, it shall have jurisdiction to enjoin any such strike or lock-out, or the continuing thereof, and to make such other orders as may be appropriate.

"(b) In any case, the provisions" of Sections 101-115 "of this title, shall not be applicable.

"(c) The order or orders of the court shall be subject to review by the appropriate United States court of appeals and by the Supreme Court upon writ of certiorari or certification as provided in section 1254 of Title 28."

EFFECTIVE: 11/12/80

| 122-1.6.2 Procedure

Attorney General will request Bureau investigations. Should an investigation be authorized under this section, specific instructions will be given field as to nature and extent of investigation desired. Investigations have been requested by Department to establish violations of injunctions under this section as contempt of court.

EFFECTIVE: 11/12/80

| 122-1.7 |Section 186(a), (b), and (c)|

EFFECTIVE: 11/12/80

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 122 - 7

122-1.7.1 Elements

(1) Section 186(a) Prohibits Unlawful Payments or Loans
by Employers or Persons Acting in the Interest of Employers

"(a) It shall be unlawful for any employer or association of employers or any person who acts as a labor relations expert, adviser, or consultant to an employer or who acts in the interest of an employer to pay, lend, or deliver, or agree to pay, lend, or deliver, any money or other thing of value -

"(1) to any representative of any of his employees who are employed in an industry affecting commerce; or

"(2) to any labor organization, or any officer or employee thereof, which represents, seeks to represent, or would admit to membership, any of the employees of such employer who are employed in an industry affecting commerce; or

"(3) to any employee or group or committee of employees of such employer employed in an industry affecting commerce in excess of their normal compensation for the purpose of causing such employee or group or committee directly or indirectly to influence any other employees in the exercise of the right to organize and bargain collectively through representatives of their own choosing; or

"(4) to any officer or employee of a labor organization engaged in an industry affecting commerce with intent to influence him in respect to any of his actions, decisions, or duties as a representative of employees or as such officer or employee of such labor organization.

(2) Section 186(b) Prohibits Acceptance or Demands for
Unlawful Payments

"(b) (1) It shall be unlawful for any person to request, demand, receive, or accept, or agree to receive or accept, any payment, loan, or delivery of any money or other thing of value prohibited by subsection (a) of this section.

"(2) It shall be unlawful for any labor organization, or for any person acting as an officer, agent, representative, or employee of such labor organization, to demand or accept from the operator of any motor vehicle" (as defined in Sections 301-327 of Title 49) "employed in the transportation of property in commerce, or the employer of any such operator, any money or other

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 122 - 8

thing of value payable to such organization or to an officer, agent, representative or employee thereof as a fee or charge for the unloading, or in connection with the unloading, of the cargo of such vehicle: Provided, That nothing in this paragraph shall be construed to make unlawful any payment by an employer to any of his employees as compensation for their services as employees.

(3) Section 186(c) Enumerates Nine Exceptions to the Prohibited Activities of (a) and (b)

"(c) (1) in respect to any money or other thing of value payable by an employer to any of his employees whose established duties include acting openly for such employer in matters of labor relations or personnel administration or to any representative of his employees, or to any officer or employee of a labor organization, who is also an employee or former employee of such employer, as compensation for, or by reason of, his service as an employee of such employer; (2) with respect to the payment or delivery of any money or other thing of value in satisfaction of a judgment of any court or a decision or award of an arbitrator or impartial chairman or in compromise, adjustment, settlement, or release of any claim, complaint, grievance, or dispute in the absence of fraud or duress; (3) with respect to the sale or purchase of an article or commodity at the prevailing market price in the regular course of business; (4) with respect to money deducted from the wages of employees in payment of membership dues in a labor organization: Provided, That the employer has received from each employee, on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or beyond the termination date of the applicable collective agreement, whichever occurs sooner; (5) with respect to money or other thing of value paid to a trust fund established by such representative, for the sole and exclusive benefit of the employees of such employer, and their families and dependents (or of such employees, families, and dependents jointly with the employees of other employers making similar payments, and their families and dependents): Provided, That (A) such payments are held in trust for the purpose of paying, either from principal or income or both, for the benefit of employees, their families and dependents, for medical or hospital care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, or unemployment benefits or life insurance, disability and sickness insurance, or accident insurance; (B) the detailed basis on which such payments are to be made is specified in a written agreement with the employer, and employees and employers are equally represented in the administration of such fund, together with such

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 122 - 9

neutral persons as the representatives of the employers and the representatives of employees may agree upon and in the event the employer and employee groups deadlock on the administration of such fund and there are no neutral persons empowered to break such deadlock, such agreement provides that the two groups shall agree on an impartial umpire to decide such dispute, or in event of their failure to agree within a reasonable length of time, an impartial umpire to decide such dispute shall, on petition of either group, be appointed by the district court of the United States for the district where the trust fund has its principal office, and shall also contain provisions for an annual audit of the trust fund, a statement of the results of which shall be available for inspection by interested persons at the principal office of the trust fund and at such other places as may be designated in such written agreement; and (C) such payments as are intended to be used for the purpose of providing pensions or annuities for employees are made to a separate trust which provides that the funds held therein cannot be used for any purpose other than paying such pensions or annuities; (6) with respect to money or other thing of value paid by an employer to a trust fund established by such representative for the purpose of pooled vacation, holiday, severance or similar benefits, or defraying costs of apprenticeship or other training programs: Provided, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (7) with respect to money or other thing of value paid by any employer to a pooled or individual trust fund established by such representative for the purpose of (A) scholarships for the benefit of employees, their families, and dependents for study at educational institutions, or (B) child care centers for preschool and school age dependents of employees: Provided, That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice: Provided further, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; or (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents for counsel or plan of their choice; Provided, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: Provided further, That no such legal service shall be furnished: (A) to initiate any proceeding directed (i) against any such employer or its officers or agents except in workman's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under subchapter II

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 122 - 10

of this chapter or this chapter; and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959; or (9) with respect to money or other things of value paid by an employer to a plant, area or industrywide labor management committee established for one or more of the purposes set forth in section 5(b) of the Labor Management Cooperation Act of 1978.

"(d) (1) Any person who participates in a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or to a joint labor-management trust fund as defined by clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industry-wide labor-management committee that is received and used by such labor organization, trust fund, or committee, which transaction does not satisfy all the applicable requirements of subsections (c) (4) through (c) (9) of this section, and willfully and with intent to benefit himself or to benefit other persons he knows are not permitted to receive a payment, loan, money, or other thing of value under subsections (c) (4) through (c) (9) violates this subsection, shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than \$15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed \$1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than \$10,000 or imprisoned for not more than one year, or both.

"(2) Except for violations involving transactions covered by subsection (d) (1) of this section, any person who willfully violates this section shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than \$15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed \$1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than \$10,000, or imprisoned for not more than one year, or both."

"(e) The district courts of the United States and the United States courts of the Territories and possessions shall have jurisdiction, for cause shown, and subject to the provisions of section 381 of Title 28 (relating to notice to opposite party) to restrain violations of this section, without regard to the provisions of section 17 of Title 15 and section 52 of this title, and the provisions" of Sections 101-115 "of this title.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 122 - 11

"(f) This section shall not apply to any contract in force on June 23, 1947, until the expiration of such contract, or until July 1, 1948, whichever first occurs.

"(g) Compliance with the restrictions contained in subsection (c) (5) (B) of this section upon contributions to trust funds, otherwise lawful, shall not be applicable to contributions to such trust funds established by collective agreement prior to January 1, 1946; nor shall subsection (c) (5) (A) of this section be construed as prohibiting contributions to such trust funds if prior to January 1, 1947, such funds contained provisions for pooled vacation benefits."

EFFECTIVE: 05/28/85

122-1.7.2 Significant Exclusions In Coverage

(1) The coverage of this Act is set forth in the definitions under Title 29, USC, Section 142, which in turn refers to the National Labor Relations Act, Title 29, USC, Section 152. Section 152 (2), (3), and (5) exclude from coverage under the Act, inter alia, unions comprised only of the following types of employees:

(a) Agricultural laborers;

(b) Individuals having the status of an independent contractor

(c) Persons subject to the Railway Labor Act (generally railroads subject to the Interstate Commerce Act and interstate airlines).

(d) Employees of Federal, state, or local governments, and wholly owned government corporations, including Federal Reserve Banks.

(2) The Department of Justice has advised that if a public employee union also represents or would admit to membership employees in the private sector, the union may be covered by the Act. In such instances, the U.S. Attorney should be consulted prior to conducting investigation.

Sensitive
PRINTED: 02/18/98

Sensitive

b2
b7E
[REDACTED]

EFFECTIVE: 07/28/87

||122-1.7.4| Procedure

(1) Complaints or information concerning restrictions on payments or loans (Title 29, USC, Section 186) should be discussed immediately with USA to obtain USA's opinion as to whether information received contains sufficient indication of violation to justify investigation.

(2) Matters may be considered possible violations even if payment or agreement to pay is not made, since this section prohibits request or demand being made. Such matters may be considered possible violations should they involve various parties enumerated under this section in addition to only employer and representative of employees. Also, matters may be possible violations if they involve loans made between parties enumerated in this section. Such parties would include middlemen used to relay payments or loans.

(3) A matter which involves fee or charge for unloading an interstate truck, demanded or accepted by parties enumerated in subsection (b) (2) of this section may also involve violation of Hobbs Act.

(4) Welfare funds - Bureau has investigative jurisdiction under Title 29, USC, Section 186(c) (5), to determine whether any particular welfare fund to which employer contributions are made comes within purview of this subsection of statute and, if so, whether it has been legally established in accordance therewith. Violation of LMRA would be indicated if such fund would not conform to provisions of this statute since contributions to the fund could be considered restricted payments by an employer. In order that USA can make determination as to whether investigation is justified, copies of the following should be obtained and utilized in initial discussion with USA:

(a) Collective bargaining agreement in which provision is made for establishment of welfare fund

(b) Trust agreement establishing fund

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 122 - 12

EFFECTIVE: 07/28/87

||122-1.7.3 Potential Problems in Undercover Operations Targeting
Violations of Title 29, USC, Section 186

b2
b7E



Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 122 - 14

(c) Most recent audit report of fund

(d) Data concerning interstate nature of businesses contributing to fund

This material may be obtainable from employers or employer trustees.

(5) Open separate cases regarding each individual, each employer, or each group of employers who may be involved in payments, loans, or demands for same.

EFFECTIVE: 07/28/87

||122-1.7.5| Definitions

(1) "Industry affecting commerce" referred to in above section is defined (Title 29, USC, Section 142) as "any industry or activity in commerce or in which a labor dispute would burden or obstruct commerce or tend to burden or obstruct commerce or the free flow of commerce."

(2) "Commerce" is defined (Title 29, USC, Section 152) as "trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia or any Territory of the United States and any State or other Territory, or between any foreign country and any State, Territory, or the District of Columbia, or within the District of Columbia or any Territory, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign country."

EFFECTIVE: 07/28/87

122-2 GENERAL INSTRUCTIONS

Interviews with union officials may be conducted on the authority of the SAC, provided all of the following circumstances exist:

(1) Files of field office where interview to be conducted contain no information to indicate such interview would be inadvisable.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 122 - 15

(2) Interview is not premature and other available sources of information desired from union official have been exhausted.

(3) Interview is absolutely necessary in interest of conducting complete and thorough investigation.

(4) Interview of a union official who is a subject of the investigation is discussed with and concurred in by the U.S. Attorney.

(5) Interview will not interfere with any other investigation of the official or union.

(6) If interview to be conducted by an auxiliary office, that office must ensure their files contain no information to indicate the interview would be inadvisable.

(7) FBIHQ is notified in advance in the event the interviewee is prominent, extremely controversial, or of such stature to focus national attention on the investigation.

EFFECTIVE: 10/18/88

122-3

REPORTING REQUIREMENTS

(1) |An initial airtel with accompanying LHM (original and three copies) should be submitted to FBIHQ within 60 days if the investigation involves LCN members or associates. The LHM should contain the preliminary opinion of the USA and sufficient identification data on the subject(s) for indexing purposes. |

(2) |A progress letter should be submitted to FBIHQ every 180 days containing a summary of investigation conducted to date and a statement regarding investigation contemplated during the next 180 days. |

(3) |A closing airtel should be submitted to FBIHQ with LHM restating the predication for opening the investigation, summarizing the investigative findings and detailing the disposition of the investigation. The LHM should include the final opinion of the USA. |

(4) |If the investigation involves non-LCN groups (i.e., Asian organized crime, Sicilian Mafia, etc.), advise FBIHQ by airtel

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 122 - 16

with accompanying LHM as described above within 60 days. The results and/or summary should be reported by LHM (original and three copies).

EFFECTIVE: 10/18/88

122-4 PRIVACY ACT - REQUIREMENTS

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

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

EFFECTIVE: 10/18/88

122-5 CHARACTER - LABOR MANAGEMENT RELATIONS ACT, 1947

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 125 - 1

SECTION 125. RAILWAY LABOR ACT

125-1 STATUTES

Title 45, USC, Sections 60, 151-163, and 181-188

EFFECTIVE: 07/27/81

125-1.1 Elements

Carrier, its officers or agents, have violated Act if they willfully:

(1) Interfere, influence, or coerce representative of employee or interfere with choice of representative (Section 152 - third paragraph)

(2) Interfere with organization or collective bargaining of employee (Section 152 - fourth paragraph)

(3) Require any person seeking employment to agree or promise to join or not to join a labor union (Section 152 - fifth paragraph)

(4) Change rates of pay, rules, or working conditions of its employees contrary to agreement or to Section 156 of this Act (Section 152 - seventh paragraph)

(5) Fail to notify its employees by printed notices as specified by Mediation Board that all disputes between carrier and its employees will be handled in accordance with requirements as outlined by statute. (Section 152 - eighth paragraph)

EFFECTIVE: 07/27/81

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 125 - 2

125-1.1.1 Definitions (Section 151)

(1) Carrier:

Express company;
Sleeping car company;
Carrier by railroad;

Company controlled by a carrier by railroad and
engaged in activities directly related to transportation by carrier
(other than trucking service);

Airline company;

Term "carrier" does not include street, interurban,
or suburban electrical railway unless it is a part of regular railroad
system.

(2) Employees -

Individuals employed by carrier except coal miners

(3) Representative -

Person, labor union, organization, or corporation
designated by carrier or group of carriers, or by its or their
employees to act for it or them

EFFECTIVE: 07/27/81

125-2 POLICY

(1) The U.S. Department of Justice requires prior
Criminal Division approval of all prosecutions involving Title 45,
USC, Section 152, tenth paragraph, and has instructed all USAs to
summarily decline investigation and/or prosecution of all complaints
unless they contain allegations of egregious carrier interference with
employee rights tantamount to actual or threatened violence, or
involving the payment of bribes to employee representatives.

(2) Upon receipt of complaint or information indicating
possible violation, present to USA to ascertain whether or not an
investigation is warranted.

(3) If USA declines prosecution at the inception, close
case and submit an airtel following guidelines as set forth under
Reporting Procedures.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 125 - 3

EFFECTIVE: 10/18/88

125-3 REPORTING PROCEDURES

(1) Advise FBIHQ by airtel within 60 days setting forth the facts of the complaint and a succinct summary of the preliminary investigation conducted.

(2) A closing airtel should be submitted to FBIHQ restating the predication for opening the investigation, summarizing the investigative findings and detailing the disposition of the investigation.

EFFECTIVE: 10/18/88

125-4 PENALTY (Section 152 - tenth paragraph)

(1) Misdemeanor
Fine - minimum - \$1,000; maximum - \$20,000
Imprisonment - maximum - six months or both, for each offense

(2) Each day during which carrier, officer, or agent willfully fails or refuses to comply with paragraphs of Section 152 shall constitute separate offense.

EFFECTIVE: 07/27/81

125-5 RELATED STATUTE - EMPLOYERS' LIABILITY ACT - TITLE 45, USC, SECTION 60

This Act is contained in Title 45, USC, Sections 51-60. Sections 51-59 provides a civil right of action in Federal court by employees of any railroad that is a common carrier against the employer for damages for injury to or death of such employees resulting from negligence of the employer or its agents. Section 60 does not provide jurisdiction for civil relief, however, is a criminal statute within Bureau investigative jurisdiction.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 125 - 4

EFFECTIVE: 07/27/81

125-5.1 Elements

Anyone violates Act:

(1) Who attempts

(a) by threats, intimidation, order, rule, contract,

regulation, or device whatsoever

(b) to prevent any person from furnishing
voluntarily information to a person in interest

(c) concerning facts incident to injury or death of
any employee of any common carrier, or

(2) Who discharges or otherwise disciplines or attempts
to discipline any employee for furnishing voluntarily to a person in
interest information described in (1)(c) above.

EFFECTIVE: 07/27/81

125-5.2 Penalty

Upon conviction shall be punished by fine of not more than
\$1,000 or imprisoned for not more than one year, or both.

EFFECTIVE: 07/27/81

125-5.3 Exception to Act

No contract, rule, or regulation with respect to
information contained in files of carrier or other privileged or
confidential reports shall be voided by this Act.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 125 - 5

EFFECTIVE: 07/27/81

125-5.4 Policy

Handle in accordance with policy in 125-2.

EFFECTIVE: 07/27/81

125-6 CHARACTER - RAILWAY LABOR ACT; RAILWAY LABOR ACT -
EMPLOYERS' LIABILITY ACT (if investigation deals with
125-5)

EFFECTIVE: 07/27/81

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 131 - 1

SECTION 131. ADMIRALTY MATTER

131-1 STATUTES

Title 46, USC, Sections 741 to 752 and 781 to 799 permits suits in admiralty to be brought by or against the United States or against any corporation owned by it.

EFFECTIVE: 01/31/78

131-2 BACKGROUND

(1) During World War II, Government's vessels were directly operated by War Shipping Administration. In conducting these operations of its vessels, the United States, like other ship operators, used three coordinated classes of agents usual in conducting shipping business; namely;

- (a) The shipmaster
- (b) The ship's husband or general agent
- (c) The consignee of the ship or the berth agent

(2) Each agent is responsible directly to United States as "operating owner" for matters with which he is entrusted.

(3) United States employs experienced shipmasters as agents for physical operation and management of vessels afloat, and experienced steamship operators both as general agents to "husband" ship or manage accounting and other shoreside business operations and as berth agents to manage operation of obtaining and discharging cargo and other port services.

(4) United States sometimes insures vessels it operates in this type of operation. When suit is brought against Government, general agent is sometimes codefendant. The underwriters normally permit general agent to select attorneys to assist USA in defending suit. These attorneys are paid by underwriters who sustain expense of investigation, attorney's fees and judgments. Premiums paid to such underwriters by Government are paid

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 131 - 2

under agreement which contains a recapture clause. If above expenses paid do not exceed premiums paid by Government a refund will be made to Government.

(5) In addition to these operations by War Shipping Administration and its successor, the Maritime Commission and Maritime Administration, and also operation of regular Navy and Army vessels, there are cargo- and passenger-type vessels operated by the Army Transport Service and the Military Sea Transportation Service. These vessels are crewed by civilian Government employees and are not insured.

EFFECTIVE: 01/31/78

131-3 POLICY

(1) Requests for investigation are referred directly to divisional offices by field office of Admiralty Section of Civil Division or the USA. Cases should not be accepted for investigation in which previous investigation was conducted by another agency.

(2) Differentiate between full investigation for trial purposes and administrative investigation or accident report for disciplinary purposes or accident prevention purposes. Many times Navy, Army, or Coast Guard, or more than one of them, will conduct hearings or investigations for express purpose of fixing responsibility for accident thereby enabling them to take necessary administrative action. This type of investigation or hearing cannot be construed as an investigation within the rule that Bureau will not investigate matters previously investigated by another agency.

(3) There are occasions when case has been entirely investigated by either Admiralty attorneys themselves or employees of another Government agency. Subsequently, requests are received to conduct investigation to bring entire matter to logical conclusion. Bureau's experience has shown that this is not conducive to maximum efficiency in investigations. Consequently, no investigation should be conducted.

(4) Where underwriters permit general agent to select his attorneys to handle dispute, such attorneys are reimbursed to locate and interview their own witnesses. Under no circumstances are you to locate witnesses or conduct investigations to locate witnesses for these attorneys even though request emanated from USA's office, without special authorization from FBIHQ.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 131 - 3

(5) While close cooperation with attorney charged with defense of admiralty suit is important and his suggestions as to lines of inquiry should be followed, Agents should not work under supervision of attorney from Admiralty Section of USA's office or a special assistant to the Attorney General handling admiralty matters.

(6) Investigations ordinarily should be confined to cases in which risk is uninsured and Government has to defend case and sustain whatever loss involved. Any requests for investigation in insured cases should be referred to FBIHQ for authority to investigate, with your recommendations.

EFFECTIVE: 01/31/78

131-4 HANDLING OF CASES

(1) Examine and secure, if possible, a copy of report of investigation previously conducted or minutes of hearing.

(2) Refer to steamship companies as the "general agent," not the "operator."

(3) Files should be opened on each individual plaintiff or group of plaintiffs who filed a single suit against U.S. in connection with a particular accident.

(4) After investigation completed, case should be placed in pending-inactive status until matter is settled in court. A closing report should then be submitted. A statistics letter should then be submitted to FBIHQ showing:

- (a) Amount of suit
- (b) Settlement or award

EFFECTIVE: 01/31/78

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 131 - 4

131-5 PRIVACY ACT - REQUIREMENTS

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

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

EFFECTIVE: 01/31/78

131-6 CHARACTER - ADMIRALTY MATTER

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 134 - 1

SECTION 134. FOREIGN COUNTERINTELLIGENCE ASSETS (OPERATIONAL
AND INFORMATIVE ASSETS)

134-1 FOREIGN COUNTERINTELLIGENCE ASSETS (OPERATIONAL AND
INFORMATIVE ASSETS)

Information concerning the |134| classification is set forth
in a separate FBI manual, the |NATIONAL FOREIGN INTELLIGENCE PROGRAM
MANUAL (NFIPM). |

EFFECTIVE: 02/14/97

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 1

SECTION 137. |CRIMINAL|INFORMANTS|(SEE MIOG, PART II,
10-3; LEGAL ATTACHE MANUAL, 6-12;
LEGAL HANDBOOK FOR SPECIAL AGENTS, SECTION 8.)|

||137-1| RESPONSIBILITY FOR THE DEVELOPMENT AND OPERATION OF
INFORMANTS

(1) The SAC of each field office is personally responsible for the establishment of informant coverage concerning criminal activity of interest to the FBI within his/her territory. Particular emphasis is to be placed on the priority investigative matters of the office. Informants are an integral part of the office's overall criminal informant and cooperative witness intelligence base. The SAC must ensure that his/her Agents make every effort to develop quality informants, and that Agents receive the training and guidance necessary to enable them to perform their duties in an effective and efficient manner. The development and operation of informants must be closely supervised, because of the significant contributions which they make to FBI investigations and because of the difficulties inherent in their operation. Accordingly, the SAC should ensure that informant files are reviewed every 60 days by a Supervisory Special Agent.

(2) Each SUPERVISORY SPECIAL AGENT is personally responsible for the establishment of informant coverage concerning criminal matters under his/her supervision. Each Supervisor must ensure that Agents under his/her supervision make every effort to develop quality informants, and that their Agents receive the training and guidance necessary to enable them to perform their duties in an effective and efficient manner. Supervisors will review the informant files of those individuals being developed or operated by Agents under their supervision at least every 60 days. The fact that such a review was conducted must be documented in the informant's file on an FD-675 and indexed on the FD-237. The purpose of this review is to ensure that the informant is being operated in accordance with FBI and Attorney General Guidelines, and that adequate coverage is established for the investigative matters under his/her supervision. In fulfilling this responsibility, it is strongly suggested that the Supervisor periodically meet with the informants being operated by Agents under his/her supervision. When a Supervisor is either the case Agent or alternate Agent for an informant, the responsibility for administrative oversight, including the 60-day informant file reviews,

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 2

authorization for the informant to participate in criminal activity and the initial review of informant payments, belongs to the ASAC.

(3) Each SPECIAL AGENT involved in criminal investigative activities at least 50 percent of his/her time, and not otherwise mitigated, is personally responsible for the development and operation of productive informants to address criminal matters within his/her investigative responsibilities. The SAC of each field office has the prerogative to task Agents not working criminal matters at least 50 percent of their time with the development and operation of their productive informants or liaison contacts. Agents are responsible for ensuring that their informants are operated in a manner which is their consistent with FBI and Attorney General Guidelines.

(4) The CRIMINAL INFORMANT PROGRAM MANAGER is personally responsible for ensuring that the program is operated in an effective and efficient manner, consistent with FBI and Attorney General Guidelines.

(5) The CRIMINAL INFORMANT PROGRAM COORDINATOR is personally responsible for ensuring that the SAC and Criminal Informant Program Manager are made aware of all significant issues and developments which impact on the Criminal Informant Program.

EFFECTIVE: 12/20/93

| 137-1.1 | Moved to 137-2.1 |

EFFECTIVE: 12/20/93

| 137-1.2 | Deleted |

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 3

EFFECTIVE: 12/20/93

||137-2| DEFINITION

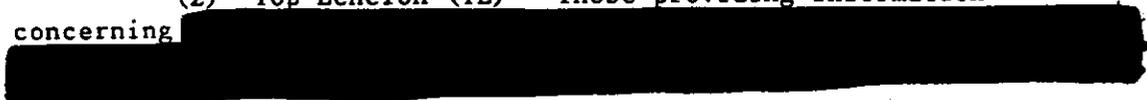
An informant is any person or entity who furnishes information to the FBI on a confidential basis. |The FBI will not disclose the identity of an informant, except as provided in 137-4.2. |

EFFECTIVE: 12/20/93

||137-2.1 Categories of Informants

Informants must be classified according to one of the following categories:

(1) Organized Crime (OC) - Those providing information concerning investigations falling within the organized crime program. (Classification 137A).

(2) Top Echelon (TE) - Those providing information concerning 

(3) Criminal (C) - Those providing information concerning investigations into matters of a general criminal nature. (Classification 137B).

(4) Domestic Terrorism (DT) - Those providing information concerning investigations into persons or groups involved in terrorist activities within the United States, such as bombings and other criminal terrorist activities, on which the FBI has an open and approved case. (Classification 137C).

(5) White Collar Crime (WC) - Those providing information concerning violations falling within the white collar crime program. (Classification 137D).

(6) Drugs (D) - Those providing information concerning investigations falling within the drug program. (Classification 137F).

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 4

(7) Confidential Sources (CS) - Those providing information to the FBI on a confidential and regular basis as a result of legitimate employment or routine access to records, and not as a result of association with persons of an investigative interest to the FBI. The information provided by a Confidential Source must be relevant to authorized FBI investigations. The operation of a Confidential Source must be consistent with FBI and Attorney General Guidelines. A Confidential Source may be paid reasonable amounts for services and expenses. (Classification 137E).

EFFECTIVE: 12/20/93

137-3 DEVELOPMENT OF INFORMANTS (See MIOG, Part I,
137-3.1.2(1).)

The following factors must be taken into consideration in determining an individual's suitability to be an informant:

(1) Whether the person appears to be in a position to provide information concerning violations of law which are within the scope of authorized FBI investigative activity.

(2) Whether the individual is willing to voluntarily furnish information to the FBI.

(3) Whether the individual appears to be directed by others to obtain information from the FBI.

(4) Whether there is anything in the individual's background which would make him/her unfit for use as an informant.

(5) Whether the nature of the matter under investigation and the importance of the information being furnished to the FBI outweighs the seriousness of any past or contemporaneous criminal activity of which the informant may be suspected.

(6) Whether the motives of the informant in volunteering to assist the FBI appear to be reasonable and proper.

(7) Whether the information which the informant can provide could be obtained in a more timely and effective manner

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 5

through other sources or by a less intrusive means.

(8) Whether the informant is sufficiently reliable and trustworthy, and whether there is an adequate means by which to verify his/her truthfulness.

(9) Whether the individual appears to be willing to conform to FBI and Attorney General Guidelines regarding his/her operation.

(10) Whether the FBI will be able to adequately monitor and control the activities of the informant.

(11) Whether his/her use as an investigative technique will intrude upon privileged communications or inhibit the lawful association of individuals or the expression of ideas.

(12) Whether the use of the informant could compromise an investigation or subsequent prosecution which may require the Government to move for a dismissal of the case.

EFFECTIVE: 12/20/93

137-3.1 Suitability and Pertinence Inquiries

Prior to the certification of an individual for use as an informant or Confidential Source, a suitability and pertinence inquiry (SI) must be conducted. The purpose of this inquiry is to determine whether he/she is suitable for use as an informant or Confidential Source and the pertinence of the information likely to be provided.

(1) The SI will be conducted for a period not to exceed 120 days. An extension of the initial 120-day period may be authorized by the SAC. The notification of an extension must be entered into CIMS no later than ten working days prior to the conclusion of the initial 120-day period. It must contain the facts or circumstances which preclude completion of the SI during the initial 120-day period. If an individual cannot be certified within 240 days from initiation of the SI, he/she should be closed.

(2) During the SI, the Agent may accept information volunteered by the individual and may make reasonable payments to him/her for services and expenses. In addition, he/she may be paid

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 6

for the information. However, these individuals may not be used to participate in criminal activities or provide substantial assistance in an undercover operation during the SI period.

(3) An informant in the SI stage of development may not be used in a preliminary domestic security/terrorism investigation without the prior approval of a Supervisory Special Agent. Such approval must be recorded in the file. (See 137-4(16).)

(4) SIs should not be used to develop information concerning an individual for the purpose of inducing him/her to become an informant or a Confidential Source.

(5) Any lawful investigative technique can be utilized in determining an individual's suitability to be an informant.

EFFECTIVE: 06/08/94

137-3.1.1 Administration of the Suitability and Pertinence
Inquiry

(1) Upon selection of an individual for use as an informant, the field office will assign a 137 field number and an alpha character from the Resource Management Information System. This alpha character will ensure the time devoted to that 137 matter is allocated to the appropriate program. At that time, the field office will also assign a sequential field office symbol number. The symbol number will contain the field office two-letter identifier as a prefix, the symbol number, the letters SI, and the suffix of either an OC, C, DT, WC, CS or D to indicate the primary area in which the informant will be providing informational assistance. Example: BA 12345-SI-WC.

(2) The SI will commence on the date the 137 file is opened.

(3) Specific authority must be obtained from the SAC to conduct an SI for the individuals identified in (a)-(d) below. FBIHQ authority must be obtained prior to converting these individuals to fully operational status. This authority may NOT be obtained on a UACB basis. The specific restrictions concerning the development or operation of these individuals is set forth in Section 137-7. (See MIOG, Part I, 137-3.2(2).)

Sensitive
PRINTED: 02/18/98

Sensitive

(a) Privileged informants, i.e., attorneys, physicians, members of the clergy, and news media personnel.

(b) Individuals who are now or were ever in the Witness Security Program.

(c) Minors (individuals under the age of 18).

(d) A counselor in a drug treatment program.

(4) Immediately upon the opening of an informant, or upon the conversion of a cooperative witness to an informant, enter all information from the opening memorandum in the CIMS database, with the exception of those individuals identified in 137-7 which may require FBIHQ approval. All memoranda are to contain the following information: (See (5) below and 137-10.)

[REDACTED]

b2
b7E

(h) A statement, if applicable, that this is a privileged occupation informant or, if applicable, a statement regarding the individual's occupation or status as a Federal or state parolee or probationer, an inmate, a past or current participant in the Witness Security Program, a law enforcement officer, an elected official, a union official, a minor, an employee of a financial institution, active duty military personnel, a school employee or a counselor in a drug treatment program. The statement should set forth

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 8

the specific nature of the occupation, the type of information being received, how the information will be obtained and the justification for operating the source. The specific requirements for opening and operating such individuals are detailed in Section 137-7.

(5) Immediately upon the conversion of a cooperative witness to an informant, the field office must prepare a memorandum captioned with the field office two-letter identifier, symbol number and file number. However, individuals identified in 137-7.1 and 137-7.2(2) require prior FBIHQ approval. All such conversion memoranda are to contain the information set forth in 137-3.1.1(4). (See MIOG, Part I, 137-10.)

(6) If any of the above information is not available at the time the SI, the information should be obtained and entered into CIMS prior to the conversion of the individual to a fully operational informant.

EFFECTIVE: 06/08/94

137-3.1.2 Certification of Suitability and Pertinence

(1) At the conclusion of the SI, the supervisor must review the informant's file and make a written finding, based on the factors outlined in 137-3, stating whether the informant appears suitable for use and whether the information likely to be obtained from the individual is pertinent to and within the scope of the FBI's investigative responsibility. The supervisor's certification must be documented in the informant's file and indexed on the FD-237. (See MIOG, Part I, 137-3.2(1)(j).)

(2) If it is determined that the individual is not suitable for use as an informant, the inquiry is to be immediately closed by memorandum to the source file, which should include the specific reason(s) for the closing of the inquiry. This data should then be entered in the CIMS database. Additionally, if the informant is closed because of unauthorized criminal activity, other than for misdemeanor arrests, a teletype to FBIHQ, Criminal Informant Unit, is to be prepared detailing the date of arrest, the criminal activity, and the disposition of the charges. (See MIOG, Part I, 137-10.)

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 9

EFFECTIVE: 06/08/94

| 137-3.1.3 | Moved to 137-3.1.2 |

EFFECTIVE: 12/20/93

137-3.2 Conversion From a Suitability and Pertinence Inquiry
to an Informant (See MIOG, Part I, 137-7.2(1)(a).)

(1) An individual becomes an informant once the supervisor certifies the individual's suitability. A memorandum is prepared, and the information is entered in CIMS. The memorandum must contain the following information in linear paragraph form:

b2
b7E

[REDACTED]

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 10

(j) Certification statement by the field office supervisor described in 137-3.1.2(1).

(k) If handled by a resident agency, identify resident agency.

(1) A statement, if applicable, that the specific requirements for opening and operating individuals detailed in Section 137-7 have been complied with. The statement should set forth specific details on how compliance was obtained.

(2) In the absence of response from FBIHQ, consider the operation of the informant to be approved. However, those individuals identified in Section 137-3.1.1(3)(a) - (d) may not be operated without a specific grant of authority from FBIHQ.

(3) Authority to operate an individual described in Section 137-7.1 must be requested in both the SI and conversion teletypes. Such teletypes may not be sent on a UACB basis.

EFFECTIVE: 06/08/94

137-3.3 | Revised and Moved--See 137-7, 137-7.1, 137-7.1.1,
137-7.1.2, & 137-7.2 |

EFFECTIVE: 12/20/93

|| 137-3.4 | Revised and Moved--See 137-6 |

EFFECTIVE: 12/20/93

Sensitive
PRINTED: 02/18/98

Sensitive

137-4 | OPERATION OF INFORMANTS |

(1) | Every effort should be made to control the informant's activities when acting at the direction of the FBI to ensure that his/her conduct will be consistent with FBI and Attorney General Guidelines. |

(2) | Agents should not exercise improper influence on individuals in an attempt to develop them as informants, including promising immunity or reduction of sentence to those who furnish information. Any representations regarding plea agreements, immunity or other prosecutorial consideration for an informant's assistance are to be made only by the United States Attorney's Office. |

(3) | When it becomes apparent that an informant's role has changed from informational to operational in nature, i.e., making consensual recordings, introducing undercover Agents, purchasing evidence, or otherwise participating in similar operational activities, he/she must be converted to a cooperative witness. (See (15).) Thereafter, he/she must be operated in a manner which is consistent with the Part I, Section 270 of the Manual of Investigative Operations and Guidelines (MIOG). |

(4) | When it becomes apparent that an informant has furnished false information or that there is some other indication of unreliability, the Agent must promptly advise the SAC and provide FBIHQ with a teletype setting forth the factual background which gave rise to the concern. In addition, the teletype should state whether the informant has appeared as a witness on behalf of the Government in any FBI case or has furnished information which was disseminated to another agency. |

(5) | All investigative activity must be made a matter of record in the field office files, including negative contacts, to ensure that the informant's files are accurate and complete. However, contacts with an informant for payment purposes only, during which no positive information is generated, need not be reported as a negative contact on an FD-209. |

(6) | An alternate Agent must be assigned at the time the informant is opened. The alternate Agent must handle some contacts with the informant and must meet or observe the informant by the second contact after conversion. This will ensure the continued use of an informant during the absence or transfer of the case Agent. Any deviation from this requirement must be approved personally by the SAC

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 12

and documented in a memorandum in the informant's file.

(7) Constant care should be exercised to avoid any disclosure to anyone which might result in the identification of an informant or cast suspicion upon an informant, except as described in 137-4.2.

(8) Agents have an affirmative responsibility to check the reliability of their informants.

(9) Operation of informants in undercover operations must be in compliance with FBI policy and "Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations." The operational use of informants in long-term cases or undercover operations may warrant use of a personal services contract between the informant and the FBI. This agreement must be coordinated with the substantive unit at FBIHQ and approved by the Contract Review Unit, FBIHQ. In a situation where prosecution is pending for the informant, a Plea Agreement may be warranted between the informant and the United States Government. Close coordination with the United States Attorney's Office is essential in both of these situations.

(10) All representations made to an informant regarding his/her future prosecution in cases in which he/she is a subject, must be made by the United States Attorney's Office, on behalf of the United States Government, and not by the case Agent or others, on behalf of the FBI.

(11) Care must be exercised in handling informants to ensure that they are provided with no information other than that which is necessary to carry out their assignments. Any disclosure of information to an informant obtained from criminal investigative files must have the express approval of the SAC and be documented in the informant's main file. All disseminations to informants must comply with the provisions of the Privacy Act. No dissemination may be made of information which is classified, which identifies other informants or cooperative witnesses, which is Grand Jury material (see Rule 6(e), Federal Rules of Criminal Procedure), or which is otherwise privileged. When it is decided to disseminate information regarding third persons or entities from FBI files, a teletype must be submitted to FBIHQ, on a UACB basis, under the informant's symbol number caption, setting forth the following information: (See (g) below.)

(a) That the SAC of the field office has authorized dissemination of information from FBI criminal investigative files.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 13

(b) The nature and seriousness of the matter being investigated.

(c) Specific details outlining the need to furnish the information to the informant.

(d) The specific information which is to be furnished to the informant.

(e) The fact that the information to be released has been coordinated with the appropriate field divisions that may be affected by such dissemination.

(f) In emergency situations, the SAC, or in his/her absence, the ASAC, may authorize the dissemination of such information from criminal investigative files and immediately thereafter advise FBIHQ in the manner described herein.

(g) If it is determined that dissemination of information from either civil or applicant investigative files is necessary in order to give the informant credibility, particularly in investigative matters dealing with loss of life, destruction of property, or which could have other serious consequences, or which may contribute to the solution of a serious crime, the SAC must seek authority from FBIHQ prior to making such a disclosure. The request in this instance must include all information outlined above in 137-4 (11) (a)-(e).

(h) If it is determined that the information from FBI files which is to be given to an informant concerns an individual of no investigative interest to the FBI, the individual should, except in the situations set forth below, be contacted in order to obtain consent to utilize the needed information. Such contact with a third party should not take place if to do so would jeopardize an investigation, disclose the identity of an informant, or when such contact could jeopardize the safety of the individual whose consent is being sought.

(i) When it is not possible or is otherwise inadvisable to obtain the third party's consent, the SAC must obtain authority from FBIHQ to disseminate such information. The request should also set forth the following information:

1. The nature and seriousness of the matter being investigated;

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 14

| 2. | An outline of the need to furnish the
information to the informant;

| 3. | A list of specific information to be
furnished to the informant;

| 4. | Justification for not advising the
individual to whom the information pertains;

| 5. | What effect such disclosure might have on
the individual's reputation in the community; and

| 6. | The personal recommendation of the SAC. |

(j) If it is determined by the SAC that dissemination of information being considered for disclosure to an informant contains derogatory information regarding an individual who is or is not of investigative interest to the FBI, the SAC will personally make a recommendation to FBIHQ requesting authority to utilize such information.

(k) In all cases described above, wherein FBIHQ authority is required for dissemination of information from FBI files to FBI informants, this authority will be granted at the Section Chief level. All instances of such dissemination will be reviewed by the Director or Director's designee annually. The Director or Director's designee will personally authorize the dissemination of information to informants which is taken from applicant or civil files. Further, the Attorney General or Attorney General's designee will be notified of such disseminations. |

| (12) | Informants will not be used to obtain information relating to legal defense plans or strategies. When a person has been formally charged with a crime and criminal proceedings are still pending, informants will not be used to deliberately elicit information concerning the crime(s) for which the person was charged. An individual is formally charged when he/she has been charged by indictment or information or after his/her initial appearance following arrest. |

| (13) | Information of value provided by an informant on violations which are not of an investigative interest to the FBI should be disseminated to the appropriate law enforcement agency. If full disclosure is not made for one of the following reasons, then, whenever feasible, the field office should make at least limited disclosure to the law enforcement agency having jurisdiction. | The

Sensitive

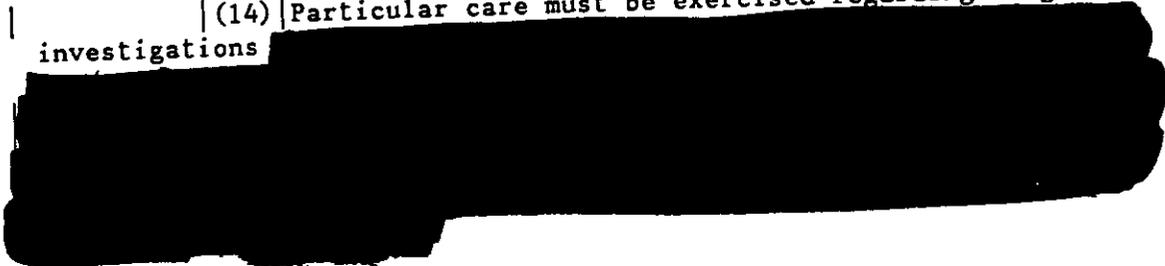
Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 15

disclosure should be sufficient to apprise them of the nature and extent of the criminal activity. Full disclosure should be made to the appropriate law enforcement agency as soon as the need for restricting dissemination is no longer present. The action taken and the justification for the action should be documented in the informant's main file. Factors to be considered in making such a disclosure are whether the disclosure would jeopardize:

- (a) The identity of an informant/cooperative witness;
- (b) The life or personal safety of an FBI Agent, informant/cooperative witness or other persons; or
- (c) A major ongoing FBI investigation.

(14) Particular care must be exercised regarding drug investigations



b2
b7E

(15) Increased participation in the investigation of drug trafficking will logically result in expanded use of consensual monitoring techniques. Care must be exercised to ensure that informants do not participate in consensual monitoring activities. An informant must be converted to a cooperative witness before he/she can participate in consensual monitoring activities. Any exceptions to this requirement must receive prior FBIHQ approval. Such individuals should be fully briefed as to the consequences of being converted to a cooperative witness, i.e., that they may be required to testify at trial. (See (3).)

(16) Domestic terrorism informants must be used in compliance with the "Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Domestic Security/Terrorism Investigations." Prior to opening an informant in a Domestic Terrorism investigation, there must be an open and approved Domestic Terrorism case. (See 137-3.1(3).)

(17) Undisclosed participation in the activities of an organization by an informant in a manner that may influence the exercise of rights protected by the First Amendment must be approved

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 16

by FBIHQ, with notification to the Department of Justice.

(18) The lawful activities of legitimate organizations are not subject to investigation. However, individual members of such organizations may be independently involved in criminal activity. In order to ensure that the privacy of constitutionally protected activities will be respected, the SAC must approve the use of any individual where:

(a) An informant or Confidential Source will make use of formal affiliation with an organization that has a predominantly legitimate purpose, and the informant's or Confidential Source's formal affiliation will give him/her continued access to nonpublic information related to the legitimate purposes of the organization.

(b) An informant or Confidential Source will make use of formal or informal affiliation with an organization that is predominantly engaged in political activities.

(19) In determining whether to use an informant who is engaged in the lawful activities of legitimate organizations, the SAC should consider:

(a) The likelihood of responsible behavior by the informant during the course of his/her organizational membership.

(b) The ability of the FBI to focus the informant's reporting on members of the organization who are involved in criminal activities and to minimize adverse impact on innocent members of the organization.

(c) Whether the use of the informant or Confidential Source might inhibit free association or expression of ideas by innocent members of the organization in the future, or hinder the ability of the organization to function effectively.

(20) In order to avoid the appearance of impropriety, Agents are prohibited from engaging in business or financial relationships with informants. If an exemption to this general prohibition is deemed necessary, the SAC must articulate sufficient background to demonstrate to FBIHQ that the relationship will not create an appearance of impropriety or otherwise reflect adversely upon the FBI.

(21) Sensitive circumstances require particular caution.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 17

When a criminal informant is operating under the direction of the FBI in any matter, the handling Agent and field Supervisor will review appropriate Attorney General's Guidelines on Undercover Operations Revised 11/13/92 as well as the MIOG, Part I, Section 137 and consult with FBIHQ in the event that questions arise regarding sensitive circumstances. The following represent sensitive circumstances requiring Section Chief level approval (a discussion of extraordinary criminal activity is provided at 137-5.1(2):

(a) Any investigative activity which involves the possibility of a criminal informant engaging in activity which involves "sensitive circumstances" as defined herein, must be presented to the appropriate CID section prior to the activity taking place. The section will either authorize the activity or refer it to the Undercover Review Committee for review/approval. For purposes of these guidelines, sensitive circumstances are involved if there is a reasonable expectation that the investigative activity will involve--

1. An investigation of possible criminal conduct by any elected or appointed official, or political candidate, for a judicial-, legislative-, management-, or executive-level position of trust in a Federal, state, or local governmental entity or political subdivision thereof.

2. An investigation of any public official at the Federal, state, or local level in any matter involving systemic corruption of any governmental function.

3. An investigation of possible criminal conduct by any foreign official or government, religious organization, political organization, or the news media.

NOTE: There are some circumstances involving officials in judicial, legislative, management, or executive-level positions which may logically be considered nonsensitive. In such instances, the Section Chief, White-Collar Crimes Section, FBIHQ, who has a national perspective on matters involving public officials, must be consulted for a determination of sensitive circumstances.

4. Engaging in activity having a significant effect on or constituting a significant intrusion into the legitimate operation of a Federal, state, or local governmental entity.

5. Establishing, acquiring, or using a proprietary.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 18

6. Providing goods or services which are essential to the commission of a crime, which goods and services are reasonably unavailable to a subject of the investigation except from the Government.

7. Activity that is proscribed by Federal, state, or local law as a felony or that is otherwise a serious crime -- but not including the purchase of stolen or contraband goods; the delivery or sale by the Government of stolen property whose ownership cannot be determined; the controlled delivery of drugs which will not enter commerce; the payments of bribes which are not included in the other sensitive circumstances; or the making of false representations to third parties in concealment of personal identity or the true ownership of a proprietary (this exemption does not include any statement under oath or the penalties of perjury).

NOTE: Some of the above activities, including the controlled delivery of drugs and bribe payments, are subject to specific review and approval procedures. These matters must be coordinated with FBIHQ.

8. A significant risk that a person participating in an investigative activity will be arrested or will supply falsely sworn testimony or false documentation in any legal or administrative proceeding.

9. Attendance at a meeting or participation in communications between any individual and his or her lawyer.

10. A significant risk that a third party will enter into a professional or confidential relationship with a person participating in an investigative activity who is acting as an attorney, physician, clergyman, or member of the news media.

11. A request to an attorney, physician, member of the clergy, or other person for information that would ordinarily be privileged or to a member of the news media concerning an individual with whom the news person is known to have a professional or confidential relationship.

12. Participation in the activities of a group under investigation as part of a Domestic Security investigation or recruiting a person from within such a group as an informant.

13. A significant risk of violence or physical injury to individuals or a significant risk of financial loss.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 19

14. Activities which could result in significant claims against the United States arising in tort, contract, or for compensation for the "taking" of property.

15. Untrue representations by a person participating in an investigative activity concerning the activities or involvement of any third person without that individual's knowledge or consent.

EFFECTIVE: 12/20/93

137-4.1 Operation of Informants by Task Force Members (See MIOG, Part I, 137-4.2(5).)

(1) The primary purpose of these guidelines is to ensure that the integrity of the Criminal Informant Program is not diminished as a result of the implementation of the task force concept. These guidelines attempt to balance the need to encourage full cooperation among FBI and non-FBI task force personnel, while maintaining the level of security traditionally afforded to FBI informants. To attain this balance, Agents should limit the disclosure of the identities of FBI informants to non-FBI task force members to those situations where it is essential to the effective performance of their duties.

(2) The SAC of the office of origin may authorize task force members to act as a co-case Agent. Task force members who have been authorized by the SAC to act as a co-case Agent may be present at debriefings, witness payments, and have access to the informant's file. However, an alternate FBI case Agent must be assigned to handle the informant in the absence of the case Agent. The FBI case Agent or alternate Agent is ultimately responsible for the operation and control of the informant, including the responsibility for the preparation and submission of the necessary paperwork. A co-case Agent may meet with an informant without being accompanied by an FBI Agent, provided each such contact is fully documented. While the co-case Agent may make such contacts, it is recommended that the case Agent or alternate Agent be present during meetings with the informant. The presence of an Agent at such meetings not only serves to foster rapport, but also to ensure compliance with FBI and Attorney General Guidelines.

(3) Task force members may not be provided with the

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 20

identity of an FBI informant, unless the SAC has granted appropriate disclosure authority or the SAC has approved him/her to be a co-case Agent for that specific individual. All task force members who have been designated as a co-case Agent must be advised of all relevant FBI and Attorney General Guidelines regarding the development and operation of FBI informants. The fact that the co-case Agent has been provided these instructions should be documented in the informant's file.

(4) In addition to being advised of the relevant FBI and Attorney General Guidelines, a task force member who has been authorized to act as a co-case Agent must be advised that:

(a) He/She is not to make any further disclosure of the identity of the informant, including to other members of his/her department or agency.

(b) He/She is not to prepare, or cause to be prepared, any paperwork or other record, other than official FBI records, regarding their contacts with or payments to FBI informants.

(c) He/She may not provide his/her department or agency with any documents or information which identify or tend to identify an FBI informant.

The fact that these instructions have been given to the task force member must be documented in the informant's file.

EFFECTIVE: 12/20/93

137-4.2 Disclosure Authority (See MIOG, Part I, 137-2 & 137-4(7), Part II, 3-8.4.)

(1) The SAC, or in his/her absence the ASAC, is responsible for granting disclosure authority to disclose the identity of an informant and will necessarily cause such disclosure of the release of information contained in an informant's file. In the decision-making process it is recommended the SAC consider the following issues:

(a) The specific nature of the information to be disclosed.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 21

(b) The name, title and agency or department of all individuals who will have access to the information.

(c) The specific nature of the request, demand or order which generated the disclosure request.

(d) Whether the disclosure will have an adverse impact on any individuals or FBI investigations.

(e) The SAC's recommendation as to whether the FBI should voluntarily comply with the request or whether an attempt should be made to assert appropriate administrative or legal objections to the request, demand or order.

(2) The response to any subpoena, court order, or any request bearing on the identification of an informant or the production of any informant's file, document, data, or disclosure of the identity of the informant to any individual, must have prior SAC approval. Where appropriate, the field office should have the informant execute a release form (FD-746) prior to the disclosure of the informant's identity or any information provided by the informant. Should the informant refuse to sign the release, the refusal should be noted at the bottom of the form and the informant should be advised that the FBI may nevertheless release the informant information requested, as the informant privilege belongs to the FBI as opposed to the informant. The specific admonishment given to the informant should be recorded at the bottom of the form and the form should be witnessed by two Special Agents.

(3) Any disclosure of information in the informant's file outside of the FBI, should be documented in the informant's main file, including the name of the person to whom the informant's identity was disclosed, the specific nature of the information disclosed and the reason for the disclosure.

(4) Physical possession of the source file is never to be transferred to any individual outside the FBI other than a Federal judge for in-camera ex parte review. Any dissemination of serials from the source's files is to be done only after appropriate redaction and subsequent review by both the Principal Legal Advisor and SAC.

(5) Members of joint FBI task forces may be provided with the identity of an informant on SAC authority consistent with Section 137-4.1.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 22

(6) FBIHQ is to be subsequently advised of the facts and circumstances regarding all disclosure issues.

EFFECTIVE: 12/20/93

137-4.3 Domestic and International Travel by Informants (See MIOG, Part II, 23-8.)

(1) DOMESTIC TRAVEL - An SAC may authorize travel by an informant within the continental United States following coordination with the SAC, or in his/her absence, the ASAC, of the field office to be visited. SAC authorization is only required in instances where the informant is traveling on behalf of or at the behest of the FBI. Travel may not be approved by any other management or supervisory official within the field office. Normal travel within the continental United States should be confirmed by teletype to the affected divisions.

(2) INTERNATIONAL TRAVEL - All informants who travel to an extraterritorial jurisdiction, either on behalf of or at the behest of the FBI, regardless of the number or frequency of such travel, must adhere to the provisions of the "Attorney General Guidelines on the Development and Operation of FBI Criminal Informants and Cooperative Witnesses in Extraterritorial Jurisdictions." The approval mechanism necessary for informants to travel to extraterritorial jurisdictions is set forth in the aforementioned Attorney General Guidelines and may only be obtained on a request-only basis, not on a UACB basis.

EFFECTIVE: 12/20/93

Sensitive
PRINTED: 02/18/98

Sensitive

||137-5| INFORMANT PARTICIPATION IN AUTHORIZED AND UNAUTHORIZED
CRIMINAL ACTIVITY

|An informant may not be authorized to engage in any activity that would constitute a crime under state or Federal law, if engaged in by a private person acting without the authorization or approval of an appropriate FBI and United States Attorney's Office representative, except as authorized by this section. For the purposes of this section, such activity is referred to as "authorized criminal activity."|

EFFECTIVE: 12/20/93

||137-5.1 Informant Participation in Authorized Criminal Activity
(See MIOG, Part I, 137-5.2(1) & 137-6(1).)|

||authorized|criminal activities of an ordinary nature (those not fitting the definition of extraordinary criminal activity in ||137-5.1(2)),|other than the routine purchase of stolen or contraband goods, requires authorization at the ASAC level or above. Participation in the purchase of stolen goods or contraband can be authorized at the level of the field supervisor or above. |For the purpose of these guidelines, drugs are contraband. |The authorizing official must make a written finding|in advance of any such activity. |This written finding must be documented in the informant's main file prior to the activity and should specify the facts and circumstances relied upon in making this determination. In emergency situations, the ASAC or the appropriate Supervisory Special Agent may verbally authorize the activity and immediately thereafter document that authorization in the informant's main file. |The finding must state that: (See (3) below.)

|or evidence for|paramount|prosecutive purposes, to establish or maintain credibility|or cover|with|persons associated with criminal activity in connection with the investigation,|or to prevent or avoid the danger of|death or serious bodily|injury; or|

(b) The need for participation in a criminal activity by an informant outweighs the seriousness of the conduct

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 24

involved.

(2) Participation by an informant in authorized extraordinary criminal activity may only be made by the SAC, or in the SAC's absence, the ASAC, after consultation with and the approval of the United States Attorney. Additionally, the participation of an informant in any of these activities may constitute a sensitive circumstance, and therefore will require prior approval of the appropriate Section Chief, FBIHQ. The SAC's written determination and a record of the United States Attorney's approval shall be immediately forwarded to FBIHQ and to the Assistant Attorney General in charge of the Criminal Division or his/her designee, in a form suitable to protect the identity of the informant. The United States Attorney's opinion should be confirmed in writing in such a manner as to protect the informant's identity. Extraordinary criminal activity is defined as that activity which may involve a significant risk of violence, corrupt actions by high public officials or severe financial loss to any victim. FBIHQ must be notified by teletype of such authorizations, as well as the concurrence of the United States Attorney. (Sensitive circumstances are discussed in detail at 137-4(21). (See (1) above & (3) below.)

(a) If the SAC reasonably determines that an emergency situation exists requiring an informant's participation in extraordinary criminal activities prior to being able to obtain the United States Attorney's opinion, the SAC may approve the participation on his/her own authority but shall immediately thereafter notify the United States Attorney, FBIHQ and the Assistant Attorney General, Criminal Investigative Division or his/her designee. Situations wherein the SAC could utilize such authority are: to protect loss of life or substantial property, to apprehend or identify a fleeing offender, or to protect the imminent loss of essential evidence. In such emergency situations, the SAC shall attempt to consult by telephone with a senior member of the United States Attorney's Office before approving the informant's participation.

(3) Written findings made pursuant to 137-5.1(1) and (2) must be documented in the informant's main file prior to the activity and should specify the facts and circumstances relied upon in making this determination, the dates for which the criminal activity has been authorized, the concurrence of the United States Attorney and a description of the anticipated criminal activity expected to take place. In emergency situations, the documentation should be done as soon as possible following the activity.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 25

(4) | When it is anticipated that the informant will participate in authorized criminal activity incident to a Group I undercover operation, approval must be given in advance by an Assistant Director on the recommendation of the Criminal Undercover Operations Review Committee, except that the Deputy Director's approval is required for participation in authorized criminal activity involving a significant risk of violence or physical injury to individuals. All approvals must be recorded in writing. |

| (5) | When approval is granted for an informant to participate in criminal activity, he/she | will | be | instructed | that under no circumstances | are they to | participate in any act of violence, initiate a plan to commit criminal acts or use unlawful techniques to obtain information for the FBI. |

(6) | The field office should, to the extent practicable, ensure that:

(a) The adverse effect of the activity on innocent individuals is minimized.

(b) The informant's participation is minimized and that the informant is not the primary source of technical expertise or financial support for the activity in which he/she will participate.

(c) The informant's participation in the activity is closely supervised by the FBI.

(d) The informant does not directly profit from his/her participation in the activity. |

| (7) Any proposal by a Confidential Source to engage in otherwise criminal activities in order to gather information changes the status of that individual from Confidential Source to informant.

(8) The alternate contacting Agent or second witnessing Agent must be present whenever the informant is briefed regarding the nature and extent of his/her authorized criminal activity unless strong written justification can be given to and approved by the SAC, or in the absence of the SAC, the ASAC, not to have a second Agent present.

(9) The SAC must review all such criminal activity by informants at least every 90 days. The SAC's review must be documented in the informant's main file or the appropriate control file. |

Sensitive
PRINTED: 02/18/98

Sensitive

EFFECTIVE: 12/20/93

137-5.2 Informant Participation in Unauthorized Criminal Activity

(1) While carrying out an FBI assignment, an informant or Confidential Source has a unique relationship with the FBI; therefore, his/her participation in any unauthorized activity in connection with an FBI assignment, even of a minor character, must be carefully scrutinized. Hence, whenever it is determined that an informant or Confidential Source has participated in criminal activity which was not authorized pursuant to Section 137-5.1, the field supervisor will ensure that the appropriate law enforcement or prosecutive authorities are advised of any violations of law and make a written determination of whether continued use of the informant is justified. This determination should be documented in the informant's main file.

(a) Whenever a field office learns of the commission of an unauthorized criminal act by an informant or Confidential Source, FBIHQ must be notified immediately. A recommendation must be made whether to notify the appropriate state or local law enforcement or prosecutive authorities of any violation of law, as well as whether continued use of the informant or Confidential Source is justified. In situations where notification to state or local authorities is determined to be inadvisable, or where any request or recommendation is made to state or local authorities to delay or forego enforcement action, the field office must advise FBIHQ of:

1. The facts and circumstances surrounding the informant's or Confidential Source's criminal violation;
2. The nature of the notification or request that was made to state or local law enforcement or prosecutive authorities, and the justification for the notification;
3. The nature of the information gained as a result of the violation; and
4. What use will be made of any information gathered through the violation of law.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 27

Thereafter, the FBIHQ will make a specific determination on whether to continue use of the informant or Confidential Source.

(b) A field office must notify FBIHQ whenever it learns of participation by an informant or a Confidential Source in an act of violence, even when appropriate state or local law enforcement or prosecutive authorities have been notified. A secure teletype must be submitted to FBIHQ setting forth the facts and circumstances concerning the informant's violent activity, what notification or request has been made to state or local law enforcement or prosecutive authorities, what use will be made of any information gathered through the activity; and, whether the office will continue to use the informant.

(2) In determining whether to notify appropriate Federal, state or local law enforcement or prosecutive authorities of an informant's/Confidential Source's criminal activity, the following factors should be considered:

(a) Whether the crime was completed, imminent or inchoate.

(b) The seriousness of the crime in terms of danger to life and property.

(c) Whether the crime is a violation of Federal or state law, and whether a felony, misdemeanor or lesser offense.

(d) The degree of certainty of the information regarding the criminal activity.

(e) Whether the appropriate authorities already know of the criminal activity and the informant's/Confidential Source's identity.

(f) The effect of notification on FBI investigative activity.

(3) Under no circumstances will the field office take any action to conceal a crime by an informant/Confidential Source.

(4) No factual representations or recommendations may be made regarding the disposition of any charges which may stem from unauthorized criminal conduct by the informant without prior FBIHQ authorization.

Sensitive

EFFECTIVE: 12/20/93

||137-6| GUIDELINES AND INSTRUCTIONS TO BE DISCUSSED WITH
INFORMANTS

The following matters must be made clear to the informant at the earliest opportunity, but in no event, later than the second contact after being converted. These admonishments must be reiterated at least annually or at any time there is an indication that there is a need. The fact that the informant has been so advised or readvised must be documented in his/her file and indexed on the FD-237. The admonishments are as follows:

(1) ASSISTANCE VOLUNTARY - The informant's assistance is strictly voluntary and will not exempt him/her from arrest or prosecution for any violation of law except where such violations were approved by the appropriate FBI official pursuant to Section 137-5.1.

(2) NOT EMPLOYEE OR UNDERCOVER AGENT - The informant is not and may not consider or represent himself/herself to be an employee or undercover Agent of the FBI.

(3) CONFIDENTIALITY - The informant's relationship must be maintained in the strictest confidence and he/she must exercise constant care to ensure that the relationship is not divulged to anyone.

(4) REPORT POSITIVE INFORMATION - The informant must report all positive information, both inculpatory and exculpatory, as promptly as possible.

(5) JURISDICTION - An informant who is providing information relating to specific criminal violations is to be advised of the pertinent legal issues related to the FBI's jurisdiction in that area.

(6) ACTS OF VIOLENCE - Informants will not participate in acts of violence. When asked to participate in an act of violence or when an informant learns of plans to commit an act of violence, the informant is to take all reasonable measures to discourage the violence, and report the incident to his/her handling Agent at their earliest opportunity.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 29

(7) UNLAWFUL TECHNIQUES - Informants will not use unconstitutional or unlawful techniques (e.g., breaking and entering, electronic surveillance, opening or tampering with the mail) to obtain information for the FBI.

(8) PLAN CRIMINAL ACTS - Informants will not initiate a plan to commit criminal acts.

(9) PARTICIPATION WITH SUBJECTS - Informants will not participate in criminal activities unless specifically authorized by the FBI.

(10) PAYMENTS ARE INCOME - If the informant is to be paid, he/she must be advised that the payments are taxable for Federal income tax purposes.

(11) GRANT OF CONFIDENTIALITY - The informant must be advised that the FBI will not disclose either his/her identity or the information provided by him/her on a confidential basis which tends to identify him/her, unless necessitated by compelling operational, litigative or prosecutorial considerations.

(12) CONFIDENTIAL SOURCE - Need only be advised that he/she is not acting as an agent or employee of the FBI and that under no circumstances should he/she use unlawful techniques to obtain information. The fact that a Confidential Source has been so advised must be documented in the main file and indexed on the FD-237.

EFFECTIVE: 12/20/93

137-7 RESTRICTIONS REGARDING THE DEVELOPMENT AND OPERATION OF INFORMANTS (See MIOG, Part I, 137-3.1.1 (3) & (4), 137-3.2(1) (1) & Part II, 3-8.6.)

SAC authority is required to initiate an SI on an individual and FBIHQ authority is required to convert that individual to a fully operational privileged informant. For the purposes of this section, the following individuals are to be considered privileged informants: any person admitted to practice law in state court, any licensed physician, any practicing member of the clergy, and any member of the news media. Privileged informants that have been

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 30

certified as to suitability must be authorized by the Assistant Director, Criminal Investigative Division (CID), before they can be converted to a fully operational informant. A field supervisor may approve the acceptance of information from a privileged individual on a one-time basis where the information is not privileged and is not collected at the behest of the FBI.

EFFECTIVE: 12/20/93

137-7.1 Restrictions Concerning the Development and Operation of Privileged Occupation Informants (See MIOG, Part I, 137-3.1.1(5), 137-3.2(3), 137-7.1.2 & Part II, 3-8.6.)

(1) Acceptance of information from a privileged individual on a one-time basis, where the information is not privileged and is not collected at the request of the FBI, may be approved by a field supervisor.

(2) The operation of a privileged informant may constitute a sensitive circumstance and therefore may require the prior approval of the appropriate Section Chief, FBIHQ.

(3) The privileged informant's value to FBI investigative interests should be evaluated in terms of possible Fifth and Sixth Amendment and conflict of interest issues. These individuals will only be approved for operation when it can be clearly articulated that their assistance will be of such significant value to the FBI's law enforcement mission that it outweighs the sensitivity of these areas of concern, and the assistance cannot be reasonably obtained in another manner.

(4) The Principal Legal Advisor must review the results of every contact with all privileged informants to ensure that all legal or ethical issues are identified and properly addressed.

(5) An individual in the privileged category may not be operated as an informant if he/she would be willing to provide information if his/her confidentiality were not protected.

(6) Privileged informants must be advised that:

(a) In seeking information from him/her, the FBI is

Sensitive
PRINTED: 02/18/98

Sensitive

not requesting him/her to violate any legal obligation of confidentiality.

(b) He/She should not furnish any information to the FBI which would violate such a privilege.

(c) The FBI will not knowingly give him/her any assignments which will cause a violation of his/her legal or ethical obligations.

The fact that these advisements were given must be documented in the informant's file.

(7) If it is determined that the informant has furnished information which violates his/her obligation of client confidentiality, such information should be recorded for the purpose of:

(a) Establishing that the information was received and that the issue was recognized.

(b) Documenting that no use was made of the information.

(c) Acknowledging that the information received was relevant to an FBI investigation, and that the investigation proceeded independent of such information.

(8) Use of privileged or other client-related information will be permitted if it is furnished regarding a situation wherein there could be loss of life, serious physical injury, destruction of property of substantial value, result in other serious consequences or which may contribute to the solution of a serious crime. If such a situation does develop, depending upon the exigency of the circumstances, the United States Attorney's Office and FBIHQ must be consulted prior to any use of the privileged information. If, because of exigent circumstances, consultation with the United States Attorney's Office and FBIHQ is not possible prior to the use of the information, both the United States Attorney's Office and FBIHQ must be advised immediately after that use. Only in the most urgent of circumstances should FBIHQ and the United States Attorney's Office prior concurrence not be obtained. Use of privileged information is to be thoroughly documented and will be allowed only in serious situations where to ignore the information could be construed as neglect of duty, notwithstanding the fact that such information may not be admissible in a court of law. (See MIOG, Part I,

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 32

137-7.1.1(1.)

(9) Privileged informants who have not made significant contributions to FBI investigative matters within any six-month period should be closed. This will preclude the continued operation of marginal privileged informants and limit contacts with privileged sources to those which are fully justified by operational considerations.

(10) Any change in a privileged informant's status in the community must be immediately brought to the attention of FBIHQ. These changes would include appointment or election to public office, or extensive media attention.

EFFECTIVE: 12/20/93

137-7.1.1 Additional Restrictions Regarding the Operation of Attorneys (See MIOG, Part II, 3-8.6.)

The operation of an attorney as an informant presents a significant risk of creating the perception of conflict of interest due to his/her obligation to fully represent his/her client. Due to the sensitivity of these circumstances, the operation of attorney informants must be in strict adherence with the following instructions:

137-7.1(8), (1) EXCEPT FOR EXTRAORDINARY SITUATIONS AS SET FORTH IN NO INFORMATION MAY BE ACCEPTED FROM AN ATTORNEY INFORMANT REGARDING ANY OF HIS/HER CRIMINAL OR CIVIL CLIENTS REGARDLESS OF PRIVILEGED COMMUNICATION. The attorney informant should be specifically advised not to furnish any information, privileged or otherwise, concerning his/her clients. THIS RESTRICTION APPLIES TO INFORMATION RECEIVED BY THE ATTORNEY INFORMANT DURING THE ATTORNEY-CLIENT RELATIONSHIP AND DOES NOT APPLY TO INFORMATION RECEIVED BY THE ATTORNEY INFORMANT PRIOR TO OR SUBSEQUENT TO THE ATTORNEY-CLIENT RELATIONSHIP.

(2) No payments for services are to be made to an attorney with a criminal defense practice without prior FBIHQ approval.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 33

EFFECTIVE: 12/20/93

137-7.1.2 Additional Restrictions Regarding the Operation of
Members of the News Media (See MIOG, Part II, 3-8.6.)

In addition to the restrictions set forth in Section 137-7.1, information obtained from privileged informants who are members of the news media must be relevant to the FBI's investigative responsibilities. These individuals are not to be utilized for the purpose of controlling or manipulating the news media. Further, these individuals must be advised that the FBI will not knowingly influence or attempt to influence the editorial policy of the news media.

EFFECTIVE: 12/20/93

137-7.2 Restrictions Concerning the Operation of Specific
Individuals as Informants Based on their Employment
or Status (See MIOG, Part I, 137-10.)

(1) The following informants may be authorized for operation by the SAC, or an individual designated by him/her, if the requirements set forth below are met and set forth in the opening teletype. This authorization must be noted in the opening teletype. Where such approval has been granted, the teletype may be submitted on a UACB basis. If the requirements cannot be met, these individuals may be opened on a request-only basis, not on a UACB basis.

(a) FEDERAL OR STATE PROBATION OR PAROLE.
Individuals on federal or state probation or parole may not be operated as informants in violation of the conditions of their probation or parole. It is required that these conditions be determined during suitability and pertinence inquiries and the results of this determination be documented in the conversion teletype as described in 137-3.2. In those cases where an individual would be in violation of probation or parole restrictions, if operated as an informant, the field office should obtain the necessary probation or parole official's permission to operate the individual. This authorization must be documented in the informant's file. In those

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 34

instances where an individual's probation or parole officer cannot be contacted, FBIHQ must be advised of the reason why this contact cannot be made, the need by the field office to use the individual and a request for FBIHQ to grant authority for use of the individual as an informant. Where a field office deems that it would be inappropriate to contact either the source's probation or parole officer or sentencing judge, the field office may request FBIHQ authorization to operate the individual without the aforementioned concurrences. Such a request must set forth sufficient facts to justify a deviation from the aforementioned policy.

The United States Parole Commission (USPC) requires that parolees and mandatory releasees agree in writing not to act as informants or in other similar capacities for a law enforcement agency. This requirement does not preclude accepting information from such persons as citizen complainants. These individuals may be considered for development as informants when the period of their parole has expired or in those cases wherein the field office has obtained the necessary parole official's permission and this is documented in the conversion teletype described in 137-3.2. The operation of any federal parolee must be in compliance with the USPC rules and regulations.

(b) INMATES. The use of a cellmate informant, that is, one who has been placed in the cell for the purpose of gathering information regarding pending charges, requires the prior approval of FBIHQ and the concurrence of the prosecuting United States Attorney's Office. Cellmate informants may only be used as listening posts and may not question an accused or stimulate conversations concerning charged offenses. (See Legal Handbook for Special Agents, 8-3.3.2(1).) Any use of federal inmates, or anyone in the custody of the U.S. Bureau of Prisons, even if held in a local holding facility, which results in the release or transfer of an inmate informant, in authorized criminal activity, or consensual monitoring involving the inmate wearing a body recorder, must have prior approval of Office of Enforcement Operations (OEO), Criminal Division, Department of Justice (DOJ). This approval should be requested by teletype to the FBIHQ substantive unit subsequent to opening and prior to utilization of the source. (If an informant becomes operational, the informant should be converted to a cooperative witness. Operational is defined as wearing a body recorder, the introduction of an undercover Agent, etc.) In order to facilitate the submission of the appropriate information in the request to DOJ, OEO, the following outline is provided so that a well-informed decision can be made:

1. Location of prisoner;

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 35

2. Identifying data on the prisoner, e.g., date of birth, place of birth, Bureau of Prisons number, Social Security Number, and physical description;
3. Charges for which prisoner is incarcerated; including date, sentence, judicial district, and sentencing judge;
4. Copy of prisoner's arrest record or summary of the arrest record must be submitted;
5. The necessity for utilizing the prisoner in the investigation including what other techniques have been tried and why they have failed;
6. The name of the investigation and his/her role in the crime or organization under investigation;
7. Describe the prisoner's relationship or association with the target(s) under investigation;
8. Are the targets aware of the prisoner's incarceration status? If so, what is the prisoner's cover story to avoid jeopardizing his/her safety or the investigation?
9. Detailed explanation of the operational role the prisoner is to perform;
10. Describe the security measures to be taken to ensure the prisoner's safety, alleviate risk to the public, and prevent the prisoner's escape;
11. Length of time the prisoner will be needed in the activity;
12. Will the prisoner be needed as a witness and will he/she be considered for the Witness Security Program?
13. Will a prison redesignation be necessary upon completion of the operational role?
14. Will the prisoner remain in the custody of the investigative agency; be housed in jails or similar facilities at certain times; or will the prisoner be unguarded except for their own protection?
15. The total number of law enforcement agents

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 36

assigned to the security detail;

16. Has the request been endorsed by the appropriate federal/state prosecutor? If not, provide a detailed explanation. Please provide name, phone number, and location of the Assistant United States Attorney endorsing the request.

17. An interim progress report should be submitted if a continuance, beyond date originally projected for conclusion, is necessary, and a detailed progress report should be submitted at the conclusion of activity;

18. Sealed court order(s) must be obtained after the request has been approved if the prisoner is unsentenced or on writ status.

(c) SWORN LAW ENFORCEMENT OFFICERS. The opening of a sworn law enforcement officer as an informant will be permitted only in those instances where the individual is providing information in investigations into corruption within his/her employing governmental entity. A statement regarding the specific nature of the information to be provided and the reason why the information cannot be furnished to his/her department must be included in the opening teletype.

(d) ELECTED/APPOINTED GOVERNMENT OFFICIALS (FEDERAL, STATE AND LOCAL). These individuals must be advised that the FBI will only accept information concerning alleged criminal violations of law and will not accept information concerning the political beliefs or personal lives of individuals within their governmental body, or the private or confidential deliberations of that body, unless violations of law are occurring. Further, the FBI will not knowingly influence or attempt to influence any action of the governmental body unless furtherance of a compelling investigative interest and authorized by the appropriate FBIHQ official. The fact that these advisements were given must be documented in the informant's file and set forth in the opening teletype.

(e) UNION OFFICIALS. These individuals must be advised that the information which they provide is subject to the reporting provisions of the Employee Retirement and Income Security Act and that the FBI is not interested in, nor will it accept, information concerning legitimate union activities. Further, the FBI will not knowingly influence or attempt to influence any action of the union.

(f) FINANCIAL INSTITUTION EMPLOYEES. These

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 37

individuals must be briefed on the provisions of the Right to Financial Privacy Act and advised that the FBI will not knowingly accept information which violates the provisions of that Act.

(g) SCHOOL EMPLOYEES. These individuals must be advised of the provisions of Title 20, USC, Section 1232(g), commonly known as the Buckley Amendment. This statute generally prohibits educational institutions and their employees from releasing information from records which they maintain on students of the institution. Such informants must be advised of the provisions of the law, even if the information they are providing is obtained independent of their employment.

(h) ACTIVE-DUTY MILITARY. The provisions of the Posse Comitatus Act, Title 18, USC, Section 1385, may prevent the use of these individuals in certain types of investigations. These individuals must be advised that the FBI will neither seek nor accept assistance or information which will violate the provisions of the Posse Comitatus Act.

(2) The operation of the following informants may only be authorized by FBIHQ, not on a UACB basis. The opening communication should clearly articulate that their assistance will be of such significant value that it outweighs the sensitivity of operating the individual and that the assistance cannot be reasonably obtained in another manner. (See MIOG, Part I, 137-3.1.1 (5).)

(a) WITNESS SECURITY PROGRAM (WSP). The operation of a current or past participant in the WSP requires the approval of the Department of Justice's Office of Enforcement Operations (OEO) (See MIOG, Part II, Section 27-13.2.) A teletype with the [REDACTED] as the subject must be submitted to the Sensitive Information Unit, FBIHQ, Room 4944, with the following information:

1. Name of source or person relocated (source may be a witness or a person relocated as a result of witness's cooperation such as a family member, boyfriend, or girlfriend).

2. Alias(es) used by the witness.

3. Approval of the appropriate headquarters' official of the concerned agency (will be given by the SIU when communication is forwarded to OEO).

4. If the source is not a witness, relationship of source to the witness, and name of witness.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 38

5. Identifying data on source, e.g., sex, date of birth, place of birth, Social Security Number, and Bureau of Prisons Register Number (if applicable).

6. Source's employment; if unemployed, how source is subsisting; and extent this activity jeopardizes source's livelihood.

7. Name(s) of target(s) of investigation and their role in the crime or organization under investigation.

8. Significance and/or scope of the criminal activity and target(s).

9. Source's relationship or association with the target(s) under investigation.

10. Necessity of utilizing source in investigation, including details about nature of use being requested.

11. Consideration of alternatives to source's use and indication of why they will not work.

12. Detailed account of source's involvement in criminal activity subsequent to being approved for WSP services.

13. Appraisal of whether request centers on source's new criminal involvement, and how source is aware of new criminal activity.

14. The benefit that source expects in return for his/her cooperation.

15. Statement as to whether source's activity requires him/her to testify.

16. Indication as to whether source completed testimony for which he/she was placed in the WSP. If known, district and sponsoring AUSA.

17. If known, details about other agencies' use of source since relocation.

18. Probation or parole status of source (indicate whether U.S. Probation Office and U.S. Parole Commission

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 39

should be notified).

19. Security measures to be taken to ensure source's safety and minimal risk to the public.

20. Use of electronic devices, body recorders, etc. (cooperative witnesses only).

21. Name of case Agent or Agent specifically responsible for safety of source.

22. Length of time source's assistance will be needed regarding this investigation.

23. Whether source is incarcerated; if so, location and whether prosecutor and/or judge should be advised.

24. Whether the source will remain in custody of the FBI, be housed in jails or similar facilities at certain times, or whether source will be unguarded except for his/her own protection.

25. If the source is incarcerated, whether a prison redesignation will be necessary upon completion of activity.

26. Whether source is represented by counsel and whether counsel concurs with activity.

27. If applicable, whether activity has been endorsed by appropriate federal/state prosecutor; if so, name, telephone number and location of prosecutor (cooperative witnesses only).

28. Whether source's activity will require submission of new WSP application and subsequent relocation.

29. Whether the source will be charged/indicted in this investigation.

(b) MINORS (INDIVIDUALS UNDER THE AGE OF 18). In requesting authorization to use a minor as an informant, the field office must indicate whether parental consent has been obtained for his/her use. If such consent has not been obtained, state whether such consent can or will be obtained. If obtaining consent from his/her parents is not feasible, the field office must state the justification for use of such an individual in the absence of parental consent.

Sensitive

Manual of Investigative Operations and Guidelines.
Part I

PAGE 137 - 40

(c) BUREAU OF PRISONS (BOP) PERSONNEL. Utilization of BOP personnel requires approval of the Department of Justice's OEO. In submitting a request for review by OEO, the field must provide the appropriate FBIHQ substantive unit with the following information:

1. Name of BOP employee.
2. Location and job title of employee.

3. Necessity of utilizing the employee in the investigation. If other techniques are available, an explanation is required. Detail the activity in which the employee is to be engaged and the location and length of time the employee will be needed. Advise specifically whether the employee will be required to contact target(s), relatives, friends and associates outside the institution in connection with this investigation.

4. Name(s) of target(s) of the investigation and their role(s) in the crimes or organization under investigation.

5. Security measures to be taken to ensure the employee's safety.

6. Whether the employee will be needed as a witness.

7. Whether a job transfer will, or may, be necessary upon completion of the activity.

8. Whether the activity will jeopardize the employee's family, and if so, how.

9. Name(s), title(s) and location(s) of any BOP personnel and phone numbers with whom this matter has been, or will need to be discussed.

This does not apply to routine interviews of BOP personnel where the employee is not asked to perform an operational role in furtherance of an FBI investigation.

(d) COUNSELORS IN DRUG TREATMENT PROGRAMS. Federal law prohibits the opening of these individuals for the purpose of obtaining information on matters relating to the counseling of patients.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 41

EFFECTIVE: 07/30/97

137-8 | PAYMENTS TO INFORMANTS | (See MIOG, Part II, 32-1.) |

(1) The SAC is personally responsible for all payments to informants. All payments must be requested by the submission of a draft request form and a memorandum to the SAC. The memorandum must contain the case title, total amount previously paid to the informant during the Fiscal Year (FY), the date the informant file was opened, and the information justifying the requested payment. These requests should be closely scrutinized to ensure that they are commensurate with the value of the information received. This responsibility rests with the field office management.

(2) Payments to informants for services and expenses must be made from his/her case funds based on SAC or, in his/her absence, ASAC authority, and not from the substantive case fund payment authority. In resolving whether a payment should be charged to the informant or substantive case fund, it is useful to determine who derived the primary benefit of the payment, and whether the expense was incurred as a direct cost of operating the informant. Where the payment is made for the purpose of conferring a benefit to the informant or is made as a direct result of operating the informant, it should be charged against the informant's case fund authority and not the substantive case authority.

(3) The alternate contacting Agent or a second witnessing Agent must be present at all payments to an informant unless strong written justification can be given to and approved by the SAC, or in the absence of the SAC, the ASAC, not to have a second Agent present.

(4) An individual who has requested confidentiality may be paid one time for services rendered and/or expenses incurred under SAC authority without being opened as an informant. This one-time payment under SAC authority can be up to [REDACTED]. Should the person be paid a second time, he/she should be opened as an informant. This one-time payment policy may be waived by FBIHQ when necessary to maintain an individual for security or trial purposes. Payments to one-time nonsymbol sources are charged to the field office informant budget using the substantive case file number. Payments are therefore made from the case authority.

b2
b7E

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 42

b7
b7E

(5) The SAC or, in his/her absence, an ASAC, may approve payments to an informant for expenses in obtaining information, the performance of services, or information on a C.O.D. basis up to [redacted] per FY. In situations where an informant will incur expenses, such as travel, in connection with his/her operation or in order to obtain information for the FBI, the SAC may authorize payment of an advance for these expenses prior to the expenses actually being incurred by the informant. Where funds are advanced in this manner, the field office must ensure that the actual expenses incurred by the informant are determined and reconciled with the advance of funds. When the total of such payments to an informant reaches [redacted] additional payment authority must be obtained from FBIHQ before any further payments or advances can be made. Subsequent requests for additional payment authority should be submitted in increments of [redacted] or the amount required for the current FY, whichever is less. Such requests may exceed [redacted] where operational considerations necessitate an enhanced authority level. In these situations, the request should set forth adequate justification for the enhanced authority level.

(6) The request for an additional [redacted] payment authority should be submitted by secure teletype to the CIU, FBIHQ, under the pertinent informant caption on a request-only basis. The teletype must include:

(a) A specific request that an additional [redacted] payment authority be granted.

(b) The total amount paid to the informant to date for the current FY, broken down by services, expenses and total payments.

(c) A concise summary of the information or services provided by the informant, in chronological order, for which he/she has been paid since the last authorization. This summary should include the title and character of each case, the general nature of the information or service provided by the source in the investigation, and a statement as to the value of the information or service provided by the source, including statistical accomplishments attributed to the informant as a result of the information provided. Immediately following this information, set forth a separate paragraph showing the dates of payments under the prior authorization and the amount paid on each date, divided into the amounts paid for services and the amounts paid for expenses. For the benefit of the requesting Agent, this information is available in the field office through on-line inquiry of the Financial Management System (FMS).

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 43

(7) Payments to Informants by an Auxiliary Office (AO)

When an informant provides services to an office other than his/her Office of Origin (OO), care must be taken to record each payment using the informant's file number. This may be accomplished in one of two ways:

(a) If the individual is expected to provide services or information to another office for an extended period of time, close the informant file at the OO and reopen it at the new OO.

(b) If the individual is providing only temporary assistance, the AO may make payment(s) through the draft system using the informant's file number assigned by the OO up to the maximum amount authorized for the FY. The AO must coordinate with the OO to ensure that payments do not exceed the informant's authorization level.

(c) Note that payments to informants will be charged to the informant budget of the field office making the payment.

(8) Lump-sum payments

(a) Each field office is encouraged to submit requests for lump-sum payments for the informant at the conclusion of any case in which he/she has made significant contributions to FBI investigative matters. These requests must be personally approved by the SAC or, in his/her absence, the ASAC. The SAC and ASAC should closely review lump-sum requests to ensure that all payments are justified and that the amount requested is appropriate under the circumstances. Requests for lump-sum payments should be furnished to FBIHQ by teletype captioned with the informant's symbol number, sent to the attention of the CIU, FBIHQ.

(b) Furnish the title and character of the FBI case and all pertinent details which will justify a lump-sum payment. Each funding request concerning any investigative program will be considered strictly on the merits of the case and the significance of the informant's contributions to that investigation. The following issues must be addressed in any request for a lump-sum payment:

1. Significance of the investigation.

2. Degree of assistance rendered by the informant. The following factors should be addressed:

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 44

- a. Whether the informant was responsible for the initiation of the case.
- b. Quality of the information furnished by the informant.
- c. Whether the information was available from other sources.
- d. Length of time which the informant devoted to the investigation.
- e. Whether the informant participated in consensual monitoring activities.
- f. Whether undercover Agents were introduced by the informant.
- g. Potential risk for violence toward the informant or his/her family.
- h. Whether the informant was able to continue his/her normal employment while assisting in the investigation.
- i. Whether the informant suffered any financial loss as a result of his/her cooperation.
- j. Value of seized or forfeited property obtained as a result of his/her cooperation.
- k. Statistical accomplishments attributed to information or assistance provided by this informant.
- l. Whether the informant will testify.
- m. Potential for long-term investigative contributions by the informant.
- n. If the informant is to testify, whether the Federal prosecutor concurs in the payment.
- o. Whether the informant has or will receive any payment for services or expenses from any other law enforcement agencies in connection with the information or services

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 45

which he/she provided to the FBI.

(9) Regular Pay

Recommendations for informants to receive regular payments should contain full justification and a proposed maximum amount to be paid to the informant on a regular basis. Such requests should contain the same information as provided in a request for additional payment authority and should be submitted by teletype to FBIHQ. The request for regular payment authority should specify the length of time for which the authority is sought and the specific reasons why the individual should be paid on a regular basis rather than by SAC authority. Communications requesting renewal of regular payment authority must be submitted at least one week prior to the expiration of the currently authorized period.

(10) Receipts

(a) A receipt must be obtained from all informants at the time of each payment. The receipt is to be signed by the informant using his/her code name, and witnessed by the case Agent or alternate Agent and a witnessing Agent. Both the paying Agent and the witnessing Agent must sign the receipt for all informant payments. Approval for not obtaining a receipt would be rare and must have the personal endorsement of the SAC or, in his/her absence, the ASAC. In the event that a receipt cannot be obtained, a certification, signed by the paying Agent and witnessing Agent, may be submitted as documentation for the payment.

(b) If it becomes necessary to make a correction on a receipt, such corrections must be initialed by the informant using his/her code name initials, and not by the Agent.

(c) Receipts should be forwarded to FBIHQ in accordance with the provisions of the CONFIDENTIAL FUNDING GUIDE. A copy of the receipt attached to the request memo is to be maintained in the informant's main file.

(d) Where payments are to be made to a Spanish speaking informant, Form FD-777, Spanish/English Receipt for Informant and Informant Payments, should be executed to ensure that the terms and the amount of the payment are fully understood by the recipient.

(11) A gift may be made to an informant in lieu of a payment for services with the prior approval of the SAC, or in his/her

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 46

absence, the ASAC. In reviewing such requests, care must be taken to avoid the appearance of impropriety and to ensure that the gift is to be given for strictly operational reasons. Purchase of the gift must be charged to the file number of the informant being paid as a payment for services. Agents are not to accept gifts from informants. For restrictions on financial, business and other dealings with informants, refer to the Manual of Administrative Operations and Procedures, Part I, 1-14.1.

(12) If private individuals or representatives of private industries or insurance companies offer a reward to an informant as a result of information supplied by the informant, they should be provided the pertinent information furnished by the informant if he/she agrees. SAC approval is necessary before participating in such payments. If it is necessary for an Agent to be involved in the reward payment in order to protect the informant, the transaction must be fully documented and appropriate receipts obtained. These transactions must adhere to all informant payment requirements. FBIHQ should be advised of the details of all such transactions.

(13) Income tax considerations

(a) All informants who receive compensation from the FBI for their services must be advised that such compensation must be reported as income when filing Federal income tax forms or other appropriate tax forms. Complete details of any problems the informant has encountered with the taxing authorities should be promptly furnished to FBIHQ.

(b) Informants should set forth income received from the FBI on the Federal income tax return as income received from other sources for personal services. Internal Revenue Service (IRS) regulations exempt law enforcement agencies from filing IRS Form 1099 (Miscellaneous Income Statement) for payments made to an informant. However, FBIHQ will provide a statement of payments made to an informant, upon his/her request, to assist the informant in reporting his/her income to the IRS.

(14) Stipulations regarding payments made to witnesses

(a) In trials in which an informant or other individual was paid a sum of money, and is a prospective witness, FBIHQ will furnish receipts signed by the prospective witness when so ordered by the court. Original receipts and a set of reproduced copies will be transmitted to the field office in the district where the trial will take place. In order for FBIHQ to furnish these

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 47

materials, the appropriate field office must furnish FBIHQ the following information:

1. Correct full name.
2. All aliases, code names, and symbol numbers.
3. First date of contact by your office.

4. Tabulation of all payments, broken down as to services and expenses. Although tabulations are not furnished to the Department, they must reflect all amounts contained in the FMS.

5. Listing of any advances, refunds and outstanding balance of advances. (See (b).)

6. Date of last contact by your office. (See (b).)

7. Whether the individual has been contacted or opened by any other field office. (See (b).)

(b) Where the informant has previously been used as a witness and tabulation of payments was prepared, information for items 137-8(14)(a)5 through 7 need be given only from date of last trial in which the individual was used.

(c) Above information should be submitted by separate communication to the Accounting Section, Finance Division. Interdivisional correspondence should be addressed to FBIHQ with copies designated for interested offices.

(d) When an informant is to testify, the informant's financial condition is to be discussed with him/her to ensure that the informant has fulfilled his/her tax obligations as reasonably as possible. If the informant has received FBI payments for services, the informant is to be reminded that these payments are income. Any payments by other law enforcement agencies are to be fully addressed. Any information developed or known concerning potential tax problems is to be brought to the attention of the United States Attorney's Office.

(15) Receipt of unemployment compensation (See FCI Manual, Part I, 134-4.7(8)(a).)

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 48

(a) At times, informants may temporarily lose their jobs and become eligible for unemployment compensation. Where unemployment regulations require listing of all sources of income as a prerequisite for unemployment compensation, an informant who is being paid by the FBI must comply with state laws. Informants must be alerted to those local requirements which may impact on them.

(b) Where state requires notification of FBI payments to informants that would necessitate disclosure of identity of the informant, the field office should consider discontinuing payments during the period of unemployment compensation benefits in order to protect his/her identity.

EFFECTIVE: 12/20/93

137-9 ADMINISTRATION OF INFORMANTS

(1) Each informant must be assigned a code name which is unique to him/her within the field office. The code name or pseudonym is assigned to the informant as a measure of additional security and must be utilized in signing payment receipts. The code name is to be utilized in place of the informant's true name in the field office payment records. Care must be taken to ensure that the choice of the code name does not tend to identify the informant's true name, occupation, or information which is unique to the informant.

(2) Upon the opening of an informant, all relevant data is to be entered into the Criminal Informant Management System (CIMS) within two business days. All other administrative information pertaining to the informant should be entered into CIMS as soon as it becomes available. The Criminal Informant Program Manager is responsible for ensuring that the data is entered into CIMS and that it is done in a timely manner.

(3) Upon entry in CIMS of the information from the opening memorandum concerning the informant in the suitability and pertinence inquiry, FBIHQ will place a "Wanted-Flash-Cancellation Notice" in the Criminal Justice Information Services Division. When the "Wanted-Flash-Cancellation Notice" is placed, the field office will be advised by FBIHQ of any National Crime Information Center (NCIC) inquiry about the informant. In the event there is no record, the field office will not receive a reply from FBIHQ. When the informant is closed, FBIHQ will automatically cancel any "Wanted-

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 49

Flash-Cancellation Notice" which may have been placed. (See MIOG, Part II, 14-12.3.4.)

(4) Informants are not to be advised of their symbol number. Where an informant furnishes information which necessitates a change in the category designation (i.e., OC, C, D, WC, etc.), the symbol number previously furnished will remain the same; however, the suffix must be changed to indicate the appropriate program designation. The utilization of the suffix in the reporting of information derived from the source is unnecessary although suffix utilization should be continued for administrative purposes or to fulfill other existing needs.

(5) After entering the permanent symbol number from the opening memorandum into CIMS, subsequent communications should contain the informant's symbol number, rather than his/her true name. The informant's symbol number and true name should not appear on any communications which are not secure. All communications concerning an informant's development and/or operation must be submitted by secure teletype.

(6) If an informant was either born or previously domiciled outside the United States, the case Agent should consider sending a secure teletype to the appropriate Legat requesting a background check of the source.

(7) If it is determined that an individual is not suitable for use as an informant, he/she is to be immediately closed by the submission of a memorandum to the field informant file and entry of the data it contains in CIMS, to include a statement setting forth the specific reason for closing the individual and whether the individual should be considered for future use by the FBI.

(8) Upon the closing of an informant, the case Agent must prepare a memorandum stating whether the source's identity was ever made public, i.e., whether he/she ever testified in court. The purpose of this memorandum is to prevent unnecessary or overbroad disclosure of information provided by the informant through a Freedom of Information Act request. In the event that the informant did testify, the case Agent should set forth the general nature and subject matter of the testimony in the memorandum.

(9) Where it is necessary for an informant to be utilized in a field office other than his/her OO, the field OO should furnish the new OO with full background information, including a summary of information previously provided by him/her, descriptive data, payment

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 50

records, mode of travel and any other information useful in the operation of the informant. Any information that reflects negatively upon the reliability of the informant is to be promptly furnished to the field office considering the use of his/her services. The new OO should ensure that the informant is closed in the original OO either prior to submitting an opening communication to FBIHQ or upon entering the information into CIMS.

(10) Whenever an individual is closed, regardless of his/her status, the field office must reinitiate an SI before they can again be operated as a fully operational informant. The opening communication should indicate that the individual is being reopened. The field office must use the same symbol number that was assigned in the previous SI when reopening an individual.

EFFECTIVE: 06/08/94

137-10

INFORMANT COMMUNICATIONS (See MIOG, Part II, 10-10.5.1(2)(e); Correspondence Guide-Field, 2-11 & 3-19.)

(1) All correspondence relating to the development or operation of informants among field offices must be transmitted by secure teletype. The opening, conversion, closing, and extension of informants whose operation is not restricted by their occupation as in MIOG, Part I, 137-7.1 through 137-7.2, are to be documented by memoranda in the field office file. (See MIOG, Part I, 137-3.1.1(4), 137-3.1.1(5), & 137-3.1.2(2)). Any correspondence regarding additional payment authority, participation in extraordinary criminal activity, and unauthorized criminal activity are to be transmitted by secure teletype to FBIHQ. The only exceptions to this instruction are existing forms and FD-209s with accompanying inserts or FD-302s relating to investigative matters of interest to another field office. Surface mail and telephone conversations between field offices and resident agencies regarding informants should be strictly limited. All documents which either identify or tend to identify an informant or cooperative witness must be hand-carried by an Agent. All security concerns should be resolved in favor of hand-carrying sensitive information by an Agent.

(2) All correspondence among field offices and FBIHQ requesting payments to an informant, travel of an informant, or involving the operation of an informant, must be transmitted by secure

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 51

teletype under the informant's symbol number caption and not under a substantive case caption.

(3) All information pertinent to FBI investigative responsibilities furnished by an informant must be promptly reviewed, evaluated, channelized, entered into CIMS and all other necessary action taken.

(4) In criminal cases positive information must be recorded either on investigative inserts or FD-302s. Positive information must not be recorded on FD-209s.

(a) USE OF INSERTS - Information provided by an informant that will not become testimony should be recorded on an investigative insert. The insert will contain the informant's symbol number and the date the information was provided. The original insert will be filed in the informant's subfile and a copy will be routed to the pertinent substantive case file. Information received on two or more substantive investigative matters must be recorded on separate inserts and filed only in the pertinent substantive investigative file. All information furnished by the informant must be filed in the informant's subfile.

(b) USE OF FD-302s - If the informant's information is of evidentiary value and likely to become the subject of testimony, the information must be recorded on an FD-302 in the same manner as if the information were received from any other witness. Three copies of the FD-302 will be prepared. The original of the FD-302 must reveal the identity of the informant, but the identity must be concealed on all copies. Also, the informant's file number must not appear on the original FD-302 or any copy. Transcripts of conversations of the informant will be handled in the same manner as an FD-302. If information from the informant is so singular in nature or reported in a manner which would tend to identify the informant, a succinct summary of the pertinent information should be filed in the substantive file. The following is an example of how an original FD-302 and copy should be prepared.

- ORIGINAL FD-302 -

- EXAMPLE -

(To be filed in informant's main file)

JOHN J. DOE, 123 Main Street, New York, New York,
furnished the following information:

On March 12, 1984, he saw a green tractor trailer bearing

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 52

Pennsylvania license plate XYZ 111, loaded with cases of cigarettes at a garage at 789 West 11th Street, New York, New York. The cases were from the ABC WAREHOUSE, Winston-Salem, North Carolina, and were addressed to BELL DRUGS, 45 Maple Street, Philadelphia, Pennsylvania.

Investigation on 3/15/84 At New York City File # Substantive File
By AGENT'S NAME:typist's initials Date Dictated 3/16/84

- COPIES OF THE ABOVE FD-302 -
- EXAMPLE -

(To be filed in informant's subfile and in the substantive case file without the true name)

An informant, who has provided reliable information in the past, furnished the following information:

On March 12, 1984, he/she saw a green tractor trailer bearing Pennsylvania license plate XYZ 111, loaded with cases of cigarettes at a garage at 789 West 11th Street, New York, New York. The cases were from the ABC WAREHOUSE, Winston-Salem, North Carolina, and were addressed to BELL DRUGS, 45 Maple Street, Philadelphia, Pennsylvania.

Investigation on 3/15/84 At New York City File # Substantive File
By AGENT'S NAME:typist's initials Date Dictated 3/16/84

(c) FD-209 - An FD-209 will be prepared as a cover sheet for inserts which are filed in the informant's subfile. The FD-209s must not accompany inserts routed to the substantive case file. An FD-209 must also be prepared in triplicate for each FD-302. The FD-209 is used in serializing the FD-302 into the informant's main file (original FD-302 bearing the informant's true name), the informant's subfile (copy of FD-302 identifying the informant only as an informant) and the substantive case file (copy of FD-302

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 53

identifying the informant only as a Confidential Source). The FD-209 will be captioned with the informant's symbol number and bear the file number of the informant's file and the case caption of the substantive case. The following warning statement must appear on the FD-209: "Information contained herein was obtained confidentially. The informant's name is not to be disclosed in any form unless a conscious decision has been made to disclose his/her identity by an appropriate FBI official."

(d) The FD-209 will be used to document all negative contacts with an informant relating to his/her investigative activities as an informant. However, where the informant is contacted for the sole purpose of making payment for services and/or expenses, and they do not provide any information relating to investigative activities, there is no need to document the contact on an FD-209.

(5) Copies of FD-302s or inserts containing informant information which have been disseminated must not be filed in the dissemination control file. These FD-302s or inserts should be filed in the informant's subfile and the pertinent substantive file only. An FD-159 reflecting dissemination should be prepared. Copies should be placed in the informant's main file, and the field office dissemination control file.

(6) Informant information utilized in affidavits for Title III applications, search warrants, complaints, or any other court document must be reviewed by the field supervisor to ensure that the informant information in the document is contained in an insert or FD-302, in both the informant and substantive case files. On the file copy of the legal document in the substantive case file, the case Agent must note the substantive case file, serial number and page of the FD-302 or insert where the informant information can be found which was used in support of the legal document. This notation should be placed in the margins next to the informant's information in the legal document.

(7) Characterizations of informants utilized in affidavits or other legal documents described above should be updated at the filing of each legal document in which an informant's information is used. The serial number of the legal document containing the characterizations (from the substantive case file) must be documented in the informant's main file. This documentation is indexed to the FD-237 and is used in support of statistical accomplishments.

(8) All positive information obtained from an informant

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 54

operated by one field office and which pertains to investigative matters in another field office must be immediately transmitted to that field office. Appropriate copies of FD-209s with accompanying inserts or FD-302s containing that information are to be sent to that field office as enclosures to an airtel under the substantive case caption. Copies of these outgoing communications must be maintained in the informant's main file.

(a) Those FD-209s and accompanying inserts or FD-302s are to be sent to the personal attention of the SAC, or his/her designee, in a sealed envelope. In instances where an entire informant's file, or a substantial portion thereof, is required in another field office, the file should be hand-carried by an Agent.

(b) In a situation wherein an informant is being temporarily operated by an office other than his/her OO, original FD-302s in which the informant is identified will be hand-carried by an Agent in a sealed envelope to the SAC of the informant's OO for inclusion in the informant's file. Nothing in or on the envelope should identify the FD-302s as being connected to an informant matter. The sending office will, however, advise the OO by teletype under the source's symbol number that the FD-302s are being sent.

(c) Any transmission by facsimile of any true name FD-302 or other document which tends to identify the informant must be done by secure facsimile.

(9) All statistics obtained as a result of an informant's information should be claimed on an FD-209 and this FD-209, with nothing attached, should be placed in the informant's main file. The FD-209, containing the substantive case title, file number and statistic claimed, should be indexed to the FD-237.

(10) In instances where a criminal informant reports information pertinent to the FBI's foreign counterintelligence or international terrorism mission, a Subfile B is to be created to maintain that information. The Subfile B is to be appropriately classified. Subsequently, the information should be disseminated to the proper substantive FCI/IT file. (See 137-11 (4)(c).)

EFFECTIVE: 06/08/94

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 55

137-11

INFORMANT FILES AND INDICES (See MAOP, Part II, 2-5.1.)

(1) A separate and secure room is to be utilized for the maintenance of all informant and cooperative witness indices and pending informant and cooperative witness files. Where possible, all closed informant and cooperative witness files should also be maintained in this room or otherwise maintained in a secure and locked condition. All pending and closed informant files are to be maintained under the personal authority of the SAC or a person designated by the SAC. Access to this room will be limited to necessary personnel and this space should be locked at all times when unattended. A log is to be maintained on persons requesting and reviewing informant files. Authority to review an informant's file should be restricted to the SAC, ASAC, the case Agent's supervisor, the Principal Legal Advisor, the case Agent, the alternate Agent, the co-case Agent, the Informant Coordinator, the CIMS Analyst and confidential file room clerk. The file will not leave the room, except for the express purpose of a file review by the supervisor or the handling Agent. Logs must have columns for "date," "file number," "signature of person reviewing file," and "time file charged out" and "in." Informant files should not be located outside this room after close of business hours.

(2) Individual files are to be maintained on all active informants and should be carried as pending. These files, as well as the closed informant files, should be bound in the green file cover and file back (designated as an FD-245a). These files are to be assigned to the Agent who is personally responsible for the development and operation of the informant.

(3) An FD-237 is to be used in the nature of a table of contents or index to indicate where particular data can be found in the file. The form should be carried as the top document in the informant's main file and should not be serialized. This form should be updated regularly as the required information changes.

(4) All informant files should be separated into two sections. Administrative and identifying data is to be maintained in the main file and all information, reports, etc., furnished by the informant should be maintained in the subfile.

(a) Main file items:

- Correspondence requesting approval to open
- 1A file items (photograph, fingerprint card, etc.).
- Indices checks (Local and FBIHQ).

Sensitive
PRINTED: 02/18/98

Sensitive

- Report.
- NCIC inquiry and response.
 - Criminal Justice Information Services Division
- informant has been revealed.
- Local arrest records.
 - Credit checks.
 - FD-302s in which the identity of the informant is revealed.
 - Inserts in which the identity of the informant is revealed.
 - FD-209s used to claim statistical accomplishments.
 - FD-209s used as a cover page for above-

mentioned FD-302s.

- FD-209s containing administrative information that may tend to identify the informant.
- Payment request memos.
- Draft request forms.
- Signed payment receipts.
- Requests to FBIHQ for additional payment

authority.

- Requests to FBIHQ for lump-sum payment

authority.

- All other administrative-type correspondence.
- Any correspondence that identifies or tends to identify the informant.
- Documentation authorizing criminal activity.

(b) Subfile A items:

- FD-302s in which the identity of the informant is concealed.
- Inserts which conceal identity of the informant.
- FD-209s used as cover page for inserts.
- Negative contact FD-209s.

(c) Subfile B items:

- Classified FD-302s in which the identity of the informant is concealed.
- Classified inserts which conceal identity of the informant.
- Classified FD-209s used as cover page for inserts. (See 137-10(10).)

(5) Symbol number and code name.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 57

(a) Each informant should be assigned a permanent symbol number and code name unique to the field office. FBIHQ will be advised of the symbol number and the informant's code name through data entry in CIMS. The code name or pseudonym is assigned to the informant as a measure of additional security and is to be utilized in signing payment receipts. The code name is utilized in place of the informant's true name in the field payment ledger.

(b) The informant is not to be advised of his/her symbol number.

(c) The prefix of the symbol number should consist of the appropriate field office abbreviation. The suffix of the symbol number should identify the category of information which the informant is providing.

(d) Although the informant may subsequently furnish information requiring a change in designation, the number previously assigned will remain the same; however, the suffix should be changed to indicate the appropriate designation, i.e., C, OC, TE, WC, DT, D or CS. The utilization of the suffix in the reporting of information derived from the source is unnecessary although suffix utilization should be continued for administrative purposes or other need exists.

(e) After FBIHQ has been advised of the permanent symbol number through data entry in CIMS, and documented in the opening memorandum in the source file, subsequent communications should contain the informant's symbol number rather than the true name. The informant's symbol number and true name should not appear on any communications which are not secure. Any communications submitted to FBIHQ in connection with the operation or administration of the informant should be captioned under the assigned symbol number and not the substantive case caption.

(f) The use of symbol numbers should be restricted to informants and should not be used for any other investigative technique.

(6) Indexing

(a) The informant's true name, aliases and other identifying data are to be indexed into CIMS. A manual index is to be maintained in the confidential file room for those informants indexed prior to the establishment of CIMS.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 58

(b) No indexing to the general indices should be done from individual informant files. All such indexing should be done from substantive files.

(7) Indices

(a) All offices should maintain an alphabetical name index, a symbol number index, and a code name index for all informants not maintained in CIMS. These indices should be maintained as above in a separate and secure manner under the authority of the SAC or person designated by that official.

(b) SACs should ensure that all necessary searching of these separate indices is conducted.

(c) The result of a search of these indices, either positive or negative, should not be handled in a routine manner similar to a general indices review. Good judgment should be utilized consistent with security concerns. Notification of an informant reference should be coordinated with the appropriate supervisor having responsibility for the mail being searched.

(d) Other indices may be maintained in the confidential file room as deemed necessary by the office for convenience such as an index of informants in other divisions or an index broken down by activity or geographical area. Any such indices should be given the same security as the alphabetical, symbol number and code name indices.

(8) A Form FD-675 entitled, "Supervisor's 60-Day Informant File Review Log" is to be placed immediately underneath the FD-237 in the main informant file. It is to be used to document the Supervisor's review every 60 days as mandated by Bureau policy. It should not be serialized or destroyed. Place a new FD-675 on top of the old form if there is a need for additional certification space.

EFFECTIVE: 06/08/94

Sensitive
PRINTED: 02/18/98

Sensitive

137-12 ON-SITE REVIEWS

(1) To enhance the administrative efficiency of the Criminal Informant Program (CIP) at FBIHQ and in the field offices, an on-site review will be conducted periodically of the CIP of each field office.

(2) The purpose of the on-site review is to afford the Criminal Informant Unit an opportunity to review the field CIP from an overall program perspective, by identifying areas which may need attention, and to provide CID with the results of the on-site findings. Each informant's reliability and the action taken when reliability is in question are to be considered during the on-site review. This on-site review should not only be concerned with the number of informants but also with the quality of information furnished, the priority of the investigative programs in which information is provided, and the degree of compliance with FBI and Attorney General policies and guidelines. An on-site review should enable the Criminal Informant Unit to determine whether the field CIP is capable of supporting the investigative programs of the field office, to ensure the worthiness of each informant for continued operation, and to confirm that all informants are being operated within established operational parameters.

(3) Prior to an on-site review, each field office should rate each informant utilizing the scale set forth below by individual investigative program based on information furnished and provide an aggregate overall evaluation for each informant. The evaluation should be based on both contributions consisting of statistical accomplishments and intelligence concerning investigative efforts.

EXCELLENT

Furnishes information of high quality on a continuing basis which usually could not be obtained through other means and which contributes significantly to the FBI's investigative and intelligence gathering efforts.

VERY GOOD

Regularly furnishes quality information which contributes measurably to the investigative and intelligence-gathering efforts of the Bureau.

GOOD

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 60

Furnishes sufficient worthwhile information to remain active and qualified as an informant.

FAIR

| Furnishes | some | information of value for an extended period.

POOR

Informants in this category have furnished no information of value and consideration should be given to closing them.

NEW

Too new to evaluate.

EFFECTIVE: 12/20/93

| 137-13 | ATTORNEY GENERAL'S GUIDELINES ON THE USE OF
INFORMANTS

| (1) Attorney General guidelines on FBI use of informants and confidential sources are included below in these 137 guidelines.

| (2) These guidelines on the use of informants and Confidential Sources are set forth solely for the purpose of internal FBI guidance. They are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal, nor do they place any limitations on otherwise lawful investigative and litigative prerogatives of the FBI. |

"ATTORNEY GENERAL'S GUIDELINES ON FBI USE OF
INFORMANTS AND CONFIDENTIAL SOURCES"

"A. Introduction

"(1) The courts have recognized that the government's use of informants and confidential sources is lawful and often essential to the effectiveness of properly authorized law enforcement investigations. However, use of informants and confidential sources to assist in the investigation of criminal activity may involve an

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 61

element of deception, intrusion into the privacy of individuals, or cooperation with persons whose reliability and motivation can be open to question. It is proper for the FBI to use informants and confidential sources in appropriate investigations, but special care must be taken to carefully evaluate and closely supervise their use, and to ensure that individual rights are not infringed and that the government itself does not become a violator of the law. Though informants and confidential sources are not employees of the FBI, their relationship to the FBI can impose a special responsibility upon the FBI when the informant or confidential source engages in activity where he has received, or reasonably thinks he has received, encouragement or direction for that activity from the FBI.

"(2) To implement these guidelines, the FBI shall issue detailed instructions to all Special Agents responsible for dealing with informants and confidential sources.

"B. Definition of Confidential Source, Informant, and Continuing Basis

"(1) A confidential source, under these guidelines, is any person or entity furnishing information to the FBI on a confidential basis, where such information has been obtained as a result of legitimate employment or access to records and is provided consistent with applicable law.

"(2) An informant, under these guidelines, is any other person or entity furnishing information to the FBI on a confidential basis.

"(3) An informant or confidential source used on a "continuing basis" is one providing information or substantial operational assistance with some degree of regularity. This may be as infrequent as a few times per year, or as frequent as several times per week.

"C. General Authority

"(1) An informant or confidential source may be asked to provide information already in his possession, to provide information which comes to his attention, or to affirmatively seek out information, concerning criminal conduct or other subjects of authorized investigative activity. An informant or confidential source may also be asked to provide operational assistance to the FBI, including furnishing resources or facilities.

"(2) The FBI may only use informants or confidential sources in furtherance of its authorized investigative activities and law

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 62

enforcement responsibilities. Informants and confidential sources may not be used or encouraged to commit acts which the FBI could not authorize for its Special Agents.

"D. Required Findings of Suitability and Pertinence For Any Informant or Confidential Source Used on a Continuing Basis, Any Informant Authorized to Associate in Activities, Participation in Which Otherwise Would be Criminal, and Any Informant or Confidential Source Providing Substantial Operational Assistance in an Undercover Operation

"(1) No informant or confidential source may be used to provide information on a continuing basis, no informant may be authorized to associate in activities, participation in which otherwise would be criminal, nor may any informant or confidential source be used to provide substantial operational assistance in an undercover operation, unless the supervisory FBI official designated below has made written findings:

"(a) that the informant or confidential source appears suitable for such use, and

"(b) that the information likely to be obtained or the operational assistance to be provided is pertinent to authorized FBI investigative activity or law enforcement responsibilities.

"Findings of suitability and pertinence shall be made by a supervisory agent designated by the Director except that in the case of a Domestic Security Investigation, the findings shall be made by a Headquarters official designated by the Director.

"(2) A finding of suitability should be preceded by a preliminary inquiry concerning the proposed informant or confidential source. A preliminary inquiry may only be used to assess suitability. It may not be used to develop information concerning an individual for the purpose of inducing him to become an informant or confidential source. A preliminary inquiry can use any lawful investigative technique except mail covers, access to tax information, any technique requiring probable cause, such as mail openings, nonconsensual electronic surveillance, or searches.

"(3) In determining the suitability of an informant or confidential source, the FBI shall weigh and consider the following factors:

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 63

"(a) the nature of the matter under investigation and the importance of the information or assistance being furnished;

"(b) the seriousness of past and contemporaneous criminal activity of which the informant or confidential source may be suspected;

"(c) the motivation of the informant or confidential source, including any consideration sought from the government for his cooperation;

"(d) the likelihood that the information or assistance which an informant or confidential source could provide is not available in a timely and effective manner by less intrusive means;

"(e) the informant's or confidential source's reliability and truthfulness, or the availability of means to verify information which he provides;

"(f) any record of conformance by the informant or confidential source to Bureau instructions and control in past operations; how closely the Bureau will be able to monitor and control the informant's or confidential source's activities insofar as he is acting on behalf of the Bureau;

"(g) the risk that use of informants or confidential sources in the particular investigation may intrude upon privileged communications, or inhibit the lawful association of individuals or expression of ideas; and

"(h) any risk that use of informants or confidential sources may compromise an investigation or subsequent prosecution, including court-ordered disclosures of identity which may require the government to move for dismissal of the criminal case.

"(4) A preliminary inquiry and written determination regarding suitability and pertinence should be completed within 120 days from the date the inquiry began. FBI Headquarters may authorize one or more extensions beyond 120 days, stating in writing the facts and circumstances precluding an earlier determination.

"(5) Determinations of suitability and pertinence shall be reviewed at least every 90 days by a field supervisor and at least annually by FBI Headquarters.

"(6) If it is determined not to use a person or entity as an

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 64

informant or confidential source, any information collected about the person or entity during the preliminary inquiry without the consent of the person or entity shall be promptly destroyed, unless it is or may become pertinent to authorized investigative activity or the person is a potential witness in a criminal prosecution. Any decision not to destroy all information about the person or entity shall be recorded with explanatory facts and circumstances in an investigative case file and shall be reviewed periodically by the SAC or designated field supervisor.

"(7) At any time the FBI learns an approved informant or confidential source is no longer suitable to provide information or operational assistance, his relationship with the Bureau shall be promptly terminated. FBI Headquarters shall maintain records of informant and confidential source terminations, including a detailed statement of the reasons for each termination. These records shall be subject to periodic review by a designee of the Deputy Attorney General in a form suitable to protect the identity of the informants and confidential sources.

"E. Required Instructions to

"(1) Any Informant used on a Continuing Basis, Any Informant Authorized to Associate in Activities, Participation in Which Otherwise Would be Criminal, Any Informant or Confidential Source Suspected of Substantial Involvement in Unauthorized Past or Continuing Criminal Activities, and Any Informant or Confidential Source Providing Substantial Operational Assistance in an Undercover Operation:

"Each such person shall be advised that his relationship with the FBI will not protect him from arrest or prosecution for any violation of Federal, State, or local law, except where the FBI has determined pursuant to these guidelines that his association in specific activity, which otherwise would be criminal, is justified for law enforcement; and that in carrying out his assignments he shall under no circumstances participate in any act of violence, initiate or instigate a plan to commit criminal acts, or use unlawful techniques to obtain information (e.g., illegal wiretapping, illegal mail openings, breaking and entering, or criminal trespass). Such persons shall be readvised when necessary, at least annually, and at any time there is reason to suspect they are engaged in serious criminal activity.

"(2) Other Confidential Sources Used on a Continuing Basis:

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 65

"In the place of the instructions in paragraph E(1) above, each such confidential source shall be advised that he is not acting as an agent or employee of the FBI, that he should use only lawful techniques to obtain information, and that he should provide information only in accordance with applicable law.

"(3) When the FBI learns that persons under investigation intend to commit a violent crime, any informants or confidential sources used in connection with the investigation shall be instructed to try, to the extent practicable, to discourage the violence.

"(4) A written record shall be made in each informant or confidential source file of the instructions noted above promptly after they are given.

"F. Authorized Participation by Any Informant in Criminal Activities

"An informant or confidential source shall not be authorized to engage, except in accordance with this paragraph, in any activity that would constitute a crime under state or federal law if engaged in by a private person acting without the authorization or approval of an appropriate government official. For purposes of this paragraph, such activity is referred to as 'otherwise criminal' activity.

"(1) A determination that participation by an informant in otherwise criminal activities is justified shall be made only by the supervisory FBI official designated in paragraphs F(2) and (3) below on the basis of his written finding that

"(a) the conduct is necessary to obtain information or evidence for paramount prosecutive purposes, to establish and maintain credibility or cover with persons associated with criminal activity under investigation, or to prevent or avoid the danger of death or serious bodily injury;

"(b) this need outweighs the seriousness of the conduct involved.

"(2) For purposes of these Guidelines there are two types of otherwise criminal activities -- 'extraordinary,' i.e., those involving a significant risk of violence, corrupt actions by high public officials, or severe financial loss to a victim, and 'ordinary.' A determination that participation in activities which, otherwise would be 'ordinary' criminal activities is justified as part of an informant's assignment shall be made by a field office supervisor or higher level official, and shall be recorded in writing

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 66

in advance of any such activity, except that oral approval may be given in an emergency situation where confirmed thereafter in writing as soon as possible. The SAC shall review all such criminal activity by informants at least every 90 days.

"Determinations authorizing participation in such activities may concern a single instance of otherwise criminal activity or a specified group of otherwise criminal activities.

"The written determinations shall be submitted annually to Headquarters for review, and shall be subject to review by a designee of the Deputy Attorney General in a form suitable to protect the identity of the informants.

"(3) A determination that participation in activities which otherwise would be 'extraordinary' criminal activities -- is justified as part of an informant's assignment shall be made only by the SAC and only after the SAC consults with and obtains the approval of the United States Attorney. The consultation shall be in a form suitable to protect the identity of the informant. The SAC's written determination and a record of the United States Attorney's approval shall be immediately forwarded to a senior Headquarters official designated by the Director, and to the Assistant Attorney General in charge of the Criminal Division or his designee, in a form suitable to protect the identity of the informant.

"If the SAC reasonably determines that an emergency situation exists requiring informant participation in activities which otherwise would be extraordinary criminal activities before approval by the United States Attorney can with due diligence be obtained, in order to protect life or substantial property, to apprehend or identify a fleeing offender, or to prevent the imminent loss of essential evidence, the SAC may approve the participation on his own authority but shall immediately notify the United States Attorney, the appropriate senior Headquarters official, and the Assistant Attorney General in charge of the Criminal Division or his designee. In such an emergency situation the SAC shall attempt to consult by telephone with a senior member of the United States Attorney's office before approving participation.

"(4) Upon approving any participation in otherwise criminal activity, the FBI shall repeat to the informant the instruction specified in paragraph E(1).

"The FBI shall also seek, to the extent practicable, to provide:

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 67

"(a) that the adverse effect of the activity on innocent individuals is minimized;

"(b) that the informant's participation is minimized and that the informant is not the primary source of technical expertise or financial support for the activity in which he will participate;

"(c) that the informant's participation in the activity is closely supervised by the FBI; and

"(d) that the informant does not directly profit from his participation in the activity.

"(5) Any proposal by a confidential source to engage in otherwise criminal activities in order to gather information changes the status of that individual from confidential source to informant.

"G. Notifying Appropriate Authorities of Unauthorized Criminal Activity by Any Informant or Confidential Source

"(1) While carrying out an FBI assignment, an informant or confidential source bears a relationship to the FBI such that his participation in any unauthorized activity in connection with the assignment associated with criminal activities, even of a minor character, should be carefully scrutinized and severely regarded. Hence, whenever a Special Agent learns that an informant or confidential source has participated in a criminal activity in connection with an FBI assignment which was not authorized pursuant to the procedures of paragraph F of these guidelines, the Special Agent shall notify a field office supervisor. The supervisor shall make a determination whether to notify appropriate state or local law enforcement or prosecutive authorities of any violation of law and shall make a determination whether continued use of the informant or confidential source is justified. In exceptional circumstances where notification to state or local authorities is determined to be inadvisable, or where any request or recommendation is made to state or local authorities to delay or forego enforcement action, the FBI shall promptly notify the Assistant Attorney General in charge of the Criminal Division or his designee of the facts and circumstances concerning the informant's or confidential source's violation of law, what notification or request has been made to state or local law enforcement or prosecutive authorities, and the supporting reasons, what use will be made of any information gathered through the violation of law, and whether continued use will be made of the

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 68

informant or confidential source.

"(2) Informants who are in a position to have useful knowledge of criminal activities often are themselves involved in a criminal livelihood. It is recognized that in the course of using an informant or confidential source, the FBI may receive limited information concerning a variety of criminal activities by the informant or confidential source, and that in regard to less serious participation in criminal activities unconnected to an FBI assignment, it may be necessary to forego any further investigative or enforcement action in order to retain the source of information. However, whenever a Special Agent learns of the commission of a serious crime by an informant or confidential source, he shall notify a field office supervisor. The supervisor shall make a determination whether to notify appropriate state or local law enforcement or prosecutive authorities of any violation of law and shall make a determination whether continued use of the informant or confidential source is justified. In circumstances where notification to state or local authorities is determined to be inadvisable, or where any request or recommendation is made to state or local authorities to delay or forego enforcement action, the FBI shall immediately notify the Assistant Attorney General in charge of the Criminal Division or his designee of the facts and circumstances concerning the informant's or confidential source's violation of law, what notification or request has been made to state or local law enforcement or prosecutive authorities, and the supporting reasons, and what use will be made of any information gathered through the violation of law. A determination to then continue use of the informant or confidential source must be approved by the Director or a senior Headquarters official, after consultation with the Assistant Attorney General in charge of the Criminal Division or his designee.

"(3) Each FBI field office shall immediately notify FBI Headquarters whenever it learns of participation by an informant or a confidential source in a serious act of violence, even when appropriate state or local law enforcement or prosecutive authorities have been notified. Detailed records shall be maintained at Headquarters regarding each instance of informant or confidential source participation in a serious act of violence, and these records shall be subject to periodic review by a designee of the Deputy Attorney General in a form suitable to protect the identity of the informants and confidential sources. A determination to continue use of the informant or confidential source must be approved by the Director or a senior Headquarters official, after consultation with the Assistant Attorney General in charge of the Criminal Division.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 69

"(4) In determining whether to notify appropriate state or local law enforcement or prosecutive authorities of criminal activity by FBI informants and confidential sources, the FBI shall consider:

"(a) whether the crime is completed, imminent or inchoate;

"(b) the seriousness of the crime in terms of danger to life and property;

"(c) whether the crime is a violation of federal or state law, and whether a felony, misdemeanor, or lesser offense;

"(d) the degree of certainty of the information regarding the criminal activity;

"(e) whether the appropriate authorities already know of the criminal activity and the informant's or confidential source's identity;

"(f) the effect of notification on FBI investigative activity.

"(5) Under no circumstances shall the FBI take any action to conceal a crime by one of its informants or confidential sources.

"H. Informants and Confidential Sources Under the Obligation of a Legal Privilege of Confidentiality or Affiliated with the News Media

"(1) A person who is under the obligation of a legal privilege of confidentiality or who is affiliated with the news media may be used as an informant or as a confidential source only after express approval in writing by the Director or a designated senior Headquarters official, except that a field office supervisor may approve one-time receipt of information not collected at the request of the FBI where the particular information is unprivileged.

"The FBI shall promptly give written notice, or oral notice confirmed in writing, to the Assistant Attorney General in charge of the Criminal Division or his designee of any such Headquarters authorization. The notice shall include sufficient information to allow meaningful review, and shall set forth the reasons why the individual should be used as an informant or confidential source.

"(2) Any such person approved as an informant or confidential source shall be advised by the FBI that in seeking information from

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 70

him, the FBI is not requesting and does not advocate breach of any legal obligation of confidentiality. A record shall be made and kept in the informant or confidential source file when the advice has been given. This advice shall be provided before accepting information on a continuing basis.

"(3) If, despite the advice to the informant or confidential source that revelation of privileged information is not requested or advocated, he offers to provide information that is privileged or arguably privileged, the offer shall not be accepted unless a field office supervisor determines that serious consequences would ensue from rejection of the offer, such as physical injury to an individual or severe property damage. A report concerning such information and the circumstances that warranted its acceptance shall be promptly forwarded to FBI Headquarters.

"If the information is spontaneously provided by the informant or confidential source, without any offer that would alert the Special Agent to the nature of the information, in circumstances which do not meet the standard serious consequences, the information may be recorded in suitable form for the purpose of establishing that the problem was recognized and that no use was made of the information in the conduct of any investigation.

"(4) Regardless of state law, the procedures of this section must be followed for any licensed physician, any person admitted to practice law in a court of a state, any practicing clergyman, and any member of the news media.

"I. Infiltration of Organization Activities by Informants
or Confidential Sources Used on a Continuing Basis

"(1) The lawful activities of legitimate organizations are, of course, not subject to investigation. However, individual members of such organizations may be independently involved in criminal activities. In order to assure that the privacy of constitutionally-protected activities will be respected, the FBI should carefully regulate use of informants and confidential sources who will make use of affiliations with legitimate organizations in order to gather information concerning the activities of individual members.

"In particular, when, to obtain information,

"(a) an informant or confidential source will make use of formal affiliation with an organization that has a predominantly legitimate purpose, and the informant's or confidential source's

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 71

formal affiliation will give him continued access to nonpublic information related to the legitimate purposes of the organization; or

"(b) an informant or confidential source will make use of formal or informal affiliation with an organization that is predominantly engaged in political activities,

the determination to use the person as an informant or confidential source on a continuing basis shall be made by the ASAC or SAC.

"(2) In determining whether the use of such an affiliated person as an informant or confidential source on a continuing basis is appropriate, the ASAC or SAC should consider:

"(a) the likelihood of responsible behavior by the informant or confidential source during the course of his organizational membership;

"(b) the ability of the FBI to focus the informant's or confidential source's reporting on members of the organization involved in criminal activities and to minimize adverse impact on innocent members of the organization; and

"(c) whether the use of the informant or confidential source might inhibit free association or expression of ideas by innocent members of the organization in the future, or hinder the ability of the organization to function effectively.

"(3) In approving the use of such an affiliated person as an informant or confidential source on a continuing basis, the ASAC or SAC shall establish procedures, recorded in writing, to minimize any acquisition, retention, and dissemination of information that does not relate to the matter under investigation or to any other authorized investigative activity.

"(4) Nothing in this paragraph limits the authority of the FBI to conduct otherwise proper investigations of illegitimate organizations or organizations engaged in unlawful activities. See the Attorney General's Guidelines on Criminal Investigations of Individuals and Organizations, and on Domestic Security Investigations." (See MIOG, Introduction, Section 1-3 for updated AG Guidelines.)

"J. Minimization in Domestic Security Investigations

"In approving use of an informant or confidential source to

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 72

infiltrate a group under investigation as part of a Domestic Security Investigation, or in recruiting a person from within such a group as an informant or confidential source, an FBI Headquarters official shall establish procedures, recorded in writing, to minimize any acquisition, retention, and dissemination of information that does not relate to the matter under investigation or to any other authorized investigative activity.

"K. Persons Represented by Counsel

"Whenever an individual is known to be represented by counsel in a particular matter, the FBI shall follow applicable law and Department procedure concerning contact with represented individuals in the absence of prior notice to their counsel. The SAC or his designee and the United States Attorney shall consult periodically an applicable law and Department procedure.

"L. Coordination with United States Attorneys and Other Federal Prosecutors.

"In any matter presented to a United States Attorney or other federal prosecutor for legal action (including prosecution, grand jury investigation, application for a search warrant, or application for a wiretap), where the matter has involved the use of an informant or a confidential source in any way or degree, the FBI shall take the initiative to provide full disclosure to the federal prosecutor concerning the nature and scope of the informant's or confidential source's participation in the matter.

"If the FBI deems it necessary to withhold certain information to protect the informant's or confidential source's identity from possible compromise, it shall inform the prosecutor of the general nature of the information that is being withheld.

"M. Compensation for Informants and Confidential Sources

"(1) The FBI may pay informants and confidential sources a reasonable amount of money or provide other lawful consideration for information furnished, services rendered, or expenses incurred in authorized investigative activity. No payment of money or other consideration, other than a published reward, shall be conditioned on the conviction of any particular individual.

"(2) In investigations involving serious crimes or the expenditure of extensive investigative resources, the FBI may

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 73

compensate informants or confidential sources with an extraordinary payment in excess of \$25,000. The Attorney General shall be informed of any such extraordinary payment as he deems necessary.

"(3) Where practicable, compensation agreements with informants or confidential sources in connection with a significant FBI undercover operation shall provide that compensation will depend on compliance with the obligation of confidentiality for investigative information, and shall further provide that any profits derived from a violation of the obligation shall be forfeited to the United States.

"N. Reservation

"These guidelines on the use of informants and confidential sources are set forth solely for the purpose of internal Department of Justice guidance. They are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal, nor do they place any limitations on otherwise lawful investigative and litigative prerogatives of the Department of Justice."

EFFECTIVE: 12/20/93

| 137-14 | REVISED AND MOVED -- SEE 137-4 (16) THROUGH (19) |

EFFECTIVE: 12/20/93

| 137-15 | DELETED |

EFFECTIVE: 12/20/93

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 137 - 74

| 137-16 | REVISED AND MOVED -- SEE 137-13 |

EFFECTIVE: 12/20/93

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 138 - 1

SECTION 138. | BACKGROUND INVESTIGATION - INTERNATIONAL
ORGANIZATIONS

138-1 | BACKGROUND INVESTIGATION - INTERNATIONAL ORGANIZATIONS

This classification, formerly entitled "Loyalty of Employees of the United Nations and Other Public International Organizations (LEUN)," was deleted in Fiscal Year 1990 in view of the fact the FBI no longer conducts these investigations. Previously, investigations in this classification stemmed from referrals from the Office of Personnel Management when questions or allegations were received regarding the applicant's loyalty to the U.S. Government as described in Executive Order 10422. The FBI first opened this classification in 1953 to investigate the loyalty to the U.S. of U.S. employees of the United Nations and other international organizations.

EFFECTIVE: 10/25/89

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 139 - 1

SECTION 139. INTERCEPTION OF COMMUNICATIONS

139-1 STATUTES

Title 18, USC, Sections 2510, 2511, 2512, 2513 (Public Law 90-351, Omnibus Crime Control and Safe Streets Act of 1968, as amended by Public Law 99-508, the Electronic Communications Privacy Act of 1986); Title 47, USC, Section 605 (Communications Act of 1934, as amended); Title 47, USC, Section 501, (Penalties for violation Title 47, USC, Section 605).

EFFECTIVE: 11/23/87

139-1.1 Title 18, USC, Section 2510 - Definitions (See MIOG, Part I, 264-2.4.)

(1) WIRE COMMUNICATION - Any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception (including the use of such connection in a switching station) furnished or operated by any person engaged in providing or operating such facilities for the transmission of interstate or foreign communications or communications affecting interstate or foreign commerce and such term includes any electronic storage of such communication;

See MIOG, Part II, 10-10.11.2 noting that radio communications transmitted over cordless telephones are included within the definition of "wire communication" and are therefore protected by Title III.

(2) ORAL COMMUNICATION - Any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation, but such term does not include any electronic communication;

(3) ELECTRONIC COMMUNICATION - Any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio electromagnetic, photoelectronic or photooptical system that affects interstate or

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 139 - 2

foreign commerce. "Electronic communication" is also specifically defined to exclude a wire or oral communication. Any and all forms of electronic communications, unless specifically exempted, are subject to the provisions of the statute.

For additional definitions refer to Chapter 119 of Title 18, USC.

EFFECTIVE: 06/03/96

139-1.2 Title 18, USC, Section 2511 - Interception and Disclosure of Wire, Oral, or Electronic Communications Prohibited

This section prohibits the interception and disclosure of wire, oral or electronic communications except as otherwise specifically addressed in Chapter 119 of Title 18, USC. Any person is in violation if that person-

(1) intentionally intercepts, endeavors to intercept or procures any other person to intercept or endeavor to intercept, any wire, oral or electronic communication;

(2) intentionally uses, endeavors to use or procures any other person to use or endeavor to use any electronic, mechanical or other device to intercept any oral communication, in circumstances detailed under this Section of Title 18, USC;

(3) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral or electronic communication in violation of this subsection; or

(4) intentionally uses or endeavors to use, the contents of any wire, oral or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral or electronic communication in violation of this subsection.

EFFECTIVE: 11/23/87

Sensitive
PRINTED: 02/18/98

Sensitive

139-1.2.1 Exceptions

(1) It shall not be unlawful under this chapter for an operator of a switchboard, or an officer, employee or agent of a provider of wire or electronic communication service, whose facilities are used in the transmission of a wire, oral or electronic communication, to intercept, disclose or use that communication in the normal course of his/her employment while engaged in any activity which is a necessary incident to the rendition of his/her service or to the protection of the rights or property of the provider of that service, except that a provider of wire or electronic communication service to the public shall not utilize service observing or random monitoring except for mechanical or service quality control checks. Refer to Section 2511 for specific exemptions;

(2) It shall not be unlawful under this chapter for an officer, employee, or agent of the Federal Communications Commission, in the normal course of his/her employment and in discharge of the monitoring responsibilities exercised by the Commission in the enforcement of Chapter 5, Title 47, USC, to intercept a wire or electronic communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained;

(3) It shall not be unlawful under this chapter for a person acting under color of law to intercept a wire, oral or electronic communication, where such person is a party to the communication or one of the parties to the communication has given prior consent to such interception;

(4) It shall not be unlawful under this chapter for a person not acting under color of law to intercept a wire, oral or electronic communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any state;

(5) It shall not be unlawful under this chapter or Chapter 121 of Title 18, USC, for any person-

(a) to intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public;

Sensitive

(b) to intercept any radio communication which is transmitted-

1. by any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

2. by any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;

3. by a station operating on an authorized frequency within the bands allocated to the amateur, citizen band, or general mobile radio service; or

4. by any marine or aeronautical communications system;

(c) to engage in any conduct which-

1. is prohibited by Section 633 of the Communications Act of 1934; or

2. is excepted from the application of Section 705(a) of the Communications Act of 1934 by Section 705(b) of that Act;

(d) to intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of such interference; or

(e) for other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if such communication is not scrambled or encrypted;

(6) It shall not be unlawful under this chapter-

(a) to use a pen register or a trap and trace device (as those terms are defined for the purposes of Chapter 206 of Title 18, relating to pen registers and trap and trace devices); or

(b) for a provider of electronic communication

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 139 - 5

service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful or abusive use of such service;

(7) A person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient;

(8) A person or entity providing electronic communication service to the public may divulge the contents of such communication-

(a) as otherwise authorized in Title 18, USC, Section 2511 (2)(a) or Section 2517;

(b) with the lawful consent of the originator or any addressee or intended recipient of such communication;

(c) to a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

(d) which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.

EFFECTIVE: 11/23/87

139-1.3 Title 18, USC, Section 2512 - Manufacture, Distribution, Possession, and Advertising of Wire, Oral or Electronic Communication Intercepting Devices Prohibited

Except as otherwise specifically provided in Chapter 119 of Title 18, USC, this section prohibits any person from intentionally-

(1) sending through the mail or sending or carrying in interstate or foreign commerce, any electronic, mechanical or other device, knowing or having reason to know that the design of such

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 139 - 6

device renders it primarily useful for the purpose of the surreptitious interception of wire, oral or electronic communications;

(2) manufacturing, assembling, possessing or selling any electronic, mechanical or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral or electronic communications and that such device or any component thereof has been or will be sent through the mail or transported in interstate or foreign commerce; or

(3) placing in any newspaper, magazine, handbill or other publication any advertisement of-

(a) any electronic, mechanical or other device knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral or electronic communications; or

(b) any other electronic, mechanical or other device, where such advertisement promotes the use of such device for the purpose of the surreptitious interception of wire, oral or electronic communications, knowing or having reason to know that such advertisement will be sent through the mail or transported in interstate or foreign commerce.

EFFECTIVE: 11/23/87

139-1.3.1 Exceptions

It shall not be unlawful for-

(1) a provider of wire or electronic communication service or an officer, agent, or employee of, or a person under contract with, such a provider, in the normal course of the business of providing that wire or electronic communication; or

(2) an officer, agent, or employee of, or a person under contract with, the United States, a state or a political subdivision thereof, in the normal course of the activities of the United States, a state, or a political subdivision thereof, to send through the mail, send or carry in interstate or foreign commerce, or manufacture, assemble, possess, or sell any electronic, mechanical, or other device knowing or having reason to know that the design of such device

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 139 - 7

renders it primarily useful for the purpose of the surreptitious interception of wire, oral or electronic communications.

EFFECTIVE: 11/23/87

139-1.4 Title 18, USC, Section 2513 - Confiscation of Wire, Oral or Electronic Communication Intercepting Devices

(1) This section provides that any electronic, mechanical or other device used, sent, carried, manufactured, assembled, possessed, sold or advertised in violation of Title 18, USC, Sections 2511 or 2512 may be seized and forfeited to the United States.

(2) The FBI has been delegated authority to institute civil forfeiture proceedings pursuant to Section 2513. The Forfeiture and Abandoned Property manual contains the step-by-step procedure to be followed for seizures and civil forfeiture proceedings (judicial and administrative) conducted in conjunction with this violation.

EFFECTIVE: 11/23/87

139-1.5 Title 47, USC, Section 605 - Unauthorized Publication or use of Communications

Except as authorized by Chapter 119, Title 18, USC, no person receiving, assisting in receiving, transmitting, or assisting in transmitting any interstate or foreign communication by wire or radio shall divulge or publish the existence, contents, substance, purport, effect or meaning thereof, except through authorized channels of transmission or reception-

(1) To any person other than the addressee, his/her agent, or attorney;

(2) To a person employed or authorized to forward such communication to its destination;

(3) To proper accounting or distributing officers of the various communicating centers over which the communication may be passed;

(4) To the master of a ship under whom that person is

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 139 - 8

servicing;

(5) In response to a subpoena issued by a court of competent jurisdiction; or

(6) On demand of other lawful authority.

No person not being authorized by the sender shall intercept any radio communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person. No person not being entitled thereto shall receive or assist in receiving any interstate or foreign communication by radio and use such communication (or any information therein contained) for his/her own benefit or for the benefit of another not entitled thereto. No person having received any intercepted radio communication or having become acquainted with the contents, substance, purport, effect, or meaning of such communication (or any part thereof) knowing that such communication was intercepted, shall divulge or publish the existence, contents, substance, purport, effect, or meaning of such communication (or any part thereof) or use such communication (or any information therein contained) for his/her own benefit or for the benefit of another not entitled thereto.

EFFECTIVE: 11/23/87

139-1.5.1 Exceptions

(1) This section shall not apply to the receiving, divulging, publishing or utilizing the contents of any radio communication which is transmitted by any station for the use of the general public, which relates to ships in distress or which is transmitted by an amateur radio station operator or by a citizens band radio operator;

(2) This section shall not apply to the interception or receipt by any individual or the assisting of such interception or receipt, of any satellite cable programming for private viewing if-

(a) the programming involved is not encrypted;

(b) a marketing system is established and the individuals receiving such programming have obtained authorization for private viewing under that system.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 139 - 9

EFFECTIVE: 11/23/87

139-2 POLICY

(1) Upon receipt of reliable information concerning an interception of communications violation falling within the 139A or 139B classification, the appropriate United States Attorney (USA) should be notified. The USA may request a preliminary investigation be conducted. Such should consist of interviews of complainants, victims and up to three witnesses, along with contact with the telephone company, when appropriate. Unless circumstances indicate otherwise, investigations should also include interviews of subjects. USA will review results and advise on merits of the case. USA is authorized by DOJ to request full-field investigation and initiate prosecution and forfeiture.

(2) | There are a few narrow exceptions to the general rule that the contents of illegally intercepted communications must not be disclosed. Before ANY disclosure or use is made of an unlawfully intercepted communication, the Chief Division Counsel should be consulted, and the concurrence of the appropriate United States Attorney's office obtained and documented. Permissible disclosure and use of illegally intercepted information varies depending on caselaw controlling in the particular judicial district. See Title 18, USC, Section 2517. |

| (3) | Allegations involving federal, state or local public officials as subjects or victims are classified as priority matters. Such matters require prompt and thorough investigation. Evidence should be collected in a timely and effective manner. The same applies to matters where it is alleged that a federal, state or local government agency is the victim. All other allegations concerning an interception of communications violation, not otherwise described in | (4) | below, are classified as nonpriority. A declination policy should be established with the appropriate USA for nonpriority matters, to include response to such allegations involving domestic marital disputes.

| (4) | Upon receipt of reliable information concerning an interception of communications violation falling within the 139C or 139D classification (Signal Theft), an initial effort should be made to assess the scope of the activity. Investigations should be limited to persons or companies which manufacture equipment or modify existing commercially available equipment to facilitate the theft of

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

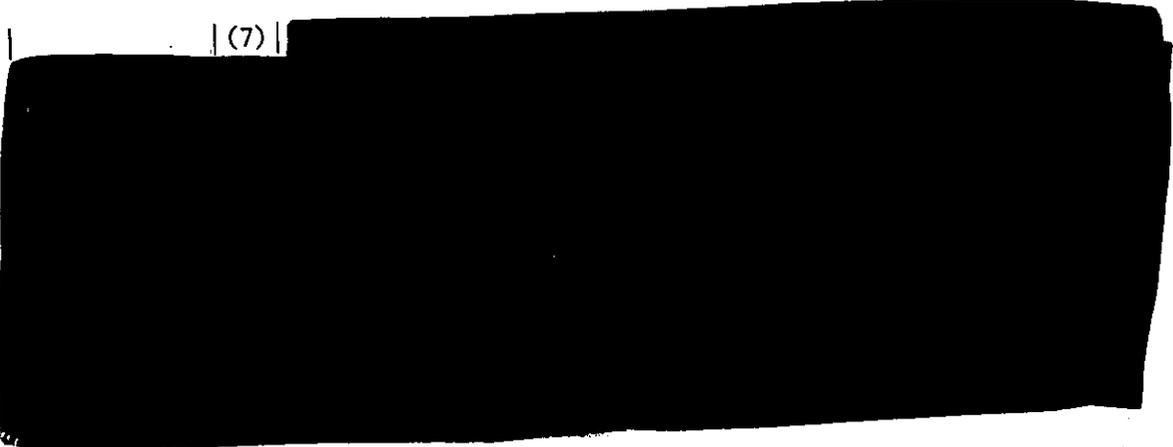
PAGE 139 - 10

communication signals by others. Resources should not be expended in the investigation of end users. These matters should be presented early for an initial prosecutive opinion and thereafter closely followed with the USA.

(5) Allegations involving the interception of cable, satellite or electronic communications for significant commercial gain are classified as priority matters. Significant commercial gain is defined as the manufacture, sale or advertisement to sell any device the design of which renders it primarily useful for the surreptitious interception of protected or encrypted communications, wherein the revenue accruing to the subject exceeds \$25,000. All other allegations involving interception of communication/signal theft matters are classified as nonpriority and should be covered in a declination policy with the USA.

(6) Significant allegations involving the theft of industrial or corporate proprietary information obtained as a result of the illegal interception of business electronic communications should be classified as Fraud By Wire (196 classification) or ITSP matters (87D classification) in lieu of handling under the IOC classification whenever applicable.

(7)



DZ
b7E

(8) Agents who may be required to testify in wiretapping prosecutions should confer with the prosecuting attorney in order to formulate a plan for direct examination which would confine cross-examination, and in order to be prepared with the appropriate objections to the exploration of matters on cross-examination which are not relevant and are objectionable under the rules of evidence.

(9) Attorney General Order No. 919-80, dated 12/18/80, sets forth procedures to be followed by officers and other employees

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 139 - 11

of the Department when served with a subpoena or otherwise ordered to produce or disclose material or information contained in DOJ files or official information in the possession of its employees. Should Agents who are witnesses be compelled by the court, over objection, to give testimony concerning their training and experience, which testimony might reveal material and information within their official possession or contained in DOJ files with respect to confidential investigative techniques, provisions of Attorney General Order No. 919-80 should be invoked. If appropriate, the government's prosecuting attorney should advise the court that the Attorney General has prohibited disclosure of such information in other types of cases because revelation thereof would be inimical to national security and defense of the United States. FBIHQ must be kept promptly advised of all developments in each case where this problem might present itself. (See MIOG, Part II, 6-1.)

| (10) | If complaint is based solely upon "beeps" or other unusual noises upon a telephone line, no investigation should be conducted in absence of other information indicating existence of an unauthorized wiretap and FBIHQ need not be notified of receipt of complaint, unless some unusual circumstances exist that would make it desirable to notify FBIHQ.

| (11) | No violation exists where one party permits a third party to listen to a telephone conversation without the second party's consent unless done for wrongful purpose (commission of crime or tort).

| (12) | Surreptitious listening on a party line telephone and/or later divulgence of information obtained may be a violation and should be discussed with USA in same manner as complaints of other possible interception of communications violations.

| (13) | Generally recording telephone conversations by one party without the knowledge of another party is not a violation of this chapter.

EFFECTIVE: 06/03/96

Sensitive
PRINTED: 02/18/98

Sensitive

139-3

INVESTIGATIVE PROCEDURE

(1) Check identification records and Bureau files to determine if subjects have prior convictions under the Interception of Communication statutes set forth in this section. USA should be advised of the subjects' prior interception of communication convictions.

(2) In cases where full-field investigations are initiated-

(a) Evidence must be obtained to prove there was an unauthorized interception, use or disclosure of a communication.

(b) In 139A and B matters both parties to the intercepted conversation must be contacted to ensure that neither consented. On 139C and D matters, Agents should ensure that investigation establishes the requisite knowledge and intent on the part of the subject to violate the statute. This primarily applies to retailers and advertisers.

(c) Consider use of physical surveillances to identify subjects.

(d) Obtain photographs of installation and evidence of equipment used for submission to the Electronic Surveillance Technology Section, Signal Analysis and Processing Unit, Information Resources Division. Normally, devices need not be sent to the [redacted] for examination until full-field investigation requested by USA. The same evidence handling and shipping procedures should be followed as in submitting evidence to the FBI Laboratory (See Part II, Section 13-6.7 of this manual).

(e) [redacted]

(f) [redacted]

(g) Handle search and seizures pursuant to Title 18, USC, Section 2513 in close cooperation and consultation with the USA. (See 139-1.4.)

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 139 - 13

EFFECTIVE: 11/24/97

139-4 MISCELLANEOUS

(1) Notwithstanding any other provision of this title or section 705 or 706 of the Communications Act of 1934, it shall not be unlawful for an officer, employee, or agent of the United States in the normal course of his/her official duty to conduct electronic surveillance as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978, as authorized by that Act.

(2) Nothing contained in this chapter or Chapter 121, or Section 705 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications, or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing a means other than electronic surveillance as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978, and procedures in this chapter and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in Section 101 of such act, and the interception of domestic wire and oral communications may be conducted.

EFFECTIVE: 11/23/87

139-5 VENUE

Wherever an offense is committed, begun or completed.

EFFECTIVE: 11/23/87

Sensitive
PRINTED: 02/18/98

Sensitive

139-6 REPORTING PROCEDURES

(1) Advise FBIHQ, by appropriate teletype, the same day, when opening priority cases involving public officials and/or Federal, state or local government agencies. In such matters, an LHM (original and three copies) must be sent to FBIHQ within ten working days of the opening of the case. This communication should include facts predicated the case, USA's opinion and initial investigative steps contemplated. Additional status communications are at the discretion of the SAC or at the request of FBIHQ. A closing LHM must be prepared for all investigations involving public officials and/or government agencies. This final LHM must restate the predication for opening the investigation, summarize investigative findings and detail the disposition of the investigation. The USA's opinion will be included where that office declines prosecution. Any prosecutive action should be detailed from indictment, information or complaint, through plea acceptance, trial disposition, and/or sentencing, as appropriate.

(2) Upon receipt of complaints alleging violations, not involving public officials and/or government agencies, FBIHQ should be promptly notified by airtel, or by more expeditious means if good judgment so dictates, based on the specific circumstances. Questionable status should contain recommendations of SAC as to action desired. If no investigative action is requested by the USA, the initial airtel should indicate that the investigation has been closed. Confirm USA's opinion by letter. If investigation is requested, investigative results should be furnished to FBIHQ for dissemination to DOJ, Criminal Division, by LHM and/or prosecutive summary report. The original and three copies of an LHM should be forwarded. If prosecutive summary report deemed advisable, two copies should be forwarded to FBIHQ.

EFFECTIVE: 11/23/87

139-7 PENALTY - MAXIMUM

(1) Title 18, USC, Section 2511 - fine or five years' imprisonment or both. In addition to criminal penalties, civil penalties may be applied. See Title 18, USC, Section 2511 for specific circumstance where criminal and civil penalties apply.

(2) Title 18, USC, Section 2512 - fine up to \$10,000 or imprisonment up to five years or both.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 139 - 15

(3) Title 47, USC, Section 605 - for first offense, fine up to \$25,000 or imprisonment up to 1 year or both. For subsequent offenses, fine up to \$50,000 or imprisonment up to 2 years or both.

In accordance with the above sections, there is a sliding scale of penalties in conjunction with the nature of the offense and contingent upon other contributing factors. The above code sections should be referred to for specific penalty considerations.

EFFECTIVE: 11/23/87

139-8

COMPUTATION OF POTENTIAL ECONOMIC LOSS PREVENTED (PELP)
VALUES IN SIGNAL THEFT MATTERS

b2
[REDACTED]

EFFECTIVE: 08/27/90

|| 139-9 | CHARACTER - INTERCEPTION OF COMMUNICATIONS

EFFECTIVE: 08/27/90

| 139-10 SUBCLASSIFICATIONS

See MAOP, Part II, 3-1.1, "FBI Classifications and Subdivided Classifications."

EFFECTIVE: 10/18/95

Sensitive
PRINTED: 02/18/98

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7-23-98 BY *[Signature]*

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 140 - 1

SECTION 140. |OFFICE OF PERSONNEL MANAGEMENT - REFERRAL; -
EMPLOYEES; - OTHER|

140-1 GENERAL INSTRUCTIONS REGARDING GOVERNMENT EMPLOYEE
SECURITY REFERRAL INVESTIGATIONS (140A AND 140C) | (See
MIOG, Part I, 46-1.11(3).) |

These instructions supplement those contained in Part II,
Section 17 of this manual.

(1) The first group of investigations in this category stems from referrals from OPM or other Government agencies wherein a question or allegation has been received regarding the applicant's or employee's loyalty to the Government as described in Section 8(d) of EO 10450. Referrals from OPM (handled under the 151 classification until Fiscal Year 1990) originate at (a) Peace Corps (ACTION-OPM), (b) Department of Energy (DOE-OPM), (c) National Aeronautics and Space Administration (NASA-OPM), (d) Nuclear Regulatory Commission (NRC-OPM), (e) U.S. Arms Control and Disarmament Agency (ACDA-OPM), and (f) U.S. Information Agency (USIA-OPM), and are covered under Public Law 298 and other public laws when an allegation has been received regarding the applicant's loyalty to the Government. Referrals are handled on a headquarters level only. Upon receipt of a referral, FBIHQ forwards it to the Office of the General Counsel of the Department of Justice, where a determination is made as to whether the referral falls within the guidelines of EO 10450. If a request from another agency is received on the field level, the requesting agency should be informed that these investigations are initiated and correlated at FBIHQ and the request must be at the headquarters level. Conduct no investigation in absence of FBIHQ approval. FBIHQ will advise the field concerning the scope of these investigations. | (See MIOG, Part I, 151-1.) |

(2) If substantive information described in Section 8(d) of EO 10450 is received from complainant, or is located in office files, or is developed during other investigation, include such information in LHM to FBIHQ for dissemination to OPM or interested agency in event they desire FBI full field investigation.

(3) If derogatory information requiring no FBI investigation is received (Section 8(a) (1) of EO 10450), submit LHM to FBIHQ suitable for dissemination and also consider local dissemination to concerned agency.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 140 - 2

EFFECTIVE: 09/09/94

140-1.1 Preliminary Inquiries

When a Name Check received at FBIHQ from OPM or other Government agency, and identity of individual with same or similar name cannot be resolved from information available in FBIHQ files, a preliminary inquiry is ordered by FBIHQ. This will consist of checking field offices' files and in some cases employment or police records in an effort to determine identity and significance of available information.

EFFECTIVE: 04/19/91

140-1.2 Interviews

If asked why individual is being investigated in OPM security referral case, state that under an EO Government employees or applicants are checked as part of the Federal employee security program. Mr., Mrs., Miss, or Ms. _____ is being checked under this program.

EFFECTIVE: 04/19/91

140-1.3 Dissemination of Reports

If a request is received in the field for copies of OPM security referral reports, advise that these investigations are supervised and correlated at FBIHQ and such requests should be directed to FBIHQ. NO LOCAL DISSEMINATION OF THESE REPORTS SHOULD BE MADE.

EFFECTIVE: 04/19/91

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 140 - 3

140-1.4 Full Field Investigations of Army, Navy and Air Force
Civilian Personnel

(1) At inception of investigation, appropriate office should notify intelligence representative of interested department that investigation is being conducted by FBI under EO 10450. However, no local dissemination of reports or investigative results should be made without prior specific FBIHQ approval.

(2) Notification may be in any form most convenient to field office.

(3) Office file must show notification given and what information furnished.

EFFECTIVE: 04/19/91

140-2 | GENERAL INSTRUCTIONS REGARDING SUITABILITY REFERRAL
INVESTIGATION (140B)

A second group of investigations in this category also stems from referrals from OPM or other Government agencies wherein a suitability background investigation is being requested concerning key employees. No question or allegation of the applicant's or employee's loyalty to the Government has surfaced.

These instructions supplement those contained in Part II, Section 17 of this manual.

EFFECTIVE: 04/19/91

140-3 | SUBDIVIDED CLASSIFICATIONS

(1) 140A - Office of Personnel Management - Referral (Key Government Employees)

(2) 140B - Office of Personnel Management - Employees (Key OPM or Government Employees)

(3) 140C - Office of Personnel Management - Other (Other Government Employees)

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 140 - 4

EFFECTIVE: 04/19/91

||140-4| PRIVACY ACT - REQUIREMENTS

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

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

EFFECTIVE: 04/19/91

||140-5| CHARACTER - |OFFICE OF PERSONNEL MANAGEMENT - REFERRAL; -
EMPLOYEES; - OTHER|

EFFECTIVE: 04/19/91

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 141 - 1

SECTION 141. FALSE ENTRIES IN RECORDS OF INTERSTATE CARRIERS

141-1 STATUTES

Title 47, USC, Section 220(e); Title 49, USC, Section
20(7)(b); Title 49, USC, Section 20(7)(f)

EFFECTIVE: 06/26/91

141-1.1 Title 47, Section 220(e)

Violations by employees of telephone, telegraph and radio
companies

EFFECTIVE: 06/26/91

141-1.1.1 Elements

"Any person who shall willfully make any false entry in
the accounts of any book of accounts or in any record or memoranda
kept by any such carrier, or who shall willfully destroy, mutilate,
alter, or by any other means or device falsify any such account,
record, or memoranda, or who shall willfully neglect or fail to make
full, true, and correct entries in such accounts, records, or
memoranda of all facts and transactions appertaining to the business
of the carrier . . ."

EFFECTIVE: 06/26/91

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 141 - 2

141-1.1.2 Other Provisions

(1) The carriers covered are telephone, telegraph, and radio companies engaged as common carriers for hire in interstate or foreign commerce; those engaged in radio broadcasting are not deemed to be common carriers. Title 47, USC, Section 153(h).

(2) Jurisdiction over violations by the carriers to contravene provisions of this section rests with the Federal Communications Commission.

(3) The Bureau has investigative jurisdiction only over violations by employees who attempt to defraud the employing carriers.

(4) Note that this statute defines the violation as a misdemeanor.

EFFECTIVE: 06/26/91

141-1.1.3 Investigative Procedure

These cases will arise out of embezzlements by employees of the interstate carriers who attempt to conceal their shortages by failing to record transactions, reporting them falsely, or by destroying records. The exact nature of the records used by the carriers should be ascertained in order that the Special Agent can properly show where entries are false. Some of these cases may require the services of an accountant, as it may be necessary to examine the records in a manner similar to that used in the Financial Institutions Fraud cases.

EFFECTIVE: 06/26/91

141-1.1.4 Policy

If prosecution has already been initiated in the state courts for embezzlement or similar offenses, the investigation should be held in abeyance pending a decision of the USA as to whether he/she will authorize prosecution in Federal court.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 141 - 3

EFFECTIVE: 06/26/91

141-1.2 Title 49, Section 20(7)(b)

Violations by employees of railroads, etc.

EFFECTIVE: 06/26/91

141-1.2.1 Elements

"Any person who shall knowingly and willfully make, cause to be made, or participate in the making of, any false entry in any annual or other report required under this section to be filed, or in the accounts of any book of accounts or in any records or memoranda kept by a carrier, or required under this section to be kept by a lessor or other person, or who shall knowingly and willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such accounts, records, or memoranda, or who shall knowingly and willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, lessor, or person, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, or shall knowingly or willfully file with the Commission any false report or other document..."

EFFECTIVE: 01/31/78

141-1.2.2 Other Provisions

The carriers covered are railroads, pipeline companies, express companies, sleeping car companies, and suburban electric lines. Such carriers must be engaged in interstate commerce to come within the paragraph. The paragraph does not cover water or steamship lines, motor freight lines, or bus companies. It is contemplated that few cases will come to the Bureau's attention except those arising out of irregularities by employees of railroads.

Note that this statute defines the violation as a misdemeanor.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 141 - 4

EFFECTIVE: 01/31/78

141-1.3 Title 49, Section 20(7)(f)

Violations by special agents, accountants, or examiners of
Interstate Commerce Commission

EFFECTIVE: 01/31/78

141-1.3.1 Elements

"Any special agent, accountant, or examiner who knowingly and willfully divulges any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of this section, except insofar as he may be directed by the Commission or by a court of judge thereof"

EFFECTIVE: 01/31/78

141-1.3.2 Other Provisions

Very few cases will arise concerning violations of this particular subsection. However, since the Criminal Division of the Department has advised that this subsection is within the Bureau's jurisdiction, the pertinent subsection is quoted above. Note that subsections a, c, d, and e of Section 20(7) are not within the Bureau's jurisdiction.

According to the Antitrust Division of the Department, the words "any special agent, accountant, or examiner" refer to agents, accountants, or examiners in the employ of the Interstate Commerce Commission.

Note that this statute defines the violation as a misdemeanor.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 141 - 5

EFFECTIVE: 01/31/78

141-2 PENALTIES

(1) Title 47, Section 220(e) - A fine of not less than \$1,000 nor more than \$5,000 or imprisonment for a term of not less than one year nor more than three years, or both (misdemeanor).

(2) Title 49, Section 20(7)(b) - A fine of not more than \$5,000 or imprisonment for not more than two years, or both (misdemeanor).

(3) Title 49, Section 20(7)(f) - A fine of not more than \$500 or imprisonment for not exceeding six months or both (misdemeanor).

EFFECTIVE: 01/31/78

141-3 CHARACTER - FALSE ENTRIES IN RECORDS OF INTERSTATE
CARRIERS (FERIC)

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 142 - 1

SECTION 142. ILLEGAL USE OF RAILROAD PASS

142-1 STATUTE

Title 49, USC, Section 1 (7)

EFFECTIVE: 01/31/78

142-1.1 Elements

Free transportation for passengers prohibited; exceptions:

"No common carrier subject to the provisions of this chapter, shall, directly or indirectly, issue or give any interstate free ticket, free pass, or free transportation for passengers, except to its employees, its officers, time inspectors, surgeons, physicians, and attorneys at law, and the families of any of the foregoing; to the executive officers, general chairmen, and counsel of employees' organizations when such organizations are authorized and designated to represent employees in accordance with the provisions of the Railway Labor Act;" (Sections 151-163 and 181-188 of Title 45) "to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Homes, including those about to enter and those returning home after discharge; to necessary caretakers of livestock, poultry, milk, and fruit; to employees on sleeping cars, express cars, and to linemen of telegraph and telephone companies; to railway mail-service employees and persons in charge of the mails when on duty and traveling to and from duty, and all duly accredited agents and officers of the U. S. Postal Service and the Railway Mail Service and postal inspectors while traveling on official business, upon the exhibition of their credentials; to customs inspectors, and immigration officers; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the common carrier is interested, persons injured in wrecks and physicians and nurses attending such persons: Provided, that this provision shall not be

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 142 - 2

construed to prohibit the interchange of passes for the officers, agents, and employees of common carriers and their families; nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation: And provided further, that this provision shall not be construed to prohibit the privilege of passes or franks, or the exchange thereof with each other, for the officers, agents, employees, and their families of such telegraph, telephone, and cable lines, and the officers, agents, employees and their families of other common carriers subject to the provisions of this chapter: Provided further, that the term "employees" as used in this paragraph shall include furloughed, pensioned, and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed in the employment of a carrier and exemployees traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in this paragraph shall include the families of those persons named in this proviso, also the families of persons killed, and the widows during widowhood and minor children during minority of persons who died, while in the service of any such common carrier."

EFFECTIVE: 01/31/78

142-1.1.1 Other Provisions

"Jurisdiction of offenses under this provision shall be the same as that provided for offenses in Sections 41, 42, and 43 of Chapter 2 of this Title."

Venue: "Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed, or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein."

Violations of the above statute come within the Bureau's primary investigative jurisdiction.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 142 - 3

EFFECTIVE: 01/31/78

142-1.1.2 Investigative Procedure

Most violations of this nature are brought to the attention of the Bureau by special agents of the various railroads. Usually these individuals have made a complete investigation of the alleged violation and are in possession of all pertinent facts. Accordingly, much investigative effort can be eliminated by contacting these officials early in the course of the investigation and obtaining the available data they have compiled.

EFFECTIVE: 01/31/78

142-2 PENALTIES

Any common carrier violating this provision shall be deemed guilty of a misdemeanor and for each offense, on conviction, shall pay to the United States a penalty of not less than \$100 nor more than \$2,000, and any person, other than the persons excepted in this provision, who uses any such interstate free ticket, free pass, or free transportation shall be subject to a like penalty.

EFFECTIVE: 01/31/78

142-3 CHARACTER - ILLEGAL USE OF A RAILROAD PASS

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 143 - 1

SECTION 143. INTERSTATE TRANSPORTATION OF GAMBLING DEVICES

143-1 STATUTES

Title 15, USC, Sections 1171, 1172, 1173, 1174, 1175, 1176, 1177, 1178, 1179, 1180. Effective date of this legislation was originally 1-2-51 and further amended effective 12-17-62 following passage of the "Gambling Devices Act of 1962" (Public Law 87-840).

EFFECTIVE: 01/31/78

143-1.1 Section 1171 Definitions

"As used in this chapter--

"(a) The term 'gambling device' means--

"(1) any so-called 'slot machine' or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and (A) which when operated may deliver, as the result of the application of an element of chance, any money or property, or (B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

"(2) any other machine or mechanical device (including, but not limited to, roulette wheels and similar devices) designed and manufactured primarily for use in connection with gambling, and (A) which when operated may deliver, as the result of the application of an element of chance, any money or property, or (B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

"(3) any subassembly or essential part intended to be used in connection with any such machine or mechanical device, but which is not attached to any such machine or mechanical device as a constituent part.

"(b) The term 'State' includes the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 143 - 2

"(c) The term 'Possession of the United States' means any Possession of the United States which is not named in paragraph (b) of this section.

"(d) The term 'interstate or foreign commerce' means commerce (1) between any State or Possession of the United States and any place outside of such State or Possession, or (2) between points in the same State or Possession of the United States but through any place outside thereof.

"(e) The term 'intrastate commerce' means commerce wholly within one State or Possession of the United States."

EFFECTIVE: 01/31/78

143-1.2 Section 1172 - Transportation of Gambling Devices as Unlawful; Exceptions; Authority of Federal Trade Commission

"It shall be unlawful knowingly to transport any gambling device to any place in a State, the District of Columbia, or a Possession of the United States from any place outside of such State, the District of Columbia, or Possession: Provided, That this section shall not apply to transportation of any gambling device to a place in any State which has enacted a law providing for the exemption of such State from the provisions of this section, or to a place in any subdivision of a State if the State in which such subdivision is located has enacted a law providing for the exemption of such subdivision from the provisions of this section, nor shall this section apply to any gambling device used or designed for use at and transported to any licensed gambling establishments where betting is legal under applicable State laws" (Nevada and New Jersey are the only states which have so exempted themselves): "Provided further, That it shall not be unlawful to transport in interstate or foreign commerce any gambling device into any State in which the transported gambling device is specifically enumerated as lawful in a statute of that State. "Nothing in this Act shall be construed to interfere with or reduce the authority, or the existing interpretations of the authority, of the Federal Trade Commission under the Federal Trade Commission Act, as amended (15 USC 41-58)."

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 143 - 3

EFFECTIVE: 06/10/88

143-1.3 Section 1173 - Registration of Manufacturers and Dealers;
Numbering Devices; Maintenance of Records; Transfer or
Possession of Unnumbered Devices; Alteration of Numbers or
Marks on Devices; False Entries; Inspection and Access to
Records

"(a) (1) It shall be unlawful for any person engaged in the business of manufacturing gambling devices, if the activities of such business in any way affect interstate or foreign commerce, to manufacture any gambling device during any calendar year, unless after November 30 of the preceding calendar year, and before the date on which such device is manufactured, such person has registered with the Attorney General under this subsection, regardless of whether such device ever enters interstate or foreign commerce.

"(2) It shall be unlawful for any person during any calendar year to engage in the business of repairing, reconditioning, buying, selling, leasing, using, or making available for use by others any gambling device, if in such business he sells, ships, or delivers any such device knowing that it will be introduced into interstate or foreign commerce after the effective date of the Gambling Devices Act of 1962, unless, after November 30 of the preceding calendar year, and before the date such sale, shipment, or delivery occurs, such person has registered with the Attorney General under this subsection.

"(3) It shall be unlawful for any person during any calendar year to engage in the business of repairing, reconditioning, buying, selling, leasing, using or making available for use by others any gambling device, if in such business he buys or receives any such device knowing that it has been transported in interstate or foreign commerce after the effective date of the Gambling Devices Act of 1962, unless, after November 30 of the preceding calendar year and before the date on which he buys or receives such device, such person has registered with the Attorney General under this subsection.

"(4) Each person who registers with the Attorney General pursuant to this subsection shall set forth in such registration (A) his name and each trade name under which he does business, (B) the address of each of his place of business in any State or possession of the United States, (C) the address of a place of business in any State or Possession of the United States in which such a place of business is located, where he will keep all records required to be kept by him

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 143 - 4

by subsection (c) of this section, and (D) each activity described in paragraph (1), (2), or (3) of this subsection which he intends to engage in during the calendar year with respect to which such registration is made.

"(b) (1) Every manufacturer of a gambling device defined in paragraph (a)(1) or (a)(2) of the first section of this Act shall number seriatim each such gambling device manufactured by him and permanently affix on each such device, so as to be clearly visible, such number, his name, and, if different, any trade name under which he does business, and the date of manufacture of such device.

"(2) Every manufacturer of a gambling device defined in paragraph (a)(3) of the first section of this Act shall, if the size of such device permits it, number seriatim each such gambling device manufactured by him and permanently affix on each such device, so as to be clearly visible, such number, his name, and, if different, any trade name under which he does business, and the date of manufacture of such device.

"(c) (1) Every person required to register under subsection (a) of this section or any calendar year shall, on and after the date of such registration or the first day of such year (whichever last occurs), maintain a record by calendar month for all periods thereafter in such year of-- "(A) each gambling device manufactured, purchased, or otherwise acquired by him, "(B) each gambling device owned or possessed by him acquired or in his custody, and "(C) each gambling device sold, delivered, or shipped by him in intrastate, interstate, or foreign commerce.

"(2) Such record shall show-- "(A) in the case of each such gambling device defined in paragraph (a)(1) or (a)(2) of the first section of this Act, the information which is required to be affixed on such gambling device by subsection (b)(1) of this section; and "(B) in the case of each gambling device defined in paragraph (a)(3) of the first section of this Act, the information required to be affixed on such gambling device by subsection (b)(2) of this section, or, if such gambling device does not have affixed on it any such information, its catalog listing, description, and, in the case of each such device owned or possessed by him or in his custody, its location. "Such record shall also show (i) in the case of any such gambling device described in paragraph (1)(A) of this subsection, the name and address of the person from whom such device was purchased or acquired and the name and address of the carrier; and (ii) in the case of any such gambling device described in paragraph (1)(C) of this subsection, the name and address of the buyer and consignee thereof

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 143 - 5

and the name and address of the carrier.

"(d) Each record required to be maintained under this section shall be kept by the person required to make it at the place designated by him pursuant to subsection (a)(4)(C) of this section for a period of at least five years from the last day of the calendar month of the year with respect to which such record is required to be maintained.

"(e) (1) It shall be unlawful (A) for any person during any period in which he is required to be registered under subsection (a) of this section to sell, deliver, or ship in intrastate, interstate, or foreign commerce or own, possess, or have in his custody any gambling device which is not marked and numbered as required by subsection (b) of this section; or (B) for any person to remove, obliterate, or alter any mark or number on any gambling device required to be placed thereon by such subsection (b).

"(2) It shall be unlawful for any person knowingly to make or cause to be made, any false entry in any record required to be kept under this section.

"(f) Agents of the Federal Bureau of Investigation shall, at any place designated pursuant to subsection (a)(4)(C) of this section by any person required to register by subsection (a) of this section, at all reasonable times, have access to and the right to copy any of the records required to be kept by this section, and in case of refusal by any person registered under such subsection (a) to allow inspection and copying of such records, the U.S. district court for the district in which such place is located shall have jurisdiction to issue an order compelling production of such records for inspection or copying.

EFFECTIVE: 06/10/88

143-1.4 Section 1174 - Labeling and Marking of Shipping Packages

"All gambling devices, and all packages containing any such, when shipped or transported shall be plainly and clearly labeled or marked so that the name and address of the shipper and of the consignee, and the nature of the article or the contents of the package may be readily ascertained on an inspection of the outside of the article or package."

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 143 - 6

EFFECTIVE: 01/31/78

143-1.5 Section 1175 - Specific Jurisdiction in which
Manufacturing, Selling, Repairing, etc., Prohibited

"It shall be unlawful to manufacture, recondition, repair, sell, transport, possess, or use any gambling device in the District of Columbia, in any Possession of the United States, within Indian country as defined in Section 1151 of Title 18 (of the USC) or within the special maritime and territorial jurisdiction of the United States as defined in Section 7 of Title 18 (of the USC.)"

EFFECTIVE: 01/31/78

143-1.6 Section 1176 Penalties

"Whoever violates any of the provisions of Sections 1172, 1173, 1174 or 1175 of this Act shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

EFFECTIVE: 01/31/78

143-1.7 Section 1177 - Confiscation of Gambling Devices and Means
of Transportation; Laws Governing

"Any gambling device transported, delivered, shipped, manufactured, reconditioned, repaired, sold, disposed of, received, possessed, or used in violation of the provisions of this Act shall be seized and forfeited to the United States. All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws; the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as applicable and not inconsistent with the provisions hereof: Provided, That such duties as are imposed upon the collector of customs or any other person with respect to the seizure

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 143 - 7

and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws be performed with respect to seizures and forfeitures of gambling devices under this Act by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General."

EFFECTIVE: 01/31/78

143-1.8 Section 1178 Separability of Provisions

"If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

EFFECTIVE: 01/31/78

143-1.9 Section 1179 Exceptions

"None of the provisions of this Act shall be construed to apply--

"(1) to any machine or mechanical device designed and manufactured primarily for use at a racetrack in connection with parimutuel betting:

"(2) to any machine or mechanical device, such as a coin-operated bowling alley, shuffleboard, marble machine (a so-called pinball machine), or mechanical gun, which is not designed and manufactured primarily for use in connection with gambling, and (A) which when operated does not deliver, as a result of the application of an element of chance, any money or property, or (B) by the operation of which a person may not become entitled to receive, as the result of the application of an element of chance, any money or property, or

"(3) to any so-called claw, crane, or digger machine and similar devices which are not operated by coin, are actuated by a crank, and are designed and manufactured primarily for use at carnivals or county or state fairs."

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 143 - 8

EFFECTIVE: 01/31/78

143-1.10 Section 1180 Effective Date

"The amendments made by this Act shall take effect on the sixtieth day after the date of its enactment." (December 17, 1962)

EFFECTIVE: 01/31/78

143-2 ELEMENTS

EFFECTIVE: 01/31/78

143-2.1 Section 1172

(1) A gambling device covered by the Act, subassembly, or essential part thereof is transported into any state, District of Columbia, or possession of the U.S.

(2) The state has not exempted itself from provisions of this act and this section does not apply to any gambling device transported to any licensed gambling establishments where betting is legal under applicable state law, or

(3) The state in which the gambling device is transported in interstate or foreign commerce has specifically enumerated as lawful by state statute the gambling device so transported.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 143 - 9

143-2.2 Section 1173

(1) Failure of manufacturer to register with the Attorney General.

(2) Failure during any calendar year of any person engaged in business of repairing, reconditioning, buying, selling, leasing, or using gambling devices to register with the Attorney General if he sells, ships, delivers, buys, or receives such device knowing it will be introduced into interstate or foreign commerce.

(3) Failure of person required to register to set forth -

(a) His name and each trade name under which he does business.

(b) Address of each place of business in any state.

(c) The address of where he will keep all records required to be kept by Section 1173.

(d) Each activity he intends to engage in during the calendar year.

(4) Failure of manufacturer to number seriatim each gambling device so manufactured and permanently affix on each device such number, his name, trade name if different, and date of manufacture.

(5) Failure of any person engaged in business of repairing, reconditioning, buying, selling, leasing, or using any gambling device to number seriatim each gambling device and permanently affix on each device such number, his name, trade name if different, and date of manufacture.

(6) Failure of every person required to register to maintain record by calendar month of -

(a) Each gambling device manufactured, purchased, or acquired.

(b) Each gambling device owned, possessed, or in his/her custody.

(c) Each gambling device sold, delivered, or shipped in intrastate, interstate, or foreign commerce.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 143 - 10

(7) Failure to maintain records required to be maintained at the required location for a period of five years.

(8) Unlawful for person required to be registered to sell, deliver, or ship in intrastate, interstate, or foreign commerce, or have in custody any gambling device which is not marked and numbered as required or to remove, obliterate, or alter any mark or number on any gambling device required to be placed thereon.

(9) Unlawful to make or cause to be made any false entry in any record required to be kept under this Section.

EFFECTIVE: 06/18/87

143-2.3 Section 1174

(1) To ship or transport any gambling device.

(2) The gambling device or package containing the device is not clearly labeled or marked showing the name and address of the shipper and consignee and nature of the article or the contents of the package from an inspection of the outside of the package.

EFFECTIVE: 06/18/87

143-2.4 Section 1175

(1) To manufacture, recondition, repair, sell, transport, possess, or use any gambling device.

(2) In the District of Columbia, in any possession of the U.S., within Indian country, or within the special maritime and territorial jurisdiction of the U.S.

EFFECTIVE: 06/18/87

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 143 - 11

143-2.5 Section 1177

(1) A gambling device may be seized if this device is transported, delivered, shipped, manufactured, reconditioned, repaired, sold, disposed of, received, possessed, or used in violation of the statute.

(2) The seized gambling device shall be forfeited to the U.S.

(3) The FBI has been delegated authority to institute civil administrative forfeiture proceedings pursuant to Section 1177. The Forfeiture and Abandoned Property manual contains the step-by-step procedure to be followed for seizures and civil forfeiture proceedings (judicial and administrative) conducted in conjunction with this violation.

EFFECTIVE: 06/18/87

143-3 EXCEPTIONS

Section 1179 sets forth exceptions concerning certain machines or mechanical devices which are exempted from provisions of this Act.

EFFECTIVE: 06/18/87

143-4 INSPECTION OF RECORDS

Section 1173 authorizes that Agents of the FBI shall at all reasonable times have access to and the right to copy any of the records kept by a person required to register. In case of refusal of any person so registered to allow inspection in copying such records, the U.S. district court for the district in which such place is located shall have jurisdiction to issue an order compelling production of such records for inspection or copying.

EFFECTIVE: 10/16/90

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 143 - 12

143-5 POLICY

(1) Section 1177 of the statute provides that gambling devices transported, delivered, shipped, manufactured, reconditioned, repaired, sold, disposed of, received, possessed, or used in violation of the provisions of the Act shall be seized and forfeited to the U.S. This wording of the statute makes it mandatory that these gambling devices be seized; however, as a matter of policy the facts of each case should be discussed with the USA for his/her opinion and authorization for the seizure of the gambling devices.

(2) Deleted

(3) Gambling devices on board foreign vessels entering U.S. ports constitute a violation of Title 18, USC, Section 1172. The Department has requested that any violation developed on the part of foreign ships be presented to it for an opinion as to prosecution prior to the seizing of any gambling devices. Any violations developed in this regard should be immediately referred to FBIHQ for presentation to the Department for a decision.

(4) Leads to check the records of the Attorney General to determine if a person required to be registered is so registered in accordance with the provisions of Public Law 87-840 should be set out for the Washington|Metropolitan|Field Office.

(5) When investigations indicate a possible violation of Section 1173 (registration section), the facts should be presented to the USA as early as possible to determine if the activity of the individual or company involved would fall within the purview of the registration section of the statute.

(6) Gambling wheels (a device sometimes known as a wheel of fortune), commonly utilized at fairs and carnivals, are designed primarily for use in connection with gambling. The interstate transportation of such devices would be in violation of Title 15, USC, Sections 1171-1180. When complaints are received concerning gambling wheels, develop the facts and promptly contact the USA for his/her prosecutive opinion.

(7) Any information developed concerning the existence of gambling devices which are not in violation of the interstate transportation of gambling devices statute but whose existence may constitute a violation of state law should be referred to responsible local authorities having jurisdiction.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 143 - 13

(8) The interstate transportation of gambling devices statute (Public Law 906, 81st Congress), when mentioned in responding to press inquiries or in making press releases, should be described as the Johnson-Preston Act.

EFFECTIVE: 10/16/90

143-6 INVESTIGATIVE PROCEDURE

(1) The development and utilization of adequate confidential informants and sources of information coverage is essential to the development of cases in this category.

b2
b7E
(2) The appearance of gambling devices in an area or any noticeable increase in the prevalence of these machines should be made the subject of an immediate investigation to determine if a violation of the act has occurred in connection with these devices.

(3) [REDACTED]

(4) Title 15, USC, Section 1172, specifies that it shall not be unlawful under this section to transport in interstate or foreign commerce any gambling device into any state in which the transported gambling device is specifically enumerated as lawful in a statute of that state. Each office must be fully aware of state statutes applicable to gambling as they relate to definitions of gambling devices which are lawful under the state law. The office having within its territory the state capital is responsible for following this matter and in those instances in which a state is covered by more than one field office coordinating the results with other offices having jurisdiction within the state. FBIHQ should also be advised of any changes in state statutes which would make specific gambling devices lawful under state statutes.

EFFECTIVE: 10/18/88

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 143 - 14

143-7 VENUE

(1) The Department has advised that venue for failure to register would in all probability be in the District of Columbia. When omission to act constitutes a crime, the venue is the jurisdictional locality where the act should have been performed.

(2) Where the offense consists of the failure to file a document, it is committed in the place where the document should have been filed, and not elsewhere.

(3) The Department has further advised concerning venue that the failure to register may be prosecuted in any district in which the person required to be registered committed any act in violation of the statute, such as transported, delivered, shipped, manufactured, reconditioned, repaired, sold, disposed of, received, possessed, bought, leased, or used. Prosecution may be entertained for transporting gambling devices in any district from which the devices were transported, through which they were transported, or into which they were transported in violation of the statute.

EFFECTIVE: 10/18/88

143-8 REPORTING PROCEDURES

(1) In 143A cases involving LCN members and/or associates, or 143B cases involving other organized crime groups (i.e., Asian organized crime, Sicilian Mafia, etc.), submit an airtel to FBIHQ within 60 days of opening the case. This communication should include facts predicating the case and sufficient identification data on the subject(s) for indexing purposes.

(2) A progress letter should be submitted every 180 days restating the predication and summary of the investigation.

(3) The results and/or summary of investigation should be reported by airtel.

(4) In 143C cases, no reporting to FBIHQ is required.

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 143 - 15

||143-9| CHARACTER - INTERSTATE TRANSPORTATION OF GAMBLING DEVICES

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 144 - 1

SECTION 144. INTERSTATE TRANSPORTATION OF LOTTERY TICKETS

144-1 STATUTE

Title 18, USC, Section 1301

EFFECTIVE: 01/31/78

144-1.1 Section 1301. Importing or Transporting Lottery
Tickets

"Whoever brings into the United States for the purpose of disposing of the same, or knowingly deposits with any express company or other common carrier for carriage, or carries in interstate or foreign commerce any paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any advertisement of, or list of the prizes drawn or awarded by means of, any such lottery, gift enterprise, or similar scheme; or knowingly takes or receives any such paper, certificate, instrument, advertisement, or list so brought, deposited, or transported, shall be fined not more than \$1,000 or imprisoned not more than two years, or both."

Note: Punishment provision was rewritten to eliminate reference to punishment under the former section for a second offense.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 144 - 2

144-2 VIOLATIONS

(1) Bringing into or causing to be brought into the U.S. any lottery ticket, advertisement of, or list of prizes drawn or awarded by means of such lottery.

(2) Knowingly depositing or causing to be deposited with any express company or other common carrier any such lottery ticket, advertisement, or list of prizes for carriage in interstate or foreign commerce.

(3) Carrying any such lottery ticket, advertisement, or list of prizes in interstate or foreign commerce.

(4) Knowingly taking or receiving or causing to be taken or received any lottery ticket, advertisement, or list of prizes which have been so brought, deposited, or transported as outlined above.

The word "carries" contained in (Title 18, USC, Section 1301) in effect makes the interstate or foreign transportation of lottery tickets by any means whatsoever a criminal violation. The terms "interstate commerce" and "foreign commerce" are defined in Title 18, USC, Section 10.

EFFECTIVE: 01/31/78

144-3 JURISDICTION

(1) Title 18, USC, Section 1301, is within the investigative jurisdiction of the Bureau. Title 18, USC, Section 1302, is within the investigative jurisdiction of the U.S. Postal Service.

(2) Section 1305 of Title 19, USC, which is included in the Tariff Act of 1930, also prohibits the importation of lottery tickets into the U.S. Violations of Section 1305 are within the jurisdiction of Customs authorities.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

144-4 INVESTIGATIVE PROCEDURE

(1) Investigations should not be restricted to determining the activities of isolated individuals engaged in selling lottery tickets as prosecution of small-scale vendors does not disrupt the operations of a large lottery organization. Every effort should be expended to ascertain the identities of the promoters, printers, and main distributors who comprise the lottery "ring." In this connection, the possibility of obtaining prosecution on conspiracy charges should always be kept in mind.

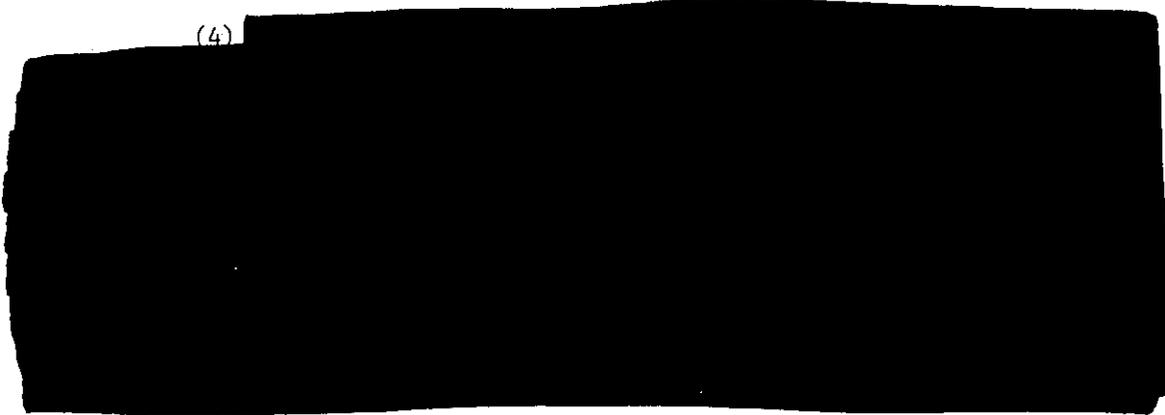
(2) It is particularly important to determine the location of the lottery headquarters and the method and extent of distribution of the lottery tickets. It is essential that proof of interstate or foreign transportation be secured.

(3)



The name of the official competent to present the documents in evidence should be ascertained.

(4)



(5)



b2u
b7E

XXXXXX
XXXXXX
XXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

1 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552

Section 552a

(b)(1)

(b)(7)(A)

(d)(5)

(b)(2)

(b)(7)(B)

(j)(2)

(b)(3)

(b)(7)(C)

(k)(1)

(b)(7)(D)

(k)(2)

(b)(7)(E)

(k)(3)

(b)(7)(F)

(k)(4)

(b)(4)

(b)(8)

(k)(5)

(b)(5)

(b)(9)

(k)(6)

(b)(6)

(k)(7)

- Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.
- Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

Pages were not considered for release as they are duplicative of _____

Page(s) withheld for the following reason(s): _____

- The following number is to be used for reference regarding these pages: _____

XXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X for this page X
XXXXXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 144 - 5

EFFECTIVE: 10/18/88

144-5 PULL BOARDS, TIP BOARDS, AND PUNCHBOARDS

(1) Numerous investigations conducted in the field have focused attention upon the problem of whether so-called pull boards, tip boards, punchboards, jackpot pools, baseball, football, bowling, and other types of chance boards which are capable of being used in a lottery come within the scope of the Federal lottery statute, Title 18, USC, Section 1301.

(2) The Department has furnished an opinion regarding such cases in which it is stated that manufacturers, salespeople, or users of such devices cannot be prosecuted for operating a lottery in violation of Section 1301. This ruling is predicated on two legal requirements stipulating:

(a) That at the time of transportation of such devices there must be actually in existence an active lottery. It is not sufficient that the device is capable of being used in a lottery or may, in fact, be so used after it moves in interstate commerce. The tickets do not become a part of, or represent, shares in a lottery until the individual pool-hall or beer-parlor operator, to whom such tickets are sold or delivered after interstate transportation, establishes his/her own lottery.

(b) The lottery devices do not in and of themselves purport to be or represent a ticket, chance, or share in a lottery. They can, like dice or playing cards, be used for gambling or other illegal purposes, but they may never be used at all or they could possibly be used innocently.

EFFECTIVE: 10/18/88

144-6 VENUE

In the judicial district from which the tickets are transported or any judicial district through or into which they are carried (Title 18, USC, Section 3237).

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 144 - 6

EFFECTIVE: 10/18/88

| 144-7 | REPORTING PROCEDURES

(1) In 144A cases involving LCN members and/or associates or 144B cases involving other organized crime groups (i.e., Asian organized crime, Sicilian Mafia, etc.), submit an airtel to FBIHQ within 60 days of opening the case. This communication should include facts predicating the case and sufficient identification data on the subject(s) for indexing purposes.

(2) A progress letter should be submitted every 180 days restating the predication and a summary of the investigation.

(3) The results and/or summary of investigation should be reported by airtel.

(4) In 144C cases, no reporting to FBIHQ is required.

EFFECTIVE: 10/18/88

|| 144-8 | CHARACTER - INTERSTATE TRANSPORTATION OF LOTTERY
TICKETS

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 1

SECTION 145. INTERSTATE TRANSPORTATION OF OBSCENE MATTER;
SEXUAL EXPLOITATION OF CHILDREN; BROADCASTING
OBSCENE LANGUAGE

145-1 STATUTE

Title 18, USC, Sections 1462, 1464, 1465, 1466, 1467,
1468, 1469, 2251, 2252, 2253, 2254, 2256, and 2257.

EFFECTIVE: 07/26/89

145-1.1 Section 1462. Importation or Transportation of Obscene
Matters

"Whoever brings into the United States, or any place
subject to the jurisdiction thereof or knowingly uses any express
company or other common carrier, for carriage in interstate or foreign
commerce--

"(a) any obscene, lewd, lascivious, or filthy book,
pamphlet, picture, motion-picture film, paper, letter, writing, print,
or other matter of indecent character; or

"(b) any obscene, lewd, lascivious, or filthy phonograph
recording, electrical transcription, or other article or thing capable
of producing sound; or

"(c) any drug, medicine, article, or thing designed,
adapted, or intended for producing abortion, or for any indecent or
immoral use; or any written or printed card, letter, circular, book,
pamphlet, advertisement, or notice of any kind giving information,
directly or indirectly, where, how, or of whom, or by what means any
of such mentioned articles, matters, or things may be obtained or
made; or

"Whoever knowingly takes from such express company or
common carrier any matter or thing the carriage of which is herein
made unlawful--

"Shall be fined not more than \$5,000 or imprisoned not
more than five years, or both, for the first such offense and shall be

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 2

fined not more than \$10,000 or imprisoned not more than ten years, or both, for each such offense thereafter."

EFFECTIVE: 07/26/89

145-1.1.1 Elements

(1) Bringing or causing to be brought into the United States or any place subject to the jurisdiction thereof any obscene matter

(2) Knowingly using any express company or other common carrier for carriage of obscene matter in interstate or foreign commerce

(3) Knowingly taking or causing to be taken from an express company or other common carrier any matter or thing, the carriage of which is made unlawful by the act

In order to establish a violation of this section, it must be shown that an express company or other common carrier was used for the interstate transportation of obscene material. The interstate transportation of such material by privately owned motor truck or by automobile does not come within the purview of this section.

EFFECTIVE: 07/26/89

145-1.2 Section 1464. Broadcasting Obscene Language

"Whoever utters any obscene, indecent, or profane language by means of radio communication shall be fined not more than \$10,000 or imprisoned not more than two years, or both."

EFFECTIVE: 07/26/89

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 3

145-1.2.1 Elements

- (1) Whoever utters language
- (2) That is obscene, indecent or profane
- (3) By means of radio communication

EFFECTIVE: 07/26/89

145-1.3 Section 1465. Transportation of Obscene Matters for Sale
or Distribution

"Whoever knowingly transports in interstate or foreign commerce for the purpose of sale or distribution, or knowingly travels in interstate commerce, or uses a facility or means of interstate commerce for the purpose of transporting obscene material in interstate or foreign commerce, any obscene, lewd, lascivious, or filthy book, pamphlet, picture, film, paper, letter, writing, print, silhouette, drawing, figure, image, cast, phonograph recording, electrical transcription or other article capable of producing sound or any other matter of indecent or immoral character, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

"The transportation as aforesaid of two or more copies of any publication or two or more of any article of the character described above, or a combined total of five such publications and articles, shall create a presumption that such publications or articles are intended for sale or distribution, but such presumption shall be rebuttable.

EFFECTIVE: 07/26/89

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 4

145-1.3.1 Elements

(1) Whoever knowingly transports in interstate or foreign commerce or knowingly travels in interstate commerce of uses a facility or means of interstate commerce for the purpose of transporting any obscene matter

(2) Two or more copies of obscene publication or two or more of any article of obscene character or a combined total of five publications and articles create presumption obscene items are for sale or distribution, such presumption rebuttable

(3) The use of a "facility or means" of commerce includes interstate highway systems, federally financed highways, and interstate railroads. Interstate commerce now can take place using motor vehicles, boats and airplanes and

(4) It would not be necessary to demonstrate that obscene material actually traveled interstate but only that a "facility or means" of interstate commerce or foreign sale was used

EFFECTIVE: 07/26/89

145-1.4 Section 1466. Engaging in the Business of Selling or Transferring Obscene Matter

"(a) Whoever is engaged in the business of selling or transferring obscene matter, who knowingly receives or possesses with intent to distribute any obscene book, magazine, picture, paper, film, videotape, or phonograph or other audio recording, which has been shipped or transported in interstate or foreign commerce, shall be punished by imprisonment for not more than five years or by a fine under this title, or both.

"(b) As used in this subsection, the term 'engaged in the business' means that the person who sells or transfers or offers to sell or transfer obscene matter devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income. The offering for sale of or to transfer, at one time, two or more copies of any obscene publication, or two or more of any obscene article, or a combined total of five or

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 5

more such publication and articles, shall create a rebuttable presumption that the person so offering them is 'engaged in the business' as defined in subsection (b)."

EFFECTIVE: 07/26/89

145-1.4.1 Elements

(1) Prohibits the receipt or possession with intent to sell obscene matter.

(2) The obscene matters has been shipped or transported in interstate or foreign commerce by any means by a person so engaged in the business.

EFFECTIVE: 07/26/89

145-1.5 Section 1467. Criminal Forfeiture

"(a) Property subject to criminal forfeiture. A person who is convicted of an offense involving obscene material under this chapter shall forfeit to the United States such person's interest in -

"(1) any obscene material produced, transported, mailed, shipped, or received in violation of this chapter;

"(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense, if the court in its discretion so determines, taking into consideration the nature, scope, and proportionality of the use of the property in the offense.

"(b) Third party transfers. All right, title and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 6

forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section."

(1) See the Federal Criminal Code and Rules, Title 18, USC, Section 1467, for further information concerning protection orders, warrant of seizure, order of forfeiture, execution, disposition of property, authority of Attorney General, bar on intervention, jurisdiction to enter orders, dispositions, third party interests, and substitute assets.

(2) Prior to proceeding with any criminal forfeiture, the case Agent should contact the respective division's Forfeiture Analyst for assistance. If needed, further help can be obtained from the Forfeiture and Seized Property Unit, Property Procurement and Management Section, Finance Division.

EFFECTIVE: 03/07/94

145-1.6 Section 1468. Distributing Obscene Material by Cable or Subscription Television

"(a) Whoever knowingly utters any obscene language or distributes any obscene matter by means of cable television or subscription services on television, shall be punished by imprisonment for not more than 2 years or by a fine in accordance with this title, or both.

"(b) As used in this section, the term 'distribute' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire, microwave, or satellite, or to produce or provide material for such distribution.

"(c) Nothing in this chapter, or the Cable Communications Policy Act of 1984, or any other provision of Federal law, is intended to interfere with or preempt the power of the States, including political subdivisions thereof, to regulate the uttering of language that is obscene or otherwise unprotected by the Constitution or the distribution of matter that is obscene or otherwise unprotected by the Constitution, of any sort, by means of cable television or

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 7

subscription services on television."

EFFECTIVE: 07/26/89

145-1.7 Section 1469. Presumptions

"(a) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in interstate commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured in one State and is subsequently located in another State shall raise a rebuttable presumption that such matter was transported, shipped, or carried in interstate commerce.

"(b) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in foreign commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured outside of the United States and is subsequently located in the United States shall raise a rebuttable presumption that such matter was transported, shipped, or carried in foreign commerce."

EFFECTIVE: 07/26/89

145-1.8 Section 2251. Sexual Exploitation of Children

"(a) Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in interstate or foreign commerce or in any Territory or Possession of the United States, with the intent that such minor engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (d), if such person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

"(b) Any parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual depiction of such conduct

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 8

shall be punished as provided under subsection (d) of this section, if such parent, legal guardian, or person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

"(c) (1) Any person who, in a circumstance described in paragraph (2), knowingly makes, prints, or publishes, or causes to be made, printed, or published, any notice or advertisement seeking or offering-

"(A) to receive, exchange, buy, produce, display, distribute, or reproduce, any visual depiction, if the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct; or

"(B) participation in any act of sexually explicit conduct by or with any minor for the purpose of producing a visual depiction of such conduct; shall be punished as provided under subsection (d).

"(2) The circumstance referred to in paragraph (1) is that-

"(A) such person knows or has reason to know that such notice or advertisement will be transported in interstate or foreign commerce by any means including by computer or mailed; or

"(B) such notice or advertisement is transported in interstate or foreign commerce by any means including by computer or mailed

"(d) Any individual who violates this section shall be fined not more than \$100,000, or imprisoned not more than 10 years, or both, but, if such individual has a prior conviction under this section, such individual shall be fined not more than \$200,000, or imprisoned not less than five years nor more than 15 years, or both.

"Any organization which violates this Section shall be fined not more than \$250,000."

EFFECTIVE: 07/26/89

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 9

145-1.8.1 Elements

(1) Any person or organization who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in interstate or foreign commerce or in any Territory or Possession of the United States, with the intent that such minor engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

(2) Any parent, legal guardian, person, or organization having custody or control of a minor who knowingly permits such minor to engage in, or assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

(3) Any person, who makes, prints, or publishes, or causes to be made, printed, or published any notice or advertisement seeking or offering to receive, exchange, buy, produce, display, distribute, reproduce or participate, in any visual depiction if the production of visual depiction is of and involves the use of a minor engaging in sexually explicit conduct.

(4) Knows or has reason to know that such visual depiction or notice or advertisement of such will be or had actually been transported in interstate or foreign commerce by any means including by computer or mailed, or knowingly reproduces any visual depiction or notice or advertisement for distribution in interstate or foreign commerce by any means including by computer or through the mails.

EFFECTIVE: 07/26/89

145-1.9 Section 2251A. Selling or Buying of Children

"(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor or offers to sell or otherwise transfer custody of such minor either

"(1) with knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in sexually explicit conduct: or

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 10

"(2) with intent to promote either

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(b) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor either

"(1) with knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in sexual explicit conduct; or

"(2) with intent to promote either

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(c) The circumstances referred to in subsections (a) and (b) are that

"(1) in the course of the conduct described in such subsections, the minor or the actor traveled in or was transported in interstate or foreign commerce;

"(2) any offer described in such subsections was

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 11

communicated or transported in interstate or foreign commerce by any means including by computer or mail; or

"(3) the conduct described in such subsections took place in any territory or possession of the United States."

EFFECTIVE: 07/26/89

145-1.9.1 Elements

(1) Prohibits the parent, legal guardian or other person having "custody or control" of a minor who sells or otherwise transfers custody or control of such minor

(a) with knowledge that the minor will be used in the production of child pornography or

(b) "with intent to promote" the minor's sexually explicit conduct in order to produce a visual depiction of the conduct.

(2) This section would also punish the person who "purchases or otherwise obtains custody of" the minor with such knowledge or intent.

(3) Federal jurisdiction is premised on travel or transportation in interstate or foreign commerce involving either the offer, minor or on conduct that takes place in a U.S. territory or possession.

(4) "Custody or control" includes temporary supervision over or responsibility for a minor, whether legally or illegally obtained. This would include persons such as teachers and day care center employees, as well as a kidnaper.

EFFECTIVE: 07/26/89

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 12

145-1.10 Section 2252. Certain Activities Relating to Material
Involving the Sexual Exploitation of Minors

"(a) Any person who-

"(1) knowingly transports or ships
in interstate or foreign commerce by any means, including by
computer or mails any visual depiction, if-

"(A) the producing of such visual depiction
involves the use of a minor engaging in sexually explicit conduct; and
"(B) such visual depiction is of such

conduct; and

"(2) knowingly receives, or distributes any
visual depiction that has been mailed, or has been shipped or
transported in interstate or foreign commerce, or which contains
materials which have been mailed or so shipped or transported, by any
means including by computer, or knowingly reproduces any visual
depiction for distribution in interstate or foreign commerce by any
means including by computer or through the mails, if-

"(A) the producing of such visual depiction
involves the use of a minor engaging in sexually explicit conduct; and
"(B) such visual depiction is of such conduct;

"(3) either -

"(A) in the special maritime and territorial
jurisdiction of the United States, or on any land or building owned
by, leased to, or otherwise used by or under the control of the
Government of the United States, or in the Indian country as defined
in section 1151 of this title, knowingly sells or possesses with
intent to sell any visual depiction; or

"(B) knowingly sells or possesses with intent to
sell any visual depiction that has been mailed, or has been shipped or
transported in interstate or foreign commerce, or which was produced
using materials which have been mailed or so shipped or transported,
by any means, including by computer, if -

"(i) the producing of such visual depiction
involves the use of a minor engaging in sexually explicit conduct; and
"(ii) such visual depiction is of such

conduct; or

"(4) either -

"(A) in the special maritime and territorial
jurisdiction of the United States, or on any land or building owned
by, leased to, or otherwise used by or under the control of the
Government of the United States, or in the Indian country as defined
in section 1151 of this title, knowingly possesses 3 or more books,
magazines, periodicals, films, video tapes, or other matter which

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 13

contain any visual depiction; or

"(B) knowingly possesses 3 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means including by computer, if -

"(i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(ii) such visual depiction is of such conduct; shall be punished as provided in subsection (b) of this section.

"(b)(1) Whoever violates paragraph (1), (2), or (3) of subsection (a) shall be fined under this title or imprisoned not more than ten years, or both, but, if such person has a prior conviction under this section, such person shall be fined under this title and imprisoned for not less than five years nor more than fifteen years.

"(2) Whoever violates paragraph (4) of subsection (a) shall be fined under this title or imprisoned for not more than five years, or both."

EFFECTIVE: 12/10/91

145-1.10.1 Elements

(1) Any person who knowingly transports, ships, receives, distributes, or knowingly reproduces any visual depiction for distribution, in interstate or foreign commerce by any means, including by computer or mails, of any visual depiction, if the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct, and such visual depiction is of such conduct.

(2) Title III of the Crime Control Act of 1990 known as the "Child Protection Restoration and Penalties Enhancement Act of 1990" effectively made possession of child pornography a Federal offense. Section 2252 was modified to allow prosecution when an individual knowingly possesses three or more items which were produced using materials which traveled in interstate commerce.

(a) The pornography does not have to travel in interstate commerce.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 14

(b) The material used to produce the pornography has an interstate character. This can be proven by showing the photographic paper, video tape material, camera utilized or any other item was manufactured outside the state. Alternatively, a showing that no such material is manufactured in the state is sufficient to show an interstate nexus.

(c) Three or more items of child pornography means three or more photographs, three or more videos, three or more computer disks, etc., or any combination of three.

EFFECTIVE: 12/10/91

145-1.11 Section 2253. Criminal Forfeiture

"(a) Property subject to criminal forfeiture. A person who is convicted of an offense under this chapter involving a visual depiction described in sections 2251, 2251A, or 2252 of this chapter shall forfeit to the United States such person's interest in

"(1) any visual depiction described in sections 2251, 2251A, or 2252 of this chapter, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of this chapter;

"(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense."

(1) See the Federal Criminal Code and Rules, Title 18, USC, Section 2253, for further information concerning protective orders, warrant of seizure, order of forfeiture, execution, disposition of property, authority of Attorney General, bar on intervention, jurisdiction to enter orders, depositions, third party interests and substitute assets.

(2) Prior to proceeding with any criminal forfeiture, the case Agent should contact the respective division's Forfeiture Analyst

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 15

for assistance. If needed, further help can be obtained from the Forfeiture and Seized Property Unit, Property Procurement and Management Section, Finance Division.

EFFECTIVE: 03/07/94

145-1.12 Section 2254. Civil Forfeiture

"(a) Property subject to civil forfeiture. The following property shall be subject to forfeiture by the United States:

"(1) any visual depiction described in sections 2251, 2251A, or 2252 or this chapter, or any book, magazine, periodical, film, videotape, or other matter which contains any visual depiction, which was produced, transported, mailed, shipped, or received in violation of this chapter.

"(2) any property, real or personal, used or intended to be used to commit or to promote the commission of an offense under this chapter involving a visual depiction described in sections 2251, 2251A, or 2252 of this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(3) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from a violation of this chapter involving a visual depiction described in sections 2251, 2251A, or 2252 of this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(b) Seizure pursuant to supplemental rules for certain admiralty or maritime claims. Any property subject to forfeiture to the United States under this section may be seized by the Attorney General, the Secretary of the Treasury, or the U.S. Postal Service upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when the seizure is pursuant to a

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 16

search under a search warrant or incident to an arrest. The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) Custody of Federal official. Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, Secretary of the Treasury, or the U.S. Postal Service, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General, Secretary of the Treasury, or the U.S. Postal Service may

"(1) place the property under seal;

"(2) remove the property to a place designated by the official or agency; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) Other laws and proceedings applicable. All provisions of the customs laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for the purpose by the Attorney General, the Secretary of the Treasury, or the U.S. Postal Service, except to the extent that such duties arise from seizures and forfeitures affected by any customs officer.

"(e) Sections 1606, 1613, 1614, 1617, and 1618 of title 19, United States Code, shall not apply with respect to any visual depiction or any matter containing a visual depiction subject to

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 17

forfeiture under subsection (a) (1) of this section.

"(f) Disposition of forfeited property. Whenever property is forfeited under this section the Attorney General shall destroy or retain for official use any property described in paragraph (1) of subsection (a) and, with respect to property described in paragraph (2) or (3) of subsection (a), may

"(1) retain the property for official use or transfer the custody or ownership of any forfeited property to a Federal, state, or local agency pursuant to section 1616 of title 19;

"(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public; or

"(3) require that the General Services Administration take custody of the property and dispose of it in accordance with law. The Attorney General, Secretary of the Treasury, or the U.S. Postal Service shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State and local law enforcement agency, so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by an official or agency pursuant to paragraph (1) shall not be subject to judicial review. With respect to a forfeiture conducted by the Attorney General, the Attorney General shall forward to the Treasurer of the United States for deposit in accordance with Section 524(c) of title 28 the proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter. With respect to a forfeiture conducted by the Postal Service, the proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter shall be deposited in the Postal Service Fund as required by section 2003(b) (7) of title 39.

"(g) Title to property. All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(h) Stay of proceedings. The filing of an indictment or information alleging a violation of this chapter which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 18

"(i) Venue. In addition to the venue provided for in section 1395 of title 28 or any another provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought."

EFFECTIVE: 12/10/91

145-1.13 Section 2255. Civil Remedy for Personal Injuries

"(a) Any minor who is a victim of a violation of section 2251 or 2252 of this title and who suffers personal injury as a result of such violation may sue in any appropriate U.S. District Court and shall recover the actual damages such minor sustains and the cost of the suit, including a reasonable attorney's fee. Any minor as described in the preceding sentence shall be deemed to have sustained damages of no less than \$50,000 in value.

"(b) Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in the case of a person under a legal disability, not later than three years after the disability."

EFFECTIVE: 07/26/89

145-1.14 Section 2256. Definitions for Chapter

"For the purposes of this chapter, the term -

- "(1) 'minor' means any person under the age of 18 years;
- "(2) 'sexually explicit conduct' means actual or simulated

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 19

"(D) sadistic or masochistic abuse; or

"(E) lascivious exhibition of the genitals or pubic area of any person;

"(3) 'producing' means producing, directing, manufacturing, issuing, publishing, or advertising;

"(4) 'organization' means a person other than an individual;

"(5) 'visual depiction' includes undeveloped film and videotape;

"(6) 'computer' has the meaning given that term in Section 1030, of Title 18, USC; and

"(7) 'custody or control' includes temporary supervision over or responsibility for a minor whether legally or illegally obtained."

EFFECTIVE: 07/26/89

145-1.15 Section 2257. Record Keeping Requirements

"(a) Whoever produces any book, magazine, periodical, film, videotape, or other matter which

"(1) contains one or more visual depictions made after November 1, 1990 of actual sexually explicit conduct; and

"(2) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce shall create and maintain individually identifiable records pertaining to every performer portrayed in such visual depiction.

"(b) Any person to whom subsection (a) applies shall, with respect to every performer portrayed in a visual depiction of actual sexually explicit conduct -

"(1) ascertain, by examination of an identification

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 20

document containing such information, the performer's name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

"(2) ascertain any name, other than the performer's present and correct name, ever used by the performer including maiden name, alias, nickname, stage, or professional name; and

"(3) record in the records required by subsection (a) the information required by paragraphs (1) and (2) of this subsection and such other identifying information as may be prescribed by regulation.

"(c) Any person to whom subsection (a) applies shall maintain the records required by this section at his business premises, or at such other place as the Attorney General may by regulation prescribe, and shall make such records available to the Attorney General for inspection at all reasonable times.

"(d) (1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in this section, directly or indirectly, be used, as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of this section or for a violation of any applicable provision of law with respect to the furnishing of false information.

"(e) (1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

"(2) If the person to whom subsection (a) for this section applies is an organization, the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(f) It shall be unlawful -

"(1) for any person to whom subsection (a) applies

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 21

to fail to create or maintain the records as required by subsections (a) and (c) or by any regulation promulgated under this section;

"(2) for any person to whom subsection (a) applies knowingly to make any false entry in or knowingly to fail to make any false entry in or knowingly to fail to make an appropriate entry in any record required by subsection (b) of this section or any regulation promulgated under this section;

"(3) for any person to whom subsection (a) applies knowingly to fail to comply with the provisions of subsection (e) or any regulation promulgated pursuant to that subsection; and

"(4) for any person knowingly to sell or otherwise transfer, or offer for sale or transfer, any book, magazine, periodical, film, video, or other matter, produce in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce or which is intended for shipment in interstate or foreign commerce, which -

"(A) contains one or more visual depictions made after the effective date of this subsection of actual sexually explicit conduct; and

"(B) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce; which does not have affixed thereto, in a manner prescribed as set forth in subsection (e) (1), a statement describing where the records required by this section may be located, but such person shall have no duty to determine the accuracy of the contents of the statement or the records required to be kept.

"(g) The Attorney General shall issue appropriate regulations to carry out this section.

"(h) As used in this section -

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (D) of paragraph (2) of section 2256 of this title;

"(2) 'identification document' has the meaning given that term in section 1028(d) of this title;

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 22

"(3) the term 'produces' means to produce, manufacture, or publish any book, magazine, periodical, film, video tape or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution or any other activity which does not involve hiring, contracting for managing, or otherwise arranging for the participation of the performers depicted; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.

"(i) Whoever violates this section shall be imprisoned for not more than 2 years, and fined in accordance with the provisions of this title, or both. Whoever violates this section after having been convicted of a violation punishable under this section shall be imprisoned for any period of years not more than 5 years but not less than 2 years, and fined in accordance with the provisions of this title, or both."

EFFECTIVE: 12/10/91

| 145-1.15.1 | Deleted |

EFFECTIVE: 12/10/91

145-1.16 Racketeer Influenced and Corrupt Organizations (RICO),
Title 18, USC, Section 1961

(1) The Comprehensive Crime Control Act of 1984 amended Title 18, USC, Section 1961(1)(A) and (B) to include "Dealing in Obscene Matter" as part of the RICO Statute.

| (2) | Deleted |

(3) A detailed discussion of the RICO Statute can be found in Part I, Section 183 of this manual.

EFFECTIVE: 12/10/91

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 23

145-2 POLICY

(1) Upon taking possession of evidence purported to be obscene, the local prosecuting jurisdiction should be immediately contacted for a prosecutive opinion. Personnel at FBIHQ, either in the investigative divisions or the Laboratory, are not to render an opinion as to whether an item is obscene.

(2) Deleted

(3) For instructions on submitting a case for latent fingerprint examination, see Part II, 15-2.1 of this manual.

(4) Obscene material is submitted to the Laboratory in order that it may be:

(a) Deleted

(b) forwarded to the Latent Fingerprint Section, Laboratory Division for latent fingerprint search/comparison

(c) Deleted

(5) All obscene material sent to FBIHQ should be forwarded under obscene cover and the address label on the outside of the package must be clearly marked for the attention of the FBI Laboratory. It should be accompanied by a cover|electronic communication|identifying the|evidence|and clearly stating the source of the material. If they are further needed by the submitting field office for use as evidence or as an investigative aid, such should be clearly indicated. In this instance, the|evidence|will be promptly returned to the field, together with a laboratory report. See MAOP, Part II, |2-4.4.11.)|

(6) Deleted

(7) Deleted

(8) Each obscene literature investigation possesses potential publicity value because of the very nature of the investigations. Every SAC should closely follow obscene matter investigations in order that consideration may be given to obtaining proper publicity in appropriate cases. Where it is contemplated that publicity will result from the Bureau's investigation of an obscene matter case, it is the responsibility of the SAC to make certain that FBIHQ is notified in advance of any contemplated arrest, arraignment,

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 24

or other development prior to the time that any publicity is released.

(9) During the course of the investigation of most obscene matter cases, it becomes necessary to interview the subject and obtain obscene evidence from him/her. Such obscene material is generally obtained in Bureau cases through one of the following methods:

(a) Voluntarily surrendering the evidence by the subject in conjunction with an interview and the obtaining of a signed statement

(b) Through a search of the subject or his/her premises incidental to an arrest

(c) Through a written waiver consenting to a voluntary search of the subject's premises

(d) Through the authority of a formal search warrant obtained from the USA

(10) At the time possession of obscene material is acquired from any source, a complete release should be obtained, if possible, authorizing the Bureau to destroy the material or dispose of it in any other appropriate manner.

(11) Section 1464 applies to all audio transmissions by means of radio communication which will include commercialized radio broadcasts, such as utilized by utility companies, taxicab companies, and the like.

(12) In *ROADEN V. KENTUCKY*, 413 U.S. (1973) the Supreme Court held that a film may not be seized without a prior judicial determination of obscenity. The Department advised it appears that unless it can be shown that evidence will be unavailable without immediate action to preserve it, a warrant must be served to justify seizure.

EFFECTIVE: 10/16/96

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 25

| 145-2.1 | Deleted |

EFFECTIVE: 03/21/95

145-3 JURISDICTION

(1) Since Title 18, USC, Sections 1462, 1465, 1466 or 1468, do not specifically designate the investigations of violations of these sections to any specific Federal investigative agency, such investigations properly come within the general investigative activity of this Bureau. The U.S. Postal Service investigates violations of Title 18, USC, Sections 1461 and 1463, which deal with the transmission of obscene matter through the mail. The jurisdiction of the U.S. Postal Service is derived from the fact that it has general investigative jurisdiction in all cases involving a use of the U.S. mails, and since these sections specifically deal with the transmission of obscene matter through the mails the U.S. Postal Service exercises jurisdiction. Title 19, USC, Section 1305, which is included in the Tariff Act of 1930, also prohibits the importation of obscene matter into the United States. Violations of Section 1305 are within the jurisdiction of Customs authorities.

(2) Although the Federal Communications Commission (FCC) has certain regulatory powers over its licensees, the Department has ruled that the investigative jurisdiction under Section 1464 was vested in the Bureau.

(3) FBI has primary investigative jurisdiction over Title 18, USC, Section 2251 (Sexual Exploitation of Children). The Department of Justice (DOJ) agreed with FBIHQ's observation regarding Title 18, USC, Section 2252 (Transportation of Child Pornography) in that investigative jurisdiction would be shared with the U.S. Postal Service depending upon whether the material in question is shipped in interstate or foreign commerce by computer or other means or is mailed. If the child pornography is transmitted in the U.S. mail, investigative jurisdiction would be with the Postal Service.

(4) If during the course of an investigation of a mailing offense by the Postal Service, pursuant to Title 18, USC, Section 2252 (Mailing of Child Pornography), evidence is developed of a violation of the Child Exploitation Statute (Title 18, USC, Section 2251), the

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 26

Postal Service would acquire ancillary jurisdiction over Title 18, USC, Section 2251, provided the Postal Service keeps the FBI informed as to the status of the investigation.

EFFECTIVE: 12/10/91

145-4 INVESTIGATIVE PROCEDURE

EFFECTIVE: 12/10/91

145-4.1 Section 1462. Importation or Transportation of Obscene Matters

(1) In order to prove an interstate transportation of the type prohibited by the statute, it is necessary to determine whether the transporting agency is an express company or other common carrier. Certain types of motor truck carriers are classed as common carriers. Accordingly, if the transportation occurs by this means, it is necessary to ascertain whether the trucking company is operating as a common carrier, thus bringing the transportation within the provisions of the statute.

(2) In addition to determining this factor, it is also necessary to ascertain the identity of all parties participating directly or indirectly in the transportation. This requires the identification of the consignor and consignee of the shipment. Such information can be obtained from the records maintained by the carrier.

b2
b7E
(3)

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 27

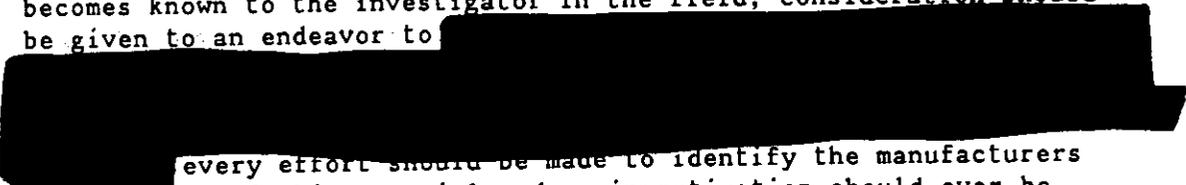
b2
b7E



(4) Peddlers of obscene material who have been arrested by local police departments should be questioned by Bureau representatives whenever possible in order to determine the identities of the manufacturers and principal distributors of salacious literature from whom the itinerant vendors obtain their supplies. Previous investigation has revealed that several large "rings" are engaged in large-scale distribution of obscene matter and the Bureau is greatly desirous of curtailing the interstate operations of these combines.

b2
b7E

(5) When an individual peddler of obscene material becomes known to the investigator in the field, consideration should be given to an endeavor to



every effort should be made to identify the manufacturers and printers of this material and no investigation should ever be concluded with the mere identification of a single peddler.



(6) To facilitate the identification of itinerant peddlers of obscene material, FBIHQ encourages the free exchange between field offices of photographs of peddlers and/or distributors of pornographic material who are known to operate on a rather extensive scale and are suspected of making deliveries or shipments interstate. Photographs of these individuals should be exhibited to witnesses and confidential informants where the identity of the purveyor of pornographic material has not been established.

(7) This section was amended, effective 8-28-58, in such a way that the violation is the use of an express company or other common carrier for transportation of the obscene material rather than the depositing of the matter for carriage. In this way the violation was made a continuing offense and prosecution can follow in any judicial district from, through, or into which the obscene matter is carried. The amendment to the statute did not affect investigative procedures set forth above but enhanced the possibilities for

Sensitive

prosecutions under this statute to stem the flow of obscene matter in interstate commerce. It is apparent that the facts may be presented for prosecutive opinion not only at the point from where the obscene material was shipped but at the place of address or delivery, or in any judicial district through which such matter passes.

EFFECTIVE: 12/10/91

145-4.2 Section 1464. Broadcasting Obscene Language

(1) Appropriate liaison should be effected with FCC field representatives in each field office so that violations reported to that agency under this section will be promptly referred to this Bureau for appropriate investigation. All cases under this section should be immediately investigated and promptly submitted to the appropriate USA for his/her consideration as to prosecution.

(2) The FCC has instructed its personnel as to the proper method of handling complaints of violations of Title 18, USC, Section 1464. These are as follows:

(a) In all instances based solely on complaints received from third parties (as contrasted with FCC personnel), the complaint should be promptly turned over to the nearest office of the FBI, together with all pertinent information relative to the alleged violation, including any intercepts submitted by the complainant.

1. In the more serious complaints, the FCC engineer in charge, on his/her own initiative and if warranted, may monitor the activities of the alleged violator inasmuch as the FCC may have an interest in taking possible administrative action (asking the violator to show cause as to why its license should be continued or possible revocation of the license) against the violator.

2. In this connection, the FCC will monitor the broadcast activities of the more serious violators at the request of the FBI. However, such requests should be kept to an absolute minimum.

(b) FCC field offices will refer complaints obtained as a result of monitoring radio broadcasts directly to FBI field offices, if in the opinion of FCC the complaint would warrant criminal prosecution. In less serious cases, FCC will admonish station operators by letter or will take action to have FCC licenses suspended

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 29

depending on the circumstances.

(c) If FCC field offices have knowledge that a local FBI office is investigating an alleged violation by a specific radio station and intercept a profane broadcast by the same station, regardless of its degree of seriousness, this information will be furnished to the interested local FBI office.

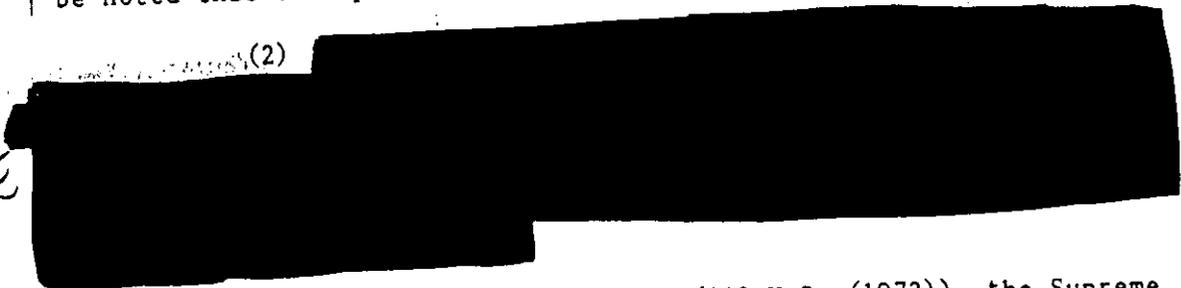
EFFECTIVE: 12/10/91

145-4.3 Section 1465. Transportation of Obscene Matters for Sale or Distribution

(1) The instructions set out above relating to Section 1462 generally apply to investigations under this section. It is to be noted that transportation under this section may be by any means.

(2)

b2
b7E



(3) In *Heller v. New York*, (413 U.S. (1973)), the Supreme Court held a seizure may be made pursuant to a warrant obtained ex parte after a determination of probable obscenity by a neutral magistrate. Following the seizure, however, a prompt judicial determination of the obscenity issued in an adversary proceeding is available at the request of any interested party. The case should be coordinated with the USA's Office to ensure prompt notification of all interested parties they have the right to request an adversary hearing of the court.

(4) The likelihood of the involvement of organized criminal elements should be considered when conducting investigations of these matters. Aggressive efforts should be made to determine the identity of those involved in such operations and the scope of their activities to develop prosecutable violations against these individuals.

(5) To prove a violation of Section 1465, it is no longer necessary to demonstrate that the obscene material travelled

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 30

interstate but only that a facility or means of interstate commerce is used for the purpose of transporting obscene material in interstate or foreign commerce. Therefore, the use of a facility of interstate commerce, such as a Federal interstate highway, to transport obscene material from a place of publication or production in one state to a place of distribution in the same state would violate this section.

EFFECTIVE: 12/10/91

145-4.4 Section 1466. Engaging in the Business of Selling or Transferring Obscene Matter

This section makes it unlawful for any person who is engaged in the business of selling or transferring obscene matter to knowingly receive or possess with intent to distribute any obscene matter which has been shipped or transported in interstate or foreign commerce. This section also creates a rebuttable presumption that the person who offers for sale, at one time, two or more copies of any obscene publication is engaged in the business of selling or transferring obscene matter.

EFFECTIVE: 12/10/91

145-4.5 Section 1467. Criminal Forfeiture

(1) This section is patterned in part after a similar forfeiture section concerning controlled substances and requires a person convicted of an offense in Chapter 71 of Title 18 (pertaining to obscenity) to forfeit such person's interest in (1) any obscene material and (2) any property consisting or traceable to proceeds obtained from the offense. Property used to commit or promote commission of the offense is to be forfeited "if the court in its discretion so determines, taking into consideration the nature, scope, and proportionality of the use of the property in the offense." Section 1467 requires the Government to prove "beyond a reasonable doubt" that the relevant category of property is subject to forfeiture.

(2) This forfeiture section is a very powerful tool which can be utilized to seize the property of a producer/distributor of adult obscenity, if after conviction on a Federal obscenity charge, the Government can show that the property was constituted or traceable

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 31

to proceeds of the offense.

(3) Every FBI ITOM investigation should not only focus on the elements of the criminal violation but also attempt to establish the property that the subject(s) have obtained from the proceeds of their obscenity trafficking. Upon conviction of an ITOM violation, the case Agent should ensure that the criminal forfeiture provisions of this section are instituted.

EFFECTIVE: 12/10/91

145-4.6 Section 1468. Distributing Obscene Material by Cable or Subscription Television

(1) This section supports the Cable Communications Policy Act of 1984, Section 639 of Title 47, which presently prohibits the transmission over any "cable system any matter which is obscene." This new section proscribes the utterance of obscene but not indecent matter by means of cable TV or subscription TV.

(2) Prior to proceeding with any investigation of this section, the material believed to be obscene should be presented to the appropriate Assistant United States Attorney for review and a preliminary opinion should be obtained as to whether the material meets the three-pronged obscenity test set forth in Miller vs. California.

EFFECTIVE: 12/10/91

145-4.7 Sections 2251, 2252, 2253, 2254, 2255, and 2257

Instructions set forth in Sections 1462, 1465, 1466, 1467 and 1468 generally apply to investigations under this section.

(1) 

*b2
b7c*
The material being distributed by these individuals is particularly offensive, and Congress, in enacting the Child Protection Act of 1984 (Public Law

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 32

98-292), has evidenced, as noted above, a particular concern with this problem.

(2)

[REDACTED]

b2
b7E

(a)

[REDACTED]

(b)

[REDACTED]

(3) Investigations have shown that many individuals who import or consensually exchange child pornography for their own collections do so repeatedly and with full knowledge that it is illegal to do so. In addition, many of these individuals regularly engage in sexual child abuse. Many of these same people are also involved in occupations which bring them into frequent contact with children. Extreme caution should be exercised in conducting an investigation against a suspected child molester, and at no time should a child be allowed to enter a location if it is believed that the child may be molested.

(4) Field offices are encouraged to coordinate all SEOC investigations with local law enforcement, U.S. Customs Service and the U.S. Postal Inspectors, as necessary and appropriate.

(5) Deleted

(6) Deleted

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 33

EFFECTIVE: 12/10/91

145-4.8 Investigative and Prosecutive Priority of Sexual
Exploitation of Children Statute

(1) The DOJ has advised the USA's Office that prosecutive priority should be given to matters involving violations of Title 18, USC, Sections 2251-2257. FBI priority should continue to be given to any investigative matters involving such use of children.

(2) If there are any indications that child abuse is present, the FBI should ensure that the matter is called to the attention of local investigators and prosecutors.

(3) Generally, the comments and guidelines furnished to the USA's Offices pertain to the below discussed areas and affect investigations conducted by the Federal agencies who have an investigative interest in these matters.

(4) Prosecutive priority should be given to cases involving large-scale distributors, multistate operations, and cases in which there is evidence of involvement by known organized crime figures. However, prosecution of cases involving relatively small distributors not meeting the above criteria, particularly distributors of especially offensive material or who are the subjects of numerous citizen complaints, can have a deterrent effect and should dispel any notion that distributors are insulated from prosecution if their operations fail to exceed a predetermined size, or if they fragment their activity into small-scale operations. Therefore, the occasional prosecution of such distributors may be appropriate.

(5) Special priority should be given to cases involving the use of minors engaging in sexually explicit conduct for the purpose of producing any visual depiction of such conduct or cases involving the mailing or interstate or foreign shipment of material depicting minors engaging in sexually explicit conduct (Title 18, USC, Sections 2251-2257).

(6) Because of the nature of the violators and the difficulties frequently encountered by local prosecutors, serious consideration should be given to Federal prosecution of a noncommercial child pornography case if one or a combination of the following factors exists:

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 34

- at one time
- (a) More than three seizures over the past year;
 - (b) A large quantity of child pornography imported
 - (c) An arrest history of crimes against children;
 - (d) Known membership in a family sex group;
 - (e) Employment involving children;
 - (f) Photographs depicting the recipient involved in the sexual activity with children;
 - (g) Correspondence with other pedophiles or undercover Agents relating to sexual involvement with children;
 - (h) Distribution of material.

Each case should be examined individually by the USA's Office to see if prosecution is warranted.

EFFECTIVE: 12/10/91

145-4.9 Contacts with U.S. Customs Service Relative to Sexual Exploitation of Children Statute

(1) In addition to the FBI and U.S. Postal Inspection Service, the U.S. Customs Service has investigative interest and jurisdiction in the importation of pornographic material into the United States. The U.S. Customs Service is able to seek forfeiture of the pornographic materials that are exported or imported under Title 19, USC, Section 1305. The U.S. Customs Service Child Pornography and Protection Unit located at their Washington, D.C., Headquarters maintains a "seizure list" of suspected recipients of imported and prohibited pornographic material and of the foreign shippers of this material. In most instances, the materials seized by the U.S. Customs Service are held until forfeiture proceedings are completed and thereafter the materials are destroyed.

(2) Experience to date has revealed that a large portion of commercial child pornography is produced in either Europe or third world countries and is then exported to the United States where it is

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 35

frequently duplicated. When materials seized by U.S. Customs Service are destroyed, valuable intelligence data for technical laboratory comparisons is lost. The U.S. Customs Service should be contacted periodically through liaison in your local field office to see if the material can be provided to the FBI and a court order obtained indicating that the FBI Laboratory will destroy the material after its usefulness is completed.

(3) Deleted

refer



EFFECTIVE: 03/21/95

145-5

POSSIBLE APPLICATION OF INVOLUNTARY SERVITUDE AND SLAVERY
STATUTES

When conducting Sexual Exploitation of Children investigations, Agents should be alert to facts indicating that the victims of such schemes may have been held or sold into conditions of involuntary servitude or slavery through use of force, threat of force, or coercion. Such situations may constitute violations of the Involuntary Servitude and Slavery and related statutes. Full details of these laws, as well as FBI policy and procedure, are set forth in Part I, Section 50 of this manual.

EFFECTIVE: 12/10/91

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 36

145-6 VENUE

(1) Section 1462 - Under the statute as amended 8-28-58, where obscene matter is brought into the United States, or any place subject to the jurisdiction thereof, venue will lie for this offense not only at the port of entry but also in each successive state or territory into which the importer carried the obscene matter. Where an express company or other common carrier has been used for the transportation of the obscene matter in interstate or foreign commerce in violation of the statute, venue will lie at the place from which the prohibited matter is sent, at the place of address or delivery, or in any judicial district through which such matter passes.

(2) Section 1464 - In the judicial district in which the offense is committed

(3) Sections 1465 and 1466 - In any district from, through, or into which the obscene material has been transported (Title 18, USC, Section 3237)

(4) Section 1468 - In any district in which the obscene matter was broadcast from or in which it was received

(5) Sections 2251, 2252, 2253, 2254, 2255, and 2257 - With respect to venue in these matters, DOJ has indicated that cases under the obscenity statutes may be prosecuted in the district where the material is mailed or deposited with a facility of interstate commerce, the district of receipt or any intermediate district through which the material passes (see Title 18, USC, Section 3237). In cases where there are complaints by postal patrons about the unsolicited receipt of obscene material, the district of receipt would appear to be the appropriate choice of venue. On the other hand, in cases involving numerous mailings by a distributor into various districts, the district of origination may be the appropriate venue for the case. If a case is to be based solely upon test purchases by investigators, it will be venued in the district of origination of the obscene mailing rather than some other district, unless the Government has some information showing that there were prior mailings into the recipient district by the individual involved. Prosecutions will not be brought in jurisdictions through which obscene material passes in transit except with the concurrence of the General Litigation and Legal Advice Section, DOJ.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 37

EFFECTIVE: 12/10/91

145-7 CHILD EXPLOITATION AND OBSCENITY SECTION (CEOS),
DEPARTMENT OF JUSTICE

(1) CEOS consists of Special Attorneys assigned to assist in the prosecution of adult obscenity and child pornography cases.

(2) The Violent Crimes/Fugitive Unit has primary liaison responsibilities with CEOS. The Violent Crimes/Fugitive Unit should be immediately advised if CEOS representatives directly contact a field office. All contacts with CEOS by FBI Agent personnel should be directed through the Violent Crimes/Fugitive Unit.

EFFECTIVE: 07/17/95

145-8 REPORTING PROCEDURES

(1) All offices should advise FBIHQ, CID, Violent Crimes/Fugitive Unit whenever a child pornography case is opened. Thereafter, the Office of Origin (OO) should submit a detailed summary Letterhead Memorandum (LHM) of investigation conducted every six months and when the case is closed.

(2) In all other ITOM cases the OO should submit a summary communication to the Violent Crimes/Fugitive Unit after the case has been opened a total of 120 days. Thereafter, a detailed summary LHM of investigation conducted should be submitted by the OO every six months and when the case is closed.

(3) Any office which seizes any child pornography or adult obscenity which is unique or might be of training value should contact the Critical Incident Response Group's Child Abduction and Serial Killer Unit, prior to destroying the material.

EFFECTIVE: 07/17/95

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 145 - 38

145-9 CHARACTER - INTERSTATE TRANSPORTATION OF OBSCENE MATTER;
SEXUAL EXPLOITATION OF CHILDREN; BROADCASTING OBSCENE
LANGUAGE

EFFECTIVE: 12/10/91

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 146 - 1

SECTION 146. INTERSTATE TRANSPORTATION OF PRISON-MADE GOODS

146-1 STATUTES

Title 18, USC, Sections 1761 and 1762.

EFFECTIVE: 10/23/86

146-1.1 Section 1761. Transportation or Importation

"(a) Whoever knowingly transports in interstate commerce or from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"(b) This chapter shall not apply to agricultural commodities or parts or the repair of farm machinery, nor to commodities manufactured in a Federal, District of Columbia, or State institution or use by the Federal Government, or by the District of Columbia, or any State or Political subdivision of a State.

"(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall also not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners participating in a program of not more than twenty pilot projects designated by the Director of the Bureau of Justice Assistance and who-

"(1) have, in connection with such work, received wages at a rate which is not less than that paid for work of a similar nature in the locality in which the work was performed, except that such wages may be subject to deductions which shall not, in the aggregate, exceed 80 per centum of gross wages, and shall be limited as follows:

"(A) taxes (Federal, State, local);

"(B) reasonable charges for room and board as

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 146 - 2

determined by regulations which shall be issued by the Chief State correctional officer;

"(C) allocations for support of family pursuant to State statute, court order, or agreement by the offender;

"(D) contributions to any fund established by law to compensate the victims of crime of not more than 20 per centum but not less than 5 per centum of gross wages;

"(2) have not solely by their status as offenders, been deprived of the right to participate in benefits made available by the Federal or State Government to other individuals on the basis of their employment, such as workmen's compensation. However, such convicts or prisoners shall not be qualified to receive any payments for unemployment compensation while incarcerated, notwithstanding any other provision of the law to the contrary;

"(3) have participated in such employment voluntarily and have agreed in advance to the specific deductions made from gross wages pursuant to this section, and all other financial arrangements as a result of participation in such employment.

"(d) Notwithstanding any law to the contrary, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code."

EFFECTIVE: 10/23/86

146-1.2 Section 1762. Marking Packages

"(a) All packages containing any goods, wares, or merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 146 - 3

outside of such package.

"(b) Whoever violates this section shall be fined not more than \$1,000, and any goods, wares, or merchandise transported in violation of this section or section 1761 of this title shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law."

EFFECTIVE: 06/18/87

146-2 POLICY

(1) Contact should be maintained with reliable prison authorities, wardens of individual prisons, interstate shippers, and other reliable sources in order that each field office will be currently advised of violations of the interstate transportation of prison-made goods statutes. Upon the receipt of complaints involving a violation, the appropriate investigation should be immediately undertaken. The USA should be contacted early during the investigation for an opinion as to prosecution and the extent and scope of the investigation desired.

(2) The FBI has been delegated authority to institute civil administrative forfeiture proceedings pursuant to Section 1762. The FORFEITURE AND ABANDONED PROPERTY MANUAL contains the step-by-step procedure to be followed for seizures and civil forfeiture proceedings (judicial and administrative) conducted in conjunction with this violation.

EFFECTIVE: 06/18/87

146-3 VENUE

In the district from which the prison-made goods are transported or the district through or into which they are carried (Title 18, USC, Section 3237).

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 146 - 4

EFFECTIVE: 06/18/87

146-4 CHARACTER - INTERSTATE TRANSPORTATION OF PRISON-MADE GOODS

EFFECTIVE: 06/18/87

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 147 - 1

SECTION 147. FRAUD AGAINST THE GOVERNMENT - DEPARTMENT
OF HOUSING AND URBAN DEVELOPMENT | (SEE MIOG,
PART I, SECTION 46.) |

| 147-1 | BACKGROUND

| The 147 classification was eliminated and reclassified in
Fiscal Year 1996 as 46B (Fraud Against the Government - Housing and
Urban Development). See MIOG, Part I, Section 46. |

EFFECTIVE: 07/31/97

| 147-1.1 | Deleted |

EFFECTIVE: 07/31/97

| 147-2 | DELETED |

EFFECTIVE: 07/31/97

| 147-3 | DELETED |

EFFECTIVE: 07/31/97

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 147 - 2

| 147-4 | DELETED |

EFFECTIVE: 07/31/97

| 147-5 | DELETED |

EFFECTIVE: 07/31/97

| 147-6 | DELETED |

EFFECTIVE: 07/31/97

| 147-7 | DELETED |

EFFECTIVE: 07/31/97

| 147-8 | DELETED |

EFFECTIVE: 07/31/97

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 147 - 3

| 147-9 | DELETED |

EFFECTIVE: 07/31/97

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 148 - 1

SECTION 148. INTERSTATE TRANSPORTATION OF FIREWORKS

148-1 STATUTE

Title 18, USC, Section 836

EFFECTIVE: 11/08/78

148-1.1 Elements

"Whoever, otherwise than in the course of continuous interstate transportation through any State, transports fireworks into any State, or delivers them for transportation into any State, or attempts so to do, knowing that such fireworks are to be delivered, possessed, stored, transshipped, distributed, sold, or otherwise dealt with in a manner or for a use prohibited by the laws of such State specifically prohibiting or regulating the use of fireworks, shall"

EFFECTIVE: 11/08/78

148-1.1.1 Other Provisions

(1) "This section shall not apply to a common or contract carrier or to international or domestic water carriers engaged in interstate commerce or to the transportation of fireworks into a State for the use of Federal agencies in the carrying out or the furtherance of their operations.

(2) "In the enforcement of this section, the definitions of fireworks contained in the laws of the respective States shall be applied.

(3) "As used in this section, the term 'State' includes the several States, Territories, and possessions of the United States, and the District of Columbia."

(4) Section 3 of the act provides that Section 836 shall not be effective with respect to --

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 148 - 2

(a) "(1) the transportation of fireworks into any State or Territory for use solely for agricultural purposes,

(b) "(2) the delivery of fireworks for transportation into any State or Territory for use solely for agricultural purposes, or

(c) "(3) any attempt to engage in any such transportation or delivery for use solely for agricultural purposes, until sixty days have elapsed after the commencement of the next regular session of the legislature of such State or Territory which begins after the date of enactment of this Act."

EFFECTIVE: 11/08/78

148-1.1.2 Policy

(1) Note that Title 18, USC, Section 836, states the laws dealing with fireworks of the respective states shall be applied in the enforcement of the statute. In each field office there is a digest of the state laws governing the sale, use, or prohibition of fireworks in the states covered by that division for use in evaluating complaints alleging violations of the ITF statute. Each field office is required to maintain liaison with the appropriate state attorney general's office to be advised of any change in the state law relative to fireworks since these state laws are an integral part of Title 18, USC, Section 836. Upon receipt of an allegation, immediately determine if the fireworks are such that are by state law prohibited or regulated in the state involved. If the complaint involves fireworks alleged to be used solely for agricultural purposes, determine whether the state law exempts fireworks used for such purposes. If an investigative report is submitted it should, in all instances, identify and cite the state statute prohibiting or regulating the use of fireworks that is the basis of this Bureau's investigation.

(2) Upon receipt of information indicating a violation of this statute, sufficient investigation should be conducted to establish the facts. The matter should then be referred to the appropriate USA for a prosecutive opinion prior to conducting extensive investigation. The opinion of the USA relative to interpretation of state laws governing use of fireworks as it applies to Title 18, USC, Section 836, should be secured in each instance.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 148 - 3

EFFECTIVE: 11/08/78

||148-2 VENUE|

Venue lies in the district from which or into which the interstate shipment is made. The Department has advised that, as a general rule, prosecution should be initiated in the state and district into which the shipment is made.

EFFECTIVE: 11/08/78

||148-3 REPORT WRITING RULES

(1) Forward to FBIHQ copy of any prosecutive summary report prepared in this classification of investigation for the USA's Office, utilizing current Bureau guidelines for the preparation of such reports.

(2) No report need be forwarded under any other circumstances unless it is determined to be the most logical means to disseminate the results of investigation accumulated, or when it is decided that a report is the best means to disseminate such results to other Federal agencies through FBIHQ rather than via an LHM.

EFFECTIVE: 11/08/78

||148-4| PENALTY

A fine of not more than \$1,000 or imprisonment for not more than one year, or both.

EFFECTIVE: 11/08/78

||148-5| CHARACTER - INTERSTATE TRANSPORTATION OF FIREWORKS.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 148 - 4

EFFECTIVE: 11/08/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 1

SECTION 149. DESTRUCTION OF AIRCRAFT OR MOTOR VEHICLES

| 149-1 STATUTES | (See MIOG, Part I, 160-1.1.1(1); II, 15-8.5.) |
| Title 18, USC, Sections 31 through | 37 |

EFFECTIVE: 01/08/96

149-1.1 Elements

EFFECTIVE: 07/11/85

149-1.1.1 Destruction of Aircraft or Aircraft Facilities (Section 32)

| "(a) Whoever willfully-

"(1) sets fire to, damages, destroys, disables, or wrecks any aircraft in the special aircraft jurisdiction of the United States or any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce;

"(2) places or causes to be placed a destructive device or substance in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any such aircraft, or any part or other materials used or intended to be used in connection with the operation of such aircraft, if such placing or causing to be placed or such making or causing to be made is likely to endanger the safety of any such aircraft;

"(3) sets fire to, damages, destroys, or disables any air navigation facility, or interferes by force or violence with the operation of such facility, if such fire, damaging, destroying, disabling, or interfering is likely to endanger the safety of any such aircraft in flight;

"(4) with the intent to damage, destroy, or disable

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 2

any such aircraft, sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance or structure, ramp, landing area, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance loading, unloading, or storage of any such aircraft or any cargo carried or intended to be carried on any such aircraft;

"(5) performs an act of violence against or incapacitates any individual on any such aircraft, if such act of violence or incapacitation is likely to endanger the safety of such aircraft;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any such aircraft in flight; or

"(7) attempts to do anything prohibited under paragraphs (1) through (6) of this subsection;

"(b) Whoever willfully-

"(1) performs an act of violence against any individual on board any civil aircraft registered in a country other than the United States while such aircraft is in flight, if such act is likely to endanger the safety of that aircraft;

"(2) destroys a civil aircraft registered in a country other than the United States while such aircraft is in service or causes damage to such an aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight;

"(3) places or causes to be placed on a civil aircraft registered in a country other than the United States while such aircraft is in service, a device or substance which is likely to destroy that aircraft, or to cause damage to that aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight; or

"(4) attempts to commit an offense described in paragraphs (1) through (3) of this subsection;

"(c) Whoever willfully imparts or conveys any threat to

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 3

do an act which would violate any of paragraphs (1) through (5) of subsection (a) or any paragraphs (1) through (3) of subsection (b) of this section, with an apparent determination and will to carry the threat into execution...."

EFFECTIVE: 07/11/85

149-1.1.2 Destruction of Motor Vehicles or Motor Vehicle Facilities
(Section 33)

"Whoever willfully, with intent to endanger the safety of any person on board or anyone who he believes will board the same, or with a reckless disregard for the safety of human life, damages, disables, destroys, tampers with, or places or causes to be placed any explosive or other destructive substance in, upon, or in proximity to, any motor vehicle which is used, operated, or employed in interstate or foreign commerce, or its cargo or material used or intended to be used in connection with its operation; or

"Whoever willfully, with like intent, damages, disables, destroys, sets fire to, tampers with, or places or causes to be placed any explosive or other destructive substance in, upon, or in proximity to any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, motor vehicles engaged in interstate or foreign commerce or otherwise makes or causes such property to be made unworkable, unusable, or hazardous to work or use; or

"Whoever, with like intent, willfully disables or incapacitates any driver or person employed in connection with the operation or maintenance of the motor vehicle, or in any way lessens the ability of such person to perform his duties as such...."

EFFECTIVE: 07/11/85

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 4

149-1.1.3 Imparting or Conveying False Information (Section 35)

"(a) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or chapter 97 (Section 1991 - Entering Train to Commit Crime, and Section 1992, Federal Train Wreck Statute) or chapter 111 (Sections 2271 through 2279, relating to destruction of water-borne vessels including military vessels) of this title."

"(b) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or chapter 97 or chapter 111 of this title," specific sections as noted in (a) above.

EFFECTIVE: 07/11/85

149-1.1.4 Violence at International Airports (Section 37)

"(a) Offense. - A person who unlawfully and intentionally, using any device, substance, or weapon-

"(1) performs an act of violence against a person at an airport serving international civil aviation that causes or is likely to cause serious bodily injury (as defined in Section 1365 of the U.S.C.) or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,...."

"(b) Jurisdiction - There is jurisdiction over the prohibited activity in subsection (a) if-

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 5

the United States and the offender is later found in the United States.

"(c) It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term "labor dispute" has the meaning set forth in section 2(c) of the Norris-La Guardia Act, as amended (29 U.S.C. 113(c))."

EFFECTIVE: 01/08/96

||149-1.1.5| Definitions (Section 31)|(See MIOG, Part I, 15-4(10),
26-4.6(1).)|

"When used in this chapter the term 'aircraft engine,' 'air navigation facility,' 'appliance,' 'civil aircraft,' 'foreign air commerce,' 'interstate air commerce,' 'landing area,' 'overseas air commerce,' 'propeller,' 'spare part,' and 'special aircraft jurisdiction of the United States,' shall have the meaning ascribed to those terms in sections 40102(a) and 46501 of title 49."

"'Motor vehicle' means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property; or property or cargo;

"'Destructive substance' means any explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or matter of a combustible, contaminative, corrosive, or explosive nature;

"'Used for commercial purposes' means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

"'In flight' means any time from the moment all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation. In the

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 6

case of a forced landing the flight shall be deemed to continue until competent authorities take over the responsibility for the aircraft and the persons and property on board; and

"In service' means any time from the beginning of preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight."

Paragraph one above makes reference to the Federal Aviation Act of 1958. Pertinent definitions set forth in the Federal Aviation Act are as follows:

"Aircraft engine' means an engine used, or intended to be used, for propulsion of aircraft and includes all parts, appurtenances, and accessories thereof other than propellers.

"Air navigation facility' means any facility used in, available for use in, or designed for use in, aid of air navigation, including landing areas, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft.

"Appliances' means instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not a part or parts of aircraft, aircraft engines, or propellers.

"Civil aircraft' means any aircraft other than a public aircraft.

"Public aircraft' means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any State, Territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying person or property for commercial purposes.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 7

"'Interstate air commerce,' 'overseas air commerce,' and 'foreign air commerce,' respectively, mean the carriage by aircraft of persons or property for compensation or hire, or the carriage of mail by aircraft, or the operation or navigation of aircraft in the conduct or furtherance of a business or vocation, in commerce between, respectively -

"(a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the air space over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia;

"(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

"(c) a place in the United States and any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

"'Landing area' means any locality, either of land or water, including airports and intermediate landing fields, which is used, or intended to be used, for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

"'Propeller' includes all parts, appurtenances, and accessories thereof.

"'Spare parts' are all parts, other than aircraft engines or propellers, maintained for installation or use in an aircraft, engine, or propeller, but which, at the time, are not yet installed therein or attached thereto."

EFFECTIVE: 01/08/96

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 8

149-2 OTHER PROVISIONS

Venue is in district where act committed or, in case of continuing transportation of a destructive device in interstate commerce, may be any district where transportation continued. Venue under Title 18, USC, Sections 32(b) and (c) shall be in the district in which the offender(s) is arrested or first brought; but if such offender(s) is not so arrested or brought into any district, an indictment or information may be filed in the district of the last known residence of the offender(s), or if no such residence is known, the indictment or information may be filed in the District of Columbia (Title 18, USC, Section 3238). Prosecution under Title 18, USC, Section 35(a), which contains civil penalties, should be initiated in the district of the offender's residence and not in the district in which the offense occurred. Prosecution under Section 35(b) will be in the district in which the offense occurred.

EFFECTIVE: 07/11/85

149-3 POLICY

(1) Accept for investigation all cases involving violations of Title 18, USC, Sections 32(a) (c), 33, 35, and 37 (the DAMV Statute). In conjunction with requests for investigations of violations of Section 32(b) (non-United States aircraft outside of the United States), Bureau authority must be obtained prior to instituting any inquiry. In this regard, any such requests received directly by a field office should be immediately submitted, with complete background and opinion/recommendation of an Assistant United States Attorney (AUSA), to FBI Headquarters.

(2) Technically, a bomb threat (or actual device) aboard an aircraft is a violation of Title 18, USC, Section 35 (DAMV) and Section 37 (Violence at International Airports), as well as Title 49, USC, Section 46507. However, as a matter of policy, all false reports (or actual instances) of a bomb aboard an aircraft unrelated to an aircraft hijacking incident should be investigated and reported under the DAMV (149) classification. Any incidents of this nature involving an aircraft hijacking incident should be carried under the Crime Aboard Aircraft (164) classification. The foregoing is to create uniformity in the Time Utilization and Recordkeeping (TURK) records, as well as to maintain program segregation.

(3) All violations relating to aircraft are to be

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 9

reported as detailed below depending on the magnitude of the incident.

(a) Immediately advise FBIHQ by telephone or teletype, depending upon the exigency of the circumstances, of all cases where there is loss of life, danger to public safety, or widespread public interest. Each complaint should receive prompt and expeditious investigative attention.

(b) In all violations, a succinct LHM (original and four copies) should be submitted to FBIHQ by FD-365 within ten working days of receipt of initial complaint. (See MAOP, Part II, 10-4.3, & Correspondence Guide-Field, 2-5.5.11.) Upon receipt of the LHM, FBIHQ will disseminate to the following agencies:

1. Director Civil Aviation Security,
ACS-1
Federal Aviation Administration
Room 319
800 Independence Avenue, Southwest
Washington, D.C. 20591
2. United States Secret Service
Intelligence Division
1800 G Street, Northwest
Washington, D.C. 20223

(c) The appropriate regional office of FAA should be promptly advised upon receipt of all complaints with close liaison being maintained during the course of each investigation.

(d) In all cases, the field office is to disseminate additional copies of the LHM within ten working days to the nearest Civil Aviation Security Field Office (CASFO), FAA Regional Office, United States Secret Service Field Office, and to the FBI field office which covers the subject's residence. Other interested agencies, such as the National Transportation Safety Board (NTSB), Office of Special Investigations, etc., should likewise be advised locally when appropriate. Depending upon the exigency of the matter, immediate notification to the above agencies may be necessary.

(e) In those cases wherein the USA's office declines prosecution, defers prosecution to state or local authorities or refers the matter to FAA for civil enforcement; or wherein it is known that state or local prosecution is declined upon USA deferral, the initial LHM should so indicate. One copy of this LHM should be directed to the USA confirming the USA's opinion in lieu of a separate

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 10

confirmation letter.

(f) In all cases, dissemination is to be indicated on the FD-365 which transmits the LHM to FBIHQ with the LHM identifying those individuals and agencies already notified of the violation.

(g) To assist in gathering the information, the optional administrative Form FD-653, Motor Vehicle Inspection Inventory Record, may be used and retained in the 1-A exhibit envelope (FD-340 and/or FD-340b). (See MIOG, Part I, 26-2.5(2)(c), 26-2.7(2).)

(h) When additional investigation is required, record results so they may be later incorporated into the prosecutive report. Four copies of these should be submitted to FBIHQ. In each instance, reports should set forth full facts including field office file numbers, complete descriptive and background data concerning each subject (best descriptive information available of an unknown subject should also be set forth), data concerning mental stability, the air carrier, flight number, origin and destination, time and place of offense, number of passengers and crew, weapons used, type of aircraft involved, and any injuries.

(i) In order that the FBIHQ substantive case file may reflect the final outcome of each violation, the following FBIHQ notification policy should be followed by the office of origin.

1. In those cases wherein the initial LHM submitted to FBIHQ by FD-365 reflects the final outcome, no further notification is necessary.

2. Deleted

3. In all other cases, including those cases in which a USA declination or deferral was rendered subsequent to the initial LHM/FD-365 submission and those unsolved cases closed under SAC authority, a closing|electronic communication|should be directed to FBIHQ which clearly sets forth the basis for closing.

(4) It is incumbent upon SAC to have appropriate arrangements with transportation facilities and law enforcement officials to make certain all incidents are promptly reported so that immediate investigation may be instituted and Bureau will have effective coverage over this violation.

(5) In case of report that a bomb has been placed on

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 11

aircraft or vehicle, or that similar attempt will be made to destroy aircraft or vehicle, immediately notify Federal Aviation Administration and transportation facility involved in case of aircraft; local authorities and transportation facility involved in case of motor vehicle. Protection of aircraft or vehicle and passengers is responsibility of transportation company and local authorities. Decisions as to grounding aircraft or stopping vehicles and making searches will not be made by FBI. Agents, with the exception of Laboratory explosives specialists and active FBI bomb technicians, are not to participate in searches for suspected bombs on aircraft or vehicles. Render safe responsibilities for located bomb devices rest with the public safety bomb squad or military Explosive Ordnance Disposal (EOD) unit.

(6) Aircraft disasters involving commercial aircraft will be the subject of inquiry by NTSB. In view of the importance of major commercial aircraft disasters and their resultant tragic loss of life, it is necessary that the Bureau be in a position to investigate any violations arising from such disasters efficiently and aggressively. Therefore, the SAC should immediately proceed to disaster scene, establish liaison with NTSB, personally take command in relation to Bureau's interests, and develop any information indicating a federal violation within Bureau's jurisdiction. FBIHQ expects the SAC to personally take command in these instances; however, necessary action cannot be delayed due to SAC's absence.

(7) Department has stated that mere statement that an aircraft is going to crash, even if false, is not a violation in the absence of any false information regarding one of the specific acts enumerated in the law.

(8) Public Law 87-810 amended Section 1105 of Federal Aviation Act of 1958, as amended (Title 49, USC, Section 1505), to provide NTSB authority to avail itself of assistance of FBI or any investigatory or intelligence agency of the United States with respect to an investigation of the activities of any person in connection with a civil aircraft accident. Applicable even though no violation indicated. Requests from NTSB under Section 1105 should be referred to FBIHQ for approval prior to conducting any investigation.

EFFECTIVE: 12/23/96

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 12

149-4. INVESTIGATIVE PROCEDURES

EFFECTIVE: 02/15/82

149-4.1 Aircraft Disasters

EFFECTIVE: 02/15/82

149-4.1.1 Major Commercial Aircraft Disaster - SAC Responsibility
(See MIOG, Part II, 15-8.5.)

(1) Immediately advise FBIHQ by telephone and if appropriate request assistance of FBI Laboratory and/or FBI Disaster Squad.

(2) Immediately thereafter proceed to the scene of the disaster in order to develop any information indicating a federal violation within the Bureau's jurisdiction. To this end SAC will:

(a) Establish close liaison with local law enforcement officers and NTSB authorities in order to ensure that evidence is properly identified and protected. This will materially aid those responsible for examining the evidence among whom will be a representative of the Bureau Laboratory.

(b) Closely follow investigation by NTSB authorities to ensure that full scale Bureau investigation is initiated immediately upon receipt of indication that a violation has occurred.

(c) Arrange to obtain a passenger manifest and initiate whatever inquiries are necessary to determine sufficient background data concerning each passenger so that an immediate and efficient check may be made of FBIHQ indices and the indices of the field office covering the residence of the passenger. This action will assist the Bureau Disaster Squad in its efforts to positively identify passengers killed or injured in the crash, and develop at the earliest possible moment pertinent data in Bureau files indicating the possibility of an actual violation.

(d) Personally direct appropriate investigative activity of any matters within our jurisdiction to ensure same is handled expeditiously.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 13

(e) Afford on-the-spot direction to logical immediate investigative activity pertinent to determining whether a violation within Bureau's jurisdiction has occurred. Consideration should be given to preparation of appropriate photographs and sketches of the scene of the crash and photographs of pertinent portions of the aircraft and to interviews with survivors, eyewitnesses, and individuals who heard the plane before the crash.

(f) Media inquiries should be handled by the SAC by indicating that |he/she| has arrived at the scene to develop any information indicating a federal violation and that |he/she| is extending the cooperative facilities of the FBI Laboratory.

EFFECTIVE: 04/08/96

149-4.1.2 Major Commercial Aircraft Disaster - FBI Laboratory Action

- (1) Accompany Bureau's disaster squad to scene.
- (2) Effect technical liaison with interested Government representatives.
- (3) Render all possible assistance on the scene to such authorities and where desired arrange for the use of the facilities of the FBI Laboratory.
- (4) In relation to the Bureau's interests, evaluate technical problems associated with Laboratory matters and evidence at the scene.
- (5) Keep the SAC advised of pertinent developments in the technical investigation so that if a violation is indicated investigation may be initiated at the earliest possible moment.

EFFECTIVE: 01/31/78

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 14

149-4.2 Investigation of a Commercial Aircraft Crash

The following full investigative procedure is to be utilized when a preliminary inquiry indicates a Federal violation in any commercial aircraft crash covered by the statute, including those not considered major disasters:

- (1) Thorough crime scene search.
- (2) Insure evidence properly identified and protected.
- (3) Make any necessary photographs and sketches showing:

various angles

- (a) Entire crash scene and close-up views from
- (b) Photographs of parts torn loose
- (c) Photographs of instruments and levers in cockpit
- (d) Photographs of marks made by aircraft on ground

interview:

- (4) In connection with establishing cause of crash,

plane before crash

- (a) crew members and other survivors
- (b) Eyewitnesses
- (c) Persons who heard the plane before the crash
- (d) NTSB or other radio operators in contact with

the plane

- (e) Ground crew members and mechanics who serviced

(5) In connection with establishing a possible motive, appropriate investigation should be conducted with regard to:

(a) Crew members (complete background, including mental and physical condition)

(b) Passengers (background, business connections, personal contacts, insurance data)

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 15

(c) Source and content of all cargo (mail, express, freight, baggage)

(6) Liaison should be maintained with local authorities who would have concurrent jurisdiction where death or injury occurred.

(7) Liaison should be established with coroner who will certify cause of death and can testify as to cause of death in later court proceedings.

(8) Bear in mind that capital offense may be involved and that evidence will be subject to close scrutiny; therefore, chain of evidence must be carefully preserved.

(9) In investigating all types of incidents, be alert to possible use of FBI Laboratory facilities in establishing exact method and cause of explosions, fires, etc.

EFFECTIVE: 01/31/78

149-4.3 Motor Vehicle Incidents

(1) Complete, thorough crime scene search should be conducted immediately.

(2) Make photographs and sketches of scene.

(3) Interview local authorities who may have investigated incident.

(4) Conduct thorough neighborhood investigation where applicable.

(5) Consider possibility of disgruntled employees or labor disputes

(6) In case of actual destruction through bomb or similar device of bus or other commercial passenger vehicle, check background of passengers for motive as outlined above.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

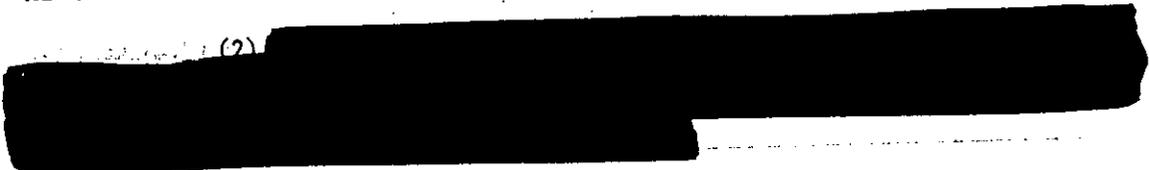
Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 16

149-4.4 Incidents Involving False Reports (Title 18, USC, Section 35 (b))

(1) Many such reports are received through anonymous telephone calls. Each field office should consider opening a control file setting forth information concerning individuals who are known to have made "nuisance calls."

(2) 

b2
b7E
(3) When call is believed to have originated from juvenile, attempt to obtain information through cooperative school officials and other juvenile authorities.

(4) Immediately conduct investigation at the airport if caller alleges a bomb is on a plane, preferably while plane is still on ground; attempt to locate possible suspects who may have come to the airport to observe the confusion created by the call.

(5) Interview airport personnel concerning any person, particularly juveniles, loitering in the area for no apparent reason.

(6) Consider checking with police department and telephone company for person known to have made "crank" telephone calls.

(7) 

(8) When there is an indication that the caller may have been intoxicated, make an immediate check in bars and cafes near the airport.

(9) Immediately conduct any other logical investigation depending on the circumstances under which false report was received.

EFFECTIVE: 07/11/85

149-5

PROSECUTION

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 17

EFFECTIVE: 07/11/85

149-5.1 Title 18, U.S. Code, Sections 32(a) (b) (c), 33 and 37

(1) In cases in which jurisdiction is questionable, present to USA early in investigation.

(2) Under Section 32(b), Bureau authority must be obtained before instituting an investigation. All requests for investigation under this subsection should be submitted to FBI Headquarters and this submission should contain the USA's opinion with respect to the prosecutive potential of the matter.

(3) Under Section 33, the phrase "property or cargo" was added to Title 18, USC, Section 31 to cover trucks. As a result, a person who destroys or damages a truck with intent to endanger the driver or another person on board, or with reckless disregard for their safety, can now be prosecuted under this section.

Previously, this section applied only to motor vehicles conveying passengers--typically buses.

(4) For policy considerations, DOJ has advised that the term "motor vehicle" is not intended to "federalize" every attack upon a truck which endangers persons on board. Damaging a truck with the intent of injuring the driver would violate a number of state laws, and it is the intent of the Congress that state authorities continue to play the principal role in this area. Offices should reach understandings with local and state authorities, through their law enforcement coordinating committees, reflecting the limited nature of the federal role. (See MIOG, Part I, 15-4, 26-4.6.)

EFFECTIVE: 01/08/96

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 18

149-5.2 Title 18, U.S. Code, Section 35 (a) and (b)

| (1) | As soon as practicable, full facts should be presented to the USA in the district in which the offense occurs in order to determine if there exists a possible violation of Section 35 (b) (criminal). Should the USA determine that the offense does not constitute a violation punishable by criminal penalties, a prosecutive report should be submitted, a copy of which should be furnished the USA's Office covering the district in which the offense was committed and copies forwarded to the field office responsible for the area in which the offender resides with a copy designated for the USA in that area.

| (2) | The Department has advised that in those instances in which civil penalties are applicable, Section 35 (a), prosecution should be initiated in the district of the offender's residence, not in the district in which the offense occurred. Further, the Criminal Division has advised that civil complaints and summonses should be utilized in civil actions under Title 18, USC, Section 35 (a), rather than informations and warrants of arrests as employed in criminal cases. Should the USA in the district of residence decide civil sanctions are warranted, it will be his/her responsibility to initiate same under established Department procedures. No requests by USAs for investigation relative to civil offenses shall be accepted by field offices without prior FBIHQ authority.

EFFECTIVE: 07/11/85

149-5.3 Prosecution Under the Hobbs Act

Consideration should also be given to use of the Hobbs Act as a vehicle of prosecution where an extortionate demand is made directly or indirectly upon a commercial air carrier which would obstruct, delay, or affect commerce. The Department has instructed all USAs that when such an extortionate situation is encountered wherein it may be desirable to charge a violation under the Hobbs Act, the Department must be consulted.

EFFECTIVE: 07/11/85

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 19

149-6 PENALTIES

(1) Section 32(a)(b) - not more than \$250,000 fine (see Title 18, USC, Section 3571) or imprisoned not more than 20 years, or both.

(2) Section 32(c) - not more than \$250,000 fine (see Title 18, USC, Section 3571) or imprisoned not more than 5 years, or both.

(3) Section 33 - not more than \$250,000 fine (see Title 18, USC, Section 3571) or imprisoned not more than 20 years, or both.

(4) Section 34 - Penalty when death results - "whoever is convicted of any crime prohibited by this chapter, which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life."

(5) Section 35(a) - Civil penalty of not more than \$1,000 recoverable in a civil action brought in the name of the United States.

(6) Section 35(b) - not more than \$250,000 fine (see Title 18, USC, Section 3571) or imprisoned not more than 5 years, or both.

(7) Section 37 - not more than \$250,000 fine (see Title 18, USC, Section 3571) or imprisoned not more than 20 years, or both; and if the death of any person results from conduct by section 37(a), shall be punished by death or imprisoned for any term of years or for life.

EFFECTIVE: 01/08/96

149-7 CHARACTER - DESTRUCTION OF AIRCRAFT OR MOTOR VEHICLES

Where incident is potential violation of Section 35, use above character followed by (False Report).

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 149 - 20

EFFECTIVE: 07/11/85

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 151 - 1

SECTION 151. BACKGROUND INVESTIGATION - OFFICE OF PERSONNEL
MANAGEMENT (OPM)

151-1 BACKGROUND INVESTIGATION - OFFICE OF PERSONNEL MANAGEMENT
(OPM)

This classification was deleted in Fiscal Year 1990 due to the similarities between it and classification 140. Therefore, cases referred to the FBI from OPM regarding an applicant's loyalty to the Government should be handled under classification 140, "Office of Personnel Management - Referral; - Employees; - Other." See Part I, Section 140 of this manual, for appropriate instructions.

EFFECTIVE: 04/19/91

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I.

PAGE 152 - 1

SECTION 152. SWITCHBLADE KNIFE ACT

152-1 STATUTES

Title 15, USC, Sections 1241, 1242, 1243 and 1244.

EFFECTIVE: 01/31/78

152-1.1 Section 1241. Definitions

"The term 'interstate commerce' means commerce between any State, Territory, possession of the United States, or the District of Columbia, and any place outside thereof.

"The term 'switchblade knife' means any knife having a blade which opens automatically--

"by hand pressure applied to a button or other device in the handle of the knife, or

"by operation of inertia, gravity, or both."

EFFECTIVE: 01/31/78

152-1.2 Section 1242. Interstate Commerce Violations

"Whoever knowingly introduces, or manufactures for introduction, into interstate commerce, or transports or distributes in interstate commerce, any switchblade knife, shall be fined not more than \$2,000 or imprisoned not more than five years, or both."

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 152 - 2

152-1.2.1 Elements - Section 1242

- (1) The person must have the specific criminal intent to
- (2) Introduce or manufacture for introduction into interstate commerce, or transport, or distribute in interstate commerce any switchblade knife
- (3) The knife itself must come within the specific definition of a switchblade as set out in Section 1241
- (4) That the violator not come within one of the four exceptions set forth in Section 1244.

EFFECTIVE: 01/31/78

152-1.3 Section 1243. Within Specific Jurisdiction

"Whoever, within any Territory or possession of the U.S., within Indian country (as defined in Section 1151 of Title 18, USC), or within the special maritime and territorial jurisdiction of the U.S. (as defined in Section 7 of Title 18, USC), manufactures, sells, or possesses any switchblade knife, shall be fined not more than \$2,000 or imprisoned not more than five years, or both."

EFFECTIVE: 01/31/78

152-1.3.1 Elements - Section 1243

- (1) Specific criminal intent to
- (2) Manufacture, sell, or possess any switchblade knife
- (3) Within any territory or possession of the U.S., within Indian country (as defined in Section 1151 of Title 18, USC), or within the special maritime and territorial jurisdiction of the U.S. (as defined in Section 7 of Title 18, USC)
- (4) The knife itself must come within the specific definition of a switchblade knife as set out in Section 1241
- (5) That the violator not come within one of the four

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 152 - 3

exceptions set forth in Section 1244.

EFFECTIVE: 01/31/78

152-1.4 Section 1244. Exceptions to Sections 1242 and 1243

These sections shall not apply to--

"(1) any common carrier or contract carrier, with respect to any switchblade knife shipped, transported, or delivered for shipment in interstate commerce in the ordinary course of business;

"(2) the manufacture, sale, transportation, distribution, possession, or introduction into interstate commerce, of switchblade knives pursuant to contract with the Armed Forces;

"(3) the Armed Forces or any member or employee thereof acting in the performance of his duty; or

"(4) the possession, and transportation upon his person, of any switchblade knife with a blade three inches or less in length by any individual who has only one arm."

EFFECTIVE: 01/31/78

152-2 MISCELLANEOUS

This act also provides for an amendment to Section 1716 of Title 18, USC, which provides that switchblade knives are nonmailable items. Violations of this part of the act are subject to investigation by the Inspection Division of the U.S. Postal Service.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 152 - 4

152-3 POLICY

Upon receipt of a complaint where the facts are clear and definite, present the matter immediately to the appropriate USA for an expression of his views as to prosecution in the event the allegations can be successfully substantiated by further investigation. If necessary, conduct a preliminary inquiry to develop the allegations so that the view of the USA may be obtained at the earliest possible time. If the USA expresses the view that prosecution is not warranted, discontinue investigation and close administratively with a confirming letter to the USA. Where juvenile subjects are involved, the facts should be promptly discussed with the USA for his prosecutive opinion. The USA should be furnished with such background information on the juvenile as his prior arrest record, membership in antisocial juvenile gangs, aggravated circumstances of the instant offense, past and present juvenile status with local authorities, and other such special background data. The obtaining of the juvenile's background should not occasion any delay in the prompt and timely presentation of the case.

Complaints involving shipment of switchblade knives by mail only should be referred to the nearest office of a postal inspector.

FBIHQ should be promptly advised upon receipt of complaints and allegations indicating the possibility of large-scale manufacture, sale, or distribution of switchblade knives in interstate or foreign commerce, as well as on Government reservations.

When complaints are received alleging violations of Section 1243, refer to the Manual of Investigative Operations and Guidelines for general information and FBI policy pertaining to the special maritime and territorial jurisdiction of the U.S., and investigative procedure to be followed in these types of cases.

In all investigations be alert to the possibility of ascertaining the origin of the knife or knives involved and investigation should be conducted to identify the manufacturers, importers, distributors, and others engaged in traffic on a large scale.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 152 - 5

152-4 VENUE

In prosecutions against those who manufacture switchblade knives for the purpose of introducing them into interstate commerce, venue would lie in the district of manufacture, or, as in prosecutions against a shipper who "introduces" such articles into commerce, at the place of their delivery to the common or contract carrier for shipment.

The offenses involving transportation in interstate commerce being continuing offenses, they may be prosecuted pursuant to the provisions of Title 18, USC, Section 3237, "in any district from, through, or into which such commerce...moves." Offenses committed within the special maritime and territorial jurisdiction of the U.S., should be prosecuted, as provide in Title 18, USC, Section 3238, "in the district where the offender is found, or into which he is first brought."

EFFECTIVE: 01/31/78

152-5 CHARACTER - SWITCHBLADE KNIFE ACT

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

SECTION 153. AUTOMOBILE INFORMATION DISCLOSURE ACT

153-1 STATUTES

Title 15, USC, Sections 1231, 1232 and 1233

EFFECTIVE: 11/12/80

153-1.1 Definitions (Title 15, USC, Section 1231)

"For the purposes of this Act --

"(a) The term 'manufacturer' shall mean any person engaged in the manufacturing or assembling of new automobiles, including any person importing new automobiles for resale and any person who acts for and is under the control of such manufacturer, assembler, or importer in connection with the distribution of new automobiles.

"(b) The term 'person' means an individual, partnership, corporation, business trust, or any organized group of persons.

"(c) The term 'automobile' includes any passenger car or station wagon (pickup trucks are exempt from Statute sticker requirement).

"(d) The term 'new automobile' means an automobile the equitable or legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

"(e) The term 'dealer' shall mean any person resident or located in the United States or any Territory thereof or in the District of Columbia engaged in the sale or the distribution of new automobiles to the ultimate purchaser.

"(f) The term 'final assembly point' means --

"(1) in the case of a new automobile manufactured or assembled in the United States, or in any Territory of the United States, the plant, factory, or other place at which a new automobile is produced or assembled by a manufacturer and from which such

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 153 - 2

automobile is delivered to a dealer in such a condition that all component parts necessary to the mechanical operation of such automobile are included with such automobile, whether or not such component parts are permanently installed in or on such automobile; and

"(2) in the case of a new automobile imported into the United States, the port of importation.

"(g) The term 'ultimate purchaser' means with respect to any new automobile, the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases such new automobile for purposes other than resale.

"(h) The term 'commerce' shall mean commerce among the several States of the United States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or among the Territories or between any Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation."

EFFECTIVE: 11/12/80

153-1.2 Label and Entries Required (Title 15, USC, Section 1232)

"Every manufacturer of new automobiles distributed in commerce shall, prior to the delivery of any new automobile to any dealer, or at or prior to the introduction date of new models delivered to a dealer prior to such introduction date, securely affix to the windshield, or side window of such automobile a label on which such manufacturer shall endorse clearly, distinctly and legibly true and correct entries disclosing the following information concerning such automobile --

"(a) the make, model, and serial or identification number or numbers;

"(b) the final assembly point;

"(c) the name, and the location of the place of business, of the dealer to whom it is to be delivered;

"(d) the name of the city or town at which it is to be delivered to such dealer;

Sensitive
PRINTED: 02/18/98

Sensitive

"(e) the method of transportation used in making delivery of such automobile, if driven or towed from final assembly point to place of delivery; and

"(f) the following information:

"(1) the retail price of such automobile suggested by the manufacturer;

"(2) the retail delivered price suggested by the manufacturer for each accessory or item of optional equipment, physically attached to such automobile at the time of its delivery to such dealer, which is not included within the price of such automobile as stated pursuant to paragraph (1)

"(3) the amount charged, if any, to such dealer for the transportation of such automobile to the location at which it is delivered to such dealer;

"(4) the total of the amounts specified pursuant to paragraphs (1), (2), and (3)."

EFFECTIVE: 11/12/80

153-1.3 Elements

(1) Section 1232

(a) A manufacturer of any newly manufactured or imported automobile distributed in interstate or foreign commerce

(b) Prior to delivery of the automobile to a dealer, or at or prior to the introduction date

(c) Willfully fails to affix a label to the windshield or side window disclosing information as provided for in Section 1232, or

(d) Willfully fails to endorse clearly, distinctly, and legibly any label as required by Section 1232, or

(e) Makes a false endorsement of any such label.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 153 - 4

(2) Section 1233

(a) A person willfully removes, alters, or renders illegible any label fixed to a new automobile pursuant to Section 1232

(b) Prior to the time automobile is delivered to the actual custody and possession of the ultimate purchaser, except

(c) Where the manufacturer relabels the automobile in instances in which it is rerouted, repurchased, or reacquired by the manufacturer.

EFFECTIVE: 01/31/78

153-1.4 Other Provisions

Venue in offenses involving prosecution of a manufacturer would lie in the district of manufacture or in any district in which such offense was begun, continued, or completed.

In offenses involving the removal or alteration of the label by an individual, venue would lie in the district where the offense took place.

EFFECTIVE: 01/31/78

153-2 POLICY

(1) Upon receipt of a complaint involving a possible violation, promptly obtain the pertinent facts involved. In many cases this will consist of examining suspect cars and the interview of persons in custody of the automobiles. Photographs of the automobiles and Automobile Information Disclosure Act (AIDA) labels should be considered. Keep in mind that the offender is he who has altered the label or removed it and not he who is merely in possession of an automobile without a label or with an altered label. Be impartial and objective during investigation. Make clear our jurisdiction and responsibilities under the statute to those contacted.

(2) During the investigation of the case, any problems with regard to the physical examination of the automobiles and labels involved, particularly regarding the conducting of a legal search,

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 153 - 5

should be promptly discussed with the USA for his views. In some cases in which there may be a refusal to execute a consent to search, the USA may desire to proceed on the basis of a search warrant.

The appropriate USA should be promptly contacted as soon as possible after sufficient facts have been developed upon which to base a prosecutive opinion. Bear in mind that prosecutive action in these cases can in all instances be initiated by the USA by filing an information in view of the fact that violations of this act are considered misdemeanors.

Be certain in each case, when discussing the facts with the USA for the purpose of obtaining a prosecutive opinion, to fully inform the USA with regard to prior AIDA violations on the part of the subject, particularly in those instances in which the USA may have declined on a particular subject because he was a first offender.

(3) The most common violation arises out of the so-called bootlegging operation. Bootlegging in the automobile trade involves the obtaining of a new model car by nonfranchised independent used-car or new car dealers. Keep in mind the fact that when a new car goes from a franchised to a nonfranchised dealer it is still a new car under the definition in the statute as the car has not yet reached an "ultimate purchaser." The used-car dealer will oftentimes alter or remove the AIDA label in an effort to protect the identity of the franchised dealer from whom he obtained the car and thus protect his source of supply. The franchised dealer too has an interest in having his identity concealed and he may be equally involved in the violation. The Department has held that willful tampering with the AIDA label for the purpose of concealing the identity of the original dealer to whom the automobile was sold and delivered constitutes a violation of this act and evidence that the alteration of labels is motivated by a desire to frustrate the disclosure of certain information on such labels would be sufficient from which to infer the element of willfulness. Be alert during investigations of this type of violation to any indication that a real or fictitious person or firm is being used as a "middle man" in the transaction between the new car and used-car dealer. Obtain evidence that such a "middle man" is not actually an "ultimate purchaser" and that his existence is merely to provide a cover for the transaction. One of the common techniques utilized is the automobile rental or leasing technique where in many cases it has been shown that there was no actual intent to lease or rent automobiles and the person or firm existed only to provide a vehicle between the new and used-car dealer for the sale of new automobiles.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 153 - 6

EFFECTIVE: 01/31/78

153-3 PENALTIES (Section 1233)

(1) Any manufacturer of automobiles distributed in commerce who willfully fails to affix to any new automobile manufactured or imported by him the label required shall be fined not more than \$1,000. Such failure with respect to each automobile shall constitute a separate offense.

(2) Any manufacturer of automobiles distributed in commerce who willfully fails to endorse clearly, distinctly and legibly any label as required or who makes a false endorsement of any such label, shall be fined not more than \$1,000. Such failure or false endorsement with respect to each automobile shall constitute a separate offense.

(3) Any person who willfully removes, alters, or renders illegible any label affixed to a new automobile, or any endorsement thereon, prior to the time that such automobile is delivered to the actual custody and possession of the ultimate purchaser of such new automobile, except where the manufacturer relabels the automobile in the event the same is rerouted, repurchased, or reacquired by the manufacturer of such automobile, shall be fined not more than \$1,000, or imprisoned not more than one year, or both. Such removal, alteration, or rendering illegible with respect to each automobile shall constitute a separate offense.

EFFECTIVE: 01/31/78

153-4 CHARACTER - AUTOMOBILE INFORMATION DISCLOSURE ACT

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 154 - 1

SECTION 154. INTERSTATE TRANSPORTATION OF UNSAFE REFRIGERATORS

154-1 STATUTES

Title 15, USC, Sections 1211, 1212, 1213, 1214

EFFECTIVE: 01/31/78

154-1.1 Elements

Section 1211 makes it unlawful for any person to introduce or deliver for introduction into interstate commerce any household refrigerator manufactured on or after 10-30-58, unless it is equipped with a device, enabling the door thereof to be opened from the inside which conforms to the standards prescribed pursuant to Section 1213.

EFFECTIVE: 01/31/78

154-1.1.1 Other Provisions

Under Section 1213 the Secretary of Commerce shall prescribe and publish in the "Federal Register" commercial standards for devices which, when used in or on household refrigerators, will enable the doors thereof to be opened easily from the inside; and the standards first established under this Section shall be so prescribed and published not later than one year after August 2, 1956.

Note: These standards were published by the Secretary of Commerce in the "Federal Register" dated 8-1-57, Volume 22, Number 148.

Section 1214 defines "interstate commerce" as used in this chapter to include commerce between one State, Territory, possession, the District of Columbia or the Commonwealth of Puerto Rico and another State, Territory, possession, the District of Columbia or the Commonwealth of Puerto Rico.

Venue lies in any district from, through, or into which transportation occurs or in the District of Columbia, or Territory or

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 154 - 2

possession of the U.S. wherein such transportation occurs.

EFFECTIVE: 01/31/78

154-1.1.2 Policy

(1) The Department of Commerce is specifically charged with the regulatory provisions of this act.

(2) The Bureau will not make inspections of manufacturing plants to insure compliance with the Department of Commerce regulations.

(3) Inquiries received relative to whether a device installed on a refrigerator complies with the standards set out by the Department of Commerce should immediately be referred to the Department of Commerce.

(4) Upon receipt of a complaint under Section 1211 of this act, said complaint should immediately be discussed with the appropriate USA to determine whether the complaint is sufficient to warrant investigation and prosecution.

EFFECTIVE: 01/31/78

154-2 PENALTY

Imprisonment for not more than one year or a fine of not more than \$1,000 or both. (Section 1212 - misdemeanor).

EFFECTIVE: 01/31/78

154-3

CHARACTER - INTERSTATE TRANSPORTATION OF UNSAFE REFRIGERATORS

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 154 - 3

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 155 - 1

SECTION 155. NATIONAL AERONAUTICS AND SPACE ACT OF 1958

155-1 BACKGROUND

The National Aeronautics and Space Act of 1958 was approved by the President on July 29, 1958, known as Public Law 85-568. Section 304 (c) of this law amends Chapter 37 of Title 18, USC, entitled "Espionage and Censorship." A new Section, 799, has been added to this Chapter.

EFFECTIVE: 01/31/78

155-2 STATUTE

Title 18, USC, Section 799, reads as follows:

"Violation of regulations of National Aeronautics and Space Administration

"Whoever willfully shall violate, attempt to violate, or conspire to violate any regulation or order promulgated by the Administrator of the National Aeronautics and Space Administration for the protection or security of any laboratory, station, base, or other facility, or part thereof, or any aircraft, missile, spacecraft, or similar vehicle, or part thereof, or other property or equipment in the custody of the Administration, or any real or personal property or equipment in the custody of any contractor under any contract with the Administration or any subcontractor of any such contractor, shall be fined not more than \$5,000, or imprisoned not more than one year, or both."

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 155 - 2

155-3 DEPARTMENTAL POLICY AND INVESTIGATIVE JURISDICTION

(1) The Department has advised that the responsibility for enforcement and prosecution for an offense arising under Title 18, USC, Section 799 is assigned to the Internal Security Section of the Criminal Division of the Department. Since Section 799 is part of Chapter 37 of Title 18, relating to espionage and the protection of defense installations, investigation of an alleged violation is within the FBI's investigative jurisdiction.

(2) The Department noted that although Section 799 prohibits the violation of any regulation or order promulgated by the Administrator of the National Aeronautics and Space Administration (NASA) where such regulation or order deals with the protection or security of its facilities, not every technical infringement should be investigated by the FBI. It is expected that the administrative enforcement of its own regulations would be handled in the first instance by NASA with only the more serious violations being referred to the FBI for its investigative attention.

(3) In pursuing any criminal investigation of an alleged violation of Section 799, the FBI should keep in mind that it would be necessary to establish that any transgression was not merely technical or inadvertent, but a willful or purposeful violation having prosecutive merit. Where any doubt exists, the matter should be discussed with the Department.

EFFECTIVE: 01/31/78

155-4 NASA INSTALLATIONS COVERED BY THIS REGULATION

Alabama

George C. Marshall Space Flight Center, Marshall Space
Flight Center, Alabama 35812

California

Ames Research Center, Moffett Field, California 94035

Flight Research Center, P. O. Box 273, Edwards, California

93523

KSC Western Test Range Operation Division, P. O. Box 425,

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 155 - 3

Lompoc, California 93436

NASA Pasadena Office, 4800 Oak Grove Drive, Pasadena,
California 91103

Florida

John F. Kennedy Space Center, Kennedy Space Center,
Florida 32899

Louisiana

Michoud Assembly Facility, P. O. Box 29300, New Orleans,
Louisiana 70129

Maryland

Goddard Space Flight Center, Greenbelt, Maryland 20771

Mississippi

Mississippi Test Facility, Bay St. Louis, Mississippi
39520

New Mexico

JSC White Sands Test Facility, P. O. Drawer MM, Las
Cruces, New Mexico 88001

New York

Goddard Institute for Space Studies, 2880 Broadway, New
York, New York 10025

Ohio

Lewis Research Center, 21000 Brookpark Road, Cleveland,
Ohio 44135

Texas

Lyndon B. Johnson Space Center, Houston, Texas 77058

Virginia

Langley Research Center, Langley Station, Hampton,

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 155 - 4

Virginia 23665

Wallops Flight Center, Wallops Island, Virginia 23337

EFFECTIVE: 01/31/78

155-5

INVESTIGATIVE PROCEDURES

(1) Upon receipt of any information from a NASA security officer concerning a possible violation of attempted violation of Title 18, USC, Section 799, promptly furnish available facts to FBIHQ in form suitable for dissemination, for referral to the Department for review. Should information indicating a violation be received from any other source, advise NASA security officer attached to appropriate NASA installation of information and, thereafter, submit same to FBIHQ as above.

(2) Conduct no active investigation unless instructed to do so by FBIHQ.

EFFECTIVE: 01/31/78

155-6

CHARACTER - NATIONAL AERONAUTICS AND SPACE ACT OF 1958

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 1

SECTION 156. EMPLOYEE RETIREMENT INCOME SECURITY ACT

156-1 STATUTES

- | (1) | Title 29, USC, Sections 1021-1029, 1111, 1131, 1141
- | (2) | Title 18, USC, Sections 664, 1027, 1954

EFFECTIVE: 05/28/85

156-1.1 Title 29, USC, Section 1111

EFFECTIVE: 05/28/85

156-1.1.1 Elements

| Prohibition against holding position - Persons convicted of certain crimes prior to October 12, 1984, are prohibited from serving as any officer, fiduciary, trustee, custodian, counsel, agent, employee or representative of any employee benefit plan, or as any adviser, decision-maker, or compensated consultant for such benefit plan for five years after date of final conviction or end of imprisonment, whichever is the latter. The Comprehensive Crime Control Act of 1984 provides that for convictions after October 12, 1984, the disqualification extends to 13 years after conviction or end of imprisonment, whichever is later. Exceptions to this are when citizenship rights have been fully restored or when the U.S. Parole Commissioner gives approval to serve in the position. The Act also prohibits any person from knowingly permitting any other convicted person to serve in a prohibited position. |

EFFECTIVE: 05/28/85

156-1.2 Title 29, USC, Section 1131

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 2

EFFECTIVE: 05/28/85

156-1.2.1 Elements

(1) Willful failure to prepare description of plan and annual financial report according to requirements in Act.

(2) Willful failure to publish description of plan and annual financial report by:

(a) Not making them available for examination of any participant or beneficiary at principal office of plan

(b) Not mailing them to any participant or beneficiary upon written request

(c) Not filing them with the Secretary of Labor (Title 29, USC, Sections 1021-1029)

EFFECTIVE: 05/28/85

156-1.3 Title 29, USC, Section 1141

EFFECTIVE: 05/28/85

156-1.3.1 Elements

Interference with rights - Use of fraud, force, or violence (or threat thereof) to interfere with or prevent exercise of any right to which participant or beneficiary may become entitled, under the benefit plan, Title III, Section 3001 of ERISA, or the former Welfare and Pension Plans Disclosure Act.

EFFECTIVE: 05/28/85

156-1.4 Title 18, USC, Section 664

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 3

EFFECTIVE: 05/28/85

156-1.4.1 Elements

Embezzlement or theft - Any person who embezzles, steals, abstracts, or converts to his/her own use or to the use of another any of monies, funds, securities, premiums, credits, property, or other assets of any plan subject to the Act.

EFFECTIVE: 05/28/85

156-1.5 Title 18, USC, Section 1027

EFFECTIVE: 05/28/85

156-1.5.1 Elements

Any person who knowingly makes false statement or representation of fact, conceals, covers up, or fails to disclose any fact, in

(1) Any document required by the Act to be published by the plan

(2) Any records required by the Act to be kept by the plan which are necessary to verify or otherwise check for accuracy and completeness of any document required by the Act to be published by the plan

(3) Any information required by the Act to be certified to the administrator of the plan

EFFECTIVE: 05/28/85

156-1.6 Title 18, USC, Section 1954

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 4

EFFECTIVE: 05/28/85

156-1.6.1 Elements

(1) Kickbacks - Any person listed below who receives or agrees to receive or solicits any fee, kickback, commission, gift, loan, money, or thing of value because of, or with intent to be influenced with respect to any of his/her actions, decisions, or other duties relating to any question or matter concerning a plan

(a) Administrator, officer, trustee, custodian, counsel, agent, or employee of any employee welfare benefit plan or employee pension benefit plan; or

(b) An officer, counsel, agent, or employee of an employer or an employer any of whose employees are covered by such plan; or

(c) An officer, counsel, agent, or employee of an employee organization any of whose members are covered by such plan; or

(d) A person who, or an officer, counsel, agent, or employee of an organization which, provides benefit plan services to such plan

(2) Any person who directly or indirectly gives or offers, or promises to give or offer, any fee, kickback, commission, gift, loan, money, or thing of value prohibited by this section

Exception: Bona fide salary, compensation, or other payments made for goods or facilities actually furnished, or for service actually performed in the regular course of duties of any person mentioned above.

EFFECTIVE: 05/28/85

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 5

156-2 | SIGNIFICANT EXCLUSIONS IN COVERAGE (TITLE 29, USC,
SECTION 1003)

(1) Governmental Plans

(a) Title I of ERISA excludes from coverage of any employee benefit plan which is established or maintained by any Government (Federal, state, or local) or any agency of Government.

(b) General Exceptions to (a)

1. If an employee benefit plan covers any participant who is employed by a private employer, it may be covered by ERISA.

2. A determination can be made as to whether or not a plan is covered by ERISA by contact with the U.S. Department of Labor (DOL) to ascertain if the plan files an annual report.

(2) Church Plans

(a) Benefit plans maintained and established for its employees, by a church which is exempt from Federal income tax, are excluded from coverage by ERISA.

(b) General Exception to (a) - Employees of churches who are employed in trades or businesses unrelated to the primary activities of the church may be covered (such as a situation where a church owns a business and the employee works for the business).

(3) Workmen's Compensation Funds - A plan that is maintained solely for the purpose of complying with workmen's compensation and unemployment laws is not covered by ERISA.

EFFECTIVE: 06/09/80

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 6

||156-3| POLICY

(1) Memorandum of Understanding executed between Department of Justice and Labor provides as follows:

(a) Investigation of alleged failure to disclose information or improper reporting (Title 29, USC, Section 1131) by welfare or pension plans to plan members or to Department of Labor as required (Title 29, USC, Sections 1021-1029) will be conducted by Labor and matter will be referred to Department of Justice for consideration of criminal prosecution

(b) Investigations of following alleged violations will be conducted by FBI:

1. Prohibition against holding positions (Title 29, USC, Section 1111)
2. Interference with rights (Title 29, USC, Section 1141)
3. Embezzlement (Title 18, USC, Section 664)
4. False statements (Title 18, USC, Section 1027)
5. Kickbacks (Title 18, USC, Section 1954)

(2) Whenever allegations of violation handled by the Department of Labor are received, full information is to be furnished to that agency in writing.

(3) Complaints concerning violations as listed in (1) (b) above:

Discuss complaints immediately with USA to obtain opinion whether information received contains sufficient indication of violation to justify investigation.

EFFECTIVE: 06/09/80

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 7

156-4 INVESTIGATIVE PROCEDURE

(1) Prohibition against holding positions (Title 29, USC, Section 1111) Document by Identification Record and certified copies of judgment of conviction and official record of release from imprisonment that person was convicted or imprisoned for violation cited in statute (robbery, bribery, extortion, embezzlement, fraud, etc.) and develop evidence to establish that the person is serving with the plan in a prohibited position (administrator, officer, trustee, custodian, etc.)

(2) Disclosure or reporting (Title 29, USC, Section 1131)
No investigation to be conducted by FBI since Department of Labor has jurisdiction; however, information received should be forwarded FBIHQ promptly for dissemination in LHM under cover of airtel.

(3) Interference with rights (Title 29, USC, Section 1141) Ascertain specific rights of participant or beneficiary reportedly interfered with and develop evidence establishing means allegedly used to cause interference (fraud, force, violence, or threat thereof).

(4) Embezzlement (Title 18, Section 664)

(a) Embezzlement investigation should develop in detail shortages in funds of welfare or pension plan, and independent evidence should be secured to prove the person or persons responsible for shortage. Besides minute examination of accounting or other records of plans, persons who are indicated to have knowledge of shortages and who would be possible witnesses to establish the responsibility of certain persons for the shortages, should be interviewed. Funds involved in shortages should be traced wherever possible into the possession of the subject. Consideration should be afforded to checking records, such as bank and other business accounts, into or through which funds or other assets may have passed. Such action will be pertinent in those instances in which records of the plans are altered or destroyed or for some other reason are unavailable.

(b) Be alert to determine facts which specify alleged embezzlement pertains to funds of welfare or pension plans since embezzlement of other money or assets of company or labor union is not covered by act. Labor union welfare and pension plans are often established in the form of trusts, the funds of which are contributed by employer, and such funds are utilized for hospitalization, insurance, or pension benefits payable to union

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 8

members or their beneficiaries. These funds are separate from monies in the treasury of a labor union or its locals. Embezzlement of labor union money is covered under the Labor Management Reporting and Disclosure Act of 1959 (Section 159 of this manual).

(5) False Statements (Title 18, USC, Section 1027) - False statements investigations should be handled similar to normal fraud against the Government matter in accordance with procedure outlined in Section 46 of this manual.

(6) Kickbacks (Title 18, USC, Section 1954)

(a) Investigations regarding kickbacks relate generally to any offer, payment, solicitation, or acceptance of a fee or commission in any form which is allegedly involved in transactions of a welfare or pension plan. Any indication of such irregularities in plan operation should be thoroughly explored in order to establish participation of each and every person involved. Particular attention should be afforded to detecting any means used to disguise kickbacks which may be manipulated through middlemen who act as go-betweens in the scheme of the principals involved.

(b) Allegations to be alert for involve fees, kickbacks, commissions, etc., being paid in order that funds of a plan will be loaned or invested. Investigation of such allegations regarding loans made by a plan for financing construction work requires accounting for all disbursement of proceeds of such loans and tracing any questionable items which may be considered subterfuge in order to conceal kickback. Likewise, investigation of investments made by a plan requires complete verification in order to uncover any portions of such investment which may be diverted into a kickback.

EFFECTIVE: 04/24/90

156-5

INTERVIEW WITH UNION OFFICIALS

These interviews may be conducted on the authority of the SAC, provided all of the following circumstances exist:

(1) Files of field office where interview to be conducted contain no information to indicate such interview would be inadvisable.

(2) Interview is not premature and other available

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 9

sources of information desired from union official have been exhausted.

(3) Interview is absolutely necessary in interest of conducting complete and thorough investigation.

(4) The interview must be discussed with and approved by the USA.

(5) The field office must ensure that the interview will not interfere with any other investigation of the official or union.

(6) In the event an auxiliary office is to conduct the interview, that office must ensure their files contain no information to indicate the interview would be inadvisable.

(7) FBIHQ must be notified in advance in the event the interviewee is prominent, extremely controversial, or of such stature to focus national attention on the investigation.

EFFECTIVE: 10/18/88

156-6

REPORTING PROCEDURES

(1) |An initial airtel with accompanying LHM (original and three copies) should be submitted to FBIHQ within 60 days if the investigation involves LCN members or associates. The LHM should contain the preliminary opinion of the USA and sufficient identification data on the subject(s) for indexing purposes. |

(2) |A progress letter should be submitted to FBIHQ every 180 days containing a summary of investigation conducted to date and a statement regarding investigation contemplated during the next 180 days. |

(3) |A closing airtel should be submitted to FBIHQ with an LHM restating the predication for opening the investigation, summarizing the investigative findings and detailing the disposition of the investigation. The LHM should include the final opinion of the USA. |

(4) |If the investigation involves non-LCN groups (i.e., Asian organized crime, Sicilian Mafia, etc.), advise FBIHQ by airtel with accompanying LHM, as described above, within 60 days. The

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 156 - 10

results and/or summary should be reported by LHM (original and three copies).

EFFECTIVE: 10/18/88

156-7 PENALTIES

(1) Title 29, USC, Section 1111 - \$10,000 or not more than five years, or both

(2) Title 29, USC, Section 1141 - \$10,000 or not more than one year, or both

(3) Title 18, USC, Section 664 - \$10,000 or five years or both

(4) Title 18, USC, Section 1027 - \$10,000 or five years or both

(5) Title 18, USC, Section 1954 - \$10,000 or three years or both

EFFECTIVE: 10/18/88

156-8 CHARACTER - EMPLOYEE RETIREMENT INCOME SECURITY ACT

EFFECTIVE: 10/18/88

Sensitive

SECTION 157. CIVIL UNREST

157-1 RESPONSIBILITY OF THE BUREAU

The responsibility of the Bureau under this section is based on the Attorney General's Guidelines for Reporting on Civil Disorders and Demonstrations Involving a Federal Interest, which became effective April 5, 1976.

EFFECTIVE: 01/31/78

157-1.1 Categories for Reporting

Under these guidelines, the FBI is responsible for reporting information on civil disturbances or demonstrations in four categories:

- (1) Investigating violations of Federal criminal law directed explicitly at civil disorders (e.g., Title 18, USC, Sections 231, 2101); and investigating violations of Federal criminal law of general applicability occurring during civil disorders.
- (2) Providing information and assistance, upon request of the Secret Service, to aid in carrying out its protective responsibilities under Title 18, USC, Sections 112, 970, 3056 and P. L. 90-331. Information relating to the protective responsibilities of the Secret Service which is acquired incidentally in the course of carrying out FBI responsibilities should be reported to the Secret Service. It should be noted, however, investigations for the purpose of assisting the Secret Service in its protective responsibilities should not be undertaken without a specific request from the Director of Secret Service or his designee made or confirmed in writing.
- (3) Providing information concerning actual or threatened civil disorders which may require the presence of Federal troops to enforce Federal law or Federal court orders (Title 10, USC, Sections 332, 333) or which may result in a request by state authorities to provide Federal troops in order to restore order (Title 10, USC, Section 331).
- (4) Providing information relating to demonstration

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 157 - 2

activities which are likely to require the Federal Government to take action to facilitate the activities and provide public health and safety measures with respect to those activities.

EFFECTIVE: 01/31/78

157-2 POLICY REGARDING REPORTING OF CIVIL DISORDERS

The Bureau's responsibilities in reporting Civil Disorders are as follows:

(1) Information relating to actual or threatened civil disorders acquired by the FBI from public officials or other public sources or in the course of its other investigations, should be reported to the Department of Justice. In this connection it should be noted that under the Attorney General's guidelines for reporting on civil disorders and demonstrations there is no prohibition against alerting sources, including appropriate law enforcement officials and established informants, of the Bureau's continuing interest in civil disorders and demonstrations.

(2) Investigations should not be undertaken to collect information relating to actual or threatened civil disorders except upon specific request of the Attorney General or his designee. Investigations will be authorized only for a period of 30 days but the authorization may be renewed, in writing, for subsequent periods of 30 days.

(3) Information should be collected and reported pursuant to paragraphs (1) and (2) above, for the limited purpose of assisting the President in determining whether Federal troops are required and determining how a decision to commit troops shall be implemented. This information should be based on such factors as:

(a) The size of the actual or threatened disorder - both in number of people involved or affected and in geographic area;

(b) The potential for violence;

(c) The potential for expansion of the disorder in light of community conditions and underlying causes of the disorder;

(d) The relationship of the actual or threatened disorder to the enforcement of Federal laws or court orders and the

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 157 - 3

likelihood that state or local authorities will assist in enforcing those laws or orders;

(e) The extent of state or local resources available to handle the disorder.

(4) Investigations undertaken, at the request of the Attorney General or his designee, to collect information relating to actual or threatened civil disorders should be limited to inquiries of:

(a) Field office and FBIHQ files and indices;

(b) Public records and other public sources of information;

(c) Federal, state, and local records and officials;

(d) Established informants or other established sources of information.

Interviews of individuals other than those listed above, and physical and photographic surveillance should not be undertaken as part of such an investigation except when expressly authorized by the Attorney General or his designee.

EFFECTIVE: 01/31/78

157-3 REPORTING OF DEMONSTRATIONS

The reporting of demonstrations should conform to and include the following:

(1) Information relating to demonstration activities which are likely to require the Federal Government to take action to facilitate the activities and provide public health and safety measures with respect to those activities, which is acquired incidentally by the Bureau in the course of carrying out its responsibilities, should be reported to the Department of Justice.

(2) Investigations should not be undertaken to collect information with respect to such demonstrations except upon specific request of the Attorney General or his designee.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 157 - 4

(3) Information collected and reported pursuant to (1) and (2) above, should be limited to that which is necessary to determine:

- (a) The date, time, place, and type of activities planned;
- (b) The number of persons expected to participate;
- (c) The intended mode of transportation to the intended site or sites and the intended routes of travel;
- (d) The date of arrival in the vicinity of the intended site and housing plans, if pertinent;

(e) Similar information necessary to provide an adequate Federal response to insure public health and safety and the protection of First Amendment rights. This is intended to encompass such additional facts affecting the Federal responsibility as unusual health needs of participants, counterdemonstrations planned which may increase safety needs, or possible inability of participants to arrange return transportation.

(4) Investigations undertaken to collect information relating to demonstrations pursuant to (2) above should be limited to determining the information described in (3) above. Such information should be collected only by a check of:

- (a) Field office and FBIHQ files and indices;
- (b) Public records and other public sources of information;
- (c) Federal, state, and local records and officials;
- (d) Persons involved in the planning of the demonstration, provided that in conducting interviews with such persons, they be initially advised of the authority to make the inquiry and the limited purpose for which it is made.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 157 - 5

157-4 PHOTOGRAPHIC SURVEILLANCES

Photographic Surveillances should not be conducted in carrying out Bureau responsibilities in collecting and reporting information on demonstrations.

EFFECTIVE: 01/31/78

157-5 DISSEMINATION OF DATA PERTAINING TO CIVIL DISORDERS AND DEMONSTRATIONS

Under the Attorney General's Guidelines for reporting on both civil disorders and demonstrations, information concerning criminal offenses within the investigative jurisdiction of another Federal agency which is acquired incidentally in the course of Guidelines' implementation, should be reported to the Federal agency having jurisdiction. Information concerning serious criminal offenses within the investigative jurisdiction of state or local agencies should be reported to the appropriate lawful authorities. In this regard, reference to serious offenses would exclude such matters as: drunkenness, vagrancy, loitering, disturbing the peace, disorderly conduct, adultery, fornication and consensual homosexual acts, false fire alarm, nonspecific charges of suspicion or investigation, traffic violations and juvenile delinquency.

Information obtained relating to both civil disorders and demonstrations, which comes within the purview of the Attorney General's Guidelines, should be furnished to the United States Attorney locally. Civil disorder information may also be reported to Federal, state, or local officials at the location of the actual or threatened disorder who have a need for the information in order to carry out their official responsibilities in connection with such a disorder.

By memorandum dated 7/26/76, the Attorney General set forth additional guidelines relating to the routine dissemination of information on both civil disorders and demonstrations to CIA and also dissemination of this type information to CIA and other Federal agencies on specific request. Routine dissemination to CIA is restricted to that which relates directly to the security or safety of CIA installations, personnel or operations. These additional guidelines also pointed out that on the other hand, it may be proper to furnish CIA or any other Federal agency upon its specific request, information concerning earlier civil disorders or demonstrations,

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 157 - 6

whether or not they directly related to the agency, if that information will be useful in determining the extent to which present activities pose a threat to the security of the agency's facilities, personnel or operations. For example, if a Government facility is, or is about to be, the target of a demonstration by a particular group, information in FBI files concerning prior demonstrations by that group which resulted in violence or illustrated the group's ability to prevent violence would be relevant to a determination as to whether a security threat exists. Such information might properly be furnished upon request.

The Attorney General's memorandum of 7/26/76 further sets forth it is important that the very limited nature of the Federal Government's interest in both civil disorders and demonstrations be recognized not only in the acquisition of information but also in its dissemination to other departments and agencies and unless the information indicates that some action or response by the agency involved is likely to be required routine dissemination should not be made.

EFFECTIVE: 01/31/78

157-6 REPORTING PROCEDURES TO BE UTILIZED IN CIVIL DISORDERS AND DEMONSTRATIONS

Information obtained which comes within the purview of the Attorney General's Guidelines for gathering and reporting information on civil disorders and demonstrations should be furnished to FBIHQ and interested agencies, including the United States Attorney locally, by most timely means warranted under the circumstances. Actual or threatened riots, disturbances, or disorders should be reported to FBIHQ by teletype unless circumstances warrant telephone call, in which event call should be confirmed by teletype. Teletypes should be in form suitable for dissemination and where possible information relating to those items specifically referred to in 157-2 (3)(a) through (e) and 157-3 (3)(a) through (e) above should be included. All administrative data, including reference should be at end under "Administrative" heading; classify if warranted, etc. Teletypes need not be followed by LHMs unless investigation of the disorder or demonstration has been specifically requested by the Attorney General or his designee. Include in details of teletype identities of local and Federal agencies notified. Record in field file identities of persons who were contacted at the notified agencies, time and date and identities of FBI personnel making contacts.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 157 - 7

EFFECTIVE: 01/31/78

157-7 CHARACTER

The title of the case should be descriptive of activities involved followed by character "Civil Unrest."

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 1

SECTION 159. LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF
1959 (INVESTIGATIVE MATTER)

159-1 STATUTES

Title 29, USC, Sections 501 (c), 503 (b), (c), 504, 522,
and 530.

EFFECTIVE: 05/28/85

159-1.1 Section 501 (c)

EFFECTIVE: 05/28/85

159-1.1.1 Elements

(1) "(c) any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use, or the use of another, any of the moneys, funds, securities, property, or other assets of a labor organization of which he is an officer, or by which he is employed, directly or indirectly, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both."

EFFECTIVE: 05/28/85

159-1.2 Sections 503 (b) & (c)

EFFECTIVE: 05/28/85

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 2

159-1.2.1 Elements

(1) "(b) No...employer shall directly or indirectly pay the fine of any officer or employee convicted of any willful violation of this chapter.

(2) "(c) Any person who willfully violates this section shall be fined not more than \$5,000 or imprisoned for not more than one year, or both."

(3) Section 503(b) also prohibits the payment of a fine by a labor organization of any officer or employee convicted of any willful violation of this chapter. Such violations are investigated by the Department of Labor.

EFFECTIVE: 05/28/85

159-1.3 Section 504

EFFECTIVE: 05/28/85

159-1.3.1 Elements

(1) "(a) No person...who has been convicted of, or served any part of a prison term resulting from his conviction of, robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of subchapter III or IV of this chapter, any felony involving abuse or misuse of such person's position or employment in a labor organization or employee benefit plan to seek or obtain an illegal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve-

"(1) as a consultant or adviser to any labor organization,

"(2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 3

labor organization,

"(3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with and labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce, or

"(4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization, or

"(5) in any capacity, other than in his capacity as a member of such labor organization, that involves decisionmaking authority concerning, or decisionmaking authority over, or custody of, or control of the monies, funds, assets, or property of any labor organization, during or for the period of thirteen years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least three years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this Act. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection."

(2) |"(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than five years, or both."|

(3) |"(c) For the purpose of this section-

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 4

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) A period of parole shall not be considered as part of a period of imprisonment."

(4) | "(d) Whenever any person-

"(1) by operation of this section, has been barred from office or other position in a labor organization as a result of a conviction, and

"(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred."

(5) Subchapter III of this chapter deals with reporting by labor organizations, officers and employees of labor organizations, and employers. Subchapter IV deals with trusteeships. Violations of these chapters are investigated by Department of Labor.

EFFECTIVE: 05/28/85

159-1.4 Section 522

EFFECTIVE: 05/28/85

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 5

159-1.4.1 Elements

(1) "(a) It shall be unlawful to carry on picketing on or about the premises of any employer for the purpose of, or as part of any conspiracy or in furtherance of any plan or purpose for, the personal profit or enrichment of any individual (except bona fide increase in wages or other employee benefits) by taking or obtaining any money or other thing of value from such employer against his will or with his consent."

(2) "(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned not more than twenty years or both."

EFFECTIVE: 05/28/85

159-1.5 Section 530

EFFECTIVE: 05/28/85

159-1.5.1 Elements

(1) "It shall be unlawful for any person through the use of force or violence, or threat of the use of force or violence, to restrain, coerce, or intimidate or attempt to restrain, coerce, or intimidate any member of a labor organization for the purpose of interfering with or preventing the exercise of any right to which he is entitled under the provisions of this chapter. Any person who willfully violates this section shall be fined not more than \$1,000 or imprisoned for not more than one year, or both."

EFFECTIVE: 05/28/85

159-2 BILL OF RIGHTS OF MEMBERS OF LABOR ORGANIZATIONS

The principal rights to which a member of a labor organization is entitled under the provisions of this act are set out in Title 29, USC, Sections 411, 412, 414, and 415.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 6

EFFECTIVE: 01/31/78

159-2.1 Section 411

EFFECTIVE: 01/31/78

159-2.1.1 Bill of Rights; Constitution and Bylaws of Labor
Organizations

(1) "(a) (1) Equal rights - Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings, and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws.

"(2) Freedom of speech and assembly - Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments, or opinions; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: Provided, that nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations.

"(3) Dues, initiation fees, and assessments - Except in the case of a federation of national or international labor organizations, the rates of dues and initiation fees payable by members of any labor organization in effect on September 14, 1959 shall not be increased, and no general or special assessment shall be levied upon such members, except -

"(A) in the case of a local labor organization, (i) by majority vote by secret ballot of the members in good standing voting at a general or special membership meeting, after reasonable notice of the intention to vote upon such question, or (ii) by

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 7

majority vote of the members in good standing voting in a membership referendum conducted by secret ballot; or

"(B) in the case of a labor organization, other than a local labor organization or a federation of national or international labor organizations, (i) by majority vote of the delegates voting at a regular convention, or at a special convention of such labor organization held upon not less than thirty days' written notice to the principal office of each local or constituent labor organization entitled to such notice, or (ii) by majority vote of the members in good standing of such labor organization voting in a membership referendum conducted by secret ballot, or (iii) by majority vote of the members of the executive board or similar governing body of such labor organization, pursuant to express authority contained in the constitution and bylaws of such labor organization: Provided, that such action on the part of the executive board or similar governing body shall be effective only until the next regular convention of such labor organization.

"(4) Protection of the right to sue - No labor organization shall limit the right of any member thereof to institute an action in any court, or in a proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendants or respondents in such action or proceeding, or the right of any member of a labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: Provided, that any such member may be required to exhaust reasonable hearing procedures (but not to exceed a four-month lapse of time) within such organization, before instituting legal or administrative proceedings against such organizations or any officer thereof: And provided further, that no interested employer or employer association shall directly or indirectly finance, encourage, or participate in, except as a party, any such action, proceeding, appearance, or petition.

"(5) Safeguards against improper disciplinary action - No member of any labor organization may be fined, suspended, expelled, or otherwise disciplined except for nonpayment of dues by such organization or by any officer thereof unless such member has been (A) served with written specific charges; (B) given a reasonable time to prepare his defense; (C) afforded a full and fair hearing.

(2) "(b). Any provision of the constitution and bylaws of any labor organization which is inconsistent with the provisions of this section shall be of no force or effect."

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 8

EFFECTIVE: 01/31/78

159-2.2 Section 412

EFFECTIVE: 01/31/78

159-2.2.1 Civil Action for Infringement of Rights; Jurisdiction

(1) "Any person whose rights secured by the provisions of this subchapter have been infringed by any violation of this subchapter may bring a civil action in a district court of the United States for such relief (including injunctions) as may be appropriate. Any such action against a labor organization shall be brought in the district court of the United States for the district where the alleged violation occurred, or where the principal office of such labor organization is located."

EFFECTIVE: 01/31/78

159-2.3 Section 414

EFFECTIVE: 01/31/78

159-2.3.1 Right to Copies of Collective Bargaining Agreements

(1) "It shall be the duty of the secretary or corresponding principal officer of each labor organization, in the case of a local labor organization, to forward a copy of each collective bargaining agreement made by such labor organization with any employer to any employee who requests such a copy and whose rights as such employee are directly affected by such agreement, and in the case of a labor organization other than a local labor organization, to forward a copy of any such agreement to each constituent unit which has members directly affected by such agreement; and such officer shall maintain at the principal office of the labor organization of which he is an officer copies of any such agreement made or received by such labor organization, which copies shall be available for

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 9

inspection by any member or by any employee whose rights are affected by such agreement. The provisions of Section 440 of this title shall be applicable in the enforcement of this section."

(2) Section 440 of Title 29, USC, deals with the authority of the Secretary of Labor to bring civil actions where appropriate.

EFFECTIVE: 01/31/78

159-2.4 Section 415

EFFECTIVE: 01/31/78

159-2.4.1 Information to Members of Provisions of Chapter

(1) "Every labor organization shall inform its members concerning the provisions of this chapter."

EFFECTIVE: 01/31/78

159-3 OTHER RIGHTS TO WHICH A MEMBER OF A LABOR ORGANIZATION IS ENTITLED UNDER THE PROVISIONS OF THIS ACT

(1) Right to inspect reports - Title 29, USC, Sections 431 (c) and 461 (b)

Every labor organization required to submit a report under subchapters III and IV of this chapter shall make the information contained in such report available to all its members.

(2) Right to inspect books - Title 29, USC, Sections 431 (c) and 461 (b)

Any member may for just cause inspect books, records, and accounts in order to verify reports made under subchapters III and IV of this chapter.

(3) Right to have literature distributed - Title 29, USC, Section 481 (c)

Sensitive
PRINTED: 02/18/98

Sensitive

Every national or international labor organization (except a federation of national or international labor organizations) and every local labor organization shall have the duty to comply with any reasonable request to distribute campaign literature for any bona fide candidate at the candidate's expense, and to refrain from discrimination for or against any candidate with respect to the use of membership lists and with respect to the distribution of campaign literature of candidates.

(4) Right to inspect membership lists - Title 29, USC,
Section 481 (c)

Any bona fide candidate may, once within 30 days before the election, inspect a list of members who are subject to union-security agreements, which list must be maintained and kept at principal office of the organization.

(5) Right to have an observer at the polls - Title 29,
USC, Section 481 (c)

Any candidate shall have the right to have adequate safeguards to insure a fair election, including the right to have an observer at the polls of an election and at the counting of the ballots.

(6) Right to be a candidate - Title 29, USC, Section 481
(e)

Every member in good standing shall be eligible to be a candidate (subject to Title 29, USC, Section 504, and reasonable qualifications uniformly imposed).

(7) Right to choose candidates - Title 29, USC, Section
481 (e)

A reasonable opportunity shall be given for the nomination of candidates and every member in good standing shall have the right to vote for or otherwise support candidates of his choice and to have the prescribed notice of election.

(8) Right with respect to removal of officers - Title 29,
USC, Section 481 (h)

If the Secretary, upon application by any member of a local labor organization, finds the constitution and bylaws do not

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 11

provide an adequate procedure to remove an elected officer guilty of serious misconduct, such officer may be removed by members in good standing voting in secret ballot.

(9) Right to recover damages to the union - Title 29, USC, Section 501 (b)

Any member may sue to recover damages or secure an accounting when an officer has violated his fiduciary duties and responsibilities and the labor organization refuses to bring such an action.

EFFECTIVE: 01/31/78

159-4 DEFINITIONS (TITLE 29, USC, SECTION 402)

"For the purposes of this chapter -

(1) "(a) 'Commerce' means trade, traffic, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(2) "(b) 'State' includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act." (Title 43, USC, Sections 1331-1343.)

(3) "(c) 'Industry affecting commerce' means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry 'affecting commerce' within the meaning of the Labor Management Relations Act, 1947, as amended, or in the Railway Labor Act, as amended.

(4) "(d) 'Person' includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, jointstock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

(5) "(e) 'Employer' means any employer or any group or association of employers engaged in an industry affecting commerce (1) which is, with respect to employees engaged in an industry affecting

Sensitive

commerce, an employer within the meaning of any law of the United States relating to the employment of any employees or (2) which may deal with any labor organization concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and includes any person acting directly or indirectly as an employer or as an agent of an employer in relation to an employee but does not include the United States or any corporation wholly owned by the Government of the United States or any State or political subdivision thereof.

(6) "(f) 'Employee' means any individual employed by an employer, and includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice or because of exclusion or expulsion from a labor organization in any manner or for any reason inconsistent with the requirements of this chapter.

(7) "(g) 'Labor dispute' includes any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(8) "(h) 'Trusteeship' means any receivership, trusteeship, or other method of supervision or control whereby a labor organization suspends the autonomy otherwise available to a subordinate body under its constitution or bylaws.

(9) "(i) 'Labor organization' means a labor organization engaged in an industry affecting commerce and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, other than a State or local central body.

(10) "(j) A labor organization shall be deemed to be engaged in an industry affecting commerce if it -

"(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended; or

Sensitive

"(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

"(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

"(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

"(5) is a conference, general committee, joint or system board, or joint council, subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection; other than a State or local central body.

(11) "(k) 'Secret ballot' means the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed.

(12) "(l) 'Trust in which a labor organization is interested' means a trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries.

(13) "(m) 'Labor relations consultant' means any person who, for compensation, advises or represents an employer, employer organization, or labor organization concerning employee organizing, concerted activities, or collective bargaining activities.

(14) "(n) 'Officer' means any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 14

governing body.

(15) "(o) 'Member' or 'member in good standing,' when used in reference to a labor organization, includes any person who has fulfilled the requirements for membership in such organization, and who neither has voluntarily withdrawn from membership nor has been expelled or suspended from membership from appropriate proceedings consistent with lawful provisions of the constitution and bylaws of such organization.

(16) "(p) 'Secretary' means the Secretary of Labor.

(17) "(q) 'Officer, agent, shop steward, or other representative,' when used with respect to a labor organization, includes elected officials and key administrative personnel, whether elected or appointed (such as business agents, heads of departments or major units, and organizers who exercise substantial independent authority), but does not include salaried nonsupervisory professional staff, stenographic, and service personnel.

(18) "(r) 'District court of the United States' means a United States district court and a United States court of any place subject to the jurisdiction of the United States."

EFFECTIVE: 01/31/78

159-5 JURISDICTION

Jurisdiction under the statute is assigned to the Secretary of Labor. On 2-16-60 the Attorney General and the Secretary of Labor signed a Memorandum of Understanding whereby the Secretary delegated jurisdiction with respect to the above-quoted portions of the act to the Department of Justice. Labor Department retained jurisdiction as regards civil enforcement actions and other criminal violations not quoted above. The pertinent portion of the text of the Memorandum of Understanding dealing with the investigation of criminal violations is as follows:

"2. Investigations of Matters made Criminal by the Act

"Subject to specific arrangements agreed upon by the Department of Justice and the Department of Labor on a case-by-case basis, investigation under the Act will be conducted as follows:

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 15

"(a) The Department of Labor will through its own staff investigate those criminal matters arising under:

"1. Title II (Reporting by labor organizations, officers and employees of labor organizations and employers).

"2. Title III (Trusteeship).

"3. Section 502 (Bonding) of Title V.

"4. Section 503(a) (Making of loans by labor organizations to officers and employees of the labor organization) of Title V.

"5. That part of Section 503(b) of Title V which relates to the payment of a fine of a labor official or employee by a labor union.

"(b) The Department of Justice will, under delegation from the Secretary of Labor, investigate those criminal matters arising under:

"1. Section 501(c) (Embezzlement of union funds) of Title V.

"2. That part of Section 503(b) of Title V which refers to a payment of a fine of a labor official or employee by an employer.

"3. Section 504 (Prohibition against certain persons from holding office) of Title V.

"4. Section 505 (Containing an amendment to section 302, Labor Management Relations Act of 1947, as amended) of Title V." (See Part I, Section 122 of this manual.)

"5. Section 602 (extortionate picketing) of Title VI.

"6. Section 610 (deprivation of rights by force and violence) of Title VI."

EFFECTIVE: 05/10/82

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 16

159-6 | SIGNIFICANT EXCLUSIONS IN COVERAGE

(1) Unions comprised solely of employees of the United States, or any corporation wholly owned by the United States.

(a) Exception - unions comprised of employees of the U.S. Postal Service are covered by the Labor-Management Reporting and Disclosure Act (LMRDA) of 1959 by virtue of the Postal Reorganization Act, Title 39, USC, Section 1209.

(b) Violations involving internal union affairs by Federal employee unions are investigated by the Department of Labor (DOL) by virtue of the Civil Service Reform Act, Title 5, USC, Section 1101, and Executive Order 11491, as amended in 1978.

(2) Unions comprised solely of employees of any state or political subdivision thereof.

Exception - DOL holds that a labor organization comprised of state or local government employees is covered by LMRDA if the local admits to membership at least one private-industry employee.

EFFECTIVE: 05/10/82

159-7 | POLICY

(1) Allegations, together with any pertinent information in field office files, should be discussed with USA immediately to determine whether violation is indicated, and if so, specific section involved. If violation is within Labor Department's jurisdiction, furnish USA sufficient information to enable him/her to refer complaint to Labor-Management Services Administration, and submit closing airtel and LHM. If violation is within our jurisdiction, obtain USA's opinion as to whether material furnished contains a sufficient indication of possible violation to justify investigation by the Bureau and prosecution in Federal court or whether he/she desires to refer the matter to local authorities.

(2) If USA requests matter be referred to local authorities, determine if violation is one that if conviction resulted would prohibit a person from holding a union office (Title 29, USC, Section 504). If conviction of the crime would bar subject from holding a union office, advise local authorities upon referral. Also, the name and mailing address of the local prosecutor to which

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 17

the case was referred should be set forth in the closing LHM. When serious matters (i.e., deprivation of union member rights by force or violence) are referred to state or local authorities for prosecution, depending on availability of resources, the status of prosecution should be followed 120 days after referral. If state or local authorities decline prosecution or fail to commence prosecutive action within 120 days, rediscuss with USA and ascertain if investigation is desired. The discussion with USA should be confirmed by letter.

(3) Joint interviews may be conducted with DOL on authority of SAC and decided on a case-by-case basis. However, joint investigations with DOL may only be conducted with FBIHQ authority and will be decided on a case-by-case basis. Requests for joint investigations should be submitted by airtel, unless circumstances dictate otherwise, and the communication should contain sufficient justification for the request, the opinion of the USA, and a statement from the SAC reflecting his concurrence.

(4) FBI reports of LMRDA investigations may be disseminated to DOL subject to the provisions of Rule 6(e), Federal Rules of Criminal Procedure, on the authority of the SAC. However, dissemination should be decided on a case-by-case basis, and should be with the concurrence of the USA. Questions should be resolved by contact with FBIHQ.

EFFECTIVE: 05/10/82

159-8 | INTERVIEW OF UNION OFFICIALS

These interviews may be conducted on the authority of the SAC, provided all the following circumstances exist:

(1) Files of field office where interview is to be conducted contain no information to indicate such interview would be inadvisable.

(2) Interview is not premature and other available sources of information desired from union official have been exhausted.

(3) Interview is absolutely necessary in interest of conducting complete and thorough investigation.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 18

(4) Interview will not interfere with any other investigation of the official or union.

(5) FBIHQ is notified in advance in the event the interviewee is prominent, extremely controversial, or of such stature as to focus national attention on the investigation.

EXCEPTION: Interviews with officials of national headquarters of a union are to be conducted on a UACB basis. The UACB communication should set forth sufficient identifying data on the union official as well as recommendation as to advisability of and necessity for the interview.

EFFECTIVE: 05/10/82

||159-9| INVESTIGATIVE PROCEDURE

EFFECTIVE: 05/10/82

||159-9.1| Embezzlement of Union Funds (Title 29, U.S. Code, Section 501(c))

(1) Embezzlement investigation should develop in detail shortages in funds of labor organization and independent evidence should be secured to prove the person or persons responsible for shortage. Besides minute examination of accounting or other records of the union, persons who are indicated to have knowledge of shortages and who would be possible witnesses to establish the responsibility of certain persons for the shortages should be interviewed. Consideration should be afforded to checking records, such as bank and other business accounts, into or through which funds or other assets may have passed. Such action will be pertinent in those instances in which records of the union are altered or destroyed or for some other reason are unavailable.

(2) Since funds of health, welfare, or pension plans are separate from funds of labor unions or their locals, alleged embezzlement of such welfare funds is not considered covered by prohibition in this statute which deals solely with funds or other assets of a union. A welfare fund is established in form of a trust, the funds of which are contributed by employers, and such funds are utilized for hospitalization, insurance, and pension benefits payable

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 19

to members or their beneficiaries. As distinguished from funds of a welfare plan, funds of a union are derived from dues, initiation fees, assessments, etc., payable by employees who are union members, and union funds are disbursed to officials of the union, as well as for purchase of any material in connection with the official operation of the union. In complaints received and investigations conducted, be alert to determine facts which specify whether alleged embezzlement pertains to money or other assets considered as property of a labor union or money to be maintained in a welfare plan trust fund. (Possible violations concerning funds of a welfare plan are covered in Part I, Sections 122 and 156, of this manual.)

EFFECTIVE: 05/10/82

159-9.2 | Payment of Union Officer's Fine By Employer (Title
29, |U.S. Code, |Section 503(b))

(1) The investigative jurisdiction of the Department of Justice is confined to that portion of this section dealing with the payment of a fine by an employer imposed on a labor union officer or employee convicted of a willful violation of this Act. It does not prohibit an employer from paying a fine imposed on such person convicted of violating another law.

(2) Investigations concerning indicated violations of this section will closely parallel and generally will involve similar items of proof necessary to establish a criminal violation of the Labor Management Relations Act of 1947. (See Part I, Section 122, of this manual.)

EFFECTIVE: 05/10/82

159-9.3 | Prohibition Against Certain Persons Holding Office (Title
29, |U.S. Code, |Section 504(b))

(1) Verify from examination of court records that subject has been convicted of crime that falls within scope of this section and that conviction is not under consideration by higher court. If under appeal and final judgment not rendered, conduct no further investigation and submit closing airtel and LHM suitable for dissemination to the DOJ.

Sensitive
PRINTED: 02/18/98

Sensitive

(2) If conviction was under state and local statute, determine and report specific penal code citation.

(3) If the subject, prior to conviction, was active in a particular labor organization or one particular local, investigation should not be limited to determining whether he/she has continued his/her activities with respect to this particular organization or local alone; it should be determined whether he/she is active in any capacity prohibited under the Act including other labor organizations or as a labor relations consultant or officer, etc., of a group or association of employers dealing with any labor organization.

(4) Investigation should determine exactly what the subject's occupation has been since the date of his/her conviction.

(5) To determine subject's employment the following sources of information should be considered:

(a) Review the various DOL LM Reports.

(b) Contact subject's co-workers, neighbors, and associates. However, it should be noted that interviews of co-workers are prohibited during a preliminary inquiry.

(c) Contact informants and other reliable sources of information.

(d) Contact business firms from which subject has sought credit recently; however, note that contact with logical credit bureaus is subject to the provisions of the Fair Credit Reporting Act (see Part I, 62-5, of this manual).

(e) Subject to the provisions of the Right to Financial Privacy Act of 1978 (RFPA) (see Part II, 23-6, of this manual), ascertain employment by:

1. Contacting banks, credit unions, and credit card companies.

2. Determining sources of subject's income through examination of deposits to subject's bank accounts.

(6) In each case in which it is indicated the subject is employed other than by a labor organization or as a labor relations consultant, interview his/her employer to verify such employment and

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 21

determine whether the subject has engaged in any prohibited activity during the period of his/her employment.

(7) If the subject is indicated to be employed by a labor organization or as a labor relations consultant, endeavor to verify such employment through independent sources, such as suggested above, rather than by direct contact with employer. This would include examination of bank records pertaining to labor organization or firm of labor relations consultants to show compensation being received by subject for services rendered. It should be noted that while access to bank records of labor organizations is not covered by the RFPA, in certain instances access to records of labor relations consulting firms may be covered by the RFPA (see Part II, 23-6, of this manual).

(8) The Department has advised that when investigation discloses a subject is presently serving a prison sentence it should be determined whether he/she is drawing a salary from a union or is carried on the records of a union as an officer. This should be developed through independent sources, such as mentioned above. In addition, a check should be made with prison officials where the subject is incarcerated to ascertain whether he/she has contacts with labor organizations or management concerning union business or labor matters.

EFFECTIVE: 05/10/82

||159-9.4| Extortionate Picketing (Title 29, U.S. Code, Section 522)

Investigation concerning indicated violations of this section will parallel to some extent and will involve items of proof which are similar to those necessary to establish a criminal violation of the Labor Management Relations Act of 1947 or the Hobbs Act.

EFFECTIVE: 05/10/82

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 22

|159-9.5| Deprivation of Rights by Force or Violence (Title 29, |U.S.
Code, |Section 530)

Complainants alleging violations of this section should be interviewed thoroughly; particular stress should be placed upon having the complainant identify witnesses to the alleged force or violence (or threat thereof) which deprived a union member of rights guaranteed under the Act; in addition, specific information should be obtained from the complainant as to which rights of the individual have been interfered with or denied.

EFFECTIVE: 05/10/82

159-10 REPORTING REQUIREMENTS

(1) |An initial airtel with accompanying LHM (original and three copies) should be submitted to FBIHQ within 60 days if the investigation involves LCN members or associates. The LHM should contain the preliminary opinion of the USA and sufficient identification data on the subject(s) for indexing purposes. |

(2) |A progress letter should be submitted to FBIHQ every 180 days containing a summary of investigation conducted to date and a statement regarding investigation contemplated during the next 180 days. |

(3) |A closing airtel should be submitted to FBIHQ with an LHM restating the predication for opening the investigation, summarizing the investigative findings and detailing the disposition of the investigation. The LHM should include the final opinion of the USA. |

(4) |If the investigation involves non-LCN groups (i.e., Asian organized crime, Sicilian Mafia, etc.), advise FBIHQ by airtel with accompanying LHM as described above within 60 days. The results and/or summary should be reported by LHM (original and three copies). |

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 159 - 23

159-11 CHARACTER - LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT
OF 1959 - INVESTIGATIVE MATTER

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 160 - 1

SECTION 160. FEDERAL TRAIN WRECK STATUTE

160-1 STATUTE

Title 18, USC, Section 1992

EFFECTIVE: 11/08/78

160-1.1 Elements

(1) "Whoever willfully derails, disables, or wrecks any train, engine, motor unit, or car used, operated, or employed in interstate or foreign commerce by any railroad; or"

(2) "Whoever willfully sets fire to, or places any explosive substance on or near, or undermines any tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of any such railroad in interstate or foreign commerce, or otherwise makes any such tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance unworkable or unusable or hazardous to work or use, with intent to derail, disable, or wreck a train, engine, motor unit, or car used, operated, or employed in interstate or foreign commerce; or"

(3) "Whoever willfully attempts to do any of the aforesaid acts or things --"

EFFECTIVE: 11/08/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 160 - 2

160-1.1.1 Other Provisions

(1) False Reports of violations of Title 18, USC, Section 1991 (Entering a Train to Commit Crime) and Section 1992 are covered by Title 18, USC, Section 35. Refer to Section 149 of this manual.

(2) Double Jeopardy - Subject cannot be tried in Federal court under this statute for same acts after being convicted or acquitted on the merits of the case in a state court.

(3) Venue lies in Federal judiciary district in which act was committed.

EFFECTIVE: 11/08/78

160-2 POLICY AND PROCEDURE

(1) Accept for investigation all cases involving violations of this act.

(2) In view of widespread public interest created by major train wreck, immediately advise FBIHQ by teletype of all such incidents.

(3) No teletype necessary regarding minor incidents in absence of some unusual circumstances which would make such action expedient.

(4) Incumbent upon the SAC to make arrangements to insure that information regarding actual or attempted train wrecks will be promptly reported to the field office so that Bureau will have effective coverage over this type of violation.

(5) The Bureau of Alcohol, Tobacco and Firearms (ATF), has jurisdiction over violations of Title 18, USC, Section 844(i), Federal Bombing Statute, which involve the malicious damaging or destruction, by means of an explosive, of property used in interstate or foreign commerce. According to Department of Justice investigative guidelines, ATF jurisdiction does not, however, apply to instances where the FBI had investigative jurisdiction in a separate substantive area prior to the enactment of the Federal Bombing Statute. This is the case insofar as explosives offenses are concerned under the Federal Train Wreck Statute (FTWS). Advise FBIHQ immediately by teletype of any attempts by the ATF to infringe upon FBI jurisdiction

Sensitive
PRINTED: 02/18/98

Sensitive

under FTWS.

(6) As investigations of this act may result in sentences of capital punishment (if the action results in the death of any person), Agents making such investigation should bear in mind that all evidence used in trial will be given strictest interpretation and will be subject to closest scrutiny by trial court. Every means should be taken to obtain and preserve pertinent evidence in such form that it will withstand scrutiny of court.

(7) Immediately following receipt of information regarding violation of this statute, painstaking investigation should be made at scene.

(8) Complete crime scene search should be immediately made in vicinity of wreck in effort to locate any evidence which might be of value to investigation. Search should not be confined to immediate vicinity as tools and other objects used to wreck a train have been located as much as a half mile away from place where wreck occurred.

(9) Photographs should be taken of general scene and of any physical evidence located at scene.

(10) A thorough neighborhood investigation should be conducted in area surrounding scene of wreck.

(11) Officials of railroad police department and other employees, particularly section foremen, should be questioned regarding possibility wreck was brought about by a former or disgruntled employee of railroad company.

(12) The use of facilities of the FBI Laboratory as investigative aid should be kept continuously in mind.

(13) In many instances train wrecks brought about as result of objects placed on railroad tracks by children. Where it is learned that children may have committed act which brought about the train wreck, consideration should be given to securing cooperation of officials of schools in vicinity in order that Agents may interview students for information which might lead to identity of children responsible for wreck.

(14) Time is of essence in initiating investigations. In order that securing of evidence through crime scene search may be enhanced, sufficient number of Agents should immediately be dispatched

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 160 - 4

to scene upon receipt of information that wreck was brought about as result of violation of this statute.

EFFECTIVE: 11/08/78

||160-3

REPORT WRITING RULES

(1) Forward to FBIHQ copy of any prosecutive summary report prepared in this classification of investigation for the USA's Office, utilizing current Bureau guidelines for the preparation of such reports.

(2) No report need be forwarded under any other circumstances unless it is determined to be the most logical means to disseminate the results of investigation accumulated, or when it is decided that a report is the best means to disseminate such results to other Federal agencies through FBIHQ rather than via an LHM.

EFFECTIVE: 11/08/78

160-4

PENALTIES

Maximum - \$10,000 or 20 years, or both. When act results in death, the penalty is death or life imprisonment.

EFFECTIVE: 11/07/94

||160-5|

CHARACTER - FEDERAL TRAIN WRECK STATUTE

EFFECTIVE: 11/08/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 161 - 1

SECTION 161. SPECIAL INQUIRIES FOR WHITE HOUSE, CONGRESSIONAL
COMMITTEES, AND OTHER GOVERNMENT AGENCIES

161-1 GENERAL INSTRUCTIONS

These instructions supplement those contained in Part II,
Section 17, of this manual.

EFFECTIVE: 12/10/91

161-2 AUTHORITY

See Part II, Section 17-1, of this manual for the
authority to conduct these investigations.

EFFECTIVE: 12/10/91

161-3 NATURE OF SPECIAL INQUIRIES

All Special Inquiries are personnel background investigations conducted pursuant to specific written request of the Office of the President or other government agencies for persons under consideration for Presidential appointments requiring Senate confirmation (PAS); other Presidential appointments (PA); staffs of the White House, National Security Council (NSC), and various congressional committees; and persons who require frequent access to the White House complex (telephone repair personnel, for example). Because of the sensitivity and/or the high level of positions involved, the highest priority consistent with the established Bureau deadline (BUDED) and absolute thoroughness are required in these investigations.

EFFECTIVE: 07/21/95

Sensitive
PRINTED: 02/18/98

Sensitive

161-4 TYPES OF SPECIAL INQUIRY CASES

The type of Special Inquiry investigation will be set out by the Special Inquiry Unit (SIU), FBIHQ, in the opening communication by subclassification (161A - 161L.) (MIOG, Part II, Section 17, defines the various 161 subclassifications.) The type of Special Inquiry investigation will fall within one of four different categories, which will also be set out in the opening communication.

Set forth below in (2) are the four categories of Special Inquiry investigations which are conducted based upon the client agency being served, the level of the position for which the candidate is being considered, and other considerations:

(1) Expanded Name Check (ENC) - Consists of a search of the candidate's name through FBIHQ records systems, including the Criminal Justice Information Services Division, National Crime Information Center (NCIC), Criminal Law Enforcement Application (CLEA), Intelligence Information System (IIS) and ELSUR index; checks of the field office general and any other specialized indices (except confidential and ELSUR) in field offices where the candidate works and resides; and checks of the civil and criminal files of the United States Attorneys' (USA) offices at these same locations. ENC's may be conducted in lieu of a full-field investigation or prior to the initiation of a full-field investigation. ENC's should not be confused with "regular name checks" which are handled by the Executive Agencies, Personnel, and Administrative Support Unit, Information Resources Division, for various client agencies. Regular name checks do not include checks of USAs' offices and FBI field office indices.

(2) Full-Field Investigation (FFI) - An FFI encompasses personal interviews and a wide range of record checks and is conducted in accordance with MIOG, Part II, Section 17. The scope of the investigation will depend upon the position involved and whether or not there has been a previous background investigation (BI) concerning the candidate. However, regardless of the scope of the investigation, field offices are expected to conduct whatever additional investigation that may be necessary to thoroughly and completely address any unfavorable information or issues developed. The scope of the various FFIs is set forth below, and will also be designated by the SIU in the opening communication:

Type of FFI Requested

Scope

Level I

Covers the extent of the

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 161 - 3

candidate's adult life. Level I BIs are conducted primarily on all Cabinet-level, Inspector General and senior White House staff appointments.

Level II

Covers the past fifteen years of the candidate's life or since age 18, or at least the last two years. Level II BIs are conducted for all other full-time Presidential appointees not covered by Level I and White House, National Security Council and Congressional committee staff/access positions.

Level III

Covers the past ten years of the candidate's life or since age 18, or at least the last two years. Level III BIs are primarily conducted on support, access and maintenance positions at the White House and part-time Presidential appointments.

Update Investigation

Covers the period of the candidate's life since a previous BI conducted by the FBI and when candidate has had continuous employment or access at the White House since the last BI.

(a) If the |SIU| can determine that another United States government agency previously conducted a BI concerning the candidate, the |SIU| will attempt to obtain the results of those investigation(s) prior to opening an FBI BI. The entire scope of the candidate's BI will be addressed by the FBI, but the results of the other agencies' BI will be used to supplement the 161 investigation, and duplicative leads will not be set out. The |SIU| will mark off items indicated on the candidate's personal history statement (Standard Form (SF) 86) that have previously been verified by another

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 161 - 4

agency and which do not need to be addressed in the FBI BI. The results of the prior BIs will also be used to identify issues that may have developed which may need to be further addressed by the FBI.

(b) If a field office develops information that a prior BI has been conducted by another agency and it appears that the |SIU| is not aware of this information, the field office is to immediately advise the |SIU| by telephone to determine if this information can be used to supplement the FBI BI.

(3) Limited Update Investigation (LUI) - Conducted at the request of the White House when an FFI has been completed within the last five years. The LUI is limited to an interview of the candidate; interviews of persons who are familiar with the candidate in a professional capacity; and appropriate records checks, i.e., FBI Headquarters and field office indices, law enforcement agencies, United States Attorneys' Offices, and appropriate state and/or federal agencies. Inquiries will also be conducted concerning any issue identified on the SF 86 or developed during the course of the LUI that has not been previously explored.

(4) Limited Inquiry (LI) - Conducted to resolve a particular issue or question usually arising from a regular name check or an ENC or after the completion of an FFI. It is not intended to be an FFI and only addresses the specific issue.

EFFECTIVE: 07/21/95

| 161-5 DEADLINES IN |SPECIAL INQUIRY|MATTERS

Investigative deadlines set by the |SIU| (BUEDS--the date the completed results of the investigation are expected to be received at FBIHQ) will be set from the date of the opening communication according to the following schedule; however, deadlines may be set at shorter or longer intervals to meet the needs of the client agency. The |SIU| will allocate as much time to the field to conduct these investigations as possible. In view of the fact that the maximum amount of available time is allotted to the field, field offices must assign sufficient personnel to assure that these cases are fully investigated, completed and reported to the |SIU| by the BUDED.

Subclassification or Category

BUDED Schedule

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 161 - 5

of Investigation

161 A, B, C, and L	21 Calendar Days
161 D, E, G, and I	30 Calendar Days
161 F, H, J Five-year Reinvestigations	75 Calendar Days
161K	10 Calendar Days
LUI (Can be any 161 subclassification, except 161K)	Will be set based upon subclassification
LI (Can be any 161 subclassification, except 161K)	Will be set by SIU based upon the nature of the inquiries to be covered

Refer to MIOG, Part II, Section 17-3.5, for specific instructions regarding those situations in which circumstances preclude reporting the complete investigation of a case by the BUDED.

EFFECTIVE: 07/21/95

161-6 INTERVIEWS

(1) A sufficient number of interviews of persons knowledgeable about the candidate must be conducted to cover that portion of the candidate's life falling within the scope of the investigation. In most cases the principal office(s), that is, the office(s) which covers the candidate's past five years of residence and employments, will be expected to obtain the majority of these interviews. The |SIU| will indicate in the opening communication the number of interviews expected of the principal office(s). Various factors are taken into consideration when deciding if a sufficient number of interviews have been conducted during a BI. Some significant factors are the candidate's age, number of employments, length of employments and position(s) held. The following chart sets forth the general standards regarding the total number of interviews which could reasonably be expected to be conducted (including interviews in neighborhoods, at employments, of given references and associates, and of other persons developed in the investigation who

Sensitive

are knowledgeable of the candidate); however, field offices should ensure that each aspect of the candidate's background is covered by interviewing individuals who would be in a position to comment concerning that person as opposed to merely obtaining "numbers."

(2) Should an office determine that it cannot locate sufficient persons to be interviewed, the |SIU| should be immediately notified by telephone. Prompt notification is essential so the |SIU| can provide guidance and coordination to the offices involved in the investigation. However, when conducting interviews, field offices are expected to determine from persons interviewed the names of other knowledgeable individuals and arrange to have those persons contacted, if necessary, to fulfill the interview requirements.

Type of BI	Interview Standards
ENC	None
FFI	
Level I	25 - 30
Level II	15 - 25
Level III	10 - 15
Five-Year Reinvestigation	5 - 7
LUI	5 - 10
LI	Interviews necessary only if specifically requested by the SIU

(3) Also, field offices are expected to conduct whatever investigation is required to thoroughly and completely address any unfavorable information or issues developed during an investigation to satisfy the FBI's obligation to ensure that full and complete information is developed regarding the candidate's suitability for federal office and/or employment.

EFFECTIVE: 07/21/95

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 161 - 7

161-7 DESCRIBE NATURE OF EMPLOYING FIRM

Briefly describe the nature of the business of employing firms when reporting employment verifications if the nature of the firm is not readily apparent.

EFFECTIVE: 01/18/91

161-8 AGENCY CHECKS

In Presidential appointment cases, particular attention must be given to conducting logical and appropriate agency checks as set forth in Part II, 17-6.13, of this manual. While FBIHQ will set leads for many of these checks, the field offices are in a position to judge which additional local offices of Federal agencies, state, county or city government agencies or private sources (e.g., Better Business Bureau) also might logically have record of complaints or investigations concerning the candidate or the businesses with which the candidate is associated. Therefore, field offices should carefully analyze the candidate's background and conduct those additional checks which could develop information bearing on a candidate's character and fitness for holding a position with the Federal Government.

EFFECTIVE: 01/18/91

161-9 CHARACTER (See MIOG, Part II, 17-2, for character, classification and alpha designators.)

EFFECTIVE: 07/21/95

Sensitive
PRINTED: 02/18/98

Sensitive

SECTION 162. INTERSTATE GAMBLING ACTIVITIES

162-1 OBJECTIVES

(1) Investigations under the Interstate Gambling Activities (IGA) classification are directed toward ascertaining the nature and scope of gambling activities in each field office, including the amount of illegal participation, the identity and location of layoff and illegal horse race wire facilities, the source of "line" information and manner in which it is disseminated, the type of numbers game which is prevalent in certain areas and the extent of corruption facilitating such illegal activities.

(2) Investigations under this classification are "intelligence-type" inquiries concerning certain phases of gambling activities and for conducting gambling surveys primarily for the purpose of developing all information to be considered for violations of Federal gambling statutes under the FBI's jurisdiction.

EFFECTIVE: 01/31/78

162-2 INVESTIGATIVE PROCEDURES

(1) Use of this classification should be confined to the gathering of intelligence data with respect to gambling activities and should not be used for general criminal intelligence inquiries.

(2) New cases on individual gambling subjects, developed as a result of IGA investigations, should be handled as substantive matters under the appropriate substantive gambling statutes, depending on the nature of the violations.

(3) Leads to initiate investigations may result from information provided by informants, contacts with law enforcement agencies and from public sources.

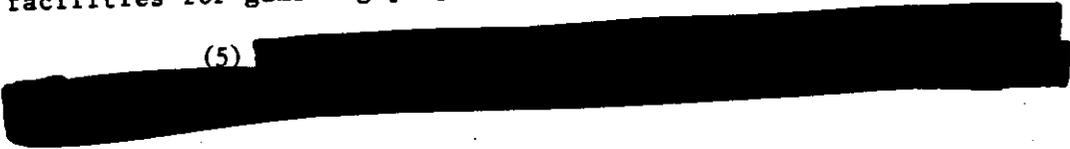
(4) It is important that each field office develop a well-rounded picture of the integral functions of major gambling operations in their respective territories. This will require that all field offices are fully aware of the make up, operational detail and control of large-scale gambling operations within their areas and

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 162 - 2

whether or not they are making use of interstate wire communication facilities for gambling purposes.

(5) 

EFFECTIVE: 01/31/78

162-3 REPORT WRITING PROCEDURES

Copies of these reports are disseminated and it is essential that information included in them as furnished by confidential informants be appropriately paraphrased to protect the identities of these sources. Form FD-302 should be used to record all information of an evidentiary nature including interviews of subjects and potential witnesses whenever deemed appropriate.

EFFECTIVE: 01/31/78

162-4 CHARACTER - INTERSTATE GAMBLING ACTIVITIES

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

SECTION 163. FOREIGN POLICE COOPERATION

163-1 POLICY

As many Bureau cases require the investigative assistance of foreign police and intelligence agencies, the Bureau will reciprocate by conducting investigations for such agencies in the United States. FBIHQ will also arrange for investigations in the foreign countries covered by Legal Attaches on behalf of U.S. agencies and state or local police.

EFFECTIVE: 10/18/88

163-1.1 Investigative Request

Foreign Police Cooperation (FPC) requests are to be accepted in the following categories:

(1) Requests of foreign police and security agencies for coverage of investigative leads in our field offices in the United States arising out of foreign investigations.

(2) Requests for name checks of Bureau files and name or fingerprint searches of the Criminal Justice Information Services Division records.

(3) Requests by U.S. agencies abroad in matters handled by them provided they have no adequate facilities to handle such investigations themselves.

(a) Border offices should advise FBIHQ promptly upon receipt of requests for investigation and of any action taken pursuant thereto. FBIHQ need not be advised of routine requests on which individual cases are not opened.

(b) Requests received at FBIHQ from Legal Attaches and other sources will be referred to the field by FBIHQ. In the absence of additional instructions or information known to the field office which would make it inadvisable, the requested investigation should be conducted. The investigation should be limited to the request and to the coverage of logical leads growing out of the

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 2

information developed. Recommendations for additional investigation outside the scope of the original request should be set forth in the cover letter transmitting the results of the investigation to FBIHQ and should await FBIHQ approval.

EFFECTIVE: 03/05/96

163-2 INVESTIGATIVE INSTRUCTIONS AND PROCEDURES

Since investigative requests are received by Legal Attaches or border offices (FBIHQ in some matters) the following should be secured:

- (1) Brief resume or background of case.
- (2) Descriptive data of subjects or suspects, including photographs, if available.
- (3) Pertinent information that will aid investigation.
- (4) A concise statement of what information or investigation is desired.

EFFECTIVE: 10/18/88

163-2.1 Opening Foreign Police Cooperation (FPC) - General Criminal Matters (GCM)

(1) The following guidelines should be adhered to in all 163A (FPC-GCM) investigations:

(a) When information received by the FBI from a foreign police agency contains no substantive U.S. statutory violation, but the submitting agency requires FBI assistance in investigating a criminal offense which occurred in the host country, the Legat should first assess the nature of the crime and open a 163 case in accordance with existing guidelines, i.e., 163A, 163B, etc.

(b) When a host government police agency has provided details which appear to warrant statutory investigative

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 3

interest by the FBI, but are of no further interest to the host government, Legats should submit same in a detailed communication to the appropriate field office(s). If a field office opens a substantive case and assumes origin, the Legat providing the initial information should be so advised. To facilitate transmission of initial information, Legats should submit an initial communication under the zero (miscellaneous) classification of the alleged violation, e.g., 7-0, 196-0, 281-0, etc.; or if the violation is not well defined, the 163-0 classification.

(c) When a foreign police/security agency provides information requiring investigative lead coverage on their behalf which also discloses a potential/existing violation of U.S. federal statutes or investigative interest within FBI purview, Legats should submit same under the appropriate 163 classification, with the Legat assuming office of origin status to coordinate the FPC aspects of the investigation. This does not preclude a field office from initiating a separate spin-off case under the substantive violation, if circumstances warrant same; however, results of Legat's inquiries should be reported under the appropriate 163 classification.

(d) Noncompulsory Letter Rogatory and Mutual Legal Assistance Treaty requests facilitated through the Office of International Affairs (OIA), DOJ, from a respective Ministry of Justice/Interior in the host country and subsequently furnished to FBIHQ for investigation by the field will be managed by the International Relations Section (IRS), Criminal Investigative Division (CID), according to the above provisions.

EFFECTIVE: 03/08/96

163-2.1.1 Letter Rogatory Process

(1) OIA, DOJ, will send FBI-designated requests of a judicial nature, known as "letters rogatory" or "compulsory investigations/inquiries," directly to the AUSA with instructions for the AUSA to contact the appropriate federal law enforcement agency, which will include the FBI, to assist with the investigation. In the past, these requests were received in the International Relations Section (IRS), Criminal Investigative Division (CID), and sent to each field office with instructions to coordinate the request with the AUSA in the same district.

Sensitive
PRINTED: 02/18/98

Sensitive

(2) Upon receipt of the request from the AUSA, each office is instructed to conduct a global and HQ indices search before opening the case. If the search reveals a no record response, the field office should open the matter as a 163A and assume origin for the investigation. If the indices search reveals an office has already opened the matter, each office will then use the existing universal case file number with the originating office as office of origin. Also, if the indices search reveals an ongoing investigation under a different classification, the office of origin should contact the office where the investigation is being conducted to coordinate with the appropriate desk before opening a 163A case.

(3) Upon completion of the investigation, each field office will report the results to the AUSA in your district which provided the tasking, not the office of origin. The AUSA will be responsible for disseminating your final product, i.e., letterhead memorandum or FD-302 to OIA for the foreign government requesting the Letter Rogatory/Mutual Legal Assistance Treaty (MLAT) request.

(4) To ensure that foreign fugitive cases meet the requirements for issuance of a provisional arrest warrant and subsequent extradition, no field investigation in these matters is to be undertaken prior to receipt of FBIHQ authorization except in most urgent cases. Legats or offices with border liaison may set out such leads with appropriate background and descriptive information but with the caveat that no investigation is to be undertaken until FBIHQ, IRS, authorization is received. FBIHQ will coordinate the request with DOJ, OIA, to ensure that the treaty and other international considerations are met.

Additionally, FBIHQ will check with Interpol Washington to determine if a parallel request for a fugitive investigation had been received by the U.S. National Central Bureau (USNCB) of Interpol and is being handled by another agency. If another agency is already conducting the fugitive investigation, interested Legats and field offices will be advised to discontinue. Any office locating a foreign fugitive is to immediately advise FBIHQ, IRS, and the local USA's Office. The USA's Office should be requested to make immediate contact with DOJ and OIA. (See 163-5, 163-5.2.)

(5) For your information, requests for investigations that do NOT require compulsory process will still be directed to IRS, FBIHQ. IRS, CID, will remain as office of origin in matters which are conducted solely on a reciprocal basis pursuant to a request for assistance by the foreign government via OIA. FBIHQ will coordinate

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 5

responses with the appropriate field office on behalf of OIA, and responses will be directed to IRS and subsequently furnished to OIA.

(6) All recipients are reminded that these changes pertain only to 163A FPC-GCM investigations/inquiries and do not change reporting procedures relevant to 163B (INTERPOL), 163C (DOMESTIC SECURITY/DOMESTIC TERRORISM), or 163E (NAME TRACE) cases.

EFFECTIVE: 03/08/96

163-3 REQUESTS FOR DOMESTIC SECURITY/TERRORISM INVESTIGATIONS

Requests for investigation by agencies of a foreign government concerning domestic security/terrorism matters are to be handled under the caption of "Foreign Police Cooperation." Bureau assistance will be limited to checks of Bureau files as well as records of state, local and Federal law enforcement agencies.

EFFECTIVE: 10/16/90

163-4 REQUESTS FOR NAME AND FINGERPRINT CHECKS

Requests received from a foreign police or intelligence agency for a search of Bureau files and/or a search of Bureau fingerprint records should be designated for the Executive Agencies Subunit, Information Resources Division (IRD). Requests for a search of Bureau fingerprint records should only be designated to the Criminal Justice Information Services Division. Requests for a search of Bureau files and/or a check of fingerprint records, which also includes a request for field office investigation, should be designated to the attention of the International Relations Section, CID.

EFFECTIVE: 03/05/96

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 6

163-5 FOREIGN FUGITIVES

A foreign fugitive cannot be arrested in the United States based on the foreign warrant alone. So-called international arrest warrants are not valid in the United States. Current United States law requires that a foreign government must request the arrest of a fugitive from that country by formal diplomatic note and agree to extradite the fugitive. The fugitive must then be located in a particular Federal judicial district, and, thereafter, a United States provisional arrest warrant must be issued in that district for his/her arrest prior to the actual arrest.

EFFECTIVE: 10/16/90

| 163-5.1 Policy|- Moved to 163-2.1.1|

EFFECTIVE: 03/08/96

| 163-5.2 Case Captions|(See 163-2.1.1.)|

All communications in Foreign Police Cooperation matters involving foreign fugitives will contain the name of the subject and aliases, the character, and the words "Foreign Fugitive," followed by the name of the foreign country concerned. For example:

JOHN DOE, aka
Sam Smith;
FOREIGN POLICE COOPERATION
FOREIGN FUGITIVE - FRANCE
OO: FBIHQ

EFFECTIVE: 03/08/96

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 7

163-6 REPORTING

The reputation of the Bureau within foreign agencies will be directly affected by the manner in which FPC cases are handled. The quality of the investigations, the promptness with which they are conducted, and the accuracy and completeness of the reporting of the results thereof will come directly under the scrutiny of officials of foreign police and security agencies. It is, therefore, incumbent upon each Agent to whom a case of this type is assigned to investigate it promptly and thoroughly and to report the results accurately and completely.

(1) All communications, except LHMs, transmitting a Foreign Police Cooperation matter should include "Foreign Police Cooperation" in the caption, along with the correct investigative program according to the alpha designator, and should be marked for the attention of the particular unit and division that is handling same.

The alpha designators and an explanation of each are as follows: (See MAOP, Part II, 3-1.1, 3-1.2, 10-23; Correspondence Guide-Field, 1-17.1.)

(a) 163A-Foreign Police Cooperation - General Criminal Matters should be marked to the attention of the International Relations Section (IRS), CID.

(b) 163B-Foreign Police Cooperation - International Criminal Police Organization (Interpol) should be marked to the attention of the IRS, CID.

(c) 163C-Foreign Police Cooperation - Terrorism, should be marked to the attention of the Domestic Terrorism Unit, National Security Division.

(d) 163E-Foreign Police Cooperation - Bureau Files and Criminal Justice Information Services Division - Information Requests should be marked to the attention of the Executive Agencies Subunit, Information Resources Division (IRD).

(2) FBIHQ has determined that several foreign police agencies prefer the use of an FD-302 or handwritten statement in lieu of the previously required LHMs when testimony of the investigating Agent/Officer is expected. The FD-302 and handwritten statements have been accepted in foreign courts without further testimony of the investigator, thus, precluding excessive costs associated with travel

Sensitive
PRINTED: 02/18/98

Sensitive

and lodging which must be borne by the FBI. Therefore, use of above communications are approved, noting that use of LHMs are still preferred in noncompulsory cases since they provide a reporting flexibility beyond that of an FD-302. All provisions surrounding the protection of sources and disclosure of third agency information furnished to the foreign governments still apply.

(a) Legats and field offices are advised that lead coverage for federal government executive agencies within the Washington, D.C., metropolitan area should be directed to the Washington Metropolitan Field Office.

(b) Legats should obtain all possible identifying information on subjects and witnesses from the foreign police agencies so that field offices are able to readily identify, locate, and interview same. Legats are to ensure that indexing of pertinent subjects, et al., is entered into FOIMs.

(3) Results of investigation should be submitted via LHM or FD-302 (original and five copies) to the office of origin.

(4) Do not use the character "Foreign Police Cooperation" in LHMs. The caption should be limited only to the subject(s) and aliases and substantive character (i.e., Financial Institution Fraud). (See Correspondence Guide-Field, 2-5.5.6; Correspondence Guide-HQ, 12-7(5).)

(5) Mark nondissemination copies of documents with proper classification level (Top Secret, Secret, Confidential) and authority and OADR or declassification information. Mark dissemination copies with the classification level only and omit authority and OADR or declassification information. (See Correspondence Guide-HQ, 12-1, 12-3, 12-7(7).)

(6) No classified information may be included when the LHM is submitted through Interpol channels. Dissemination of classified information generally is made to foreign governments when information disseminated may serve U.S. national security or policy interests.

(7) The property statement should appear on LHMs being disseminated to a foreign government. (See Correspondence Guide-FBIHQ, 12-2, 12-4; Correspondence Guide-Field, 2-5.3, 2-5.5.2.)

(8) Do not include the names of Agents and law enforcement officers in the LHM. Agents and law enforcement officers

Sensitive

should be identified in the cover communication.

(9) Information from confidential sources and techniques must be paraphrased in such a way as to fully protect their identities. When reporting information from an informant, do not use "T" symbols or the words "source" or "informant." The phrase "investigation has disclosed" or similar wording should be used.

(10) Personal addresses in the United States and Social Security Numbers are to be omitted on LHMs unless they are pertinent to the inquiry.

(11) If the request concerns information from a local, state, or other federal government agency, include in the LHM only the information which that agency is willing to have furnished to the interested foreign government. A statement should be included in the cover communication indicating authority has been secured and the agency has agreed to such dissemination.

(12) In applicant-type investigations for foreign agencies, no reference should be made to the applicant's loyalty to the United States. In such cases, inquiries should be made as to whether the applicant is loyal to democratic principles.

(13) Signed statements in foreign countries should be taken only when specifically requested or when good judgment dictates. If feasible, secure a foreign police officer to witness the signing of the statement. (See Part II, Section 23-8.2 (8), (9), and (10) of this manual.)

(14) Results of routine investigation conducted by FBI field offices on behalf of a foreign government must reach FBI Headquarters within 60 days from the date of the Bureau communication which forwarded the request, unless a shorter deadline is specified. Legal Attaches are given 90 days to respond.

(15) Avoid using dual characters. If a foreign police cooperation request develops into a substantive Bureau case, the character "Foreign Police Cooperation" should be dropped and the proper character used.

(16) All Bureau instructions concerning investigations and report writing are applicable to this classification, unless specifically modified herein.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 10

EFFECTIVE: 03/08/96

163-7 RULE 6(E) MATERIAL

Grand Jury material should not be disclosed to representatives of foreign governments. If foreign government representatives cannot conduct the investigation without Grand Jury material disclosure, the field office from which the lead originated should have the attorney for the government in the district where the Grand Jury was convened petition the court for a court order directing disclosure pursuant to Rule 6(e)(3)(C)(i).

EFFECTIVE: 10/18/88

163-8 PRIVACY ACT

(1) The Privacy Act of 1974 does not preclude dissemination of information to a foreign government. The act's coverage is limited to records in a system of records containing retrievable information about U.S. citizens or aliens lawfully admitted for permanent residence in the United States. The Privacy Act has no application if records sought to be reviewed do not contain personally identifiable and retrievable information. The FBI Central Records System encompasses all centralized records of not only FBI Headquarters, but our field and Legat offices.

(2) Dissemination of information from FBI Central Records Systems to a foreign government is proper when the following conditions have been met:

(a) Information is disclosed to a legitimate agency of a foreign government;

(b) The FBI determines the information is relevant to the agency's responsibilities;

(c) Dissemination serves the best interests of the U.S. Government;

(d) The purpose in making the disclosure is compatible with the purpose for which the information was collected.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 11

EFFECTIVE: 10/18/88

163-9 RIGHT TO FINANCIAL PRIVACY ACT

(1) The Right to Financial Privacy Act controls the U.S. government's access to financial information in financial institutions. Foreign governments frequently request access to the financial records of individuals in the United States in connection with criminal inquiries. A request from a foreign government for financial records must emanate from a foreign adjudicative body

(foreign court) in the form of a letter of request. Upon receipt of such a request from a foreign government, the Department of Justice, Office of International Affairs, seeks a court order under Title 28, USC, Section 1782. The order directs a financial institution to deliver the information to the Department of Justice for transmittal to the foreign government.

(2) Accordingly, requests emanating from foreign governments for financial records maintained in U.S. financial institutions, should be submitted through diplomatic channels directly to the Department of Justice, Office of International Affairs, or may be forwarded to FBIHQ, Criminal Investigative Division, International Relations Section.

EFFECTIVE: 03/05/96

163-10 INTERNATIONAL CRIMINAL POLICE ORGANIZATION (INTERPOL)

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 12

| 163-10.1 Background | (See Legal Attache Manual, 6-9.) |

(1) Interpol has a membership composed of 147 countries. It exists for the purpose of facilitating international criminal investigations. By providing a communications channel among the member countries, Interpol provides a full range of law enforcement services from records checks to the accomplishing of complex criminal investigations. Interpol will, upon request, transmit a worldwide All Points Bulletin (APB) or issue an international wanted notice to locate and effect the arrest of international fugitives.

(2) Interpol member nations will only cooperate in criminal matters, which include acts of international terrorism. No classified, source sensitive, or foreign counterintelligence information will be accepted for investigation.

(3) The constitution of Interpol strictly prohibits involvement by the organization in political, religious, racial, or military matters.

(4) The U.S. National Central Bureau (USNCB) of Interpol is located within the Department of Justice and is operated jointly by the Departments of Justice and Treasury with a membership composed of representatives of the FBI; Bureau of Alcohol, Tobacco and Firearms (BATF); Drug Enforcement Administration (DEA); Internal Revenue Service (IRS); United States Marshals Service (USMS); Postal Inspection Service; Secret Service; Office of the Inspector General, Department of Agriculture; and the Department of State.

(5) The USNCB of Interpol has access to and is able to check many electronic indices and data bases through in-house terminals. These include: FBI National Crime Information Center (NCIC); FBI Criminal History Records (Interstate Identification Index); Drug Enforcement Administration (DEA) Narcotic and Dangerous Drug Information System (NADDIS); U.S. Treasury Enforcement Computer System (TECS); USNCB Interpol Case Tracking System (ICTS); Immigration and Naturalization Service (INS) records; all drivers' license and vehicle registration records of 50 states.

(6) | The | responsibility for Interpol matters | is handled by the International Relations Section (IRS), CID. The IRS is the Bureau's designated point of contact with the USNCB. |

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 13

EFFECTIVE: 03/05/96

163-10.2 Policy (See Legal Attache Manual, 6-9.)

(1) FBI requests for foreign investigation of matters involving substantial FBI interest in all FBI Programs will be handled by our Legal Attaches (Legats) unless there is an excepted concurrence of FBI Headquarters (FBIHQ) and the appropriate Legat. All matters under our National Foreign Intelligence Program; sensitive matters, such as source protection; classified matters; and civil rights matters are to be handled by our Legats.

(2) Where the FBI is not formally accredited and where the FBI does not have formal representation, investigative requests from the FBI to a foreign country will be handled by Bureau representatives at Interpol or the Department of State.

(3) With the concurrence of the appropriate Legat, or at his/her request, simultaneous criminal FBI investigative leads in multiple countries, requiring expeditious handling, will be handled by Interpol.

(4) Foreign criminal record check requests involving auto registration, drivers' licenses, birth records, passports, outstanding warrants (wants), and criminal history (arrest records) in which the request requires no additional investigation will, for the most part, be handled by Bureau representatives at Interpol.

(5) The handling of all requests by foreign countries for criminal investigative assistance to the FBI will be left to the discretion of our Legats.

(6) Legats may wish to handle matters from foreign governments, which are insubstantial, through direct contact with the foreign Interpol channel.

(7) Frequently, situations arise whereby foreign police entities request Legat assistance and/or involvement on their investigations and simultaneously request assistance in the same investigations through Interpol, USNCB, Washington, D.C. In those situations where the Legat suspects that dual requests are likely to occur, Legats are requested to ensure that the foreign police entities indicate on Interpol communications that there has been previous coordination with the Legat and/or investigative action by the FBI in

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 14

the U.S. This will ensure the matter is handled by the FBI representative to Interpol, as opposed to some other agency representative.

(8) FBI field offices on routine investigative matters are to communicate with Interpol, USNCB, via International Relations Section (IRS), Criminal Investigative Division (CID), FBIHQ. No direct communication to the USNCB by the National Law Enforcement Telecommunications Systems (NLETS) or other means is to be undertaken by Bureau field offices, except in urgent matters by telephone to the FBI representative at the USNCB. Telephonic inquiries in such instances must be confirmed by teletype to FBIHQ. State and local law enforcement agencies within the U.S. may contact the USNCB via NLETS or other available systems to request investigative assistance. Legats can directly access USNCB, Washington, D.C., via their Embassy's telecommunications system. The FBI representative at the USNCB will, upon receipt of a request by telex, set forth leads to any foreign NCB on behalf of the Legat. Legats may, at their discretion, utilize the Interpol NCBs in the various countries in their territories to assist them in covering criminal leads.

(9) All communications in reply to Interpol requests or from the FBI requesting Interpol assistance will be by LHM with a cover electronic communication, unless circumstances dictate the use of a teletype. Regardless of character, the titles of all communications concerning Interpol-related matters should contain the additional character "Interpol," and when directed to FBIHQ, should be to the attention of IRS, CID.

(10) Requests from field offices for Interpol record checks may be submitted to FBIHQ to the attention of IRS, CID, by LHM or, in urgent cases, by teletype. All available identifying data regarding the individual should be included in the LHM, along with a statement indicating the type of criminal activity under investigation. Such a statement is required to ensure that the request falls within the Interpol Constitutional guidelines. Such record checks will include Interpol files at USNCB, the General Secretariat in Lyon, France, and, when requested, specific Interpol member countries.

EFFECTIVE: 03/05/96

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 15

163-10.3 International Notices

(1) International Notices are published by Interpol to provide the police services of all member countries, via their NCBs, with information about persons and property. The Interpol General Secretariat validates these notices every five years.

(2) The six types of International Notices are described as follows:

(a) RED NOTICE - Red Notices request the arrest of a subject with a view to extradition. These notices provide details of the charge against a subject, along with warrant information and prior criminal record. The USNCB requests the Interpol General Secretariat to issue Red Notices only after review and approval of the Department of Justice, Office of International Affairs.

(b) BLUE NOTICE - Blue Notices request information regarding a person, such as his/her criminal record or verification of his/her identity. They are also used to locate missing persons, locate a criminal who has not been fully identified, or to locate a wanted person whose extradition may be requested.

(c) GREEN NOTICE - Green Notices disseminate information about persons who have or are likely to commit crimes affecting several countries and who may be in those countries. Specific details are given regarding prior arrests and convictions. Green notices are issued concerning only important international criminals.

(d) BLACK NOTICE - Black Notices provide information about unidentified bodies of deceased persons who were probably using false identities. Photographs of the body, description, fingerprints, and dental charts, as well as other identifying information is included.

(e) STOLEN PROPERTY NOTICE - Stolen Property Notices provide information about stolen property or recovered property suspected of being stolen. In the case of works of art or cultural objects, a photograph or detailed description is included along with facts concerning the theft or recovery.

(f) MODUS OPERANDI NOTICE - Modus Operandi Notices provide information concerning the modus operandi, procedures and hiding places used by international criminals. These notices also serve to centralize such information at the Interpol General

Sensitive

PRINTED: 02/18/98

Sensitive

Secretariat to assist in analyzing worldwide criminal activity.

(3) All requests for the issuance of an Interpol International Notice will be forwarded to FBIHQ, Attention: International Relations Section, CID, in LHM form with a cover communication. The cover communication will set forth sufficient background and justification for such a request to permit FBIHQ to make a determination whether the request should be forwarded to Interpol, USNCB. Include in the cover communication the name of the Assistant United States Attorney handling the case and his/her opinion regarding extradition. In UFAP cases, list local warrant information first and list the name, address, and telephone number of the local prosecutor.

(4) LHMs requesting the issuance of a Red Notice will contain the usual case title, a brief summary of the investigation to date, and the following numbered and captioned paragraphs:

1. Present family (last) name
2. Family name at birth or previous family name
3. Forenames
4. Aliases and nicknames
5. Sex
6. Date of birth
7. Place of birth
8. Father's name
9. Mother's maiden name
10. Nationality (indicate confirmed or not confirmed)
11. Identity (indicate verified or not verified)
12. Occupation
13. Areas, places, or countries subject may visit
14. Date of photograph
15. Identity documents (type, number, date and place of issue)
16. Detailed physical description
17. Characteristics (habits, mannerisms, etc.)
18. Languages spoken
19. Warrant information (this information must be provided for each and every warrant outstanding for the subject)
 - a. Warrant number(s)
 - b. Date(s) of issue
 - c. Court(s) of issue
 - d. Federal or state criminal citation(s) (i.e., Title 18, USC, Section 659)
 - e. Type(s) of offense (i.e., Theft from

Sensitive

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 17

Interstate Shipment)

f. Maximum penalty for each charge or sentence,
if already convicted

g. Name of prosecuting attorney familiar with
facts of the case and his/her official address and telephone number

20. Summary of the facts of the case (date, place,
modus operandi)

21. Name(s) of accomplice(s)

22. Previous convictions (date, place, charge,
sentence)

(5) Three clear copies of the subject's photograph must accompany the LHM. FBIHQ will automatically provide Interpol a copy of subject's fingerprints from Criminal Justice Information Services Division records.

(6) LHMs requesting Blue or Green Notices should follow the same format as for Red Notices with the omission of nonapplicable information.

(a) Blue or Green Notice requests concerning criminals who have not been fully identified or who are wanted and whose extradition may be requested should substitute the following paragraph information:

1. Family name
2. Forenames
3. Date and place of birth (indicate if
verified)
4. Father's name
5. Mother's maiden name
6. Marital status
7. Spouse's name
8. Identity documents (type, number, date and
place of issue)
9. Occupation
10. Nationality (indicate if verified or not
verified)
11. Identity (indicate exact or uncertain)
12. Aliases and nicknames
13. Previous addresses with dates
14. Types of crimes committed and modus operandi
15. Detailed physical description
16. Languages spoken
17. Reason for and date of last arrest and date

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 18

of release (Blue Notice requests concerning missing persons should contain a detailed account of the disappearance)

18. Previous convictions (date, place, charge, sentence)

19. Address to which subject intended to go after release

(b) Dental charts, if available, should accompany missing person Blue Notice requests in addition to photographs.

(c) Offices contemplating the submission of a request for a Stolen Property Notice involving works of art or cultural property should communicate with the IRS, CID, for details of the descriptive information required for such notices.

(7) The information contained in LHMs requesting the issuance of International Notices will be subjected to close scrutiny and verification at FBIHQ, and LHMs requiring changes will be returned to the field for resubmission.

(8) Upon issuance of an Interpol International Notice, a copy will be provided to the office of origin which will be responsible for the immediate notification of FBIHQ by LHM of any change in the notice information, including the apprehension of a fugitive or the recovery of all or part of any stolen property. All Legats will be provided a copy of Interpol International Notices issued at the request of the Bureau and will be notified by FBIHQ of modifications or cancellations thereto.

EFFECTIVE: 03/05/96

163-11 OFFICE OF ORIGIN (See MAOP, Part II, 10-16.2(7).)

(1) Legal Attaches will be the office of origin (00) in all 163 cases which do NOT require Bureau assistance/input.

(2) International Relations Section (IRS), CID, will continue to function as the originating office on Foreign Police Cooperation requests from the foreign law enforcement representatives based in Washington, D.C. (163A); on requests made by foreign law enforcement through Interpol (163B); and on foreign requests made through the Office of International Affairs (OIA/DOJ). IRS, CID, will continue to assist operational leads through the Interpol channel.

Sensitive

PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 163 - 19

(a) The Executive Agencies|Subunit|will handle all 163E record check requests to be conducted at FBIHQ. The originator of the request will be the OO.

(b) The Bureau Applicant|Investigations|Unit (BAIU) will handle (163E) applicant/background investigative requests in the United States on behalf of foreign governments. These applicant/background foreign government investigative requests are on United States and non-United States persons who are either themselves or are relatives of persons who are being considered for sensitive positions in the foreign government and require security clearances. The originator of the request will be the OO.

(c) The Domestic Terrorism Unit,|National Security|Division, will retain OO status in all 163C Domestic Security/Terrorism (DS/T) investigations.

EFFECTIVE: 03/05/96

||163-12| CHARACTER - FOREIGN POLICE COOPERATION

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 1

SECTION 164. CRIME ABOARD AIRCRAFT

164-1 BACKGROUND

(1) As a result of several aggravated incidents aboard commercial aircraft during 1961 which included the first actual hijacking of an aircraft in the United States, Congress on September 5, 1961, passed an amendment (Public Law 87-197) as embodied in the Federal Criminal Statutes as Title 49, USC, Section 1472. This statute specifically designated the FBI to investigate violations of aircraft piracy and related criminal acts as contained in subsections (i) through (n) of this statute. Title 49, U.S. Code, Chapter 465, addresses crimes committed aboard aircraft to include aircraft piracy, interference with flight crews, carrying weapons or explosives aboard aircraft and false information and threats. Chapter 465 replaces subsections (i), (j), (l), (m), and (n) of Title 49, USC, Section 1472 (Public Law 103-272), which also moved the section concerning the FBI's exclusive jurisdiction over those offenses from subsection 1472 (o) to Title 28, USC, Section 538.

(2) As a result of several incidents where accidents involving common carriers resulted from operators being impaired by alcohol or drugs, Title 18, USC, Sections 341, 342, and 343, were enacted to address the obvious concern for public safety.

(3) Executive Order 12564, dated 9/15/86, entitled "Drug Free Federal Workplace," facilitated drug screening of airline pilots.

EFFECTIVE: 12/23/96

164-2 STATUTES

Title 49, USC, Section 46314 or Chapter 465 and Title 28, USC, Section 538; Title 18, USC, Sections 341, 342, 343; and Executive Order 12564.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 2

EFFECTIVE: 12/23/96

164-2.1 Section 46502. Aircraft Piracy

"(a) IN SPECIAL AIRCRAFT JURISDICTION.--(1) In this subsection--

"(A) 'aircraft piracy' means seizing or exercising control of an aircraft in the special aircraft jurisdiction of the United States by force, violence, threat of force or violence, or any form of intimidation, and with wrongful intent.

"(B) an attempt to commit aircraft piracy is in the special aircraft jurisdiction of the United States although the aircraft is not in flight at the time of the attempt if the aircraft would have been in the special aircraft jurisdiction of the United States had the aircraft piracy been completed.

"(2) An individual committing or attempting to commit aircraft piracy--

"(A) shall be imprisoned for at least 20 years;
or

"(B) notwithstanding section 3559(b) of title 18, if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life."

"(b) OUTSIDE SPECIAL AIRCRAFT JURISDICTION--(1) An individual committing or conspiring to commit an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) on an aircraft in flight outside the special aircraft jurisdiction of the United States--

"(A) shall be imprisoned for at least 20 years;
or

"(B) notwithstanding section 3559(b) of title 18, if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

"(2) There is jurisdiction over the offense in paragraph (1) if--

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 3

"(A) a national of the United States was aboard
the aircraft;

"(B) an offender is a national of the United
States; or

"(C) an offender is afterwards found in the
United States.

"(3) For purposes of this subsection, the term
'national of the United States' has the meaning prescribed in Section
101(a)(22) of the Immigration and Nationality Act (8 U.S.C.
1101(a)(22))."

EFFECTIVE: 12/23/96

164-2.2 Section 46504. Interference With Flight Crew Members
and Flight Attendants

"An individual on an aircraft in the special aircraft
jurisdiction of the United States who, by assaulting or intimidating
a flight crew member or flight attendant of the aircraft, interferes
with the performance of the duties of the member or attendant or
lessens the ability of the member or attendant to perform those
duties, shall be fined under title 18, imprisoned for not more than
20 years, or both. However, if a dangerous weapon is used in
assaulting or intimidating the member or attendant, the individual
shall be imprisoned for any term of years or for life."

Public Law 101-164, passed 11/21/89, amended Section 404
of the Federal Aviation Act of 1958 by prohibiting smoking on domestic
airline flights scheduled for six hours or less. Violations of these
restrictions are investigated and reported to the Flight Standards
Group of the FAA and not the FBI. However, it is possible that a
violation of Section 46504 (formerly 1472(j)) could occur, should an
attempt to enforce the "No Smoking" restriction by a flight crew
member, or attendant, evolve into an assault, intimidation or threat
towards that crew member or attendant. Should such an incident occur,
FBI investigation would be warranted.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 4

EFFECTIVE: 12/23/96

| 164-2.3 | Section | 46505. | Carrying | a Weapon or Explosive on an
Aircraft

"(a) DEFINITION.--In this section, 'loaded firearm' means a starter gun or a weapon designed or converted to expel a projectile through an explosive, that has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip.

"(b) GENERAL CRIMINAL PENALTY.--An individual shall be fined under title 18, imprisoned for not more than ten years, or both, if the individual--

"(1) when on, or attempting to get on, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight;

"(2) has placed, attempted to place, or attempted to have placed a loaded firearm on that aircraft in property not accessible to passengers in flight; or

"(3) has on or about the individual, or has placed, attempted to place, or attempted to have placed on that aircraft, an explosive or incendiary device.

"(c) CRIMINAL PENALTY INVOLVING DISREGARD FOR HUMAN LIFE.
--An individual who willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, violates subsection (b) of this section, shall be fined under title 18, imprisoned for not more than 15 years, or both.

"(d) NONAPPLICATION.--Subsection (b)(1) of this section does not apply to--

"(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the United States Government, authorized to carry arms in an official capacity;

"(2) another individual the Administrator of the

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 5

Federal Aviation Administration by regulation authorizes to carry a dangerous weapon in air transportation or intrastate air transportation; or

"(3) an individual transporting a weapon (except a loaded firearm) in baggage not accessible to a passenger in flight if the air carrier was informed of the presence of the weapon."

EFFECTIVE: 12/23/96

|164-2.4| Section|46506. Application of Certain Criminal Laws to Acts on Aircraft

"An individual on an aircraft in the special aircraft jurisdiction of the United States who commits an act that--

"(1) if committed within the special maritime and territorial jurisdiction of the United States (as defined in Section 7 of Title 18) would violate section 113, 114, 661, 662, 1111, 1112, 1113, or 2111, or Chapter 109A of title 18, shall be fined under title 18, imprisoned under that section or chapter, or both; or

"(2) if committed in the District of Columbia would violate section 9 of the Act of July 29, 1892 (D.C. Code, sec. 22-1112), shall be fined under title 18, imprisoned under section 9 of the Act, or both."

(1) As enumerated in Title 49, USC, |46506, |Title 18, defines the following violations:

Section 113.	Assault
Section 114.	Maiming
Section 661.	Embezzlement and Theft
Section 662.	Receiving Stolen Property
Section 1111.	Murder
Section 1112.	Manslaughter
Section 1113.	Attempt to Commit Murder or Manslaughter
Section 2111.	Robbery
Section 2241.	Aggravated sexual abuse
Section 2242.	Sexual abuse
Section 2243.	Sexual abuse of a minor or ward

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 6

Section 2244. Abusive sexual contact
|Section 2245. Sexual abuse resulting in death
(See MIOG, Part I, 45-2 and 70-2.)|

(2) As referred to in Title 49, USC, Section|46506,|
Section 22-1112, D.C. Code states:

"(a) It shall not be lawful for any person or persons to make any obscene or indecent exposure of his or her person, or to make any lewd, obscene, or indecent sexual proposal, or to commit any other lewd, obscene, or indecent act in the District of Columbia, under penalty of not more than \$300 fine, or imprisonment of not more than ninety days, or both, for each and every such offense.

"(b) Any person or persons who shall commit an offense described in subsection (a), knowing he or she or they are in the presence of a child under the age of sixteen years, shall be punished by imprisonment of not more than one year, or fined in an amount not to exceed \$1,000, or both, for each and every such offense."

EFFECTIVE: 12/23/96

164-2.5 Section|46507. | False Information and Threats

"An individual shall be fined under title 18, imprisoned for not more than 5 years, or both, if the individual--

"(1) knowing the information to be false, willfully and maliciously or with reckless disregard for the safety of human life, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title; or

"(2) (A) threatens to violate section 46502(a), 46504, 46505, or 46506 of this title, or causes a threat to violate any of those sections to be made; and

"(B) has the apparent determination and will to carry out the threat."|

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 7

EFFECTIVE: 12/23/96

| 164-2.6 | Moved to 164-2.1 |

EFFECTIVE: 12/23/96

| 164-2.7 | Title 28, USC, Section 538. Investigation of Aircraft
Piracy and Related Violations

"The Federal Bureau of Investigation shall investigate any
violation of Section 46314 or Chapter 465 of Title 49." |

EFFECTIVE: 12/23/96

| 164-2.8 | Venue

Venue provisions are contained in the Federal Rules of
Criminal Procedure and Chapter 211 of Title 18, U.S. Code. |

EFFECTIVE: 12/23/96

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 8

164-2.9 Title 18, U.S. Code, Sections 341, 342, and 343.
Operation of a Common Carrier Under the Influence of
Alcohol or Drugs

(1) Section 341 - defines a common carrier to include an
air common carrier.

(2) Section 342 - states "whoever operates or directs
operation of a common carrier while under the influence of alcohol or
any controlled substance, as defined in Section 102 of the Controlled
Substances Act (Title 21, U.S. Code, Section 802), shall be:"

(a) imprisoned not more than fifteen years

(b) or fined under this title

(c) or both

(3) Section 343 - states for the purposes of this

statute:

(a) an individual with a blood alcohol content of
.10 percent or more shall be presumed to be under the influence of
alcohol; and

(b) an individual shall be presumed to be under the
influence of drugs if the quantity of the drug in the system of the
individual would be sufficient to impair the perception, mental
processes, or motor functions of the average individual.

EFFECTIVE: 04/19/91

164-2.10 Executive Order 12564 - Drug-Free Workplace

(1) Executive Order 12564 facilitates the random drug
screening of airline pilots.

(2) The Order specifically states "Drug testing shall not
be conducted pursuant to this Order for the purpose of gathering
evidence for use in criminal proceedings."

(3) Prosecution of a pilot or crew member cannot be based
solely on the results of air-carrier drug-screening as mandated under
Executive Order 12564.

Sensitive
PRINTED: 02/18/98

Sensitive

EFFECTIVE: 04/19/91

164-3 DEFINITIONS (Title 49, U.S. Code, Section 46501)

"(1) 'aircraft in flight' means an aircraft from the moment all external doors are closed following boarding--

"(A) through the moment when one external door is opened to allow passengers to leave the aircraft; or

"(B) until, if a forced landing, competent authorities take over responsibility for the aircraft and individuals and property on the aircraft.

"(2) 'special aircraft jurisdiction of the United States' includes any of the following aircraft in flight:

"(A) a civil aircraft of the United States.

"(B) an aircraft of the armed forces of the United States.

"(C) another aircraft in the United States.

"(D) another aircraft outside the United States

--
"(i) that has its next scheduled destination or last place of departure in the United States, if the aircraft next lands in the United States;

"(ii) on which an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) if the aircraft lands in the United States with the individual still on the aircraft; or

"(iii) against which an individual commits an offense (as defined in subsection (d) or (e) of article I, section I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation) if the aircraft lands in the United States with the individual still on the aircraft.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 10

"(E) any other aircraft leased without crew to a lessee whose principal place of business is in the United States or, if the lessee does not have a principal place of business, whose permanent residence is in the United States.

"(3) an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) when the individual, when on an aircraft in flight--

"(A) by any form of intimidation, unlawfully seizes, exercises control of, or attempts to seize or exercise control of, the aircraft; or

"(B) is an accomplice of an individual referred to in subclause (A) of this clause."

EFFECTIVE: 12/23/96

164-4

STATUTORY INTERPRETATION

(1) As used in the statute, the term "piracy" is to be distinguished from Title 18, USC, Section 1651, where it is referenced to the law of nations. The elements of aircraft piracy are specifically stated within the statute.

(2) Accordingly, acts which would be covered by Title 18, USC, Section 7 (5) (crimes within the special maritime and territorial jurisdiction of the United States) should such acts occur geographically within the special maritime and territorial jurisdiction of the United States, are by the present statute made criminal regardless of their geographical situs. It is conceivable that a single act could be in violation of both sections of the USC.

(3) In connection with the term "within the special aircraft jurisdiction of the United States" as set forth in Title 49, USC, Section 46502, 46504, 46506, and the term "special aircraft jurisdiction of the United States" as defined in Title 49, USC, Section 46501, the FBI has investigative jurisdiction insofar as violations in connection with the following aircraft are concerned:

(a) civil aircraft of the United States no matter where in the world they are in flight;

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 11

(b) aircraft of the armed forces of the United States no matter where in the world they are in flight;

(c) foreign aircraft which actually land in the United States.

EFFECTIVE: 12/23/96

164-5 ROLE OF THE FEDERAL AVIATION ADMINISTRATION (FAA)

Title 49, USC, Section 44903 (e) provides that "The Administrator has the exclusive responsibility to direct law enforcement activity related to the safety of passengers on an aircraft involved in an offense under Section 46502 of this title from the moment all external doors of the aircraft are closed following boarding until those doors are opened to allow passengers to leave the aircraft. When requested by the Administrator, other departments, agencies, and instrumentalities of the Government shall provide assistance necessary to carry out this subsection."

EFFECTIVE: 12/23/96

164-6 MEMORANDUM OF UNDERSTANDING BETWEEN THE FEDERAL AVIATION ADMINISTRATION AND THE FEDERAL BUREAU OF INVESTIGATION

(1) Basic policy with regard to the FBI's handling of aircraft hijacking incidents centers on a memorandum of understanding between the FAA and FBI agreed upon officially on 2/26/75. The "Memorandum of Understanding Between the Federal Aviation Administration and the Federal Bureau of Investigation" (MOU) is contained in its entirety in Part II, Section 18, of this manual.

(2) Part II of the MOU, entitled "Designation of Authority" states:

"A. When the aircraft is in flight.

"1. When an aircraft is in flight, that is from the moment when all external doors are closed following embarkation, until the moment when one such door is opened for disembarkation, the

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 12

pilot in command of the aircraft shall have normal operational control of the flight.

"2. The Administrator of the Federal Aviation Administration has exclusive responsibility for direction of any law enforcement activity involving an offense under 902 (i) or 902 (n) of the Federal Aviation Act of 1958, as amended.

"3. As appropriate, in each case involving such an offense, the designated official of the Federal Aviation Administration shall request the assistance of the designated official of the Federal Bureau of Investigation.

"4. After fully considering the expressed wishes of the pilot in command, the responsible official of the airline operating the aircraft and the designated official of the Federal Bureau of Investigation, the designated official of the Federal Aviation Administration shall determine if law enforcement action is appropriate. In those instances in which the designated official of the Federal Aviation Administration determines that law enforcement action is appropriate, he shall request the designated official of the Federal Bureau of Investigation to advise as to the appropriate methods to be used and, after approval of the designated official of the Federal Aviation Administration, take the law enforcement action that is required.

"5. Whenever such a request is made, the designated official of the Federal Bureau of Investigation shall provide such law enforcement assistance as is necessary.

"6. The designated official of the Federal Bureau of Investigation and the designated official of the Federal Aviation Administration shall maintain continuing coordination between their respective offices during the course of such law enforcement activity.

"B. When the aircraft is not in flight.

"1. When an aircraft is not in flight, that is prior to the moment when all external doors are closed after embarkation and after the moment when one such door is opened for disembarkation, the designated official of the Federal Bureau of Investigation shall make the decision to take law enforcement action with respect to a hijacking. The designated official of the Federal Bureau of Investigation shall give full consideration to the expressed wishes of the pilot in command, the responsible official of the airlines

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 13

operating the aircraft, and the designated official of the Federal Aviation Administration prior to initiating action.

"C. The decision of the designated official of the Federal Aviation Administration shall prevail in those instances where a question arises as to whether an aircraft is in flight or is not in flight."

EFFECTIVE: 02/15/82

164-7

DEPARTMENTAL INSTRUCTIONS

(1) The Department of Justice (DOJ) continues to advocate severe penalties for aircraft hijackers as a deterrent to future acts of air piracy. Consequently, authorization from the Criminal Division, DOJ, must be obtained by the U.S. Attorney before he/she enters into any agreement to forego an air piracy prosecution under Title 18, USC, Section 46502, in favor of a guilty plea to a lesser offense or decides otherwise not to prosecute fully an act of air piracy.

(2) The Department of Justice has requested that when USAs decline prosecution in those unaggravated violations of Title 49, USC, Section 46504 and Title 49, USC, Section 46506, where a crew member is a victim, that the FBI, with the approval and recommendation together with the results of any investigation for their consideration of proceeding against the offender civilly for violation of Federal Aviation Regulations (FAR) as codified in Title 14, Code of Federal Regulations (CFR), Section 91.8, entitled "Prohibition against interference with crewmembers."

(3) FAA preboard screening procedures periodically result in nonpassengers being found in possession of concealed deadly or dangerous weapons. These individuals have no tickets to board any aircraft but for the most part are discovered to be armed during examination at sterile concourse areas while either meeting or bidding farewell to persons who are ticketed passengers. The Department of Justice has advised that since these weapon-carrying nonpassengers have no apparent intent to board or attempt to board an aircraft, there is no violation of Title 49, USC, Section 46505. In view of this, it is not necessary for the field to respond to these incidents or to submit LHM to FBIHQ. Specifically note that an indication of intent to board or attempt to board an aircraft on the part of these

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 14

weapon-carrying nonpassengers requires the adherence to established investigative and reporting procedures. Each field division should ensure that local airline, airport, FAA and law enforcement officials are aware of these instructions.

(4) In those unaggravated violations of Title 49, USC, Section 46505, i.e., (firearms only) where state or local prosecution is declined upon USA deferral, it is current departmental policy to refer the matter to FAA for their consideration of proceeding against the offender civilly for violation of FAR as codified in Title 14, CFR, Section 107.21, entitled "Carriage of firearms, explosives, or incendiary devices." All offenses involving explosives or incendiary devices will continue to be prosecuted by the Department as criminal violations. (See MIOG, Part I, Section 174.)

(5) Prosecution under the Hobbs Act. Consideration should also be given to use of the Hobbs Act as a vehicle of prosecution where an extortionate demand is made directly or indirectly upon a commercial air carrier which would obstruct, delay, or affect commerce. The Department has instructed all USAs that when such an extortionate situation is encountered where it may be desirable to charge a violation under the Hobbs Act, the Department must be consulted.

EFFECTIVE: 12/23/96

164-8

REPORTING PROCEDURES

(1) Immediately advise FBIHQ by telephone or teletype, depending upon the exigency of the circumstances, of all cases involving aircraft piracy or where there is loss of life, danger to public safety, or widespread public interest. Each complaint should receive prompt and expeditious investigative attention.

(2) In all violations of Title 49, USC, Sections 46502 through 46507, a succinct LHM (original and one copy) should be submitted to FBIHQ by FD-365 within ten working days of receipt of initial complaint. Upon receipt of the LHM, FBIHQ will disseminate a copy to United States Secret Service, Intelligence Division, 1800 G Street, N.W., Washington, D.C. 20223. (See MAOP, Part II, 10-4.3; Correspondence Guide - Field, 2-5.5.11.)

(3) The appropriate regional office of FAA should be

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 15

promptly advised upon receipt of all complaints with close liaison being maintained during the course of each investigation.

(4) In all cases, the field office is to disseminate additional copies of the LHM within ten working days to the nearest Civil Aviation Security Field Office (CASFO), FAA Regional Office, United States Secret Service Field Office, and to the FBI field office which covers the subject's residence. Other interested agencies, such as the National Transportation Safety Board, Office of Special Investigations, etc., should likewise be advised locally when appropriate. Depending upon the exigency of the matter, immediate notification to the above agencies may be necessary.

(5) In those cases wherein the USA's office declines prosecution, defers prosecution to state or local authorities, or refers the matter to FAA for civil enforcement, or wherein it is known that state or local prosecution is declined upon USA deferral, the initial LHM should so indicate. One copy of this LHM should be directed to the USA confirming the USA's opinion in lieu of a separate confirmation letter.

(6) In all cases, dissemination is to be indicated on the FD-365 which transmits the LHM to FBIHQ with the LHM identifying those individuals and agencies already notified of the violation.

(7) When additional investigation is required, record results so they may be later incorporated into the prosecutive report. Two copies of these reports should be submitted to FBIHQ. In each instance, reports should set forth full facts including field office file numbers, complete descriptive and background data concerning each subject (best descriptive information available of an unknown subject should also be set forth), data concerning mental stability, the air carrier, flight number, origin and destination, time and place of offense, number of passengers and crew, weapons used, type of aircraft involved and any injuries. In hijacking situations, indicate where flight diverted to, motive, and terrorist affiliation, if any, and demands made by hijacker or hijackers.

(8) In order that the FBIHQ substantive case file may reflect the final outcome of each violation, the following FBIHQ notification policy should be followed by the office of origin.

(a) In those cases wherein the initial LHM submitted to FBIHQ by FD-365 reflects the final outcome, no further notification is necessary.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 16

(b) In those cases wherein the Accomplishment Report, FD-515, reflects the final outcome, no further notification is necessary.

(9) Technically, a bomb threat (or actual device) aboard an aircraft is a violation of Title 18, USC, Section 35, Destruction of Aircraft or Motor Vehicles (DAMV), as well as Title 49, USC, Section 46507. However, as a matter of policy, all fake reports (or actual instances) of a bomb aboard an aircraft unrelated to an aircraft hijacking incident should be investigated and reported under the DAMV (149) classification. Any incidents of this nature involving an aircraft hijacking incident should be carried under the Crime Aboard Aircraft (164) classification. The foregoing is to create uniformity in the Time Utilization and Recordkeeping (TURK) records, as well as to maintain program segregation.

(c) In all other cases, including those cases in which a USA declination or deferral was rendered subsequent to the initial LHM/FD-365 submission and those unsolved cases closed under SAC authority, a closing electronic communication should be directed to FBIHQ which clearly sets forth the basis for closing.

EFFECTIVE: 12/23/96

164-9

OBTAINING FEDERAL PROCESS

(1) Federal process should be obtained as soon as possible after the subject is identified and it is determined that the subject will be prosecuted federally.

(2) In those instances wherein an aircraft hijacking occurs, the subject is successful in avoiding apprehension and the subject's identity remains unknown, the field division should discuss with the USA's office the obtaining of a "John Doe" indictment of the unknown subject in order to toll the Statute of Limitations, Title 18, USC, Section 3282, prior to its expiration.

EFFECTIVE: 02/20/90

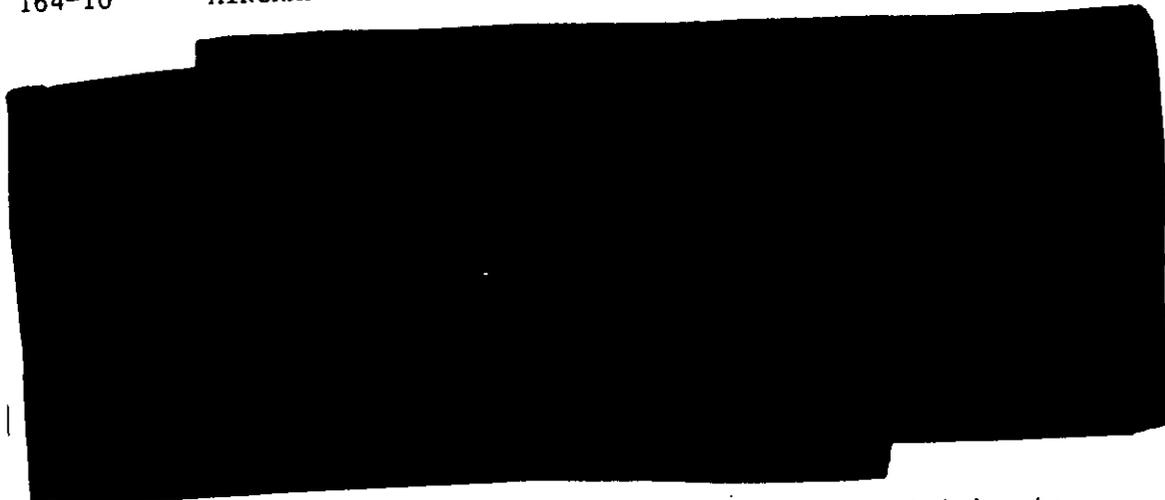
Sensitive
PRINTED: 02/18/98

Sensitive

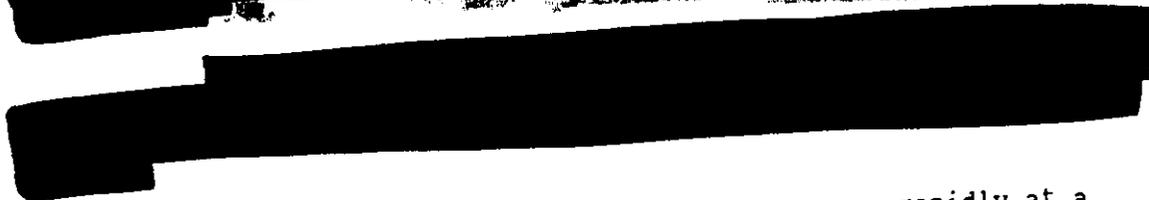
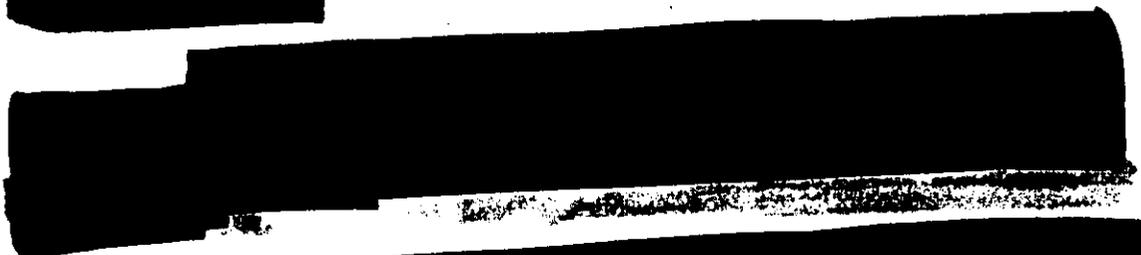
Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 17

164-10 AIRCRAFT HIJACKING INCIDENT MANAGEMENT



(2) It will be incumbent upon each field division to ensure that FBIHQ is advised on a current basis as to on-the-scene developments in each aircraft hijacking incident.



(6) A hijacked aircraft may change course rapidly at a hijacker's request and proceed to a foreign country. Upon receipt of

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 18

such information, FBIHQ should be immediately notified by telephone. FBIHQ will notify the appropriate governmental agencies through established liaison channels.

b2
b7E
[REDACTED]

[REDACTED]

EFFECTIVE: 02/20/90

164-11 CONTINGENCY PLANNING

(1) The FBI's prime concern in all Crime Aboard Aircraft incidents is for the safety of the passengers and crew.

(2) The FBI and FAA have established an effective, coordinated effort on a Headquarters level concerning Crime Aboard Aircraft incident management. Practical incident management requires the continuation of that spirit of cooperation through to the field. Accordingly, each field office should maintain liaison with the appropriate FAA Security Office in order to ensure a mutual effort in the event of an incident where our joint responsibilities must be exercised.

[REDACTED]

Sensitive

[REDACTED]

(a) Inasmuch as it will be incumbent upon each field office to ensure that FBIHQ is advised on a current basis as to on-the-scene developments in each aircraft hijacking incident, direct and instantaneous communications between Agents in the vicinity of the hijacked aircraft, control tower, field office, and the FBIHQ [REDACTED] is absolutely essential.

b2
b7E
[REDACTED]

(c) It is suggested that sufficient telephone communications within the primary command post would consist, under ideal conditions, of at least five telephone lines available for exclusive FBI utilization. Those lines, as an example, might be utilized for communication with the following:

[REDACTED]

[REDACTED]

3. Secondary Command Post, [REDACTED]

[REDACTED]

4. Field Office

5. Miscellaneous

[REDACTED]

(e) Appropriate facilities should be available for the interviews of the subject(s) and witnesses.

(f) Preplanning for the prompt dispatch of

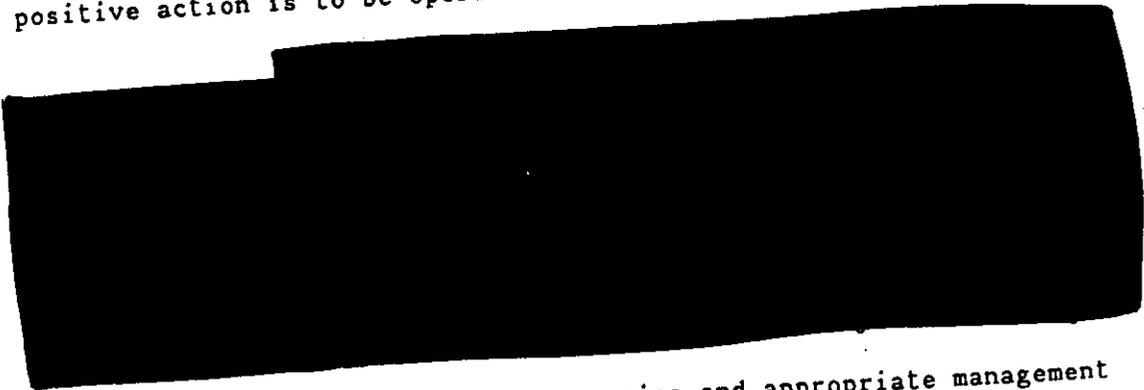
Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 20

sufficient personnel and equipment to major air terminals and military airfields within the division is essential.

(g) All equipment necessary for Agents to carry out positive action is to be operative and readily available.



b2
b7E

(4) All enforcement agencies and appropriate management personnel at air terminals should be fully aware of the FBI's responsibilities in aircraft hijackings in order to ensure maximum cooperation in an actual hijacking situation and the continuance of a "common strategy."

(5) Each field division is to remain prepared to conduct thorough crime scene examinations in regard to Crime Aboard Aircraft incidents. Physical evidence collected should be submitted to FBIHQ for examination by the FBI Laboratory and/or Latent Fingerprint Section when it appears that such an examination is desirable. Thorough crime scene examination becomes most critical in those instances wherein a successful aircraft hijacking occurs, the subject(s) avoids apprehension, and the subject's identity remains unknown, e.g., flights diverted to Cuba.

(6) FBIHQ is to be notified by airtel of instances wherein a field division is planning a Command Post Exercise (CPX) or Field Training Exercise (FTX) regarding aircraft hijacking contingency training. The airtel should be directed, Attention: Violent Crimes/Fugitive Unit, Criminal Investigative Division, with an information copy designated for the Critical Incident Response Group's Crisis Management Unit. The caption should indicate the type of exercise, i.e., CPX and/or FTX; the type of training, i.e., aircraft hijacking contingency training; the divisional name; the exercise date and the Crime Aboard Aircraft character, with pertinent details synopsized in the text of the communication.

XXXXXX
XXXXXX
XXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

3

Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552

Section 552a

(b)(1)

(b)(7)(A)

(d)(5)

(b)(2)

(b)(7)(B)

(j)(2)

(b)(3)

(b)(7)(C)

(k)(1)

(b)(7)(D)

(k)(2)

(b)(7)(E)

(k)(3)

(b)(7)(F)

(k)(4)

(b)(4)

(b)(8)

(k)(5)

(b)(5)

(b)(9)

(k)(6)

(b)(6)

(k)(7)

- Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.
- Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

Pages were not considered for release as they are duplicative of _____

Page(s) withheld for the following reason(s): _____

The following number is to be used for reference regarding these pages:
MI06; pages 164-21 - 164-22, 164-23

XXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X for this page X
XXXXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 24

The following is prescribed by ARINC:

b2
b7E
[REDACTED]

(3) [REDACTED]

EFFECTIVE: 02/15/82

164-14 NEWS MEDIA INQUIRIES POLICY

(1) In many cases, violations of this statute generate intense public and media interest. The FBI's news media inquiries policy is in strict compliance with instructions issued by the Department of Justice concerning the release of information in criminal and civil matters. These instructions are contained in Title 28, CFR, Section 50.2.

(2) For complete details regarding this topic, including a restatement of the above CFR instructions, see Manual of Administrative Operations and Procedures, Part II, Section 5-1, entitled "Policy and Guidelines for Relations with News Media," and Section 5-2, entitled "Contacts with News Media."

(3) Utmost discretion should be exercised in releasing to the news media any information concerning a modus operandi utilized by a subject in a violation of this statute.

EFFECTIVE: 02/15/82

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 25

164-15 CARRIAGE OF WEAPONS

(1) Title 49, USC, Section 46505, grants the FAA Administrator authority to except other such persons as the Administrator may deem necessary from prohibition of carrying deadly or dangerous weapons in air transportation or intrastate air transportation.

(2) FAR as codified in Title 14, CFR, Section 108.11, addresses the carriage of weapons aboard aircraft and is considerably broader than Title 49, USC, Section 46505, since it covers both concealed and unconcealed weapons. FBI jurisdiction, however, is limited to violations specifically enumerated in Section 46505 of Title 49.

(3)

(4)

EFFECTIVE: 04/07/97

b7
b7E
|164-16 CHARACTER - CRIME ABOARD AIRCRAFT (CAA) - FOLLOWED BY
DESCRIPTION OF CRIME; E.G., CAA - AIRCRAFT PIRACY|

EFFECTIVE: 02/15/82

||164-17 CLASSIFICATION - 164|

EFFECTIVE: 02/15/82

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 164 - 26

| 164-18 SUBCLASSIFICATIONS

For details concerning this topic, see the Manual of Administrative Operations and Procedures, Part II, Section 3-1.1, entitled "FBI Classifications and Subdivided Classifications."

EFFECTIVE: 10/18/95

Sensitive
PRINTED: 02/18/98

Sensitive

SECTION 165. INTERSTATE TRANSMISSION OF WAGERING INFORMATION

165-1 STATUTE

Title 18, USC, Section 1084

"(a) Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

"(b) Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests, or for the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State where betting on that sporting event or contest is legal into a State in which such betting is legal.

"(c) Nothing contained in this section shall create immunity from criminal prosecution under any laws of any State, Commonwealth of Puerto Rico, territory, possession, or the District of Columbia.

"(d) When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used or will be used for the purpose of transmitting or receiving gambling information in interstate or foreign commerce in violation of Federal, State or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State or local

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 165 - 2

tribunal or agency, that such facility should not be discontinued or removed, or should be restored."

EFFECTIVE: 01/31/78

165-1.1 Definition of Term "Wire Communication Facility"

Title 18, USC, Section 1081. "The term 'wire communication facility' means any and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission."

EFFECTIVE: 01/31/78

165-2 POLICY

(1) In regard to (d) of section 1084, dissemination of information to the carrier regarding those individuals utilizing their facilities in interstate or foreign commerce will be made by the Department upon receipt of evidence of such utilization.

(2) In those instances in which allegations of violations of this type are received, it is not necessary to show that the operator is engaged in the business of betting, etc., but merely that he is transmitting or receiving wagering information through a wire facility.

(3) Forward such a complaint with corroborative evidence to FBIHQ for dissemination to the Department in the form of letterhead memorandum containing:

(a) The name and address of the telephone company furnishing service.

(b) The name, address, and telephone number, if available, of the subscriber known to be in violation of this section.

(c) A short statement of facts with names of witnesses and a brief summary of their potential testimony.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 165 - 3

(d) A statement as to whether it is known if subscriber moves from place to place or if it is the general practice to operate from a specific location.

(4) Local violations should be disseminated with any evidence available to the appropriate local or state authority in writing after Bureau's interest secured. When disseminating without accompanying evidence, state in letter of dissemination that the information being furnished not substantiated through investigation by this Bureau.

(5) When information is received from local or state authorities that notification has been given by them to a carrier, such information should be forwarded to FBIHQ in the form of a letterhead memorandum.

(6) In connection with investigations of wire services, bear in mind the possibility of prosecution as principals under Title 18, USC, Section 2, the aiding and abetting section.

EFFECTIVE: 01/31/78

165-3 INVESTIGATIVE PROCEDURE

(1) When information developed that an individual engaged in the business of betting or wagering is using a wire communication facility in violation of this law:

(a) Develop information relative to wire communication facility utilized; that is, whether telephone, telegraph, etc.

(b) Identify individuals contacting or contacted by subject.

(c) Determine what service they furnish to or receive from subject.

(d) Interview these individuals and subject when investigation has progressed to point where interview logical.

(e) Obtain all documentary evidence of violation available, such as toll tickets, copies of communications, etc.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 165 - 4

- (f) Utilize informants.
- (g) Consider surveillances when applicable.
- (2) Upon developing information as to the existence of a wire service:
 - (a) Identify the phone utilized by the wire service.
 - (b) Check toll tickets and identify subscribers to the numbers called and calling.
 - (c) Interview a representative number of subscribers receiving the wire service, even though in some instances a subscriber may be a social better inasmuch as the purpose of the interview is to establish the use of the service by the subscriber.
 - (d) Interview owners and employees of wire service, examine bank accounts, and utilize informants.

EFFECTIVE: 01/31/78

165-4 VENUE

In any district from, through, or into which such information transmitted. (Title 18, USC, Section 3237)

EFFECTIVE: 01/31/78

165-5 CHARACTER - INTERSTATE TRANSMISSION OF WAGERING INFORMATION

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 1

SECTION 166. INTERSTATE TRANSPORTATION IN AID OF RACKETEERING

166-1 STATUTE

Title 18, USC, Sections 1952, 1958, and 1959.

EFFECTIVE: 08/30/93

166-1.1 Section 1952 - Interstate and Foreign Travel or
Transportation in Aid of Racketeering Enterprises (See
MIOG, Part I, 50-4.2.)

"(a) Whoever travels in interstate or foreign
commerce or uses any facility in interstate or foreign commerce,
including the mail, with intent to--

"(1) distribute the proceeds of any unlawful
activity; or

"(2) commit any crime of violence to further
any unlawful activity, or

"(3) otherwise promote, manage, establish,
carry on, or facilitate the promotion, management, establishment, or
carrying on, of any unlawful activity, and thereafter performs or
attempts to perform any of the acts specified in subparagraph (1),
(2), and (3), shall be fined not more than \$10,000 or imprisoned for
not more than five years, or both.

"(b) As used in this section (i) 'unlawful
activity' means, (1) any business enterprise involving gambling,
liquor on which the Federal excise tax has not been paid, narcotics,
or controlled substances (as defined in section 102(6) of the
Controlled Substances Act, or prostitution offenses in violation of
the laws of the State in which they are committed or of the United
States; or, (2) extortion, bribery, or arson in violation of the laws
of the United States, or (3) any act which is indictable under
subchapter II of chapter 53 of title 31, United States Code, or under
section 1956 or 1957 of this title, and (ii) the term 'State' includes

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 2

a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(c) Investigations of violations under this section involving liquor shall be conducted under the supervision of the Secretary of the Treasury."

EFFECTIVE: 08/30/93

166-1.2 Section 1958 - Use of Interstate Commerce Facilities in the Commission of Murder-for-Hire

"(a) Whoever travels in or causes another (including the intended victim) to travel in interstate or foreign commerce, or uses or causes another (including the intended victim) to use the mail or any facility in interstate or foreign commerce, with intent that a murder be committed in violation of laws of any State or the United States as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value, shall be fined not more than \$10,000 or imprisoned for not more than ten years, or both; and if personal injury results, shall be fined not more than \$20,000 and imprisoned for not more than twenty years, or both; and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than \$50,000, or both.

"(b) As used in this section and section 1959 -

"(1) 'anything of pecuniary value' means anything of value in the form of money, a negotiable instrument, a commercial interest, or anything else the primary significance of which is economic advantage;

"(2) 'facility of interstate commerce' includes means of transportation and communication; and

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 3

EFFECTIVE: 08/30/93

166-1.3 Section 1959 - Violent Crimes in Aid of Racketeering
Activity

"(a) Whoever, as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value from an enterprise engaged in racketeering activity, or for the purpose of gaining entrance to or maintaining or increasing position in an enterprise engaged in racketeering activity, murders, kidnaps, maims, assaults with dangerous weapon, commits assault resulting in serious bodily injury upon, or threatens to commit a crime of violence against any individual in violation of the laws of any State or the United States, or attempts or conspires so to do, shall be punished-

"(1) for murders or kidnaping, by imprisonment for any term of years or for life or a fine of not more than \$50,000, or both;

"(2) for maiming, by imprisonment for not more than thirty years or a fine of not more than \$30,000, or both;

"(3) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than twenty years or a fine of not more than \$20,000, or both;

"(4) for threatening to commit a crime of violence, by imprisonment for not more than five years or a fine of not more than \$5,000, or both;

"(5) for attempting or conspiring to commit murder or kidnaping, by imprisonment for not more than ten years or a fine of not more than \$10,000, or both; and

"(6) for attempting or conspiring to commit a crime involving maiming, assault with a dangerous weapon, or assault resulting in serious bodily injury, by imprisonment for not more than three years or a fine of not more than \$3,000, or both.

"(b) As used in this section-

"(1) 'racketeering activity' has the meaning set

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 4

forth in section 1961 of this title; and

"(2) 'enterprise' includes any partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, which is engaged in, or the activities of which affect, interstate or foreign commerce."

EFFECTIVE: 08/30/93

166-2 POLICY

(1) At the time these cases are presented to the USA for prosecutive opinion, he/she should be advised whether forcible entry is foreseen in the service of arrest or search warrants.

(2) Furnish copies of all reports to the appropriate USA.

(3) Extortion violations which involve threats to injure reputation or to accuse another of a crime through the use of the mails are to be handled by the postal inspectors.

(4) The Department has advised that Title 18, USC, Section 1084(d) (ITWI), is sufficiently broad in scope to cover violations of Title 18, USC, Section 1952, where "facility" is being used for gambling purposes. Appropriate consideration should be given to termination of telephone or telegraph facilities which are utilized for gambling purposes, as provided in Title 18, USC, Section 1084(d).

(See Section 165-2, of this manual concerning submission of notice to the Department.)

(5) The amendment adding arson as a violation to the statute, by its terms, applies to any arson, where facilities of interstate commerce are used; however, the FBI will concentrate its efforts on violations involving organized crime figures, arson-for-profit, arson-for-hire, and/or cases where the complexity of the investigation warrants Federal interest. Investigations should be conducted with organized crime and arson-for-profit as the focus. That is, where property owned by organized crime figures is deliberately set afire, or where property is set afire by a known professional torch, with intent to defraud an insurance company, or where property is destroyed by fire as a strong-arm tactic by

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 5

organized crime, and facilities of interstate commerce are used to effectuate the arson, investigation should be conducted.

(6) ITAR - Arson (non-LCN) - ITAR - Arson investigations in which no known organized crime members or associates are involved should be investigated, when appropriate, within the Interstate Theft Subprogram. All ITAR - Arson investigations involving LCN members or LCN associates are to be referred to the Organized Crime/Drug Operations Section #2, Criminal Investigative Division, at FBIHQ.

(7) The FBI's statutory authority for conducting arson investigations is under the Racketeer Influenced and Corrupt Organizations (RICO) Statute, Interstate Transportation in Aid of Racketeering (ITAR) Statute and Crime on a Government Reservation (CGR) Statute. The RICO and ITAR Statutes are most frequently used. Under the RICO Statute there are several arson-related unlawful acts known as "predicate offenses" (Federal violations covered are Mail Fraud, Fraud by Wire, Obstruction of Justice and Bank Fraud), (violations of state law covered are arson, extortion, murder and bribery), which form a pattern of racketeering.

(8) Inner-city arson is a scheme designed to defraud insurance companies and is frequently investigated under the ITAR Statute. Inner-city arson has a direct impact on the daily lives of citizens, whereby people are killed or injured, property destroyed, insurance premiums raised and the very quality of community life drastically lowered. To assist the investigator in the recognition of inner-city arson, the following are sources of arson information:

- (a) Police/fire department records (obtain a list of arson suspicion fires)
- (b) Local newspapers (look for articles on arson)
- (c) State fire marshals
- (d) Insurance Crime Prevention Institute (ICPI)
- (e) Insurance adjustors
- (f) Informants

(9) The following are clues which indicate positive circumstantial evidence that a fire was set for an insurance fraud:

- (a) Presence of incendiary material

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 6

(b) Multiple origins of fire (arson must be a total loss to be profitable)

b2
106
(c) Location of the fire in a building (look for fire started near the roof as many insurance adjustors will declare a fire a total loss once the roof is destroyed)

(d) Suspicious hours (no witnesses)

(e) Holiday fires

(f) Vacant building

(g) Renovation of building

(h) Recent departure of occupants

(i) Removal of objects (woodwork, plumbing, etc.)

(j) Property for sale

(k) Previous fire

(l) Building overinsured

(m) Habitual claimants

(n) Fires occurring shortly before the insurance policy expires

(o) Fires where insurance has recently been obtained

(p) Recent sale of building

(10) Investigative techniques that are most frequently used and have proven to be effective in arson investigations are as follows:

(a) Informants

(b) Surveillance

(c) Reviewing records

(d) Consensual monitoring

Sensitive
PRINTED: 02/18/98

Sensitive

- (e) Court-ordered Title III electronic surveillance
- (f) Grand Jury and/or grants of immunity

(11) Field offices should not open cases on the mere fact that a fire is of a suspicious origin, rather they should concentrate their efforts on violations involving organized crime figures, arson-for-profit, arson-for-hire, and/or where the complexity of the cases warrants Federal interest. All investigations being conducted under this statute should be closely coordinated with FBIHQ and the appropriate USA.

| (12) | Deleted |

| (13) | Deleted |

| (14) | Deleted |

(15) Violent crime is defined as any crime which has as an element any use, attempted use, or threatened use of physical force against the person or property of another. Violent crime is also defined as any other offense that is a felony and involves a "substantial risk" against the person or property of another.

EFFECTIVE: 08/30/93

166-3 REPORTING PROCEDURES (See MAOP, Part II, 10-9(17).)

(1) ITAR violations in support of or related to organized criminal enterprises are handled by the Organized Crime/Drug Sections and will be reported accordingly.

(2) ITAR - Murder and other ITAR offenses in support of other violent crimes, committed by subjects who are not connected to an organized criminal enterprise, are handled by the Violent Crimes and Major Offenders Section (VCMOS), FBIHQ. All offices should advise FBIHQ, CID, Violent Crimes/Fugitive Unit (VCFU), by teletype whenever an ITAR - Violent Crimes case is initiated. The initial communication should set forth the following:

- (a) A characterization of the target investigation;

Sensitive

(b) A brief summary of the violent crime activity in which the target of the investigation is involved;

(c) Basis for federal jurisdiction; and

(d) Proposed investigative approach.

(3) Deleted

(4) Each FBI office will advise FBIHQ, CID, VCFU, of all pending ITAR - Violent Crimes investigations that involve the purchase of drugs by submitting a quarterly airtel by the fifth of each January, April, July, and October. The airtel should include the case caption, office file number, and a brief summary of all drug transactions that took place during the previous quarter in that investigation.

(5) In the event an ITAR - Violent Crimes investigation, which involves the purchase of drugs, contemplates the use of any of the following sophisticated techniques, prior approval must be obtained and the respective field office must refer to and comply with the Part I, Section 281 of the Manual of Investigative Operations and Guidelines (MIOG).

b2
b7E

[REDACTED]

(6) Each field office should advise FBIHQ, VCMOS, VCFU, by teletype whenever an ITAR-Violent Crimes investigation is prosecuted and/or closed.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 9

EFFECTIVE: 07/20/95

166-4 | THREAT TO LIFE - DISSEMINATION OF INFORMATION (See
MAOP, Part II, 9-7; MIOG, Part I, 89-6, 175-22.1,
and 179-7.)

The following guidelines cover the FBI's responsibility to warn persons of threats to their life or threats that may result in serious bodily injury and policy regarding notification to other law enforcement agencies of such threats. (Extracted from Resolution 20 dated 12/16/96. See footnotes at the end of this citation.) In all instances, manner depending upon exigencies of situation, FBIHQ should be advised of details of such threats together with a notification of action taken or a recommendation as to action to be initiated UACB.

"III. Guidelines

"A. Warning to the Person.

"(1) Exeditious Warnings to Identifiable Persons.
Except as provided below in paragraph IIIA(3), when a Federal Law Enforcement Agency has information that a person who is identified or can be identified through reasonable means is subject to credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to warn that person of the nature and extent of the threat.

"(2) Manner, Means, and Documentation of Warning.

"a. The Agency may determine the means and manner of the warning, using the method most likely to provide direct notice to the intended victim. In some cases, this may require the assistance of a third party. The Agency must document in writing in its files the content of the warning, and when and where, and by whom it was delivered to the intended victim.

"b. An Agency may seek the assistance of another law enforcement agency to provide the warning. If this is done, the Agency must document in writing in its files the notification of the threat, and when, where, and the name of the other agency's representative to whom it was delivered, along with the other agency's agreement to provide a timely warning.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 10

"(3) Exceptions.

"a. A Federal Law Enforcement Agency need not attempt to warn an intended victim of a threat to his/her life or of serious bodily injury in the following circumstances:

"(i) when providing the warning to the intended victim is likely to cause equal or greater physical harm to one or more persons; 1

"(ii) when the intended victim knows the nature and extent of the specific threat against him/her; or

"(iii) when the intended victim is: (a) a public official who, because of his/her official position, is provided a protective detail; (b) a participant in the Witness Security Program that is administered by the United States Marshals Service; or (c) detained or incarcerated. See paragraph IIIB(1).

"b. Whenever time and circumstances permit, an Agency's decision not to provide a warning in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager. 2 In all cases, the reasons for an Agency's decision not to provide a warning must be documented in writing in the Agency's files.

"NOTE: This paragraph does not apply to the agencies directly responsible for providing the security for the individuals referred to in paragraph IIIA(3)a(iii), above, when the threat is to the referenced individual. In such cases, documentation, if any, should be created in accordance with the agency procedures.

"B. Notification to Law Enforcement Agencies With Protective or Custodial Jurisdiction.

"(1) Expeditious Notification. When a Federal Law Enforcement Agency has information that a person described above in paragraph IIIA(3)a(iii) is subject to any threat to his/her life or of serious bodily injury, the Agency must expeditiously notify other law enforcement agencies that have protective or custodial jurisdiction.

"(2) Means, Manner, and Documentation of Notification. The notifying Agency may determine the means and manner of the notification. When providing notification, the notifying Agency shall

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 11

provide as much information as possible regarding the threat and the credibility of the threat. The notifying Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

"C. Notification to Law Enforcement Agencies That Have Investigative Jurisdiction.

"(1) Exeditious Notification. Except as provided below in paragraph IIIC(4), when a Federal Law Enforcement Agency has information that a person (other than a person described above in paragraph IIIA(3)a(iii)) who is identified or can be identified through reasonable means is subject to a credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to notify other law enforcement agencies that have investigative jurisdiction concerning the threat.

"(2) Threats to Occupied Structures or Conveyances. When a Federal Law Enforcement Agency has information that a structure or conveyance which can be identified through reasonable means is subject to a credible threat which could cause loss of life or serious bodily injury to its occupants, the Agency should provide expeditious notification to other law enforcement agencies that have jurisdiction concerning the threat.

"(3) Means, Manner, and Documentation of Notification. The Agency may determine the means and manner of the notification. The Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

"(4) Exceptions.

"a. A Federal Law Enforcement Agency need not attempt to notify another law enforcement agency that has investigative jurisdiction concerning a threat:

"(i) when providing the notification to the other law enforcement agency is likely to cause equal or greater physical harm to one or more persons; or

"(ii) when the other law enforcement agency knows the nature and extent of the specific threat to the intended victim.

"b. Whenever time and circumstances permit, an Agency's decision not to provide notification to another law

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 12

enforcement agency in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager. In all cases, the reasons for an agency's decision not to provide notification should be documented in writing in the Agency's files.

"IV. Rights of Third Parties.

"Nothing in these guidelines is intended to create, or does create, an enforceable legal right or private right of action.

Footnotes:

"1 If the equal or greater harm would occur to a Government informant or Agent as a result of his/her participation in an investigation, consideration should be given to extricating that individual from the investigation or taking other appropriate measures in order to minimize the risk.

"2 As used in these guidelines, 'Senior Field Manager' refers to a Federal Law Enforcement Agency operational field manager of the GS-15 rank or higher, or the person serving in that capacity in his or her absence."

EFFECTIVE: 03/14/97

||166-5| POSSIBLE APPLICATION OF INVOLUNTARY SERVITUDE AND SLAVERY
STATUTES IN INTERSTATE TRANSPORTATION IN AID OF
RACKETEERING (ITAR)-PROSTITUTION CASES

When conducting ITAR-Prostitution investigations, Agents should be alert to facts which indicate that prostitutes were held or sold into conditions of involuntary servitude or slavery through use of force, threat of force, or coercion. Such situations may constitute violations of the Involuntary Servitude and Slavery and related statutes. Full details of these laws, as well as FBI policy and procedure, are set forth in Part I, Section 50 of this manual.

EFFECTIVE: 03/14/97

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 166 - 13

||166-6| VENUE

In any district from, through, or into which travel or transportation in violation of statute has occurred (Title 18, USC, Section 3237).

EFFECTIVE: 03/14/97

||166-7| CHARACTER - INTERSTATE TRANSPORTATION IN AID OF
RACKETEERING - EXTORTION, BRIBERY, GAMBLING, PROSTITUTION,
ARSON, MURDER, AND VIOLENT CRIMES

EFFECTIVE: 03/14/97

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 167 - 1

SECTION 167. DESTRUCTION OF INTERSTATE PROPERTY

||167-1| STATUTE

Title 15, USC, Sections 1281 and 1282

This statute prohibits the willful destruction or injury to property moving in interstate or foreign commerce while such property is in the control of common or contract carriers. This law is limited to rail, motor vehicle, and aircraft carriers.

EFFECTIVE: 01/21/86

||167-1.1| Section 1281

Prohibition against destruction of property in possession of carriers; penalty; prima facie evidence of commerce

"(a) It shall be unlawful for any person willfully to destroy or injure any property moving in interstate or foreign commerce in the possession of a common or contract carrier by railroad, motor vehicle or aircraft, or willfully to attempt to destroy or injure any such property.

"(b) Whoever violates subsection (a) of this section shall be fined not more than \$5,000 or imprisoned not more than ten years, or both.

"(c) To establish the interstate or foreign commerce character of any property involved in any prosecution under this section, the waybill or similar shipping document of such property shall be prima facie evidence of the place from which and to which such property was moving."

EFFECTIVE: 01/21/86

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 167 - 2

||167-1.2| Section 1282. State Prosecutions

"A judgment of conviction or acquittal on the merits under the laws of any State or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico, shall be a bar to any prosecution under this chapter for the same act or acts."

EFFECTIVE: 01/21/86

||167-1.3| Elements

- (1) Property is moving in interstate or foreign commerce in the possession of a common or contract carrier.
- (2) The property is being shipped by rail, motor vehicle, or aircraft.
- (3) The property is willfully destroyed or injured.
- (4) An attempt is made to willfully destroy or injure such property.

EFFECTIVE: 01/21/86

||167-2| POLICY

- (1) Upon receipt of a complaint indicating a possible violation of this statute, FBIHQ must be advised by the most expeditious means depending upon the exigencies of the case involved setting out briefly the facts and the action being taken.
- (2) If any questionable complaints are received, the facts should be immediately discussed with the appropriate USA for a determination as to whether a violation exists and whether he/she will authorize prosecution in the event the subjects are identified.
- (3) This statute does not limit in scope the type of property covered, mode of carriage (excepting water transport) nor does it distinguish between a common or contract carrier.
- (4) Unintentional acts are excluded. The element of willful intent is specifically required to constitute a violation.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I.

PAGE 167 - 3

(5) Those cases wherein the willfulness of the act is not obvious or where circumstances do not strongly indicate concerted efforts should be brought to the attention of the USA before initiating any investigation so that he/she may discuss the matter with state or local law enforcement officials and render a prosecutive opinion.

(6) Once it has been determined either from the facts of a case or upon receipt of the opinion of the USA that there has been a violation of the statute, an immediate, continuous, and exhaustive investigation must be conducted.

EFFECTIVE: 01/21/86

||167-3| INVESTIGATIVE PROCEDURE

(1) Waybill must be obtained to determine the interstate or foreign character of the property involved, together with the identity of the individual competent to introduce it into evidence.

(2) An examination must be made of the damaged goods. Foreign substances, bullets, tool marks, and any other items of evidence located must be submitted to the Laboratory for examination.

(3) Photographs should be taken when the damage is extensive or when deemed warranted.

(4) The location of the violation should be determined in the early stages of the investigation.

(5) A thorough and meticulous crime scene search should be conducted once the place of violation has been established.

(6) Thorough interviews must be conducted of all persons connected with the shipment of the damaged property. Signed statements should be taken from any witnesses furnishing information of value.

EFFECTIVE: 01/21/86

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 167 - 4

||167-4| DESTRUCTION OF INTERSTATE PROPERTY IN CONNECTION WITH
UNION ACTIVITY

(1) If information is developed indicating the damage was caused as a result of a strike or union activity, advise FBIHQ immediately.

(2) FBIHQ authority is not needed to interview union members in connection with these investigations; however, FBIHQ should be advised prior to conducting an interview of union officials.

(3) In connection with these interviews, each union member or union official should be specifically and unequivocally advised that this Bureau is not interested in the demands or merits of the strike; that this Bureau is charged with protecting goods moving in interstate and foreign commerce and the investigation is to determine whether there has been a violation of Federal law and, if there has been, to determine the identity of those persons responsible.

(4) All major developments must be furnished to FBIHQ by appropriate communication, and all leads to other offices must be set forth by teletype.

(5) In connection with these investigations the Department has stated:

(a) "Where explosives are used or where an attempt is made to injure the driver of a vehicle moving on the roadways the actor has violated the statute; in the first case because he obviously intends to destroy the entire vehicle and any cargo it may be carrying; in the second instance one who commits such an act so directly dangerous to the life and safety of the driver of a moving vehicle must be presumed to intend all of the natural consequences of his reckless act which would inevitably include the wrecking of the vehicle and the destruction of whatever cargo it may be carrying. Acts short of shooting whose clear intent would also be to force the truck into a wrecked situation would likewise be fit occasions for prosecutions for the same ultimate objective of destruction of truck and cargo is a presumptive conclusion."

(b) "While the cases might be more difficult of proof and less obvious, it cannot be said that damage (not of an explosive nature) to a vehicle at rest is invariably outside the statute. Where damage is done to a vehicle at rest which might reasonably cause harm to that vehicle at a later time and while in

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 167 - 5

motion would fall within the same category as previously mentioned e.g., the weakening of an air brake system or of the running gear the intended effect of which is to occur at a later time. These cases would depend upon the specific kind of damage occurring and the probable intended results."

(c) "Attempts at damage to cargoes difficult or incapable of damage are to be considered as covered unless the attempt could not conceivably have been successful."

EFFECTIVE: 01/21/86

||167-5| VENUE

In the district in which the damage or destruction occurred. If the location of the act is unknown, prosecutive jurisdiction will lie either in the district of origin or the district of terminus of the shipment.

EFFECTIVE: 01/21/86

||167-6| DOUBLE JEOPARDY

A judgment of conviction or acquittal on the merits under the laws of any state or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico shall be a bar to any prosecution under this act for the same act or acts.

EFFECTIVE: 01/21/86

||167-7| CHARACTER - DESTRUCTION OF INTERSTATE PROPERTY

EFFECTIVE: 01/21/86

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 168 - 1

SECTION 168. INTERSTATE TRANSPORTATION OF WAGERING PARAPHERNALIA

168-1 STATUTE

Title 18, USC, Section 1953

"(a) Whoever, except a common carrier in the usual course of its business, knowingly carries or sends in interstate or foreign commerce any record, paraphernalia, ticket, certificate, bills, slip, token, paper, writing, or other device used, or to be used, or adapted, devised or designed for use in (a) bookmaking; or (b) wagering pools with respect to a sporting event; or (c) in a numbers, policy, bolita, or similar game shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

"(b) This section shall not apply to (1) parimutuel betting equipment, parimutuel tickets where legally acquired, or parimutuel materials used or designed for use at racetracks or other sporting events in connection with which betting is legal under applicable State law, or (2) the transportation of betting materials to be used in the placing of bets or wagers on a sporting event into a State in which such betting is legal under the statutes of that State, or (3) the carriage or transportation in interstate or foreign commerce of any newspaper or similar publication, or (4) equipment, tickets, or materials used or designed for use within a State in a lottery conducted by that State acting under authority of State law.

"(c) Nothing contained in this section shall create immunity from criminal prosecution under any laws of any State, Commonwealth of Puerto Rico, territory, possession, or the District of Columbia."

Note: In regard to the use of the mail as a vehicle of transportation, violations are investigated by the U.S. Postal Service under Title 18, Section 1302.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 168 - 2

168-2 DEPARTMENTAL POLICY

(1) With respect to bookmaking, Section 1953 would prohibit transportation of items, such as flash paper intended for recording of bets, pads of paper, adding machines, and similar material, where it can be shown that the material used was intended or adapted for such use.

(2) Regarding wagering pools with respect to sporting events, the section would prohibit transportation of sweepstakes tickets, football, basketball, and baseball pool cards, and similar material, as well as any other objects which may be used in carrying on such activities.

(3) Material used in numbers, policy, bolita, and similar games that is prohibited from transportation would include slips on which numbers are recorded, tally slips, adding machine paper, printing plates, presses, and the like. The Department does not construe the language of the law to extend to lotteries of all kinds, but rather it should be confined to the types enumerated and variations thereof. Games, such as bingo or punchboards, are not included in the statute. The Department interprets the work "knowingly" to require a conscious act on the part of the person carrying or sending the material, which act would require a knowledge of the nature of the material and a knowledge and intent that the material be transported. It does not require a knowledge of the specific prohibition of the statute or even of the existence of the statute.

EFFECTIVE: 10/18/88

168-3 INVESTIGATIVE PROCEDURE

(1) The records of the carrier should be examined to determine the name of the shipper, consignee, route, and date of shipment.

(2) Any material used by the carrier or other documentary evidence that would establish the interstate character of the shipment should be obtained.

(3) When transportation is accomplished by means other than the use of a common carrier, consider the advisability of surveillances to establish the interstate transportation of the items.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 168 - 3

(4) The development and utilization of confidential informants, other investigative techniques, and the use of the FBI Laboratory should be considered.

(5) Violations of the Interstate Transmission of Wagering Information and Interstate Transportation in Aid of Racketeering statutes may accompany violations of Interstate Transportation of Wagering Paraphernalia.

EFFECTIVE: 10/18/88

168-4 VENUE

In any district from, through, or into which such paraphernalia transported. (Title 18, USC, Section 3237)

EFFECTIVE: 10/18/88

168-5 REPORTING PROCEDURES

(1) In 168A cases involving LCN members and/or associates or 168B cases involving other organized crime groups (i.e., Asian organized crime, Sicilian Mafia, etc.), submit an airtel to FBIHQ within 60 days of opening the case. This communication should include facts predicating the case and sufficient identification data on the subject(s) for indexing purposes.

(2) A progress letter should be submitted every 180 days restating the predication and a summary of the investigation.

(3) The results and/or summary of investigation should be reported by airtel.

(4) In 168C cases, no reporting to FBIHQ is required.

EFFECTIVE: 10/18/88

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 168 - 4

||168-6|

CHARACTER - INTERSTATE TRANSPORTATION OF WAGERING
PARAPHERNALIA

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 172 - 1

SECTION 172. SPORTS BRIBERY

172-1 STATUTE

Title 18, USC, Section 224, effective 6-6-64

Section 224. Bribery in Sporting Contests

"(a) Whoever carries into effect, attempts to carry into effect, or conspires with any other person to carry into effect any scheme in commerce to influence, in any way, by bribery any sporting contest, with knowledge that the purpose of such scheme is to influence by bribery that contest, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

"(b) This section shall not be construed as indicating an intent on the part of Congress to occupy the field in which this section operates to the exclusion of a law of any State, territory, Commonwealth, or possession of the United States, which would be valid in the absence of the section shall be declared invalid, and no local authorities shall be deprived of any jurisdiction over any offense over which they would have jurisdiction in the absence of this section.

"(c) As used in this section -

"(1) The term 'scheme in commerce' means any scheme effectuated in whole or in part through the use in interstate or foreign commerce of any facility for transportation or communication;

"(2) The term 'sporting contest' means any contest in any sport, between individual contestants or teams of contestants (without regard to the amateur or professional status of the contestants therein), the occurrence of which is publicly announced before its occurrence;

"(3) The term 'person' means any individual and any partnership, corporation, association, or other entity."

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 172 - 2

172-1.1 Elements

- (1) A "scheme in commerce"
- (2) Designed to influence a sporting contest by bribery
- (3) An attempt to carry into effect the scheme or actual carrying into effect of the scheme (or alternately, a conspiracy to do this, noting that this section contains its own conspiracy provision)
- (4) With knowledge of the purpose of the scheme

EFFECTIVE: 01/31/78

172-1.2 Exceptions

Nothing in this section shall pre-empt the laws of any state, territory, commonwealth, or possession of the U.S. or deprive local authorities of jurisdiction over existing statutes in this field.

EFFECTIVE: 01/31/78

172-1.3 Analysis of Statute

(1) This section makes it a Federal offense to attempt to or to influence, in any way, a sporting contest by bribery. From the legislative history it is clear that Congress intended this statute to cover not only outright "throwing" of contest but also more subtle practices, such as "point-shaving." The section covers both the briber and the recipient, be he participant, coach, trainer, referee, or anyone else who could in fact "influence" the outcome of the contest.

(2) It is also evident from the legislative history of the section that Congress intended to extend Federal jurisdiction only to those schemes which involve interstate use of interstate facilities in carrying the scheme into effect.

(3) "Bribery" is not defined by the statute, and at common law referred only to the misconduct of public officials. The Department has advised, however, that it is apparent the congressional

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 172 - 3

intent was to use the word in its generally accepted context, such that it includes the offering of any reward to any one who could influence the contest by acting (or not acting) in a manner other than he would have but for the bribe.

(4) When investigation under this section encompasses a possible violation of the Federal Communications Act, the provisions of Title 47, USC, Section 409 (1) (referred to as the FCC immunity statute), are applicable to the grand jury investigation. Consideration of such action should be suggested to the USA where grand jury presentment is warranted.

EFFECTIVE: 01/31/78

172-2 POLICY

(1) FBIHQ must be immediately informed by expeditious means, depending upon the urgency of circumstances, of all allegations of violations of this statute. Seeking prosecutive opinion of appropriate USAs in the field is authorized. However, FBIHQ, because of expected widespread public interest in cases investigated and prosecuted under this statute, must be kept fully and currently advised of all developments.

(2) Every effort must be made to avoid charges of illegal arrest without a warrant at the scene of a bribery payoff. Where facts of a substantive offense, such as offer or solicitation, are learned prior to actual payoff, consult the USA as to the desirability of obtaining a warrant of arrest, based on such offense already committed, to be served at time of payoff. Opinions of the USA in this regard must be clearly indicated in reports.

(3) The USA must be consulted prior to taking any action with regard to renewal of offer, solicitation, or payoff which might involve entrapment. Any indication of entrapment must be brought immediately to the attention of the USA and FBIHQ.

EFFECTIVE: 01/31/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 172 - 4

172-3 INVESTIGATIVE PROCEDURE

(1) Information concerning bribery attempts may be received from established sources, such as school officials, coaches, game officials, or the players themselves. When information is received from informants or sources that attempts are being made to rig a contest or large wagers are being made that would indicate a contest has been rigged, appropriate investigation should be conducted.

(2) Identify sports contest involved.

(3) Immediately make discreet efforts through reliable informants and sources to identify the conspirators and their targets, whether they be players or officials.

(4) Identify proposed method of communication or liaison between conspirators and targets.

(5) Attempt to effect coverage when contact is made.

(6) Cover contest and identify subjects as spectators and record their actions by appropriate observations or means.

EFFECTIVE: 10/18/88

172-4 VENUE

In any district from, through, or into which travel, transportation, or communication in violation of statute has occurred (Title 18, USC, Section 3237)

EFFECTIVE: 10/18/88

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 172 - 5

172-5 | REPORTING PROCEDURES

(1) Immediately inform FBIHQ of all allegations of violations of this statute.

(2) In 172A cases involving LCN members and/or associates or 172B cases involving other organized crime groups (i.e., Asian organized crime, Sicilian Mafia, etc.), submit an airtel to FBIHQ within 60 days of opening the case. This communication should include facts predicated the case and sufficient identification data on the subject(s) for indexing purposes.

(3) A progress letter should be submitted every 180 days restating the predication and a summary of the investigation.

(4) The results and/or summary of investigation should be reported by airtel.

(5) In 172C cases, no reporting is required, other than the initial advisement to FBIHQ as in (1) above.

EFFECTIVE: 10/18/88

||172-6| CHARACTER - SPORTS BRIBERY

EFFECTIVE: 10/18/88

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 1

SECTION 173. CIVIL RIGHTS ACT OF 1964

173-1 BACKGROUND

The Civil Rights Act of 1964 was enacted into law on 7-2-64 and became effective that date with the exception of the employment provisions which became effective 7-2-65. The principal items which affect the Bureau's work are the titles dealing with public accommodations, public education, public facilities, and employment.

EFFECTIVE: 08/08/78

173-2 STATUTES

Public Law 88-352 - Civil Rights Act of 1964 (Title 42, Section 2000) Title 18, USC, Section 245, Public Law 92-261 - Equal Employment Opportunity Act of 1972, effective 3-24-72.

EFFECTIVE: 08/08/78

173-3 POLICY

(1) Do not advise persons interviewed of their rights except when interference by force or threat of force, interference with witnesses, or other obstruction of justice is present. Be guided by Section 7-3.2, of the Legal Handbook for Special Agents concerning confessions and interrogations.

(2) Interview may be conducted in the presence of attorney if requested by interviewee. Two Agents should be present at all interviews of subjects and witnesses when the presence of an attorney is anticipated. SAC approval should be obtained in such instances. If circumstances indicate that the interview should not be conducted in the presence of the interviewee's attorney, furnish full details to FBIHQ with your recommendations. Any other interviews should be conducted by two Agents where good judgment so dictates.

(3) Do not identify source of complaint to any person

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 2

interviewed or contacted during the course of an investigation. If necessary to effect identification of specific incident involved, it is sufficient to state to the effect that a Civil Rights Act of 1964 investigation is being conducted of allegation that victim (identifying victim by name) has been discriminated against.

| (4) Field offices may communicate directly with the Department of Justice (DOJ), Civil Rights Division (CRD) attorney who generates a written or verbal request for investigation, the latter of which will also be documented by DOJ and subsequently transmitted to the field by airtel from FBIHQ. In the event field offices strongly disagree with the requirements of the DOJ investigative requests and/or taskings, and cannot resolve these issues with DOJ, field offices should contact the Civil Rights Unit, FBIHQ. |

EFFECTIVE: 08/10/94

173-3.1 Privacy Act - Requirements

(1) When interviewing the subject, agent or representative performing management functions, in order to solicit information about subject or subject's activities, the interviewing Agent must follow the procedure described in Section 190-5, subparagraphs (2) and (3) of this manual. In all civil rights-type (noncriminal) investigations, the interviewee is to be provided with form FD-496. The FD-302 used to report results of these interviews should clearly state that the interviewee was furnished a copy of this statement.

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

EFFECTIVE: 08/08/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 3

173-4 PUBLIC ACCOMMODATIONS

Section 201. Provides injunctive relief against discrimination because of race, color, religion, or national origin in places of public accommodations; i.e., establishment offering lodging or food for consumption on the premises, gasoline station, and place of entertainment if its operation affects commerce or if discrimination or segregation by it is supported by state laws.

EFFECTIVE: 12/08/78

173-4.1 Establishments Covered

(1) Inn, hotel, motel, or other establishment which provides lodging to transient guest, other than an establishment within a building which contains not more than five rooms for rent or hire and a portion of such establishment is actually occupied by the proprietor. (Category 1)

(2) Restaurant, cafeteria, lunchroom, lunch counter, soda fountain; or any gasoline station. (Category 2)

(3) Motion-picture house, theater, concert hall, sports arena, stadium, or other places of exhibition or entertainment. (Category 3)

(4) Any establishment which is physically located in any covered establishment; e.g., a barbershop in a motel or hotel. (Category 4)

(5) Private clubs are exempt except to the extent to which they open their facilities to an establishment covered by the act. (See instructions below for "Private Clubs" and "Private Facilities" under Category 4.)

EFFECTIVE: 12/08/78

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 4

173-4.2 Preliminary Investigations

(1) By memorandum dated 10/25/78, the Civil Rights Division (CRD) advised that responsibility for enforcement of Public Accommodations Statutes (Title II, Civil Rights Act of 1964) has been transferred from the Department of Justice to the respective USAs in districts where alleged violations occur. The CRD instructs that all new public accommodation complaints received by the FBI and all LHMs and/or investigative reports be sent directly to the USA in the district where violation occurred. Any request for investigation of alleged Title II violations received from the USA's Office should be conducted without prior approval of the CRD. The CRD will retain review authority over public accommodations matters consistent with its general supervisory responsibility for civil rights matters (USA Manual 8-1.000) and desires copy of LHM or report; submit two copies of reports and three copies of LHM to FBIHQ for dissemination.

(2) The CRD also directed the FBI conduct preliminary investigation of alleged violations upon receipt of a complaint from a citizen. When conducting a preliminary investigation, follow instructions set out below for the particular category of establishment involved. Notify FBIHQ and appropriate USA in writing when instituting investigation in these matters.

(3) A CRD memorandum of 6/22/78, to the Director, FBI set forth guidelines for conducting preliminary investigations relating to public accommodations. The Department notes these instructions will supersede and replace all prior memoranda covering "standard" preliminary investigations under Title II of the Civil Rights Act of 1964. The standard preliminary investigation is normally to be completed in full. Throughout the guidelines below the words "blacks and Hispanics" are used and where appropriate these words should be read to refer to whatever race, color, religion, or national origin is alleged to be the basis of the discrimination.

(4) The Department's instructions for investigation are as follows:

"The ownership of any establishment or facility should always be established although not specifically requested under each category. Where the complaint originates with the FBI, and statements are obtained from the victims of the details of the incident, the victims need not be reinterviewed unless a specific request is made to do so. The following investigation will comprise the standard preliminary investigation applicable to all types of facilities.

Sensitive
PRINTED: 02/18/98

Sensitive

"Section 201(b) of the Act sets forth four categories of establishments which are subject to coverage under Title II. The investigation requested for each category will be listed separately.

"Category (1) Any inn, hotel, motel, or other establishment which provides lodging to transient guests.

"a. If it is initially determined that the establishment has no more than five rooms and a portion of the establishment is actually occupied by the proprietor, it is not covered under the Act. However, prior to terminating the investigation, determine whether Category (4) applies and, if so, follow the instructions listed under that category. Otherwise proceed as follows:

"b. If the complaint alleges a refusal of accommodations because of race, color, religion, or national origin.

- "i) Interview the victim or victims and any witnesses for specific details.
- "ii) Interview the manager or proprietor concerning the present policy of renting rooms to blacks, Hispanics, etc., and ascertain the number and type of accommodations, if any, which were available at the approximate time of the victim's arrival. Note the type of records used to record and retrieve this information and, if permitted, personally check the records for confirmation. (It is a common practice to hold non-guaranteed reservations only until 6:00 p.m. or shortly thereafter. Accordingly, rooms may be available after 6:00 p.m.) Determine if it is a policy to notify prospective guests of this information and whether the victim was so notified.
- "iii) If it is determined that vacancies were available, interview the desk clerk who was on duty at the time and ascertain the reason the victim was not given accommodations.
- "iv) Determine whether the subject establishment

Sensitive

has ever followed, for any reason, a custom or policy of refusing accommodations to blacks, Hispanics, etc. If so, ascertain the approximate period of such custom or policy and the reasons therefor.

- "v) Interview a representative number of non-management employees, minority and non-minority, preferably away from the establishment as to their knowledge of a practice of refusing accommodations to blacks, Hispanics, etc.
- "vi) Note the presence and location of any discriminatory signs and photograph same.
- "vii) Ascertain the name and address of the owner or owners of establishment. If the owner is a corporation, ascertain the name and registered address of the corporation and the names and addresses of the officers and directors.

"c. If the complainant alleges discriminatory practices by the establishment, such as charging higher rates to blacks, Hispanics or other minorities, setting aside certain rooms or sections for the accommodation of blacks, Hispanics, etc., or discourteous treatment or service by employees,

- "i) Interview the victim and any witnesses for specific details.
- "ii) Interview the employee or employees involved.
- "iii) Interview the proprietor or manager as to his knowledge of the incident of discourteous treatment or service. Also, determine his knowledge of any other discriminatory practices and ascertain who is responsible for the existence of such discriminatory practices.
- "iv) Interview a representative number of employees, particularly room maids and bell hops, preferably away from the

Sensitive

establishment, as to their knowledge of such discriminatory practices, whether the management is aware of such practices, how long they have been occurring, and whether they occur frequently.

"Category (2) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of a retail establishment. (Upon receipt of complaints regarding gasoline stations, the Department should be solicited, through FBIHQ, for specific guidelines.)

"a. Determination of Discrimination or Segregation

- "i) Interview the victim or victims and any witnesses for specific details.
- "ii) Identify and interview the employee or other person involved in the particular incident as to his or her version of what occurred. Ascertain if the employee is under any instructions as to providing service to blacks, Hispanics, etc., or whether it is a custom or practice of the establishment to refuse service to blacks, Hispanics, etc., or to provide discriminatory service such as maintaining separate areas for blacks, Hispanics, etc., or providing carry out service only.
- "iii) Interview other employees of the establishment as to the custom or practice of providing service to blacks, Hispanics, etc., and what instructions they are under regarding same.
- "iv) Interview the owner, manager or proprietor regarding his or her knowledge of the incident. Ascertain what the present policy of the establishment is with respect to serving blacks, Hispanics, etc. Determine how long the policy has been in effect and the details of any previous policy different from the present.

Sensitive

- "v) Determine whether the establishment maintains separate serving areas customarily used by minorities. If so, prepare a simple diagram of the establishment showing the location of the separate area with respect to the main area, the location of any separate entrance, separate washroom facilities, and any signs designating the area for use by minorities. Photograph the exterior and interior of both the main and separate area and any signs.
- "vi) Interview a representative number of minority patrons who utilize the separate area and ascertain (a) How long have they patronized the establishment. (b) Have they at any time sought or received service in the main area. (c) Have they ever sought and been refused service in the main area. (d) Have they ever observed or know of other minorities who have either requested or have been denied service in the main area. (e) What is their understanding of the establishment's policy with respect to serving minorities in the main area. (f) What is their reason for utilizing the separate area, i.e., do they feel they would be refused service in the main area, treated discourteously, or charged different prices for the same services and (g) if the utilization of the separate area is a carry over from past segregated laws or customs which existed prior to the passage of the Civil Rights Act of 1964, have they at any time since 1964 been notified by the establishment that they could be served in the main area.
- "vii) Where there are no dual facilities and the only witness is the victim, if the owner or proprietor denies any policy of discrimination, interview a representative number of black residents in the community and other minorities, if appropriate, as to their knowledge of a discriminatory policy

Sensitive

at the establishment.

"b. Coverage:

- "i) Any establishment under this category located on an Interstate of United States Highway is automatically covered and no further investigation on coverage is required.
- "ii) Any establishment which is adjacent to an airport, bus terminal or train station is automatically covered.
- "iii) Any establishment which is in the immediate vicinity of an airport, bus terminal, or train station is, in most cases, automatically covered. However, it is necessary to show that these establishments serve or offer to serve travelers who use these facilities. Coverage would be established if the establishment acknowledges that they serve or offer to serve travelers using these facilities. The management of such establishment should be questioned concerning their policy. If the response is negative or equivocal, then complete the following investigation on coverage which applies to all establishments in this category not mentioned above.
- "iv) Obtain from the owner or manager, a dollar amount of his expenditures for food and non-alcoholic beverages for each of three months preceding the investigation. From this statement, identify the most costly items purchased, such as meats, poultry, seafoods, dairy products and produce. Obtain the names and addresses of the suppliers of these products and interview them as to the source (in-state or out of state) of these products. In most instances, the immediate supplier will be able to furnish this information. If not it will be necessary to follow through on the immediate suppliers source until it can definitely be

Sensitive

established whether the goods moved in interstate commerce. Copies of records of purchases from suppliers should be made if it appears that the records will not be maintained for at least six months from the date of the investigation.

- "v) If any facility under this category claims to be a private club, unless otherwise indicated, it will be sufficient to obtain information to show whether membership is open to the general public, except blacks, Hispanics, etc., whether members have any voice in the operation of the facility including passing on new members and whether the facility is actually owned by others than the members. If there is a membership requirement, how are members selected.

"Category (3) Any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment:

"a. Determination of Discrimination or Segregation

- "i) Interview the victim or victims and any witnesses for specific details.
- "ii) Interview the owner, manager, or proprietor regarding his or her knowledge of the incident. Ascertain the facility's present policy with respect to admitting blacks, Hispanics, etc., or permitting blacks, Hispanics, etc., to participate in any functions conducted by or held within the premises of the facility.
- "iii) Identify and interview the employee or other person involved in the incident as to his or her version of what occurred. Ascertain if the employee is under any instructions as to admitting blacks, Hispanics, etc., or permitting blacks, Hispanics, etc., to participate in functions conducted by or held within the premises of the facility, or whether to the knowledge of the employee, it is a policy, practice, or custom to refuse

Sensitive

equal service to blacks, Hispanics, etc.

- "iv) Interview other employees of the facility as to the practice, policy or custom of admitting blacks, Hispanics, etc., to the facility or permitting blacks, Hispanics, etc., to participate in any functions conducted by or held within the premises of the facility, or to refuse equal service to blacks, Hispanics, etc.

"c. Coverage:

- "i) With respect to theaters which commonly present motion picture films, determine the name of the distributor of the films presented. Interview the distributor and ascertain the out of state source of all films shown within the past six months.
- "ii) With respect to theaters and concert halls which commonly present entertainment other than motion picture films, determine the type of entertainment which is commonly presented. Ascertain the particular event which was being presented at the time of the incident and the name of the person or group who was performing and whether they were from out of state. Also, ascertain a description of all performances which were presented within the past six months, the name of the person or group and whether they were from out of state. As to all performances presented within the past six months, obtain the name and address of the agency which booked the performance.
- "iii) With respect to bars, lounges, or other similar facilities;
- "1) Ascertain if any live entertainment is presented and, if so, obtain the information requested in ii) above.
- "2) Identify any mechanical sources of entertainment (e.g., pool tables and

Sensitive

related equipment, pin ball machines, juke boxes or other devices providing music).

"3) Determine the name and address of the manufacturer and supplier of such sources of entertainment. If readily ascertainable, determine the manufacturer's serial number of any source of entertainment.

"4) If any facility under this category serves food, ascertain the dollar amount of purchases from all sources for the past three months. From this amount, determine the dollar amount which represents food purchases. Obtain the names and addresses of the principle suppliers of food products and interview the suppliers to determine the dollar amount of such purchases which originated from out of state.

"iv) With respect to all other places of exhibition or entertainment, such as athletic fields, parks, playgrounds, swimming pools, beaches or lakes;

"1) Ascertain whether such facilities present events which are engaged in, utilized by, or available to persons from out of state.

"2) Ascertain whether the facility utilizes equipment of any kind, (e.g., golf carts or equipment roller or ice skates, automatic bowling pin setters or bowling pins, boats, ramps, boating equipment, diving boards or other swimming equipment) or any other type of recreational devices or equipment which originated from out of state.

"3) Determine the name and address of the manufacturer and supplier of all such

Sensitive

entertainment devices or equipment.

"4) Determine what facilities (e.g., benches, seats or other designated areas) exist for patrons either to watch any entertainment presented or to observe any other patrons entertaining themselves by use of such recreational devices or equipment.

"5) If any facility under this category serves food, ascertain the dollar amount of purchases from all sources for the past three months. From this amount, determine the dollar amount which represents food purchases. Obtain the names and addresses of the principle suppliers of food products and interview the suppliers to determine the dollar amount of such purchases which originated from out of state.

"v) In many instances, athletic and sporting events are provided for local groups such as Little League, Babe Ruth and other such groups or teams, youth and adult. In these circumstances, it will be necessary to identify and interview the sponsors of the teams and ascertain their policy with respect to participation by blacks, Hispanics, etc.

"vi) In the event any of the above facilities under this category or groups, teams, etc., utilizing such facilities claim to be private clubs, conduct the additional investigation listed below under "private clubs," unless otherwise requested.

"Category (4) Any establishment which is physically located within the premises of any establishment otherwise covered by this statute or within the premises of which is physically located any such covered establishment and which holds itself out as serving patrons of such covered establishment.

Sensitive

"a. In most cases, this category will involve covered establishments such as hotels and motels, which have located on or within their premises other establishments which would not otherwise be covered, such as barbershops, beauty parlors, and bars. In such circumstances, the principal establishment is automatically covered. As to the other facilities it is only necessary to show that they serve or offer to serve patrons of the covered establishment. Some facilities such as bars or lounges will maintain that they are private clubs. However, if patrons or guests of the principal establishment are freely offered membership or service in the other establishment, it may be assumed without further investigation, that such facilities are covered.

"b. Private Clubs:

- "i) Obtain, if available, a copy of the club's bylaws or charter;
- "ii) Determine the legal entities involved in the ownership of the property and management of the club (e.g., corporation, partnership, unincorporated association, sole proprietorship) and the names, addresses, and race of persons involved (e.g., partners); determine the present club officers and methods by which they were selected;
- "iii) Determine whether any numerical limit is set upon membership in the club;
- "iv) Determine whether payment of any dues, annual or lifetime, is required in connection with membership in the club, and, if so, in what amount;
- "v) Obtain a copy of any membership list that is maintained;

Sensitive

- "vi) Ascertain the number of members of the club and whether there are any non-white members; if there are, obtain their names and addresses;
- "vii) Determine all details of the procedures by which a person or family makes application for membership in, and is admitted to, the club;
- "viii) Ascertain what qualifications, if any, a prospective member must meet to be eligible for membership and what items, if any, disqualify him;
- "ix) Determine whether the recommendations of existing members are required from prospective members;
- "x) Determine what control, if any, existing members have over the admission of applicants for membership, (e.g., whether there is a membership committee selected by the members to represent them), if such a membership committee exists, obtain the names and addresses of its members, whether there is a blackball system by which one or more individual members can reject an applicant even though he might have been recommended by another member or members, whether notice of pending applications is given to existing members, whether existing members are notified after an applicant has been admitted;
- "xi) Ascertain whether the members exercise control over the financial operations of the establishment and to what extent (e.g., do they own any of the property, do they determine how the revenues from the establishment's operations are used, are these revenues retained by the establishment's manager);
- "xii) Ascertain whether the club advertises in any

Sensitive

manner and, if possible, obtain copies of all advertisements. If copies cannot be obtained, please describe the advertisements, including whether such advertising indicates in any way that the subject establishment is a private club not open to the general public;

"xiii) If the subject establishment is listed in the local telephone directory, determine whether its listing can be distinguished from any other restaurant or other place of public accommodation and whether it is designated as a private club;

"xiv) Determine the established procedures, if any, for permitting non-members or guests of members to use the subject establishment's facilities (e.g., whether non-members can rent the facilities of the club); and

"xv) Determine whether the establishment has ever been operated on some basis other than a private club. If so, please obtain all details, including date of, and reasons for, the purported change to a private club.

"b. (1) Private Club Facilities

"This group will involve bona fide private clubs which operate facilities which may be open to the public. Such groups will include organizations which are clearly private, such as fraternal or military organizations (e.g., Elks and Moose Lodges, the VFW and the American Legion). In order to determine whether the facilities they operate are open to the public and therefore within the coverage of Title II, conduct the following investigation:

- "i) Ascertain what precise policy is followed in admitting guests to the facility.
- "ii) May non-members of the club be admitted who are not invited by members.
- "iii) What procedure is followed in determining whether a non-member is authorized to be

Sensitive

admitted.

- "iv) If any customers are present on the premises, interview a representative number and ascertain if they are members or guests of members. If they are neither, ascertain under what circumstances they were permitted to enter, whether and how often they have patronized the establishment in the past, and whether they were ever asked to show whether they were guests of members. If they claim to be guests of members, determine the procedure they are required to follow in order to be admitted (e.g., required to sign a guest book or required to be accompanied by the member, etc.)."

EFFECTIVE: 12/08/78

173-4.3 Copies of Communications and Deadlines

Submit two copies of a report to FBIHQ within
| 21|workdays|of receipt of a complaint.

EFFECTIVE: 04/08/80

173-4.4 Repeated Complaints - Same Establishment

Where the same accommodation is involved in numerous refusals of service, one case may be opened and victims and dates added to the title as complaints are received. When logical investigation has been completed, case may be closed, subject to reopening when additional complaints are received.

EFFECTIVE: 04/08/80

173-5 PUBLIC EDUCATION

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 18

EFFECTIVE: 04/08/80

173-5.1 Definition

A place of public education is any education institution operated by a state, any subdivision of a state, any Government agency within a state, or operated wholly or predominantly from or through the use of governmental funds or property derived from a governmental source.

EFFECTIVE: 04/08/80

173-5.2 Basis of Complaint

Take the following action upon receipt of a complaint alleging discrimination because of race, color, sex, religion, or national origin in a place of public education.

(1) Interview complainant and take signed statement to include:

(a) Pertinent personal history and background information.

(b) Full details of the alleged discrimination.

(c) All information the complainant has regarding the operation of the public school or public school system on a discriminatory basis and the identities of any other persons who have sought the use of the school on a nondiscriminatory basis.

(d) Full details of any other efforts made by the complainant or others on complainant's behalf to rectify the alleged discrimination and the ability or inability of the complainant to bring legal action on his/her own behalf or through some interested organization. In this connection the complainant should not be asked whether, in his/her opinion, he/she is able or unable to sue, inasmuch as this would be a legal conclusion. Complainant should, however, be asked for general information regarding his/her employment, whether he/she owns home and automobile; if so, to furnish description of the house and automobile. Also how many dependents the complainant supports and whether he/she is a member of any civil rights

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 19

organization that provides legal counsel in this type of case.

(2) If the complainant refuses to submit a signed statement, take no further action and submit an LHM setting forth facts of complaint and details of the interview.

EFFECTIVE: 04/08/80

173-5.3 Preliminary Investigation

(1) Interview a representative number of other victims named by the complainant.

(2) Interview the superintendent or other appropriate person or persons responsible for operation of the school to determine:

(a) Full details of situation described by complainant.

(b) What policy and practice have been followed with respect to operating in a nondiscriminatory manner.

(c) Whether any change in such policy or practice is contemplated.

EFFECTIVE: 04/08/80

173-5.4 Reporting Deadline

Submit report within 21 workdays of receipt of the complaint.

EFFECTIVE: 04/08/80

173-6 PUBLIC FACILITIES

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 20

EFFECTIVE: 04/08/80

173-6.1 Definition

A public facility is one other than a place of education which is owned, operated or managed by or on behalf of any state or subdivision thereof.

EFFECTIVE: 04/08/80

173-6.2 Basis of Complaint

Take the following action upon receipt of a complaint alleging discrimination because of race, color, religion, or national origin in a place of public facility.

- (1) Interview complainant and take signed statement to include:
- (a) Pertinent personal history and background information.
 - (b) Full details of the alleged discrimination.
 - (c) All information the complainant has regarding the operation of the public facility on a discriminatory basis and the identities of any other persons who have sought the use of the facility on a nondiscriminatory basis.
 - (d) Full details of any other efforts made by the complainant or other on his/her behalf to rectify the alleged discrimination and the ability or inability of the complainant to bring legal action on his/her own behalf or through some interested organization. In this connection the complainant should not be asked whether, in his/her opinion, he/she is able or unable to sue, inasmuch as this would be a legal conclusion. Complainant should, however, be asked for general information regarding employment, whether he/she owns home and automobile; if so, to furnish description of the house and automobile. Also how many dependents the complainant supports and whether he/she is a member of any civil rights organization that provides legal counsel in this type of case.

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 21

(2) If the complainant refuses to submit a signed statement, take no further action and submit an LHM setting forth facts of complaint and details of the interview.

EFFECTIVE: 04/08/80

173-6.3 Preliminary Investigation

(1) Interview a representative number of other victims named by the complainant.

(2) Interview the manager or other appropriate person or persons responsible for operation of the facility to determine:

(a) Full details of situation described by complainant.

(b) What policy and practice have been followed with respect to operating in a nondiscriminatory manner.

(c) Whether any change in such policy or practice is contemplated.

EFFECTIVE: 04/08/80

173-6.4 Reporting Deadline

Submit report within 21|workdays|of receipt of the complaint.

EFFECTIVE: 04/08/80

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 22

173-7 EMPLOYMENT

Section 703. Prohibits discrimination in employment because of race, color, religion, sex, or national origin. Prohibited acts extend to hiring, firing, promotions, wage scales, and all other conditions of employment, including discrimination on the basis of pregnancy, childbirth, and related medical conditions. Exemptions are granted for legitimate occupational qualifications based upon religion, sex, or national origin only. Discrimination is not punishable as a crime but the aggrieved person, Equal Employment Opportunity Commission (EEOC), or under certain conditions, the Attorney General may file civil suit. ~~EEOC was established to receive and adjudicate complaints.~~

EFFECTIVE: 04/08/80

173-7.1 Establishments Covered

- (1) Business establishments affecting commerce and having 15 or more employees
- (2) Employment agencies procuring employees for the above firms
- (3) Labor unions in industries affecting commerce
- (4) State and local governments, agencies, political subdivisions and the District of Columbia departments and agencies which are not subject by law to the Federal Competitive Services.
- (5) Federal Government employment (handled by EEOC)
- (6) Exceptions: The Act does not apply to state or local elected officials, persons chosen by such officials to be on their personal staffs, policy-making level appointees and immediate advisors of such elected officials, or to religious educational institutions. Preferential treatment may be given to Indians on or near an Indian reservation.

EFFECTIVE: 04/08/80

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 23

173-7.2 Investigation - Private Employer or Labor Union

Investigation to be conducted upon receipt of a complaint:

(1) Complaint against private employer or labor union representing employees of private employer or private employment agency

(a) Advise complainant such violations are handled by EEOC

(b) Advise complainant if he/she wishes to pursue matter with EEOC, he/she should do so within 180 days of the alleged discrimination

(c) Furnish complainant with location of nearest EEOC office

(2) Complaint against state or local government and educational institution or unions representing government employees or public employment agencies, such as state employment services. Conduct preliminary investigation under each category as set forth.

EFFECTIVE: 10/09/79

173-7.3 Preliminary Investigation

EFFECTIVE: 10/09/79

173-7.3.1 Employer

Where complaint involves any actions or practices of the employing governmental entity, interview complainant, preferably at some place other than place of employment, and obtain following information:

(1) Full background of complainant for all details that might bear on his/her qualifications or eligibility for employment or promotion by the subject employer, including age, sex, race, education, previous employment experience and length of time, if any, he/she has worked for subject employer.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 24

(2) Nature of subject employer (e.g., city, county, irrigation district), approximate number of employees, and approximate percentage of female and minority employees employed by the jurisdiction or unit involved. Ascertain whether office or installation where complainant works is located near or in a minority neighborhood.

(3) Full details of complaint.

(4) If complainant is or has been working for subject employer, as would be true if complainant complains of discriminatory promotion or discharge policies:

(a) Complainant's present job category and department and any previous jobs and departments indicating length of time in each.

(b) Complainant's wage category and its position relative to other wage categories of the employer.

(c) Complainant's duties, and whether any white persons, in the case of a race complaint, or males or females as appropriate, in the case of a sex complaint, perform or have performed similar duties.

(d) Number of minority and female employees in complainant's job category or department; and in other job categories and departments of which complainant is aware.

(e) Names of other minority or female employees who work for employer and departments and job categories to which they are assigned, if known.

(f) Complainant's understanding of the operation of the promotion, recall and layoff systems, if any.

(g) Total number of departments, seniority lines, production areas and any other information known about structure of employer or employing agency.

(5) If complainant is not and has never worked for the employer, but instead is alleging discrimination in hiring:

(a) Date on which he or she applied for the job

(b) Method by which he or she found out about

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 25

availability of the job or decided to apply for a job

(c) Whether he or she was required to take any test and, if so, nature of the test

(d) Name of person, if any, who interviewed |him or her|

(e) Whether he or she submitted written application

(f) Any other steps he or she was required to take to complete employment and application process

(g) When and by what means notification or rejection for employment given

(6) If employing agency is unionized, ascertain name of union, how many members it has, percentage of minority or female members, whether complainant in question was brought to attention of the union and what action, if any, was taken by the union on complaint.

(7) Determine whether similar complaint has been filed with any other Federal or state or local agency and, if so, details including date on which it was filed, and disposition, if any, which that agency has made.

(8) Determine whether complainant knows any other minority group persons or females who have been similarly affected by subject employer, and, if so, their names and dates of alleged discriminatory conduct.

(9) Obtain copies of any pertinent written material or documents that complainant may have in |his/her| possession, such as copies of applications to employer and correspondence from it.

EFFECTIVE: 06/08/78

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 26

173-7.3.2 Unions

When complainant appears to involve any actions or practices of union which represent or seeks to represent employees of a governmental employer, interview complainant, preferably away from place of employment and obtain following information:

(1) Full background of complainant including all details that might bear on qualifications for membership in subject union or for referrals by subject union, such as age, sex, race, education, previous employment, experience, and any municipal licenses
complainant may possess qualifying him/her to work in the trade.

(2) Nature of subject union, that is whether it is an industrial union representing employees in a plant or craft (or building trade) union. If it is a craft union, ascertain from complainant whether union operates a hiring hall and, if so, details about operation of the hiring hall.

(3) Full details of complaint

(4) If complainant was seeking membership in the union:

(a) Type of membership complainant was seeking, i.e., whether complainant was seeking apprentice status or journeyman status

(b) Whether complainant made any written applications to the union and if so, dates of those applications

(c) How complainant came to make application to the union, i.e., whether referred by friend or relative, interested organization, or employment service

(d) Whether complainant was required to take any examination and nature of examinations

(e) Whether there was an interview and, if so, person who conducted interview

(f) Whether complainant was notified of acceptance and, if so, when and how, and whether complainant has had any further contact with the union

(5) If complainant was claiming discrimination in some practice of subject union other than that relating to admission to

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 27

membership in the union, determine whether it related to operation of grievance procedures, work referral system, a work permit system, or some other union function and ascertain details of alleged discriminatory practice.

(6) If on any previous occasion complainant sought membership, to be referred for work, utilize grievance procedure or other service benefit from subject union, ascertain all dates upon which such occurred and full details about each of these contacts with the union.

(7) Whether there are black or other ethnic minority members, or female members of the union or who are working under auspices of the union. If so, ascertain the names of those persons from interviewee.

(8) Whether similar complaint was filed with any state or local agency or any other Federal agency and, if so, details including date on which it was filed, and disposition made of it, if known.

(9) Obtain copies of any written material or documents that complainant may have in his/her possession pertaining to complaint or to complainant's contact or connection with subject union.

EFFECTIVE: 06/08/78

173-7.3.3 Employment Agencies

When complaint appears to question practices of any public employment agency, such as a state employment service, interview complainant at some place other than place of employment, and obtain following information:

(1) Full background of complainant including all details regarding qualifications for employment, such as age, sex, race, education, previous employment experience.

(2) Nature of employment agency, and types of jobs to which it generally refers persons. Ascertain whether employment agency's office is in minority neighborhood.

(3) Full details of complaint

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 28

(4) Type of job for which complainant sought employment. Ascertain whether complainant had any previous experience in such jobs.

(5) Type of job to which complainant was referred, indicating nature of work and level of pay, whether any other minority or female person held similar jobs.

(6) If complainant was not referred to job, what reasons complainant was given for the failure or inability for referral. Ascertain whether complainant was refused referral on any previous occasion and, if so, details.

(7) Previous experience with employment agency, including whether complainant was ever referred to any other job and, if so, nature of those jobs and dates of referrals.

(8) Full details about contact with employment agency including applications and other forms filled out, the name of person who interviewed complainant, what jobs possibilities were mentioned, and whether complainant was advised formally or informally that certain jobs about which complainant had expressed interest would not be available to complainant.

(9) Whether complainant knows any other minority group persons or females who have been similarly affected by subject employment agency and, if so, their names and dates of alleged discriminatory conduct.

(10) Obtain copies of any written documents that complainant may have in possession relating to contact or dealings with employment agency.

EFFECTIVE: 06/08/78

173-7.4 Advise All Complainants

EFFECTIVE: 04/19/91

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 29

173-7.4.1 Information

Advise complainant that information furnished will be forwarded to the U.S. Department of Justice.

EFFECTIVE: 04/19/91

173-7.4.2 Existence

Advise complainant of existence of any appropriate state law or local ordinance and refer complainant to appropriate state or local agency. Also, that in order to obtain relief on his/her individual grievance, he/she should file complaint with EEOC, and this must be done within 180 days after the alleged discrimination occurs. Include fact that complainant has been so advised in investigative report.

EFFECTIVE: 04/19/91

173-7.5 Copies of Communications and Deadlines

Submit two copies of a report to FBIHQ within 21 days of receipt of complaint.

EFFECTIVE: 04/19/91

173-8 INTERFERENCE WITH FEDERALLY PROTECTED ACTIVITIES RELATING TO PUBLIC ACCOMMODATIONS, PUBLIC FACILITIES, PUBLIC EDUCATION, AND EMPLOYMENT

(1) Where interference consisting of force or threat of force prohibited by Title 18, USC, Section 245, is involved, handle in accordance with provisions of Section 44-4 of this manual using appropriate Civil Rights Act of 1964 character and submitting two copies of report to FBIHQ.

(2) Where other interference is alleged, such as by coercion, intimidation, and economic pressure, submit LHM to FBIHQ and take no further action.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 30

(3) The employment provisions of this act require a specified minimum number of employees to establish jurisdiction. No such minimum number is required under provisions of Title 18, USC, Section 245, relating to interference with employment.

(4) Title 18, USC, Section 245, covers all public accommodations as defined by Civil Rights Act of 1964 and also covers an establishment which serves the public and which is principally engaged in selling beverages for consumption on the premises, e.g., a bar.

EFFECTIVE: 04/19/91

173-9 ANNOUNCED TESTING OF ACCOMMODATIONS OR FACILITIES

(1) When information is received that persons are planning to test the practices of a facility or accommodation in a community in which the free use of such facilities or accommodations has previously been interfered with by force or threats, submit teletype to FBIHQ. Do not assign personnel to observe such testing and/or photograph acts of interference or obstruction in the absence of specific prior FBIHQ authority.

(2) If there is interference involving personal injury, threat of serious injury, or substantial damage to property, or if a complaint is received concerning refusal of service, initiate a preliminary investigation and submit a report within 21 days.

(3) If there is no interference or refusal of service, submit an LHM (original and two copies) setting forth the details of the testing.

(4) Where your office receives advance notice of testing of public accommodations or public facilities and there is no indication there will be any interference, obtain details concerning the testing and promptly furnish an LHM (original and two copies).

(5) No commitments are to be made to groups which advise your office of plans to test accommodations or facilities that Agents will or will not be present to observe and photograph such demonstrations.

(6) Furnish copy of LHM in both of the above instances to the local office of military intelligence if within scope of present

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 31

requirements to do so, and advise appropriate local authorities orally.

EFFECTIVE: 04/19/91

173-10 PENALTIES

There are no substantive criminal penalties attached to discrimination prohibited by the act. The aggrieved person, or in some instances the Attorney General, may seek relief through civil action. Written complaints with regard to public facilities and public education are subject to the provisions of Title 18, USC, Section 1001. A \$100 fine is provided for failure on the part of an employer, employment agency, or labor union to post notices required by the Equal Employment Opportunity Commission; however, this violation will be handled by the Commission.

EFFECTIVE: 04/19/91

173-11 MISCELLANEOUS

(1) All deadlines are counted by commencing on the first day following receipt of complaint, i.e., complaint received 8-1-82 - Sunday, submit 8-22-82.

(2) The first paragraph of the details of the report should so indicate if the investigation is limited or preliminary. A limited investigation is one other than a preliminary, or mere receipt of a complaint.

(3) Furnish a copy of all reports and LHMs to the USA.

(4) Retain one copy in the field office file.

(5) Note that a business, such as a department store, which would not normally be covered by the act is completely covered if it has a lunch counter or some other subsidiary unit which would be covered by the act. A barbershop is not normally covered, but a barbershop in a hotel or any other place subject to the provisions of the act would likewise be covered.

(6) Discrimination is not limited to refusal to admit or

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 32

serve but includes any indifference in the nature or extent of services or prices charged.

(7) Information concerning discrimination obtained solely from legitimate news media, personal observation by Bureau personnel, or from any other source not known to be unreliable should immediately be submitted to FBIHQ in a form suitable for dissemination. If the information is obtained from published material, it will be sufficient to submit two copies of the clipping by cover airtel. No other action should be taken in the absence of a complaint with the exception of information indicating interference which should be handled in accordance with 173-7.2 above.

(8) Any instance of interference or violence or potential interference or violence in connection with the desegregation of public schools, public accommodations, public facilities, and employment under the provisions of the Civil Rights Act of 1964 is to be brought to the immediate attention of appropriate state and local officials. Also advise military intelligence and Secret Service if within scope of present requirements to do so. The initial communication to FBIHQ should show that this has been done.

(9) Upon receipt of a complaint, a request for investigation by the USA or a request for investigation by the U.S. Department of Justice, the field division must promptly submit Form FD-610 within five (5) workdays of receipt of complaint). All items on the form are to be completed on the initial submission or later by supplemental submission. This action is to be taken prior to the close of each case in all Civil Rights matters. Along these lines, the field division should make an effort to provide the maximum amount of information if all data is not immediately available. Submit a supplemental form when additional information necessary to complete the form is secured. In those instances where FBIHQ is advised by telephone or teletype of a new case, the FD-610 should be submitted at the earliest possible moment. Specific instructions regarding the completion of the FD-610 are set forth in Part I, 282-8.1 of this manual.

EFFECTIVE: 01/31/94

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 173 - 33

173-12 CHARACTER

- (1) PUBLIC ACCOMMODATIONS - CIVIL RIGHTS ACT OF 1964
- (2) PUBLIC FACILITIES - CIVIL RIGHTS ACT OF 1964
- (3) PUBLIC EDUCATION - CIVIL RIGHTS ACT OF 1964
- (4) EMPLOYMENT - CIVIL RIGHTS ACT OF 1964

In cases of interference involving attempted or actual use of force or the threat of force, add INTERFERENCE WITH FEDERALLY PROTECTED ACTIVITIES to character.

EFFECTIVE: 04/19/91

Sensitive
PRINTED: 02/18/98

Sensitive

SECTION 174. BOMB THREATS
EXPLOSIVES AND INCENDIARY DEVICES

174-1 STATUTES

Title 18, USC, Section 844(d) - (j), effective 10/15/70,
amended 10/12/82, amended 10/12/84 by Public Law 98-473.

(1) Section 844(d) - Interstate transportation or receipt of explosives or incendiary devices with knowledge or intent to kill, injure or intimidate a person or damage property.

(2) Section 844(e) - Use of telephone, mail, telegraph, or other instrument of commerce to transmit a fire or bomb threat, or maliciously conveys false information knowing the same to be false.

(3) Section 844(f) - Use of explosives, fire or incendiary devices to damage or destroy, or attempt to damage or destroy, any property owned, used by, or leased to, the U.S. Government, or any department or agency thereof, or any institution or organization receiving Federal financial assistance.

(4) Section 844(g) - Unauthorized possession of explosives or incendiary devices in a building owned, used by, or leased to, the U.S. Government or any department or agency thereof.

(5) Section 844(h) - Carrying explosives or incendiary devices during the commission of any Federal felony, or use of fire during the commission of a felony.

(6) Section 844(i) - Use of explosives, fire or incendiary devices to damage, or attempt to damage, any property used in an activity affecting interstate or foreign commerce.

(7) Section 844(j) - For the purposes of subsections (d), (e), (f), (g), (h), and (i) of this section, the term "explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuzes (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, other explosive or incendiary devices within the meaning of paragraph (5) of Section 232 of this title, and any chemical compounds, mechanical mixture, or device that contains any oxidizing and

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 2

combustible units or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion.

EFFECTIVE: 08/21/87

174-2 DEPARTMENTAL GUIDELINES

EFFECTIVE: 08/21/87

174-2.1 Jurisdiction

Statutory jurisdiction concerning above violations lies concurrently with FBI and Secretary of Treasury. Bureau of Alcohol, Tobacco and Firearms (ATF) handles Treasury's investigative responsibilities under above statute. Guidelines issued by Department effective 3/1/73 provide for jurisdiction as follows:

(1) General

(a) Section 844(e), (f), and (g) - FBI.

(b) Section 844(d) and (i) - ATF.

(c) Section 844(h) - Agency having jurisdiction over underlying felony.

(2) Exceptions

(a) Violations directed against diplomatic or quasi-diplomatic functions - FBI.

(b) Violations which appear at outset to have been perpetrated by terrorist or revolutionary groups or individuals - FBI. (For the purpose of this section, the Department of Justice has defined terrorist or revolutionary groups or individuals as "Those groups or individuals whose motivation for violating the explosives statutes is political in nature rather than the desire for personal or organizational gain...")

(c) Violations directed against Treasury Department

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 3

functions - ATF.

(d) Violations directed against Postal Service functions or involving explosives sent through the mail - Postal Inspection Service.

EFFECTIVE: 08/21/87

174-2.2 Other Provisions

(1) Guidelines provide that no investigation is to be conducted unless prior authorization is obtained from the Department except in those instances noted below. In these instances the Guidelines provide authorization for immediate, full investigation by the FBI without prior consultation with the Department.

(a) Any violation which appears at outset to have been perpetrated by terrorist or revolutionary groups or individuals.

(b) Explosive (as distinguished from incendiary) bombing or attempted bombing of college or university facilities.

(c) Bombing or attempted bombing of property owned, possessed, used or leased by Federal Government, or by a Federal function such as National Guard or ROTC.

(d) Any violation of Section 844(g), except those involving Treasury or Postal Service buildings.

(e) Any violation against diplomats or quasi-diplomatic functions.

(2) Regarding 174-2.1 (2) (b) above, guidelines provide that if ATF or Postal Inspection Service has properly initiated investigation and information is subsequently developed indicating apparent involvement of terrorist or revolutionary groups or individuals, jurisdiction shall be relinquished to FBI unless Department determines that such a transfer would unduly impair further investigative efforts.

(3) Guidelines require prompt notification to the Department by the agency having investigative jurisdiction in each instance wherein an investigation is instituted under Section 844. In cases where FBI has investigative jurisdiction notification is also to

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 4

be made to ATF and/or Postal Inspection Service if those agencies have a logical interest. Follow-up liaison and dissemination is to be made as necessary to avoid duplication of investigation. Also to be disseminated, in a manner not to interfere with active investigations, is information regarding types, sources, movement, and storage of explosives involved in such investigations.

EFFECTIVE: 08/21/87

174-3 POLICY

EFFECTIVE: 09/22/87

174-3.1 Bombings and Attempted Bombings

(1) Each office is to arrange, through appropriate liaison, to be advised of all bombing and attempted bombing incidents within its respective territory.

(2) Immediately advise FBIHQ by teletype of all actual and attempted bombing incidents within the investigative jurisdiction of FBI, whether explosive or incendiary. Initial communication should fully describe the nature and function of the target of the bombing and cover the following points:

(a) Basis for FBI investigative jurisdiction.

(b) Whether or not investigation instituted.

(c) If investigation not instituted, identify investigating authorities.

(d) Specific comment regarding indicated or probable motive. Include occupation and general reputation of victim if bombing directed against an individual.

(e) Applicability of state and local laws and likelihood of state or local investigative and prosecutive action.

(f) Whether or not there is any information indicating the bombing is part of a pattern or plan by a particular subject or against a particular victim.

Sensitive
PRINTED: 02/18/98

Sensitive

(g) Specific comment that Secret Service, ATF, USA and appropriate law enforcement and other logical agencies have been advised; also, that ATF advised as to whether or not FBI instituting investigation. Notice to military intelligence agencies is not required unless they have a specific interest in the incident or unless dissemination otherwise required by the "Agreement Governing the Conduct of Defense Department Counterintelligence Activities in Conjunction with Federal Bureau of Investigation" (see Appendix 3 of the FCI Manual) or the Memorandum of Understanding between Justice and Defense Departments.

(3) In those explosive incidents which are likely to receive nationwide publicity and wherein it is not immediately known if an actual bombing has occurred or if the incident is within FBI jurisdiction, furnish FBIHQ with background and details by teletype.

EFFECTIVE: 09/22/87

174-3.2 Bomb Threats

(1) Immediately advise appropriate law enforcement agencies and Secret Service. Refer to 174-3.1 (2) (g) above regarding notice to military intelligence agencies.

(2) If a bomb threat is directed against Bureau facilities or personnel, all logical leads to identify subject are to be covered immediately. Bureau space, if involved, should be searched by Bureau personnel familiar with the specific area. An assessment of any suspicious item should be made by an FBI bomb technician, bomb squad personnel, or military Explosive Ordnance Disposal (EOD) unit. Render safe responsibilities for located bomb devices rest with the bomb squad personnel or military EOD unit. Each field division should have a bomb threat plan.

(3) Notify FBIHQ in the following instances:

(a) By teletype, if threat concerns a diplomatic establishment or a situation which may result in widespread publicity.

(b) By teletype, if threat results in request by local authorities or private citizen for FBI investigation.

(c) By teletype, if threat is directed against

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 6

Bureau facilities or personnel. If Bureau space involved, indicate same searched by Bureau personnel.

(d) By airtel (FD-365) and LHM, to be submitted same day, or following workday if threat received after regular working hours, if: threat concerns a military or U.S. Government installation; identity of subject is known, alleged, or readily available; or threat appears to be part of a pattern or plan by a particular subject or against a particular victim. |(See MIOG, Part I, 174-6.)|

(4) Notification to Secret Service and other agencies must be confirmed in writing the same day the information regarding the threat is received. If information is received after normal working hours, written confirmation should be made the following workday. Include in confirmation the time and date of oral notifications and identify, by name, persons notified. |(See MAOP, Part II, 10-4.3 & Correspondence Guide-Field, 2-5.5.11 & 3-41.)|

(5) All written bomb threats are to be submitted to the Laboratory for document examination and for latent fingerprint examination, whether or not active investigation is being conducted by the FBI.

EFFECTIVE: 09/24/93

174-3.3 General Instructions

- (1) Submit 4 copies of reports and 7 copies of LHMs.
- (2) When active investigation is instituted, notify FBIHQ by teletype, submit initial report within 30 days and submit subsequent reports every 30 days thereafter. |(See MIOG, Part I, 174-6, and MAOP, Part II, 10-4.3.)|
- (3) Disseminate all reports and LHMs to the USA.
- (4) In those instances wherein this section requires submission of LHM to FBIHQ, a copy of the LHM should be disseminated locally to Secret Service by FD-376. Original and one copy of FD-376 should be submitted to FBIHQ with LHM.
- (5) In those instances where notification to FBIHQ by

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 7

teletype is required, submission should not be delayed if all necessary information is not immediately available. Such additional information should be submitted by supplemental teletype as soon as it is available.

(6) Advise the USA telephonically of all incidents or threats reported to FBIHQ, within FBI jurisdiction. Unless circumstances dictate otherwise, such notification should be made during business hours.

(7) Bombings, attempted bombings and bomb threats constituting other substantive violations within FBI jurisdiction, such as Federal Train Wreck Statute, Destruction of Aircraft or Motor Vehicles, Civil Rights, Extortion, etc., should be handled in accordance with existing instructions pertaining to the particular violation involved. FBIHQ should be advised of the incident under appropriate substantive caption. Exceptions: Situations involving bombings or attempted bombings of Government property, and sabotage by use of explosive, are handled as 174 matters.

(8) Advise FBIHQ by teletype or telephone if ATF attempts to exercise any jurisdiction in a matter being investigated by the FBI or if any other problem is encountered with ATF.

(9) All offices should maintain liaison with military Explosive Ordnance Disposal (EOD) units and/or local law enforcement bomb squads in order that assistance can be promptly obtained if bombs or live explosives are encountered in connection with official investigations.

(10) The U.S. Army has EOD units stationed throughout the United States, including Alaska and Hawaii. These units, which have assisted the FBI in the past, have personnel qualified to disarm bombs and handle and dispose of live explosives. Due to emergency conditions, requests for assistance from Army EOD units are usually verbal. All such oral requests are to be confirmed in writing by letter addressed to the Commanding Officer of the EOD unit involved. The Army has no EOD unit in Puerto Rico. Therefore, the San Juan Office should maintain liaison with the appropriate U.S. Navy facility for the purpose of obtaining any necessary assistance.

(11) Bombs are to be rendered safe by qualified bomb disposal personnel. Render safe is the responsibility of public safety bomb squads and military EOD units. Bureau bomb technicians and Laboratory explosives specialists are available at all times for on-site consultation concerning bombs and explosives.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 8

(12) The cooperative facilities of the FBI which are made available to local authorities in bombing matters are the services of the Laboratory Division.

EFFECTIVE: 09/24/93

174-4 OTHER VIOLATIONS

The following are within the primary jurisdiction of ATF but Agents should be alert for such violations and investigative jurisdiction should be assumed by the FBI if they arise during any substantive FBI investigation.

(1) Title 26, Section 5861(d) - (f) - Unlawful manufacture, possession or transfer of a destructive device.

(2) Title 18, Sections 841-843 - Unlawful importation, manufacture, distribution or storage of explosives.

EFFECTIVE: 09/22/87

174-5 PLAN OF ACTION FOR MAJOR CASES

(1) Each office is to have a proposed plan of action which can become operative automatically whenever there is a bombing or attempted bombing which will be the subject of a major investigation.

(2) These investigations are to receive top priority under the personal supervision of the SAC and should cover all investigative steps to ensure that evidence is preserved and logical investigation instituted immediately.

(3) Immediate consideration should be given to the advisability of requesting Laboratory Division personnel to proceed to the scene.

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 9

EFFECTIVE: 09/24/93

174-6 REPORTING REQUIREMENTS

(1) When active investigation is instituted, notify FBIHQ by teletype; submit initial report within 30 days; and submit subsequent reports every 30 days or as soon thereafter as possible.

(2) Submit four copies of reports to FBIHQ to allow for dissemination at the Headquarters level to U.S. Department of Justice and other appropriate agencies.

(3) Disseminate all reports to the USA.

(4) In those instances wherein this section requires submission of LHM to FBIHQ, submit seven copies of LHMs to allow for dissemination at the Headquarters level to U.S. Department of Justice; U.S. Secret Service; Bureau of Alcohol, Tobacco and Firearms and other appropriate agencies. A copy of the LHM should be disseminated locally to Secret Service by FD-376. Original and one copy of FD-376 should be submitted to FBIHQ with LHM. FD-376 should also be used when disseminating information to Secret Service in other matters concerning individuals involved in illegal bombing or bomb making.

EFFECTIVE: 09/22/87

174-7 STATISTICAL DATA

Form FD-436 is to be submitted for every incident involving the use, attempted use, or recovery of an explosive, incendiary, or "hoax" bomb device, regardless of jurisdiction.

EFFECTIVE: 09/22/87

Sensitive
PRINTED: 02/18/98

Sensitive

Manual of Investigative Operations and Guidelines
Part I

PAGE 174 - 10

174-8 PENALTIES

(1) Section 844(d), (f), and (i).

(a) \$10,000 fine and/or 10 years' imprisonment.

(b) \$20,000 fine and/or 20 years' imprisonment if personal injury results, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection.

~~(c) Any terms of years or death penalty or life imprisonment if death results.~~

(2) Section 844(e) - \$5,000 fine and/or 5 years' imprisonment.

(3) Section 844(g) - \$1,000 fine and/or 1 year imprisonment.

(4) Section 844(h)

(a) Not less than 1 nor more than 10 years' imprisonment.

(b) For second and subsequent convictions, not less than 5 nor more than 25 years' imprisonment and there shall be no suspended or probationary sentences.

EFFECTIVE: 09/22/87

174-9 CHARACTER - "BOMB THREATS" OR "EXPLOSIVES AND INCENDIARY DEVICES"

EFFECTIVE: 09/22/87