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SECTION 0. INVESTIGATIVE AUTHORITY AND RESPONSIBILITY

**EffDte: 10/17/1983 MCRT#: 0 Div: DOD9 Cav: SecCls:

0-1 AUTHORITY OF THE DIRECTOR

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

**EffDte: 02/29/1996 MCRT#: 494 Div: D9 Cav: SecCls:

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

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

**EffDte: 02/29/1996 MCRT#: 494 Div: D9 Cav: SecCls:

********** END OF REPORT **********

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

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

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

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

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

supplementation of his/her government salary, from a private source as compensation for his/her services to the government. (See MAOP, Part I, 20-6.1 (2) and (3) and 20-6.3.2 (2).)

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

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

Definitions of terms:

An employee has a COVERED RELATIONSHIP with:

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

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

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

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

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

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

Definitions of terms:

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

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

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

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

(6) ETHICS ADVICE AND TRAINING

(a) The FBI's Deputy Designated Agency Ethics Official is the Chief, Legal Advice and Training Section, Office of the General Counsel (OGC). This person, on the FBI's behalf, is responsible for coordinating and managing the FBI's ethics program. The FBI's ethics official has authority to delegate certain responsibilities, including that of providing ethics counseling, to one or more deputy ethics officials. Employees of the Administrative Law Unit (ALU), OGC, and the Chief Division Counsel (CDC) have been delegated the authority to provide ethics counseling and advice.

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

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

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

(d) Employees who have questions about the application of the Office of Government Ethics (OGE) standards of conduct or any supplemental agency regulations to particular situations should seek advice from an agency ethics official. Disciplinary action for violating the OGE standards of conduct or any supplemental agency regulations will not be taken against an employee who has engaged in conduct in good faith reliance upon the advice of an agency ethics official, provided that the employee, in seeking such advice, has made full disclosure of all relevant circumstances. Where the employee's conduct violates a criminal statute, reliance on the advice of an agency ethics

official cannot ensure that the employee will not be prosecuted under that statute. However, good faith reliance on the advice of an agency ethics official is a factor that may be taken into account by the Department of Justice in the selection of cases for prosecution. Disclosures made by an employee to an agency ethics official are NOT protected by an attorney-client privilege. An agency ethics official is required by Title 28, USC, Section 535 to report any information he/she receives relating to a violation of the criminal code, Title 18 of the United States Code.

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

(7) OUTSIDE EARNED INCOME LIMITATIONS APPLICABLE TO CERTAIN PRESIDENTIAL APPOINTEES AND OTHER NONCAREER EMPLOYEES

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

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

(9) The principles embodied in Executive Order 12674 dated 4/12/89, establishing fair and exacting standards of ethical conduct for federal employees, are set forth as follows:

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

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

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

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

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

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

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

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

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

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

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

(l) Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those - such as federal, state, or local taxes - that are imposed by law.

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

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

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

(10) ETHICS REFORM ACT OF 1989 HONORARIUM BAN

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

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

(c) Deleted

(d) Deleted

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

(11) ETHICS REFORM ACT OF 1989 POST-EMPLOYMENT RESTRICTIONS

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

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

(c) A lifetime restriction applies to all former employees barring them from representing an outside organization in dealing with the government in connection with a matter in which they were personally and substantially involved during their government employment. This restriction begins upon termination from government service and lasts as long as the particular matter does. Title 18, USC, Section 207(a) (1).

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

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

(f) A communication to or appearance before the United States is not prohibited unless it concerns the same matter in which the former employee participated personally and substantially while employed with the government. A "communication" can be oral, in writing, or through electronic transmission. An "appearance" extends to a mere physical presence at a proceeding when the

circumstances make it clear the former employee's attendance is intended to influence. The prohibition does not apply to an appearance or communication involving purely social contacts, a request for publicly available documents or a request for purely factual information.

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

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

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

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

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

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

(k) Title 18, USC, Section 207(j) provides several exceptions to Section 207's substantive prohibitions. Several of these exceptions are not applicable to all of the substantive restrictions.

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

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

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

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

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

(l) A willful violation of this section could be punishable by imprisonment of not more than five years. A violation that is not willful would be a misdemeanor which is punishable by imprisonment of not more than one year. A civil action may also be brought by the Attorney General (AG) which could carry a penalty (fine) of not more than $50,000. The AG may petition for an injunction against persons he/she has reason to believe are engaged in conduct prohibited by Section 207. Title 18, USC, Section 216.

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

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

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

(1) Employees should never cause themselves to be mentally or physically unfit for duty. They are not permitted to consume alcoholic beverages during working hours, including that time allotted for meal periods or any period of leave taken if the employee intends to return to work before the

termination of working hours, with limited exceptions necessary for Special Agents in certain undercover or surveillance assignments. Employees are not permitted to consume alcoholic beverages on Bureau premises while on or off duty, unless otherwise granted an exemption by the Director, the Assistant Director or Deputy Assistant Director of the Administrative Services Division, or by the Assistant Director of the Training Division with regard to the FBI Academy. Employees may not consume alcoholic beverages while on other federal property without the permission of the cognizant agency head or designee. Employees must be held accountable for their on- and off-duty alcohol-related misconduct, whether OR NOT they are specifically CHARGED with an alcohol-related offense by a local law enforcement agency. (See MAOP, Part 1, 1-30 through 1-30.4.) The use of illegal drugs or narcotics or the abuse of any drugs or narcotics is strictly prohibited at any time. Employees must not, at any time, engage in criminal, dishonest, immoral or disgraceful conduct or other conduct prejudicial to the government.

(2) USE OF OFFICIAL TIME -

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

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

1-2.1 Sexual Harassment Policy (See MAOP, Part 1, 1-2.2.)

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

"Unwelcome sexual advances, request for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."

There are two forms of sexual harassment: (1) quid pro quo, and (2) hostile work environment. Quid pro quo involves the requirement of sexual favors as a term or condition of employment, or requires submission to sexual advances for favorable consideration for workplace opportunities or promotions. A hostile work environment is created by supervisors or co-workers by unwelcome conduct of a sexual nature. Examples of conduct which may be considered sexual harassment may include, but are not limited to:

(a) oral or written comments of a sexual nature;

(b) comments regarding an individual's body;

(c) statements, anecdotes, jokes, teasing and/or gestures of a sexually degrading nature, which are used to describe an individual;

(d) physical contact or threats of physical contact; or

(e) display of books, magazines, or pictures of a sexual nature that are, in the view of the recipient, offensive and unwelcome.

(2) Sexual harassment is strictly prohibited within the FBI workplace, and will not be tolerated. All employees are expected to conduct themselves in a professional manner in all work environs and in all their dealings with other employees and those individuals outside the FBI with whom they have contact in the course of official business.

Sexual harassment is unlawful and must be prevented. In all instances where allegations are substantiated, disciplinary action will be taken. Supervisors who become aware of such conduct and fail to take proper action may also be subject to disciplinary action. Proper action includes bringing the incident to the attention of the EEO Officer (the FBI Sexual Harassment Prevention Coordinator), the Special Agent in Charge, Assistant Director, or similar management officials. Upon receipt of such allegations, the management officials will promptly investigate the incident. If appropriate, disciplinary action will be taken against those employees who commit such misconduct. Disciplinary action resulting from a substantiated incident of sexual harassment may range from oral reprimand to dismissal. Employees are also reminded that such prohibited conduct may lead to personal, legal, and financial liability.

Individuals may best gauge the appropriateness of their language or conduct by first asking themselves the question, "Is this something I would want done or said in the presence of my mother, sister, wife, or daughter?" This example may appear trivial; however, it remains as the most reliable indicator as to the appropriate nature of a word or action.

(3) When employees find conduct offensive or unwelcome, they are encouraged to first bring it to the attention of the offending party. If the behavior is not corrected, or if the initial instance of harassment is particularly offensive, the employees should bring this conduct to the attention of the appropriate supervisor, or, if necessary, a higher-level official.

(a) Individuals who believe they have been the victim of sexual harassment may seek redress from their situation through the Equal Employment Opportunity (EEO) process by initiating contact with an EEO Counselor within 45 days of the alleged incident. If possible, the EEO Counselor will first attempt to resolve the issue through informal resolution. (See MAOP, Part 1, 4-4.)

(b) Employees are encouraged to report instances of suspected sexual harassment to appropriate management officials and/or to the Adjudication Unit, Office of Professional Responsibility (OPR). (See MAOP, Part 1, 13-1(2), and 13-2(1).)

(c) In addition to reporting allegations of sexual harassment to management or through the EEO and OPR precesses, employees may wish to discuss matters with the FBI's Prevention of Sexual Harassment (POSH) Coordinator. She may be reached at (202) 324-6690. Moreover employees serving in management, EAP, health care delivery and ombudsman roles may consult with the POSH Coordinator for policy, guidance in advising employees.

(d) For employees who want more information regarding their rights and alternatives, have specific questions, or wish to utilize another reporting mechanism for sexual harassment allegations, they may telephone the Sexual Harassment Helpline, (202) 324-7777; TTY users may call (202) 324-2394. The Helpline is staffed by the Office of Equal Employment Opportunity Affairs during normal duty hours. After hours, individuals may leave a message, which will be returned the next business day. In case of an emergency, employees should contact the FBI switchboard at (202) 324-3000 and ask for the Equal Employment Opportunity Duty Officer.

1-2.2 Informal Resolution Process (IRP)

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

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

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

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

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

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

(b) If the complainant is seeking "make-whole" corrective relief, the EEO process should be invoked. If the complainant desires to invoke the EEO process, the Facilitator will provide the

names and contact numbers of the EEO Counselors within that office/division. Contact with the Facilitator does not constitute contact with an Equal Employment Opportunity (EEO) Counselor for the purpose of initiating EEO precomplaint counseling, even if the Facilitator is an EEO Counselor. Should the complainant elect to go forward with the allegation of sexual harassment under the EEO process, she/he must initiate precomplaint counseling with an EEO Counselor within 45 days from the date of the alleged discriminatory activity.

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

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

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

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

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

(c) It is within the discretion of the SAC/Division Head to temporarily transfer or detail within that division the complainant and/or the alleged harasser while awaiting the results of the Facilitator's inquiry into a complaint. The latter temporary transfer is not to be interpreted as an indicator of the credibility being attached to the complaint, but should be viewed as a necessary measure to ensure that the alleged behavior, or any reprisal, does not occur throughout the course of the inquiry.

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

1-2.2.1 Conducting/Resolving the IRP Inquiry

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

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

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

(a) The SAC/Division Head may consider the intradivisional transfer of the victim as part of an informal resolution only if the complainant concurs that her/his being moved is a reasonable solution to the situation.

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

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

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

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

1-2.2.2 Records Conducting/Resolving the IRP Inquiry

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

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

(3) While in the Facilitator's custody, all IRP documents are to be afforded appropriate security and confidentiality in that they are not to be shown to or discussed with anyone other than the complainant, the SAC/Division Head or their designee, and the IRP Coordinator in OPEA at

FBIHQ. All notes taken by the Facilitator during the course of the inquiry should be destroyed upon completion of the Record of Inquiry form, and that destruction noted on the Record of Inquiry form.

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

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

1-3 USE OF GOVERNMENT PROPERTY (See MIOG, Part 2, 10-18.1.)

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

DEFINITIONS OF TERMS:

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

AUTHORIZED PURPOSES are those purposes for which government property is made available to members of the public or those purposes authorized in accordance with law or regulation. Authorized purposes also include personal uses that involve only a negligible expense (such as electricity, ink, small amounts of paper, and ordinary wear and tear); and limited personal telephone/fax calls to locations within the office's commuting area, or that are charged to nongovernment accounts. The foregoing authorization does not override any statutes, rules, or regulations governing the use of specific types of government property, and may be revoked or limited at any time by any supervisor for any business reason. In using government property, employees should be mindful of their responsibility to
protect and conserve such property and to use official time in an honest effort to perform official duties.

FBI property charged to an employee remains the property of the FBI while employed by the FBI. All employees are to ensure that government property is safeguarded outside of FBI office space. All issued property is to be adequately secured in a manner to ensure that the property is not accessible or useable by any other person. It is the employee's responsibility to appropriately secure government property. MIOG, Part 2, Section 12, should be referred to regarding the safeguarding of firearms outside of FBI office space. In addition, employees have the responsibility of preventing the loss and destruction of Bureau property wherever possible. Employees are to ensure that issued FBI property is returned at the time an employee separates from the FBI.

(1) All government property, including automobiles, boats and other methods of conveyance, supplies, equipment, telephones and facilities are to be used solely for official purposes and not converted to any employee's personal use except for use in accordance with the foregoing Authorized Purposes provisions. With the authorization of the SAC, Assistant Director or a designated management representative, the use of equipment for training and research during nonwork hours shall be considered "official purposes. Government property authorized for an employee's use during nonworking hours must be appropriately charged out to the employee by executing appropriate property receipt, Form FD-281. The loss, misplacement, theft or destruction of government property issued to any employee must be reported to his/her superior within five calendar days of the loss, misplacement, theft or destruction. The division must report the loss, misplacement, theft or destruction on an FD-500, Report of Lost or Stolen Property form, to the Property Management Unit, Property Procurement and Management Section, Finance Division within ten calendar days. The Accountable Property Officer for the division must sign the FD-500. (See also MAOP, Part 2, 6-7.5.)

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

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

(4) Pursuant to Departmental Order 2630.2A, "Protecting And Controlling Federally Controlled Property and Loss/Theft Reporting Procedures," the removal of government-owned property from a federal building is prohibited unless properly authorized through the issuance of some form of property pass. Accordingly, the following procedures shall apply for government-owned property being temporarily removed from a federal building for any such property not otherwise issued/charged out to an employee, such as through the use of the FD-281:

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

1. In field offices, the FD-281, Receipt For Government Property, or the PMA Charge Out Receipt must be executed when property is removed from the office.

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

(b) Property passes should be prepared in duplicate, unless administrative controls require additional copies. The original shall be given to the employee removing the property from the building, who will, in turn, surrender it to the security guard or other appropriate individual at the

time the property is removed from the government building. The security guard or other authorized individual is responsible for returning this copy to the Property Procurement and Management Section (PPMS).

(c) Deleted

(d) Deleted

1-3.1 Bureau Vehicles (See MAOP, Part 1, 12-2.5.1; Part 2, 6-1.2.3.)

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

(a) Deleted

(2) Bureau vehicles are allowed to be driven between an employee's residence and work place to enable the FBI to maintain an emergency response capability which is necessitated by the nature of the work and not solely for the personal convenience of employees. In conjunction with this, the most direct and expeditious route to and from the employee's residence should be observed. An employee may, when circumstances warrant such an action, interrupt his/her travel as long as he/she does not deviate from an expeditious route to his/her residence nor impair his/her ability to retain emergency response capability. (See MIOG, Part 2, 34-14, re Victim Specialists.)

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

(4) An SAC may authorize on a case-by-case basis an Agent's spouse to travel in a Bureau automobile while the Agent is en route to and from a function in which the Agent has an official role, provided the Bureau vehicle is used exclusively as basic transportation to and from the FBI-sanctioned function. The foremost consideration in granting such a request should be whether such travel would be considered to be in the best interest of the government. Among the factors which should be considered are length of time of the function and distance to be traveled. (See MAOP, Part 2, 8-5.)

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

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

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

(8) Bureau vehicles may be used to transport ill or injured employees to a hospital or health-care facility. Administrative leave is not necessary where a government or personally owned vehicle is utilized to transport a sick or injured employee to a hospital or health-care facility. Form FD-661, "Waiver for Transporting Bureau Personnel Via FBI Vehicles" must be executed. (See MAOP, Part 2, 6-8.2(2).)

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

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

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

(1) Pursuant to Title 31, USC, Section 1344, the FBI's Home-to-Work Transportation Plan (HTWTP) specifies positions which are expressly authorized for the utilization of government vehicles by FBI personnel on a routine basis for home-to-work transportation. To provide each field office an adequate capacity to respond to emergency and other investigative demands, the positions which are authorized to use a government vehicle on a routine basis include officials in charge of FBI field offices and their alternates (ADICs, SACs, ASACs); field office Supervisory Special Agents; Undercover Special Agents; Special Agents (SAs) assigned to Special Operation Groups; SAs assigned to resident agencies and Legal Attaches; personnel assigned to Special Surveillance Groups; and field office SAs designated for off-duty or emergency response.

(2) The official in charge (ADIC or SAC) or designated representative(s) is required to maintain a current list of employees authorized to take government vehicles home on a routine basis. A semiannual review must be performed and documented of the personnel authorized to take vehicles home on a routine basis to ensure that emergency and investigative demands of the position continue to require the use of a vehicle. These documented reviews are to be performed semiannually and maintained in an appropriate administrative file and subject to review during the field office inspection.

(3) In addition to personnel expressly authorized for use of a government vehicle for home-to-work transportation, the official in charge (EAD/AD/ADIC or SAC) or designated representative(s), may authorize the conditional use of a government vehicle for transportation between an employee's domicile and place of employment by completing the Form FD-490, "Authorization to Maintain Bureau Vehicle Overnight at Employee's Residence on an Irregular and/or Emergency Basis." This authorization is based on duties that involve travel from the employee's home to various locations, such as surveillance posts, arrest and search scenes, sites of meetings with operatives, suspects, or witnesses, and other locations. The use of a government vehicle for home-to-work transportation is approved on a conditional basis (FD-490) where such use is essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties requiring the presence of that employee, in an official capacity, at a location other than the office to which he or she is assigned.

(4) The FD-490 will be completed for the entire period the vehicle is anticipated to be utilized. If the period extends beyond 90 days, a separate FD-490 will be completed to cover every 90 days the requirement exists. An administrative file will be established in each field office and FBIHQ Division for completed FD- 490s. The official in charge (EAD/AD/ADIC or SAC) or designated representative(s) is required to perform and document semiannual reviews to ensure that only Bureau vehicles with written authorization and justification (a completed FD-490) are taken home. The documented reviews will be performed semiannually and be maintained in the administrative file and subject to review during the field office inspections. The FD-490s may be destroyed at the completion of the field office's inspection.

1-3.1.2 Rental/Leased Vehicles

(1) A rental/leased vehicle procured with a personal credit card or one issued under the United States Government Credit Card Program is not a government-leased OR -RENTED vehicle within the meaning of Title 31, USC, Section 1344, as described in MAOP, Part I, 1-3.1 (5). It is FBI policy that vehicles rented or leased by an employee with a personal credit card or one issued under the United States Government Credit Card Program for the primary purpose of conducting official business must be used within the parameters set by the employee's SAC or division head. An SAC or division head may limit the scope of use by considering such factors as the length, nature and location of the assignment. Expenses accrued for use of the rental/leased vehicle outside the scope of employment must be borne by the employee and must not be vouchered. Any employee who is determined to have intentionally violated this section will be subject to administrative action, up to and including dismissal.

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

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

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

Employees are expected to take proper care of any Bureau property issued to them or used by them. See MIOG, Part II, 12-6.2, for policy on maintaining expendable Bureau equipment related to Special Agent safety in vehicles. Any nonexpendable Bureau equipment not related to Special Agent safety is to be maintained in the locked trunk of an unattended Bureau vehicle or vehicle authorized for official use, but should not be left overnight unless operational circumstances dictate otherwise.

1-3.3 Utilization of Facilities by Special Agents Attending School

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

1-3.4 Deleted (See *Security Policy Manual* at http://rmd.fbinet.fbi/ppu/manuals-desk/manuals_published_in_new_format.htm)

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

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

(2) To facilitate the purchase of business cards, the General Services Administration has negotiated with the Seattle Lighthouse for the Blind to be the exclusive national source for federal employees requiring business cards for official duties. The Seattle Lighthouse for the Blind has been provided with electronic artwork of the FBI's seal to ensure quality reproduction. The cost of business cards purchased from the Seattle Lighthouse for the Blind may be paid for using appropriated funds. Expenses incurred for the purchase of business cards from any other vendor, regardless of the circumstances, must be borne by the employee.

(3) The Seattle Lighthouse for the Blind offers the option of plain offset printed cards in one color, dark blue or black ink, or offset with an embossed gold foil-stamped seal. Because of the significant difference in the price of the plain cards and the embossed cards, the only employees authorized to obtain the embossed cards are the ADICs, SACs, Associate SACs, Legats, and Section Chiefs and above at FBIHQ. Employees who wish to upgrade to the embossed gold foil-stamped seal may do so by placing individual orders and paying for the cards using personal funds. Upon receipt of the cards, the employee may claim reimbursement through submission of a draft request form and a copy of the invoice for an amount equal to the cost of the one-sided plain offset printed business cards. (See MAOP, Part 2, 6-3.6 (8).)

1-3.6 Copies of Official Correspondence and Documents

Employees are not to make copies for themselves of any reports or correspondence they prepare in the course of their official duties except copies of expense vouchers, Form CA-1 (Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation), nor should they make or maintain possession of copies of official Bureau documents if they have no justifiable need to know the information contained in them. On separation from the Bureau, every employee must return any official documents made or received while in the Bureau's service except for items such as those enumerated above and originals of letters of appointment, commendation, censure or promotion. (See also MAOP, Part I, 1-19, for Bureau rule on disclosure of information, and MAOP, Part I, 20-4.2, for instructions on FBI employees' access to their own personnel files.)

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

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

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

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

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

(5) Authorization to determine use of the FBI's name, initials, and/or seal in conjunction with the above-mentioned statutes and regulations is vested in the Administrative Law Unit, Office of the General Counsel. All requests for use of the FBI's name, initials, and/or seal in any manner, whether requested by a manufacturer or by a Bureau entity for products exclusively for Bureau use, must be referred to the Administrative Law Unit for review and recommendation.

(6) Any violations of Title 18, USC, Sections 701 and 709, should be handled in accordance with the instructions set out in Part 1, Section 43-2.1 and 43-3.4 and 43-3.14 (4) of the Manual of Investigative Operations and Guidelines (MIOG).

1-4 ILLEGAL ACTIVITIES (See MAOP, Part 1, 15-3.2; Legal Handbook for SAs, Part 1, 3-6.4.)

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

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

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

(4) No brutality, physical violence, duress or intimidation of individuals by our employees will be countenanced nor will force be used greater than that necessary to effect arrest or for self-defense. (See MIOG, Part 2, 12-2.1 and 12-10.4.1 (2); Legal Handbook for SAs, Part 1, 4-2.5.)

(5) All of the foregoing prohibitions, including those pertaining to illegal surreptitious entries, are applicable to all phases of the FBI's work, applicant, criminal, civil, domestic security, and foreign counterintelligence. Violations must be reported to FBIHQ as set out in this manual, Part 1, Section 13, entitled "Disciplinary Matters."

1-5 PAROLE OR PROBATION OFFICERS

Employees may not act as parole or probation officers.

1-6 LAW ENFORCEMENT ORGANIZATIONS

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

1-7 LAW ENFORCEMENT SELECTION BOARDS

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

1-8 LABOR ORGANIZATIONS

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

1-9 PARTICIPATION IN NONFEDERAL ENTITIES (See MAOP, Part 1, 1-16, 1-18.1 (1)(i) and (k), 1-26, 20-6.2, 20-6.3; Part 2, 5-4.1.)

FBI employees who wish to participate in nonfederal organizations, whether in their personal capacities or as part of their official duties, must comply with applicable provisions of sections 1-9.1 or 1-9.2. In no case, however, may an employee acquire an interest in or be active on behalf of a group if that interest or activity conflicts with his or her duties to the federal government. In addition, employees must conform to Bureau policy regarding outside employment. (Provisions regarding outside employment are found in MAOP, Part 1, 20-6 through 20-6.3.2.) Additional limitations apply to personal-capacity participation in certain political organizations. (See MAOP, Part 1, 1-18.)

1-9.1 Personal-Capacity Participation (See 1-9.)

(1) GENERAL. In personal-capacity participation, employees make a personal choice to undertake the activity rather than being assigned to perform the activity by a supervisor as part of their official duties. The FBI does not control or direct employees in outside activities undertaken in a personal capacity. Employees should ensure that their actions and positions taken while participating in these activities are recognized as their own, and not those of the FBI or DOJ. All employees must be aware of the provisions of Sections 203 and 205 of Title 18, United States Code, which prohibit executive branch employees from representing an outside organization before or to any department or agency of the U.S. government. (Organizations whose membership is composed of a majority of federal employees or their family members are not subject to this prohibition.) Employees must also remember that, when performing their FBI duties, they are prohibited from taking any official action that would affect the financial interests of an organization which they serve as officer, director, trustee, general partner, or employee. See Section 208 of Title 18, United States Code, and

5 CFR Subparts D (Conflicting Financial Interests) and E (Impartiality in Performing Official Duties).

(2) LIMITATION ON THE SCOPE OF THIS SECTION. This section does not apply to participation in PRO BONO activities. Although the standards for participation in PRO BONO activities are the same as for other outside activities, DOJ has issued more specific guidance for PRO BONO legal services and similar volunteer work. The guidance has been uploaded in ACS as file 66F-HQ-1201415-C Serial 636.

(3) WHEN APPROVAL IS REQUIRED

(a) Employees do not need approval (beyond that required for outside employment) for personal-capacity participation in organizations whose work is not related to the work of the FBI.

(b) Even if an organization's work is related to the work of the FBI, employees do not need FBI approval (beyond that required for outside employment) for personal-capacity participation which will not extend beyond simple membership, i.e., does not involve the management or operation of the organization. Simple membership includes service as a committee member, but not as a committee chair, co-chair, or vice-chair.

(c) If an organization's work is related to the work of the FBI, employees must obtain prior FBI approval if personal- capacity participation will extend beyond simple membership. Participation beyond simple membership includes service as an officer, director, committee chair, co-chair, or vice-chair, or other similar managerial position, or which is accompanied by a fiduciary duty.

(4) SEEKING FBI APPROVAL. Employees shall forward requests for approval via their supervisory chain to their approval authority. Requests shall include: the organization's name; a summary of its goals and objectives and how its work is related to the FBI; a description of its membership or constituency; the title, managerial authority, voting powers, and responsibilities of the position in question; and a certification that an indices check reveals no reason to suggest that official FBI participation would pose a conflict of interests or that participation should be disapproved.

(5) FBI APPROVAL. Authority for approving these requests lies with an employee's SAC, ADIC, or Assistant Director (AD), as appropriate (subject to any supplemental guidance from the concerned FBIHQ AD). This approval authority may not be delegated below ASAC or Section Chief. The approval authority will review such requests and may approve them if he or she determines, with the concurrence of the Chief Division Counsel (CDC) for field divisions or Chief, Administrative Law Unit for FBIHQ divisions, that participation does not conflict with the faithful performance of the employee's FBI duties (and that any applicable outside employment requirements have also been met).

(6) USE OF GOVERNMENT RESOURCES. Ordinarily, personal activities on behalf of outside organizations should not be conducted at the expense of the government in terms of time or money. DOJ generally permits a limited use of office and library equipment and facilities for outside activities so long as the cost to the government is negligible. These resources may not be used in a manner that suggests that the FBI or DOJ endorses the activity, nor may they be used for outside activities in a way that interferes with official business. And, employees may not task subordinate

staff to assist them in their personal-capacity outside activities. Managers may continue to authorize administrative time for certain outside activities where there is a benefit to the FBI, in accordance with the FBI's rules applicable to administrative time.

1-9.2 Official-Capacity Participation (See 1-9.)

(1) GENERAL. In official-capacity participation, FBI/DOJ management assigns an employee to participate in a nonfederal organization as part of the employee's official duties, under the direction of an appropriate supervisor. All official-capacity participation requires prior approval. As detailed below, approval authority varies based on the degree of the involvement in the organization.

(2) LIMITATION ON THE SCOPE OF THIS SECTION. This section does not apply to participating in an organization in a personal capacity or appearing in one's official capacity as a speaker, panelist, or other participant in a seminar, convention, or other particular event. Provisions regarding public speaking are found in MAOP, Part 2, 5-4, and MAOP, Part 1, 1-16.2 and 1-26 through 1-26.5.

(3) OFFICIAL-CAPACITY PARTICIPATION THAT IS LIMITED TO PASSIVE MEMBERSHIP

(a) What is Passive Membership? Passive membership encompasses serving as FBI observer of the organization's activities and exercising the privileges of a member individually. It does not include serving as a representative of the FBI or DOJ to the organization.

(b) Who Approves Passive Membership? For official- capacity participation that does not extend beyond passive membership, the appropriate approval authority is the employee's SAC, ADIC, or AD, as appropriate (subject to any supplemental guidance from the concerned FBIHQ AD). ADs may delegate approval authority, but not below the level of Section Chief. Otherwise, this authority may not be delegated.

(c) Requesting Approval. Employees shall forward requests for approval via their supervisory chain to their approval authority. Requests shall include: the organization's name; a summary of its goals and objectives and how its work is related to the FBI; a description of how the FBI will benefit by participating officially in the organization; a description of its membership or constituency; the title, managerial authority, voting powers, and responsibilities of the position in question; and a certification that an indices check reveals no reason to suggest that official FBI participation would pose a conflict of interests or that participation should be declined.

(d) Approving Requests. The approval authority will review such requests and may approve them if he or she determines that the participation will only constitute passive membership and is necessary and proper for the accomplishment of the FBI's mission. Before acting on a request, the approval authority shall seek legal review from the CDC (field divisions) or Chief, Administrative Law Unit (ALU) (FBIHQ divisions). Correspondence approving official participation shall include an express reminder as to the very limited degree of involvement in the organization inherent in the approval.

(4) OFFICIAL-CAPACITY PARTICIPATION THAT EXCEEDS PASSIVE MEMBERSHIP

(a) What is Official-Capacity Participation Beyond Passive Membership? Participation that is specifically within this category includes, but is not limited to, serving: as an officer, director, or similar managerial position; in a position that is accompanied by a fiduciary duty; or as a representative of the FBI or DOJ to the organization.

(b) Who Approves Official-Capacity Participation Beyond Passive Membership? The Deputy Attorney General (DAG) is the approval authority.

(c) Requesting Approval of Participation Beyond Passive Membership. Employees shall forward requests for approval to the DAG via: 1) their own SAC/ADIC/AD, 2) the concerned FBIHQ AD (i.e., the FBIHQ division with the greatest interest in the programs, objectives, or policies of the organization), and 3) the FBI Deputy Designated Agency Ethics Official (DDAEO) in OGC. Requests shall include: the organization's name; a summary of its goals and objectives and how its work is related to the FBI (DOJ considers that authorizing official-capacity participation where the outside organization's work is unrelated to FBI's mission and responsibilities would mistakenly convey FBI/DOJ endorsement of the organization's activities); a description of its membership or constituency; the title, managerial authority, voting powers, and responsibilities of the position in question; a description of the nature and extent of any fiduciary duty associated with service in the position, and a copy of or citation to any state laws that impose or describe the duty; a description of how the FBI will benefit by participating officially in the organization; a copy of the organization's charter and by-laws, if reasonably available; and a certification that an indices check reveals no reason to suggest that official FBI participation would pose a conflict of interests or that participation should be declined.

(d) Approving Requests

1. Basis for Approval. Approval may only be given when the FBI and DOJ have a clear interest in having an employee represent their interests, and the employee in question is an appropriate one to do so. The views articulated by officials serving in outside organizations as part of official duties must reflect the views of the whole DOJ, not just that of the FBI. These officials also must recognize situations when DOJ should take no position because DOJ has no interest in the matter or when it will always be inappropriate for DOJ to express an official position, such as matters involving the internal operation of an organization. DOJ coordination of official positions is necessary to achieve these results and, therefore, officials serving in this capacity should seek guidance from the supervisor assigned by the DAG to coordinate DOJ's positions.

2. Action by Head of Office. The supervising SAC/ADIC/AD will review each request, ensure it is complete, and may either disapprove it or forward the request along with his or her comments and recommendations to the AD of the concerned FBIHQ division (i.e., the FBIHQ division with the greatest interest in the programs, objectives, or policies of the organization).

3. Action by Concerned FBIHQ AD. The concerned FBIHQ AD shall review each request to determine whether the FBI has a clear interest in having an employee represent the DOJ's interests, whether the candidate employee is fully qualified to represent the FBI and DOJ officially in or before the organization, and whether the participation would conflict with the faithful performance of the employee's duties. If the concerned AD determines that the request should not be approved, he or she may disapprove the request and take any additional action deemed appropriate. If the

concerned AD recommends that the request be approved, he or she shall forward the request to the Deputy Designated Agency Ethics Official for the FBI (DDAEO)(c/o OGC/ALU), along with the AD's determinations and any policy guidance he or she believes necessary to ensure that the candidate carries out the duties of the office in accordance with the understanding on which the approval is based.

4. Action by DDAEO. The DDAEO shall review the request for legal sufficiency and may effect such further coordination as warranted. If the DDAEO determines that the request is legally objectionable or otherwise inappropriate, he or she may deny the request and take any additional action deemed appropriate. If the DDAEO determines that the request is legally sufficient and appropriate, he or she shall forward the request to the DAG.

(5) USE OF GOVERNMENT RESOURCES. When employees serve an outside organization as part of their official duties, some government expense and use of subordinate employees' time is permissible, subject to supervisory discretion. However, in general the FBI does not authorize use of FBI resources to support the internal administration of an outside organization. The following use of resources may be authorized for employees serving an outside organization as part of their official duties: official time to prepare materials related to the activities; appropriated funds for travel to meetings; and the time of a subordinate in preparing material for meetings and other activities.

1-10 DELETED

1-11 NON-FBI SEMINARS OR CLASSES

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

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

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

Member of Congress may receive contributions or payments from a tax- exempt charitable organization.

(2) Bureau officials or other employees who speak or otherwise represent the FBI at conferences, training sessions, banquets, meetings and similar affairs given by outside groups are in official duty status when making such appearances and are entitled to claim payment through the Bureau for travel, subsistence, or other reimbursable expenses incurred. Only under limited circumstances will approval be granted to accept reimbursement of travel expenses from a nonfederal source. Unless prior approval has been obtained from appropriate FBIHQ officials authorizing the acceptance of travel reimbursement from a nonfederal source, any payment offered by the sponsoring group as reimbursement for such expenses MUST be declined. (See MAOP, Part II, 6-1.7.)

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

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

(1) GENERAL STANDARDS

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

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

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

(2) EXCEPTIONS

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

1. Items, other than cash, with an aggregate market value of $10 or less per occasion;

2. Items such as food and refreshments to be shared in the office;

3. Personal hospitality provided at a residence which is of a type and value customarily provided by the employee to personal friends;

4. Items given in connection with the receipt of personal hospitality if similar in type and value customarily given on such occasions; and,

5. Leave transferred to an employee who is not an immediate supervisor.

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

1. In recognition of infrequently occurring occasions of personal significance such as marriage, illness, or the birth or adoption of a child;

2. Upon occasions that terminate a subordinate/official superior relationship, such as retirement, resignation, or transfer.

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

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

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

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

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

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

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

(a) From a prohibited source;

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

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

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

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

1. Title 18, USC, Section 201(b), which prohibits a public official from seeking, accepting, or agreeing to receive or accept anything of value in return for being influenced in the performance of an official act or for being induced to take or omit to take any action in violation of his/her official duty. As used in Title 18, USC, Section 201(b), the term "public official" is broadly construed and includes regular and special Government employees as well as all other Government officials;

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

3. Title 41, USC, Section 423(b)(2), which prohibits a procurement official from seeking, accepting, or agreeing to receive any money, gratuity, or other thing of value from any officer, employee, representative, agent, or consultant of a competing contractor during the conduct of a federal

agency procurement. Implementing regulations, including exceptions to the gift prohibition, are contained in the Federal Acquisition Regulation, 48 CFR 3.104; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) PROHIBITED SOURCE means any person who:

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

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

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

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

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

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

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

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

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

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

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

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

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

order to accept that portion of the gift or those gifts worth $20. Where the aggregate value of tangible items offered on a single occasion exceeds $20, the employee may decline any distinct and separate item in order to accept those items aggregating $20 or less.

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

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

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

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

1. Offered to members of a group or class in which membership is unrelated to Government employment;

2. Offered to members of an organization, such as an employees' association or agency credit union, in which membership is related to Government employment if the same offer is broadly available to large segments of the public through organizations of similar size; or

3. Offered by a person who is not a prohibited source to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of type of official responsibility or on a basis that favors those of higher rank or rate of pay; provided, however, that--

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

(4) Awards and honorary degrees:

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

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

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

(b) An employee may accept an honorary degree from an institution of higher education as defined at Title 20, USC, Section 1141(a) based on a written determination by an agency ethics official that the timing of the award of the degree would not cause a reasonable person to question the employee's impartiality in a matter affecting the institution.

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

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

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

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

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

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

(6) Widely attended gatherings and other events:

(a) Speaking and similar engagements. When an employee is assigned to participate as a speaker or panel participant or otherwise to present information on behalf of the agency at a conference or other event, his/her acceptance of an offer of free attendance at the event on the day of his/her presentation is permissible when provided by the sponsor of the event. The employee's participation in the event on that day is viewed as a customary and necessary part of his/her performance of the assignment and does not involve a gift to him/her or to the agency. (See (d) and (f).)

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

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

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

2. A blanket determination of agency interest may be issued to cover all or any category of invitees other than those as to whom a finding is required by paragraph (c)1. above. Where a finding under paragraph (c)1. above is required, a written determination of agency interest, including the necessary finding, may be issued to cover two or more employees whose duties similarly affect the interests of the sponsor or its members.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1-13.2.3 Proper Disposition of Prohibited Gifts (See MAOP, Part 1, 1-13.3, 1-13.3.1, and 1-14.)

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

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

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

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

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

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

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

1-13.2.4 Request for Gift Acceptance

(1) The Attorney General has gift acceptance authority pursuant to Title 28, U.S. Code, Section 524, and has delegated that authority to the Assistant Attorney General for Administration (AAG/A) in DOJ Order 2400.2. The AAG/A has redelegated this authority to the Director when the gift is valued at no more than $150 per donor per calendar year. The Director has further redelegated this authority to the Chief, Property Procurement and Management Section (PPMS), Finance Division. The FBI's Deputy Designated Agency Ethics Official must concur with the PPMS Chief for the gift to be accepted. Except as indicated below, these two officials may accept any form of devise, bequest, gift, or donation of property that is appropriate for use or display in the component and is valued at $150 or less per donor per calendar year.

(2) Gifts valued at more than $150, gifts of services, and gifts from DOJ employees may not be accepted by FBI officials, but must instead be processed by the PPMS for DOJ consideration. Gifts from DOJ employees are rarely accepted by DOJ.

(3) When an individual or group advises an FBI employee of the intent to donate a gift, that FBI employee must evaluate, or obtain from other appropriate employees in that office an evaluation of, the suitability of the proposed gift for use or display either at that office or elsewhere within the Bureau. Gifts of limited value to the FBI due to maintenance requirements, general condition, restrictions placed on their use, or other factors should be refused or discouraged.

(4) In order to process a gift, the office to which the gift is offered should submit the DOJ Gift Donation Form, signed by the gift's donor, along with information clearly demonstrating the utility of the gift to the FBI and any other pertinent information, to the PPMS. In the unusual circumstance that the donor is unavailable to sign the Gift Donation Form, a gift of more than $150 may be processed through completion of the Gift Donation Form by the head of the division to which the gift was offered, or a delegate, indicating on the form the circumstances under which the gift was

offered. If the gift is valued at $150 or less and the donor is unavailable to sign a Gift Donation Form, the recipient division's head or a delegate may complete a Gift Acceptance Form. Both forms can be obtained from the PPMS. Completed forms should be forwarded to PPMS for further processing.

(5) If the PPMS confirms that a gift of more than $150 is appropriate for use or display either at the office to which it was offered or elsewhere in the Bureau, the PPMS will prepare a cover letter seeking DOJ acceptance of the gift. This cover letter will communicate the basis for the PPMS's determination that the gift would be appropriate for use or display by the FBI and enclose the Gift Donation Form. The PPMS will seek concurrence from OGC before forwarding the cover letter and Gift Donation Form to the AAG/A for
DOJ approval. If the PPMS confirms that a gift of $150 or less is appropriate for use or display, the PPMS will seek OGC concurrence and, if OGC concurs, accept the gift.

(6) FBI components may not, as a general rule, accept custody of gifts pending decision regarding gift acceptance by the appropriate officials. If, however, a donor insists that the FBI take immediate custody of a proffered gift, the concerned component may do so ONLY if the potential donor agrees in writing to hold the FBI blameless for any damage to the property suffered while it is in FBI custody and to remove the property promptly without cost to the FBI if the gift is ultimately declined. Property taken in temporary FBI custody under this authority shall be safeguarded in the same manner as comparable government property but shall not be used for any purpose.

1-13.3 Receipts of Foreign Gifts and Decorations (See MAOP, Part 1, 1-13.2.3, 1-14; Legal Attache Manual, 2-23.)

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

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

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

All gifts or decorations, valued at greater than $285, received from foreign individuals and all gifts valued at more than the minimal value GIVEN to foreign individuals by employees acting in an official capacity should be reported within 15 days of the property's receipt or presentation. The report should be submitted to FBIHQ, Attention: PMU, PPMS, FD, by electronic communication as appropriate. A separate statement containing the following information should be submitted for each gift received or presentation made.

(1) For tangible gifts:

(a) Name and title of recipient.

(b) Gift, date of acceptance, estimated value, and current disposition or location.

(c) Identity of foreign donor and government.
(d) Circumstances justifying acceptance.

(2) For travel or expenses for travel:

(a) Name and title of recipient.

(b) Brief description of travel or travel expenses occurring entirely outside the United States.

(c) Identity of foreign donor and government.

(d) Circumstances justifying acceptance.

(3) For each gift to a foreign individual:

(a) Identity of individual receiving gift.

(b) Description of gift.

(c) Value of gift.

(d) Type of funds used for gift (appropriated or nonappropriated).

(e) Date gift presented.

(f) Name of individual presenting gifts.

1-14 MONETARY MATTERS AND FINANCIAL DEALINGS (See MAOP, Part I, 1-12, 1-13 through 1-13.3.1; Part II, 6-5; MIOG, Part I, 211-9.)

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

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

Internal Revenue Service may attach salaries of federal employees who refuse to pay delinquent taxes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

beyond the terms of contractual arrangements between the government and public carriers become the property of the government." (See MAOP, Part II, 6-1.1.3.)

(8) PUBLIC FINANCIAL DISCLOSURE REPORTS (SF-278) FILING REQUIREMENTS:

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

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

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

(b) When to file SF-278:

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

2. No later than May 15th annually.

3. Upon termination of a designated position, within 30 days. However, if within 30 days of the termination the
individual assumes employment in another position or office for which a public report is required to be filed, no report shall be required.

(c) Extensions:

1. Requests for extension must be made in writing to the Office of the General Counsel (OGC) to allow for sufficient time for coordination/referral to the Deputy Designated Agency Ethics Official (DDAEO).

(d) Late filing fee:

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

(e) Failure to file or falsifying reports:

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

(f) Where to file SF-278:

1. Completed SF-278s are to be signed and dated by the filer and forwarded to his or her immediate supervisor (i.e., rating official), who upon receipt should date-stamp the form to certify compliance with the reporting requirements. After the supervisor conducts the initial review, the form should then be forwarded to OGC for final processing and review by the DDAEO.

(g) Where SF-278s are maintained:

1. All completed SF-278s are maintained by the ALU, OGC.

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

3. Inspection by the public is permitted by any person who makes written application. Requests for a copy of the report will be honored. It is unlawful for any person to obtain or use a public report for:

a. any unlawful purpose;

b. any commercial purpose, other than by news and communications media for dissemination to the general public;

c. for determining or establishing the credit rating of any individual; or

d. use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(9) RESOLUTION OF QUESTIONABLE SF-278s:

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

(10) CONFIDENTIAL FINANCIAL DISCLOSURE REPORT (OGE-450) FILING REQUIREMENTS:

(a) Employees at grades GS-15 and below must file a Confidential Financial Disclosure Report if their duties require them to exercise significant judgment on behalf of the government:

1. Regarding contracting or procurement;

2. Regarding the administration or monitoring of grants, subsidies, licenses or other benefits;

3. As a special government employee serving with or without compensation; or

4. Resulting in a final decision or action which will directly and substantially affect the economic interests of any nonfederal entity.

(b) FBIHQ has determined that the following categories of employees must file the OGE-450 according to the criteria above:

1. FBIHQ PERSONNEL REQUIRED TO FILE:

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

b. All procurement and contracting officials;

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

d. All Government Purchase Card holders assigned to the Finance Division regardless of their grade.

2. FIELD DIVISION PERSONNEL REQUIRED TO FILE:

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

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

c. All procurement and contracting officials;

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

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

f. Deleted

(c) When to file the OGE-450:

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

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

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

(d) OGE-450 reviewing requirements:

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

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

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

3. If a filer's interests did not change from last year, the filer may complete the top part of the first page of the form, sign and date it, write across Part I the words "SEE ATTACHED" and attach a copy of last year's certified report. The initial and secondary review can then be performed.

(11) CONFLICT OF INTEREST CERTIFICATION (CIC), FILING IN LIEU OF THE OGE-450:

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

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

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

(b) When to file the CIC:

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

(c) Penalty for failure to file:

1. See (8) (e) above.

(d) CIC reviewing requirements:

1. CICs need only be reviewed by the IS who is the same individual who acts as the initial reviewer for the OGE-450. The IS should date-stamp the CIC upon receipt to certify compliance with established deadlines.

(12) DESIGNATION AND RESPONSIBILITY OF THE FINAL REVIEWER (FR):

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

(13) RESOLUTION OF QUESTIONABLE OGE-450s:

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

(b) Upon receipt of a questionable OGE-450 or CIC, the SAC or division head shall take whatever action is necessary to resolve the actual or apparent conflict to ensure compliance with the law. Conflicts which cannot be satisfactorily resolved should be brought to the attention of the ALU, OGC, for advice, guidance and resolution.

(14) MAINTENANCE OF OGE-450s AND CICS: (See (12) above and MAOP, Part I, 11-1.3; Part II, 2-4.5.10.)

(a) OGE-450s are to be maintained in folders titled "Confidential Financial Disclosure Reports" by the division's front office in date order. CICs will be maintained in a second folder titled "Confidential Financial Disclosure Reports/CICs," also in date order. These folders will be maintained in a secure manner, and every effort should be made to ensure their privacy. Both OGE-450s and CICs will be maintained for a period of six years, after which they must be destroyed, unless needed for an ongoing investigation.

(b) Should an employee transfer out of an office, his/her previously submitted OGE-450s and/or CICs should be transferred with the employee to his/her new assignment in a sealed envelope. In the event an employee terminates employment, previously submitted forms are to be placed in a sealed envelope and labeled with the employee's name and the words "CONFIDENTIAL FINANCIAL DISCLOSURE REPORTS AND/OR CONFLICT OF INTEREST CERTIFICATIONS." These envelopes should be dated, maintained by the employee's last duty station in a secure location for six years, and then destroyed, unless needed for an ongoing investigation.

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

(15) NO PUBLIC ACCESSIBILITY

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

1-14.1 Financial Relationships with Witnesses, Subjects, and Individuals Furnishing Information to the FBI (See Part 1, 137-7 (12).)

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

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

(3) Requests for exceptions should be directed to the the Office of the General Counsel and, for informant matters, the Assistant Director, Office of Intelligence.

1-14.2 Restriction on Financial Involvement with Employees, Relatives, or Friends of Employees (See MAOP, Part 2, 6-11.)

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

1-15 ADMINISTRATIVE MATTERS

1-15.1 Promotions, Transfers, Administrative Action

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

(2) In connection with any pending, contemplated or recommended personnel action, such as promotions, reassignments, transfers, commendations, incentive awards, and disciplinary action, every precaution should be taken to ensure existing files and records are provided adequate security. Except for considering access to such records in response to a request submitted under the Privacy Act, disclosure of the existence of such contemplated action must be kept to a minimum. There should be no unnecessary discussions of the proposed action until a final decision is made by FBIHQ.

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

(4) In accordance with the provisions of the Privacy Act, the employee may request access to FBI records concerning his/her employment, including those compiled during the course of an internal administrative inquiry. To access his/her employment records, the employee should execute an FD-488, the Privacy Act Request Form. The Field Privacy Control Officer is responsible for ensuring prompt attention to each request. Requests must be processed without delay, and the employee

provided with copies of whatever records are accessible to him/her under the law. The submission and processing of Privacy Act requests by employees should not be impeded by management personnel. (See MAOP, Part 1, 20-4.2.)

1-15.2 Employee Arrests or Involvement with Police

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

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

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

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

(2) FBI employees may, however --

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

(b) Respond to inquiries from non-FBI personnel asking for their PERSONAL opinions about the nonofficial aspects or characteristics of current or former FBI employees. Such inquiries include questions about an individual's loyalty, character, habits, community reputation, and so forth. Responses must: be approved in advance by the declarant's SAC or division head; make no reference to official performance or status; not disclose information concerning or from any FBI

investigation, inquiry, operation or file; reveal any confidential or sensitive information; disclose any information protected from disclosure by any law or regulation, including the Privacy Act; and include a disclaimer that all information provided is based solely on personal knowledge and should not be construed as the official views of the FBI. Official stationery may NOT be used in responding to such inquiries.

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

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

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

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

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

1-15.4 Nepotism (See MAOP, Part 1, 1-15.1 and 3-3.1.)

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

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

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

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

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

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

(7) The resolution of each appointment, employment, promotion, advancement or appraisal incident with nepotistic potential will be coordinated on a case-by-case basis by the respective SAC or division head with the Personnel Officer at FBI Headquarters. Once each situation is satisfactorily resolved, documentation of that resolution will be filed in the respective personnel files of the affected employees.

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

(9) See MIOG, Part 1, 67-1.4, regarding FBI applicant matters affected by this policy.

1-15.5 Employment Recommendations for Applicants by Members of Congress (See also MIOG, Part I, 67-7.12.)

FBI officials concerned with examining or appointing an applicant may not receive or consider a recommendation from a Senator or Representative, except as to the character or residence of the applicant, unless the recommendation is based on the personal knowledge or records of the sender. In no case is the FBI required to return a letter to the sender, even if it does not meet the above requirement. All recommendation letters received from Members of Congress about Bureau applicants should be answered by the Chief Division Counsel in the field office or the appropriate applicant entity in the Personnel Division, i.e., the Bureau Support Applicant Unit or the Special Agent Applicant Unit. The following standard reply is to be used:

"This is to acknowledge receipt of your letter on behalf of (applicant's name), who has applied for a position with the Federal Bureau of Investigation (FBI).

"You may be assured that (applicant's name's) application will receive appropriate consideration for this position.

"We appreciate (applicant's name's) interest in employment with the FBI."

The following illustrates the types of recommendations that we may or may not consider. For example, we may consider the following recommendation from a Member of Congress since it relates only to the applicant's character and residence:

"I have known Mary Smith, a resident of my State, to be a very fine person. She has always been reliable, and shown good judgment and integrity. She is very highly regarded in the community."

The following expanded recommendation may also be considered because it is based on personal knowledge:

"I recommend Mary Smith for the vacant policy analyst position because of her excellent performance while working in a similar capacity in my office for the past nine years. Mary has recently attended several training classes which make her even more qualified for the job."

If a recommendation is not based on the personal knowledge or records of the sender, then it should not discuss the qualifications of the applicant or assess the applicant's suitability for employment with the FBI or in a particular job. If it does, then we may not consider it.

1-16 OUTSIDE EMPLOYMENT (See MAOP, Part 1, 1-18.1 (1)(i), (k), 1-24, 20-6, 20-28; MIOG, Part 1, 67-11 (1)(d).)

Employees shall not engage in other work, employment, occupation, profession, business or partnership without receiving prior Bureau approval. This rule applies whether the outside employment is self-employment or employment by a third party. Any case of doubt should be referred to Bureau for decision. Furthermore, no employee, even though having Bureau approval to engage in part-time outside employment in a sales capacity, may solicit business on Bureau premises at any time, whether during the workday or on own time before or after working hours or during lunch or rest periods. In no case may Bureau premises be used for storage or display of merchandise. Special Agents are further restricted in outside employment as set forth in Part 1, 20-6.3.2 of this manual.

1-16.1 Conflicting Outside Employment and Activities (See MAOP, Part 1, 1-27, 20-28; MIOG, Part 1, 67-11 (1)(d).)

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

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

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

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

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

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

is seeking employment. Disqualification is accomplished by not participating in the particular matter.

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

(c) Documentation. An employee need not file a written disqualification statement unless he/she is required by 5, CFR, Part 2634 to file written evidence of compliance with an ethics agreement with the Office of Government Ethics or is specifically asked by the FBI's ethics official or the person responsible for his/her assignment to file a written disqualification statement. However, an employee may elect to create a record of his/her actions by providing written notice to their supervisor or other appropriate official.

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

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

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

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

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

(a) Employment or arrangement concerning employment. An employee shall be disqualified from taking official action in a particular matter that has a direct and predictable effect on the financial interests of the person by whom he/she is employed or with whom he/she has an arrangement concerning future employment, unless authorized to participate in the matter by a written waiver issued under the authority of Title 18, USC, Section 208(b) (1) or (b) (3).

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

1-16.2 Teaching, Speaking and Writing (See MAOP, Part 1, 20-28; MIOG, Part 1, 67-11 (1)(d).)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1-17 ACTIVE PARTICIPATION IN MILITARY RESERVE OR NATIONAL GUARD UNITS (READY RESERVE STATUS) (See MAOP, Part I, 10-11.)

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

(2) Due to the key federal employee status of Special Agents, following appointment of a New Agent with Ready Reserve Status the employee is required, as a condition of employment, either to request the appropriate branch of the military to transfer (screen) him/her from the Ready Reserve to the Standby Reserve, or request to be discharged from Reserve or National Guard obligation. Due to availability requirements of all Special Agent personnel, and in order to permit adequate contingency planning in the event of an emergency which would necessitate the mobilization of the Ready Reserve, Bureau policy precludes any Special Agent from enlisting, reenlisting, or reactivating into a Ready Reserve Unit (including Individual Mobilization Augmentee (IMA) billets and all National Guard billets, whether active or inactive). (See MIOG, Part I, Section 67.)

1-18 POLITICAL ACTIVITIES

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

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

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

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

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

1-18.1 Permissible Activities (Title 5, CFR, Section 734, Subpart D) (See MAOP, Part I, 1-18.1(2), 1-18.3(1), 1-24.)

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

(a) Register and vote in any election;

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

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

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

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

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

(g) Sign a political petition as an individual;

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

(i) Take an active part, as a candidate or in support of a candidate, in a nonpartisan election (BUT SEE MAOP, Part I, Sections 1-7, 1-8, 1-9, 1-16, and 20-6.1 ET SEQ. which require Bureau approval for outside employment);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Driving voters to the polls on behalf of a political party or a candidate in a partisan election;

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

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

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

(m) Initiating or circulating a partisan nominating petition;

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

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

(p) Deleted

1-18.3 FBI Policy

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

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

(3) By virtue of our role and status in law enforcement, the FBI as an organization, and its employees individually, have assumed some special responsibilities. Employees must recognize

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

1-18.3.1 Off-Duty Political Activities

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

1-18.3.2 On-Duty Political Activities

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

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

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

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

1-19 CONFIDENTIAL NATURE OF FBI OPERATIONS

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

(2) Employees are required to keep strictly confidential all information secured in their official capacities. Failure to abide by this provision violates Department of Justice regulations and may violate certain statutes providing severe penalties. (See also regulations set out in Manual of Investigative Operations and Guidelines, Part 2, Section 26, on unauthorized disclosure of classified security information.)

1-19.1 Deleted (See *Security Policy Manual* at http://rmd.fbinet.fbi/ppu/manuals-desk/manuals_published_in_new_format.htm)

1-20 Deleted (See *Security Policy Manual* at http://rmd.fbinet.fbi/ppu/manuals-desk/manuals_published_in_new_format.htm)

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

1-21.1 Privacy Act of 1974

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

1-21.2 Standards of Conduct

(1) All employees are expected to abide by the standards of conduct set forth in Executive Order 12674 dated April 12, 1989, Departmental Order 350-65 and rules and regulations of the FBI pursuant to the above-mentioned authority set forth in the Code of Federal Regulations.

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

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

1-21.3 Penalties

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

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

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

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

1-22 INTELLIGENCE OVERSIGHT BOARD (See NFIPM, Section 2-56.)

(1) The President, by Executive Order 12863 of September 13, 1993, established the Intelligence Oversight Board as a standing committee of the President's Foreign Intelligence Advisory Board. The Board is charged with reviewing activities of the Intelligence Community and informing the President of any activities that any member believes are in violation of the Constitution, the laws of

the United States, or Executive Orders, or Presidential Directives. In this regard, the Board will receive and consider reports of Inspectors General and General Counsels of the Intelligence Community concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive Orders, Presidential Directives, or other guidelines or regulations approved by the Attorney General, in accordance with Executive Order 12333, if such provisions were intended to protect the individual rights of a United States person.

(2) In the FBI, reports to the Board are submitted by the Office of the General Counsel (OGC). Employees must refer matters which they believe may require submission to the Board to the Inspection Division, Attention: Internal Investigations Section IIS), and the OGC. It should be noted in this regard that matters involving allegations of illegal or improper personal conduct on the part of government employees generally are not matters within the purview of the Intelligence Oversight Board. Accordingly, allegations of illegal or improper personal conduct which are not related to the FBI's intelligence or counterintelligence responsibilities, if detected, should be reported to the FBI's Initial Processing Unit, IIS, INSD. Additionally, while reports of overdue administrative or investigative activities conducted under the NSIG may be considered in evaluating the work performance of FBI employees, such errors are not required to be reported to OGC as potential IOB matters.

(3) Pursuant to provisions of Executive Order 12863, of September 13, 1993, on a quarterly basis, each field office and FBIHQ division is required to submit to the OGC, Attention: NSLB, an electronic communication (EC) certifying that all employees of the office or division have been contacted concerning the requirement to report any intelligence or counterintelligence activities within their office or division that they believe may be unlawful or contrary to Executive Order, Presidential Directive, or Departmental regulation. Such canvassing may be accomplished by e-mail. EC certifications reporting the results of employee canvassing may be signed out by an ASAC or Deputy Assistant Director, as appropriate. Allegations of potential IOB violations not previously reported pursuant to the requirements of Section 2-56 of the NFIPM shall be reported to OGC within 14 days of discovery. The failure to report such matters, for whatever reason, may result in severe disciplinary action, up to and including dismissal from the FBI.

(4) Questions concerning the IOB process or reporting procedures should be directed to IIS, INSD, or NSLB, OGC.

(5) Reports of potential IOB errors can be submitted electronically using FBI form number FD-962.

1-23 DEPARTMENT OF JUSTICE OFFICE OF PROFESSIONAL RESPONSIBILITY

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

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

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

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

1-23.1 Protecting Employees (Whistleblowers) From Official Reprisals

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

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

1-24 PREPUBLICATION REVIEW

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

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

(a) This section promulgates regulations and provides guidance on the FBI's prepublication review program. It applies to both current and former employees and is meant to regulate individual conduct as well as to set forth organizational policy.

(b) As a condition of employment, all FBI personnel signed an "Employment Agreement" (FD-291) in which they promised to never divulge, publish, reveal, or otherwise disclose any information or material from or relating to FBI files or any other information acquired by virtue of their official employment, duties, or status, without the written permission of the Director. Each employee also

promised to present the full text of any proposed disclosure in writing for the Director's consideration at least 30 days in advance of the proposed disclosure. BREACH OF THESE OBLIGATIONS IS GROUNDS FOR DISCIPLINARY ACTION, A CIVIL SUIT AGAINST THE OFFENDER, OR BOTH. IN SOME INSTANCES, UNAUTHORIZED DISCLOSURE MAY ALSO CONSTITUTE CAUSE FOR REVOCATION OF A SECURITY CLEARANCE OR BE A CRIMINAL OFFENSE. For example, Title 5, USC, Section 552a(i)(1) makes it a crime to wrongfully disclose individually identifiable information from a system of records protected by the Privacy Act; and Title 18, USC, Section 1905 makes it a crime for federal employees to wrongfully disclose trade secrets acquired during the course of their employment.

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

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

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

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

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

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

(a) Current and former employees must submit to the Office of Public and Congressional Affairs (OPCA) for prepublication review any nonfiction or fiction work, regardless of the medium in which the work is to be memorialized, that they intend to publish or otherwise divulge which discusses, concerns, is based on, derived from, or otherwise relates to any data, information, files,

documents, or materials acquired from or relating to FBI files or any other information acquired by virtue of official employment, duties, or status.

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

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

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

(4) PROCEDURES

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

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

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

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

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

c. screen all requests:

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

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

(iii) If the request reveals that the author has breached his or her Employment Agreement by making an unauthorized disclosure prior to submitting the work for review, then OPCA will forward copies of the request and the work to the Deputy General Counsel, Litigation Branch, Office of the General Counsel (OGC) for possible institution of civil suit against the author. If the author is a current employee, then OPCA shall also forward copies to the Personnel Security Unit, National Security Division, for evaluation of the effect of the disclosure on the employee's

continued trustworthiness and security clearance, and to the Office of Professional Responsibility (OPR) for further investigation. OPCA will also simultaneously pursue the actions described in subparagraphs (i) or (ii) above, as appropriate in such cases, unless directed to the contrary by OGC or OPR.

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

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

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

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

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

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

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

6. Any work submitted for prepublication review is presumed to be proprietary and shall not, with the exceptions set forth in paragraph 3.c. above, be disseminated to any person not involved in the prepublication review process or in the enforcement of that process. In general this means that the work shall not be disclosed outside OPCA and the concerned prepublication review panel except on a "need-to-know" basis during the prepublication review process, and to OGC and OPR during the enforcement process. No copies of the work may be made without the approval of OPCA.

(5) STANDARDS

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

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

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

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

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

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

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

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

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

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

i. Information pertaining to currency transaction reports regulated or protected by Title 31, USC, Section 5319;

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

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

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

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

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

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

1-25 DRUG DETERRENCE PROGRAM (DDP) CONSISTING OF THE DRUG-FREE WORKPLACE PROGRAM (DFWP) AND ALCOHOL AND CONTROLLED SUBSTANCE ABUSE PROGRAM (ACSAP) (See MAOP, Part 1, 24-8.2(3).)

1-25.1 Background and Purpose, DFWP

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

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

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

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

(5) The purpose of the FBI's DFWP is to set forth objectives, policies, procedures, and implementation guidelines to achieve a drug-free federal workplace, consistent with the EO and the mandatory guidelines required by subsection (a)(1)(A)(ii) of Section 503 of Public Law 100-71. The intent of Congress and the President is clear: illegal drug use by federal employees, on or off

duty, particularly in agencies such as the FBI, is inconsistent with the national security and with the public's health and safety.

1-25.1.1 Background and Purpose, ACSAP

(1) The Omnibus Transportation Employee Testing Act ("the Act") of 1991 (Public Law 102-143), was signed into law by former President Bush on October 28, 1991. The Act requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad and mass transit industries.

(2) The Act recognizes that alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation. Millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses and depend on the operators of such to perform in a safe and responsible manner.

(3) The Act further acknowledges that efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs by individuals involved with the operation of these vehicles. The use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to be a critical factor in transportation accidents. Testing has shown to be the most effective deterrent to abuse of alcohol and the use of illegal drugs.

(4) The Secretary of Transportation was charged with the responsibility of expanding drug and alcohol testing regulations. These regulations would affect over seven million employees in the transportation industry, to include certain covered employees within the federal government. Final rules were published in the Federal Register on February 15, 1994.

(5) In response, the FBI's Drug Deterrence Program developed a comprehensive Alcohol and Controlled Substance Abuse Program (ACSAP) for all FBI employees operating commercial motor vehicles for official Bureau business. This program was approved by the Director on February 19, 1999.

(6) The intent of the FBI's Alcohol and Controlled Substance Abuse program is to prevent accidents and injuries resulting from alcohol and/or illegal drug use.

1-25.2 Statement of Policy, DFWP

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

(2) The very nature of the FBI's investigative work and unique mission in the criminal, domestic security, foreign counterintelligence and security-loyalty background areas demands that a high degree of special trust be required not only in the conduct of these investigations but also by all personnel who are involved in the reporting, processing and filing of our investigative results. The unauthorized dissemination of material or information developed during our investigations or

maintained in our files (by employees such as Office Automation Clerks/Assistants as well as by Special Agents) would significantly affect our mission, endanger the lives or safety of our Agents or informants, destroy or diminish their usefulness and invade personal privacy. Thus, it is imperative that ALL employees conduct their lives in such a way that they are free from potential blackmail or other possible pressure from agents of hostile foreign governments who wish to procure sensitive information contained in the FBI's records.

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

(4) In carrying out the FBI's mission, Special Agents conduct many types of investigations over which the FBI has jurisdiction; must be available for general and special assignments whenever and wherever their services are required; must apprehend subjects, many of whom are armed and dangerous; participate in undercover assignments; operate automobiles at high speed; be able to subdue persons and defend themselves and others as required; and must operate scientific crime detection devices and investigative equipment, and firearms, explosives and gases. Therefore, they must remain alert and in total control of their physical and mental faculties and unencumbered by drugs. The FBI believes that the threat to public safety posed by Special Agents (as well as a wide variety of support employees with investigative duties) whose judgment may be impaired by illegal drug use is a legitimate factor in establishing a mandatory urinalysis drug-testing program.

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

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

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

(a) The testing/screening of all applicants seeking employment;

(b) The testing of probationary Special Agents during the first two years of employment;

(c) The testing of employees when there is reasonable suspicion of illegal drug use;

(d) The testing of all employees under a "random testing" program;

(e) Follow-up testing; and

(f) The testing of employees on a voluntary basis.

1-25.2.1 Statement of Policy, ACSAP

(1) FBI employees who operate commercial motor vehicles are charged with operating these vehicles in a safe and responsible manner. It has been a longstanding FBI policy that employees should never cause themselves to be mentally or physically unfit for duty. (See MAOP, Part 1, Section 1-2 supra.) The use of illegal drugs is strictly prohibited as is the use of alcohol and/or controlled substances, except when the controlled substance use is pursuant to the instructions of a physician who has advised that the use does not adversely affect the ability to safely operate a commercial motor vehicle.

(2) As a result, the FBI's ACSAP has a compelling obligation to deter alcohol and/or drug use by FBI employees who operate commercial motor vehicles. To ensure compliance, the ACSAP will test commercial motor vehicle operators under the following categories:

(a) Post-Accident Testing - A driver will be tested as soon as practical following an accident involving a Commercial Motor Vehicle, when he/she:

1. Was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

2. Received a citation under state or local law for a moving violation arising from the accident.

(b) Random Testing - A Commercial Motor Vehicle Operator will be subject to random testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

(c) Reasonable Suspicion Testing - This type of testing for drugs and/or alcohol may be required when the employee's management official has reason to believe that the driver has used or is using illegal drugs and/or alcohol. This belief must be based on specific, contemporaneous articulable observations concerning the appearance, behavior, speech or body odors of the driver.

(d) Return-to-Duty Testing - This type of testing will be required after the driver has engaged in prohibited alcohol use.

(e) Follow-Up Testing - This type of testing will be required following a determination, by a Substance Abuse Professional, that a driver is in need of assistance in resolving problems associated with alcohol and/or controlled substances on an unannounced basis.

(f) Pre-Duty - FBI employees who are assigned to a testing designated position will be required to undergo a pre-duty drug test prior to the first time a CD performs a safety-sensitive function.

In addition, Commercial Motor Vehicle Operators are also subject to drug testing as required by the DFWP.

1-25.3 Employee Notifications, DFWP

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

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

1-25.3.1 Employee Notification, ACSAP

Memorandum to All Employees dated August 5, 1999, from Director Freeh advised of the provisions of the Alcohol and Controlled Substance Abuse Program.

1-25.4 Drugs to be Screened, DFWP

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

(1) Amphetamines

(a) Amphetamine

(b) Methamphetamine

(2) Cocaine

(3) Cannabinoids

(4) Opiates

(a) Codeine

(b) Morphine

(5) Phencyclidine (PCP)

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

1-25.4.1 Drugs to be Screened, ACSAP

FBI testing protocol involves the detection of the following substance:

(1) Alcohol

(a) Ethanol

(2) Amphetamines

(a) Amphetamine

(b) Methamphetamine

(3) Cocaine

(a) Benzoylecgonine

(4) Cannabinoids

(a) Marijuana (THC)

(5) Opiates

(a) Codeine

(b) Hydromorphone (Dilaudid)

(c) Oxycodone

(6) Phencyclidine (PCP)

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

1-25.5 Detection Method, DFWP

Urinalysis testing is performed using a two-step screening-confirmation process.

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

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

1-25.5.1 Detection Method, ACSAP

(1) Controlled Substance Testing

Urinalysis testing is performed using a two-step screening-confirmation process.

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

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

(2) Alcohol Testing

(a) Evidential Breath Testing (EBT) devices will be used to measure alcohol concentrations in the breath. A screening test shall be conducted to determine whether the employee has a prohibited concentration of alcohol in the system. Confirmation testing shall be conducted when the result of the screening test is 0.02 or greater.

(b) Testing shall be conducted using Electrochemical Oxidation/Fuel Cells. This method of measuring breath alcohol uses special electronic components that generate electrical energy by oxidizing alcohol. The components are called "electrochemical cells," or fuel cells, which are comprised of two platinum electrodes.

How does the fuel cell work?

1. When the subject blows into a mouthpiece, a small (1.5 cc) sample of expired breath is drawn into the fuel cell for analysis.

2. When breath containing alcohol molecules comes into contact with the fuel cell, a spontaneous flow of electricity is generated. The amount of electrical current generated indicates how much

alcohol is present in the breath sample. The end result is the alcohol measurement which is displayed on the EBT.

1-25.6 Scope of Testing, DFWP

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

1-25.6.1 Scope of Testing, ACSAP

(1) The FBI's ACSAP establishes a comprehensive drug and alcohol testing program for employees who operate Commercial Motor Vehicles (CMV). Drug testing will be done using established DDP collection officials. Actual testing of the specimen will be done using a contract laboratory certified by the National Institute of Drug Abuse. As with the current DFWP, all positive drug tests will be verified by the FBI's Medical Review Officer. Thereafter, the case will be referred to the Employee Assistance Program (EAP) and to the Office of Professional Responsibility (OPR) for administrative action.

(2) Certified Breath Alcohol Technicians will conduct alcohol testing. Any employee found over the permissible breath- alcohol limit will be referred to the EAP and to OPR for administrative action.

1-25.7 Collection Procedures, DFWP

The following highlights the collection procedure. For complete details of the collection procedure, refer to Section IX of the "Drug Deterrence Program Drug-Free Workplace Policy and Procedure Manual."

(1) Before testing, the collection official will request the individual to be tested (the donor) to present photo identification, if necessary.

(2) Social Security numbers will be used as specimen identifying numbers throughout the collection, shipping and testing phases of the screening to protect the identity of the donor.

(3) Chain of Custody forms shall be used to account for the integrity of each urine specimen by tracking its handling from point of specimen collection to final disposition of the specimen.

(4) Each donor will be escorted by a collection official to the collection area. Same-sex collectors will be used in the instances where collection personnel have reason to believe that the donor may alter or substitute the urine specimen, but are not limited to:

(a) Evidence that employee has tampered with previous specimen.

(b) An individual has equipment, implements, or substances that may be used to tamper with a drug test.

(5) Donors will be allowed individual privacy when providing specimens unless collection personnel have reason to believe that the donor may alter or substitute the urine specimen or otherwise tamper with the drug test.

1-25.7.1 Collection Procedures, ACSAP

The following highlights the collection procedure. For complete details of the collection procedure, refer to Section XI of the Drug Deterrence Program "Alcohol and Controlled Substance Abuse Policy and Procedure Manual."

(1) Breath Alcohol Testing:

(a) Breath Alcohol Testing will be conducted by a Certified Breath Alcohol Technician (BAT).

(b) Prior to testing, the BAT will request to see the donor's photo identification.

(c) Social Security numbers will be used as employee identification numbers.

(d) A Breath Alcohol Testing form will be used to record necessary information.

(e) The breath testing location will provide aural and visual privacy, sufficient to prevent unauthorized persons from seeing or hearing test results.

(2) Drug Testing:

(a) Drug Collections will be conducted by established DDP Collection Officials (CO's).

(b) Prior to testing, the CO will request to see the donor's photo identification.

(c) Social Security numbers will be used as specimen identifying numbers throughout the collection, shipping, and testing phases of the screening to protect the identity of the donor.

(d) Chain of Custody forms shall account for the integrity of each urine specimen by tracking its handling from point of specimen collection to final disposition of the specimen.

(e) Each donor will be escorted by a CO to the collection area. Same sex collectors will be used in the instances where collection personnel have reason to believe that the donor may alter or substitute the urine specimen.

1-25.8 Reporting Procedures, DFWP

1-25.8.1 Applicant Testing, DFWP

(1) All tests confirmed positive for drugs will be reviewed by the FBI's medical review officer (MRO) prior to the initiation of any official action. If the MRO determines, after contacting the donor, that there is no alternate medical explanation for the positive test, the DDP Administrator will be notified. A communication will be immediately prepared by the DDP Administrator identifying the donor and describing the drugs identified upon testing. This communication will be forwarded to the Administrative Services Division (ASD), Attention: Bureau Applicant Employment Unit (BAEU), and will become a permanent part of the applicant record. Upon receiving a communication regarding a verified positive test, the BAEU will immediately notify the field office through which the applicant is being processed to discontinue the processing of that

applicant. The BAEU will, over the signature of the Personnel Officer, prepare an appropriate letter notifying the applicant that he or she is no longer being considered for employment. (See MIOG, Part 1, 67-2.7.4, for additional notification instructions.)

(2) Inquiries and appeals received from applicants being denied employment with the FBI due to positive drug tests will be handled by the Personnel Officer, ASD . Cases in which illegal drugs, such as marijuana, cocaine, or PCP, were detected will not be given further consideration for employment with the FBI. (Also see MIOG, Part 1, 67-2.7.1, for guidelines for determining applicants' suitability based on their drug history.) In the event that the drug detected was a legitimate prescription drug and the applicant had failed to inform the FBI that he or she was taking such a drug prior to testing, the applicant may appeal to the Personnel Officer, who will refer the appeal to the MRO for review prior to a final decision. Such appeals will be reviewed on an individual basis taking into consideration the verification of the legitimacy of the drug and possible lack of candor on the part of the applicant.

1-25.8.2 Testing On-Board Employees, DFWP

(1) Random Selection and Probationary Testing

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

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

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

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

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

(2) Reasonable Suspicion Testing

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

(b) All test results will be forwarded to OPR by the DDP staff after the MRO has conducted the required review to ensure that an alternate medical reason for the presence of a drug does not exist. Where testing is conducted based on reasonable suspicion, the urine specimen will be obtained by a collection official using set collection procedures. Same-sex collectors will be used in the instances where collection personnel have reason to believe that the donor may alter or substitute the urine specimen. A refusal to provide a specimen will be considered refusal to participate in testing, and administrative action for insubordination may be instituted. Following investigation by OPR, the investigative results will be forwarded to the Adjudication Unit which will act upon each case as outlined under random and probationary testing.

(3) Follow-up Testing

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

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

(4) Voluntary Testing

In order to demonstrate their commitment to the FBI goal of a drug-free workplace, employees may volunteer for testing by contacting the DDP Administrator. The DDP Administrator, at his/her discretion, is authorized to initiate the collection of a urine specimen for testing. Thereafter, the reporting procedures will be the same as those detailed for random selection testing.

1-25.8.3 Reporting Procedures, ACSAP

(1) Alcohol Testing

(a) Notification of drivers to be tested will be made to field offices and FBIHQ divisions by FBIHQ DDP.

(2) Confirmed Positive Alcohol Tests (Greater Than 0.02, Less Than 0.04)

(a) Commercial Drivers (CDs) having a breath alcohol content greater than 0.02 - .039 will be placed on temporary restriction from performing safety-sensitive functions.

(b) Management Officials (MOs) shall complete an FD-907, Temporary Restriction Form, and fax the form to the DDP Administrator.

(3) Confirmed Positive Alcohol Test (0.04 or Greater)

(a) In the event the confirmation test reveals an alcohol concentration of 0.04 or greater, the CD shall be placed on full restriction from performing safety-sensitive functions. MOs shall complete an FD-908, Full Restriction Form, and shall fax this information to the DDP Administrator.

(b) The DDP Administrator will prepare an appropriate communication to the Office of Professional Responsibility (OPR), requesting that the Internal Investigation Unit (IIU) initiate an appropriate investigation.

(c) A copy of this communication will be forwarded to an Employee Assistance Counselor who will immediately contact the employee to extend assistance and provide rehabilitation services.

(d) Investigations conducted by OPR will be conducted in accordance with FBI regulations regarding investigations of employee misconduct. The degree of severity of administrative action will be determined on a case-by-case basis, taking into consideration all extenuating or mitigating factors.

(4) Drug Testing

(a) Notification of CDs to be tested will be made to field offices and FBIHQ divisions by FBIHQ DDP.

(b) In the event of a "verified positive" test, the MRO will notify the DDP Administrator who will prepare an appropriate communication of the confirmed positive test. Information regarding the positive test shall be forwarded through the Assistant Director to OPR, requesting that the IIU initiate an appropriate investigation.

(c) A copy of this communication will be forwarded to an Employee Assistance Counselor who will immediately contact the employee to extend assistance and provide rehabilitation services.

(d) Investigations conducted by OPR will be conducted in accordance with FBI regulations regarding investigations of employee misconduct. The degree of severity of administrative action will be determined on a case-by-case basis, taking into consideration all extenuating or mitigating factors.

1-25.9 Supervisory Responsibilities, DFWP

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

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

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

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

(2) The SAC or division head shall:

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

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

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

1-25.9.1 Supervisory Responsibilities, ACSAP

(1) Supervisors will be trained to recognize alcohol and/or drug use and impairment and will be provided information regarding referral of drivers to the EAP, procedures and requirements for alcohol and/or drug testing and behavioral patterns that give rise to a reasonable suspicion that an employee may be using controlled substances an/or misusing alcohol.

(2) Supervisors shall ensure that Commercial Drivers (CDs) do not perform safety-sensitive functions while taking over-the- counter medications that may impair judgment or motor skills.

(3) Trained supervisors will be responsible for developing reasonable suspicion of illegal drug and/or alcohol misuse based on specific, contemporaneous articulable observations concerning the appearance, behavior, speech or body odors of the driver.

(4) Supervisors will be responsible for placing drivers on restriction as warranted and shall ensure that drivers under his/her supervision have been referred to the EAP for assistance in counseling and rehabilitation.

1-25.10 Records and Reports, DFWP

1-25.10.1 Confidentiality of Test Results, DFWP

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

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

(a) The MRO;

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

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

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

Test results with all identifying information removed shall also be made available to FBI personnel for data collection and auditing.

1-25.10.2 Confidentiality of Records, DFWP

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

1-25.10.3 Maintenance of Records, DFWP

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

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

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

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

(c) Anonymous statistical reports; and

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

1-25.10.4 Records Maintained by Government Contractors, DFWP

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

1-25.10.5 Statistical Information, DFWP

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

(1) Random, reasonable suspicion, follow-up, probationary, voluntary and applicant tests;

(2) "Verified positive" test results;

(3) Voluntary drug counseling referrals;

(4) Involuntary drug counseling referrals; and

(5) Terminations or denial of employment offers resulting from refusal to submit to testing.

1-25.10.6 Validity of Preemployment Drug Tests, DFWP

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

1-25.10.7 Records and Reports, ACSAP - Confidentiality of Records

The FBI is required to maintain strict standards of confidentiality in carrying out its responsibilities.

(1) Authorized disclosures - The results of drug and alcohol tests shall not be disclosed without the prior written consent of the CD, unless the disclosure would be:

(a) To a Medical Review Officer.

(b) To the Administrator of any EAP in which the employee is receiving counseling or treatment or is otherwise participating.

(c) To supervisory or management officials having authority to take adverse personnel action against such employee.

(d) Pursuant to an order of a court of competent jurisdiction where required to defend an adverse personnel action.

(e) To the National Transportation Safety Board as part of an accident investigation.

(2) Maintenance of records

(a) The ACSAP will maintain records in a manner consistent with the Privacy Act and all other applicable laws, rules and regulations regarding confidentiality of records.

(b) Records maintained by government contractors - Any contractor hired to satisfy any part of this program shall comply with the confidentiality requirements of this program and with all applicable federal laws, rules, regulations and guidelines.

1-25.11 Disciplinary Actions, DFWP

(1) Determination

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

(a) Direct observation;

(b) Evidence obtained from an arrest or criminal conviction;

(c) A "verified positive" test result; or

(d) An employee's voluntary admission.

(2) Administrative Actions

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

(3) Range of Consequences

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

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

(a) Reprimand the employee in writing;

(b) Place the employee in an enforced leave status;

(c) Suspend the employee for 14 days or less;

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

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

(f) Dismiss the employee from the FBI.

(4) Initiation of Mandatory Removal From Service

The FBI shall initiate action to dismiss an employee for:

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

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

(5) Refusal to Take Drug Test When Required

An employee who refuses to be tested when so required will be considered insubordinate and subject to the full range of disciplinary action, up to and including dismissal. Attempts to alter or

substitute the specimen provided will be deemed a refusal to take the drug test when required. No applicant who refuses to be tested shall be extended an offer of employment.

(6) Voluntary Referral

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

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

1-25.11.1 Disciplinary Actions, ACSAP

(1) Determination - A Commercial Driver (CD) may be found to be engaging in prohibited alcohol and/or drug activity on the basis of appropriate evidence including, but not limited to:

(a) Specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.

(b) Evidence obtained from an arrest or criminal conviction.

(c) A verified positive test result.

(d) A driver's voluntary admission.

(2) Administrative action - A CD found to be engaged in prohibited alcohol or drug use shall immediately be referred to the EAP. The FBI shall initiate administrative action to remove or suspend from service any CD the first time that CD is found to be engaging in prohibited activity. If, however, the CD has sought out EAP assistance voluntarily as part of an EAP rehabilitation program, a CD may remain on duty if the CD's continued employment would not endanger public health and safety or national security.

(3) Range of consequences - In determining the severity of the disciplinary action regarding a CD found to be engaged in prohibited alcohol and/or drug use, the FBI will take into consideration all extenuating and mitigating factors, the nature of the position, the risk to the public, and the CD's personnel and/or performance records. The FBI shall initiate disciplinary action against any CD found to use illegal drugs, provided that such action is not required for a CD who voluntarily admits to prohibited alcohol or drug use, obtains counseling or rehabilitation and thereafter refrains from prohibited activity.

(4) Initiation of mandatory removal from service - The FBI shall initiate action to dismiss a CD for:

(a) Refusing to obtain counseling or rehabilitation through the EAP as required after being found to be engaging in prohibited alcohol and/or drug activity.

(b) Having been found not to have refrained from prohibited alcohol and/or drug activity after the first finding.

(5) Refusal to take alcohol and/or drug tests when required - A CD who refuses to be tested when so required will be considered insubordinate and subject to the full range of disciplinary action, up to and including dismissal. Attempts to alter or substitute tests will be deemed a refusal. No applicant who refuses to be tested shall be extended an offer of employment.

1-25.12 Prohibited Activity, ACSAP

(1) ALCOHOL

(a) Alcohol Concentration - No Commercial Driver (CD) shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No supervisor having actual knowledge that a CD has an alcohol concentration of 0.04 or greater shall permit the CD to perform or continue to perform safety-sensitive functions.

(b) Alcohol Possession - No CD shall be on duty or operate a commercial motor vehicle while the CD possesses alcohol, unless the alcohol is manifested and transported as part of a shipment. No supervisor having actual knowledge that a CD possesses unmanifested alcohol may permit the CD to drive or continue to drive a commercial motor vehicle.

(c) On-duty Use - No CD shall use alcohol while performing safety-sensitive functions. No supervisor having actual knowledge that a CD is using alcohol while performing safety-sensitive functions shall permit the CD to perform or continue to perform safety-sensitive functions.

(d) Preduty Use - No CD shall perform safety- sensitive functions within four hours after using alcohol. No supervisor having actual knowledge that a CD has used alcohol within four hours shall permit a CD to perform or continue to perform safety-sensitive functions.

(e) Use Following an Accident - No CD required to take a post-accident alcohol test shall use alcohol for eight hours following an accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

(f) Refusal to Submit to a Required Alcohol Test - No CD shall refuse to submit to required alcohol testing under this program. A CD who refuses to be tested will be considered insubordinate and subject to disciplinary action, up to and including dismissal. See Part 1, 1-30.3 of the Manual of Administrative Operations and Procedures (MAOP). Any attempt to alter or substitute an alcohol test will be deemed a refusal to take the alcohol test when required.

(2) DRUGS

(a) Controlled Substance Use - No CD shall perform safety-sensitive functions when the CD uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the CD that the substance does not adversely affect the ability to safely operate a CMV. The CD must notify his/her Management Official (MO), division head or SAC of any condition or drug use which may impair his/her fitness for full duty.

(b) Over-the-Counter Medications - No CD shall perform safety-sensitive functions while taking over-the-counter medications that may impair judgment or motor skills. The CD must notify his/her MO, SAC, or division head of any condition or medication which may impair his/her fitness for full duty.

(c) Positive Drug Test - No CD who has tested positive for controlled substances shall be permitted to perform or continue to perform safety-sensitive functions pending completion of administrative action.

(d) Refusal to Submit to a Required Drug Test - No CD shall refuse to submit to a drug test under this program. A CD who refuses testing shall be considered insubordinate and subject to the full range of disciplinary action, up to and including dismissal. See Part 1, Section 13 of the MAOP. Attempts to alter or substitute the specimen provided will be deemed a refusal to take the drug test when required.

(e) On-duty Use - No MO, SAC or division head having actual knowledge that a CD has used a controlled substance or an over- the-counter medication, as defined by above, shall permit the CD to perform or continue to perform a safety-sensitive function.

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

1-26.1 General Statement

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

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

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

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

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

1-26.2 Types of Employee Public Speech

(1) Public Speech Regarding Matters Unrelated to FBI Employment

(a) FBI employees ordinarily may speak publicly about matters unrelated to their employment if they are expressing their personal views. However, when speaking publicly about such matters, employees should make clear that they are stating their personal opinion, not the opinion of the FBI and not their official opinion as an employee of the FBI. Particular care in this regard should be taken if the employee is somehow identified as an FBI employee. For example, an employee may

wish to publicly comment on topical social issues, school board issues or other similar matters. Such speech is deemed unrelated to FBI employment and protected under the First Amendment so long as the employee solely and clearly expresses his/her opinions as an individual.

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

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

(a) Certain matters of significant public concern may be so closely related to the responsibilities and mission of the FBI as to create a substantial likelihood that personal comments on such matters by FBI employees would be perceived as reflecting their official views as FBI employees or the views of the agency. Employee comments regarding such matters as whether use of certain controlled substances should be legalized, whether the Government should punish certain crimes by use of capital punishment or whether a certain criminal statute is constitutional and enforceable are examples of when such misperceptions might occur. When speaking about matters closely related to the responsibilities and mission of the FBI, employees have an obligation to make absolutely clear that they are expressing their personal opinions. Further, certain employees may be precluded from stating publicly their personal opinions on a particular matter. For example, it may be inappropriate for a senior FBI official to express publicly his/her personal view regarding matters within the investigative jurisdiction of the FBI. This is because, as a practical matter, others may perceive the personal views of a senior management employee possessing substantial policy-making authority as indistinguishable from his/her official position as a senior FBI manager. The public expression of personal views in such situations could undermine the ability of the FBI to enunciate official policy or to remain neutral on some issues.

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

(3) Public Speech Regarding FBI Enforcement Operations or Investigations

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

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

(a) Employee public speech concerning the administration of the FBI in matters such as investigative programs, personnel practices and procedures, disciplinary matters, the conduct or integrity of its managers and other matters has the potential to undermine the discipline, efficiency, and effectiveness of the agency. Such speech may also affect morale, weaken or destroy necessary working relationships and erode public confidence in the agency. Though public comment on matters such as corruption or racial discrimination may have significant public value, such speech must nonetheless be balanced against the concerns and interests of the Bureau, such as those discussed above. If the public value of the speech outweighs the interests of the FBI, the speech is protected under the First Amendment and may not be the basis for discipline against an employee.

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

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

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

(a) Federal law expressly prevents the FBI from engaging in adverse employment actions or reprisal against most employees who disclose to the Attorney General, the Department of Justice Office of Professional Responsibility, or the FBI Office of Professional Responsibility, information which is reasonably believed to evidence a violation of law, rule, or regulation; mismanagement; gross waste of funds; abuse of authority; or a substantial and specific danger to public health or safety. See, Title 5, United States Code, Section 2303; Title 28, Code of Federal Regulations, Section 0.39(c); MAOP, Part I, Section 1-23.1.

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

1-26.3 Factors Determining Appropriateness of Employee Public Speech

Applicable law regarding the necessary balancing of an employee's First Amendment right to speak publicly regarding a matter of public concern and an agency's legitimate law enforcement interests is complex. It is not possible to list all of the factors that would be considered in determining

whether to counsel an employee that his/her proposed public statements may be inappropriate and, therefore, possibly subject the employee to discipline, or whether to discipline an employee for making such comments. However, the following factors are among those that would be considered in determining whether disciplinary action would be appropriate:

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

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

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

(4) The public comment was delivered in an intemperate, offensive, caustic or unprofessional manner. For example, if the speech identifies a specific fellow employee or supervisor by name or position and characterizes that person in an intemperate manner as a racist, thief or bigot, the manner of such speech may subject the employee to discipline.

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

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

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

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

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

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

1-26.4 Existing Procedures

(1) Part I of the MAOP contains procedures for addressing certain matters of interest and/or concern to FBI employees. Section 14 establishes a grievance system for the orderly and effective resolution of employee grievances. Section 3 contains procedures relating to Special Agent Career

Development Matters, and Section 4 contains procedures relating to Equal Employment/Upward Mobility matters. Employees are encouraged to use these established mechanisms for the resolution of their concerns and grievances.

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

1-26.5 Guidelines on Religious Freedom in the Federal Workplace

The following Guidelines, addressing religious exercise and religious expression, shall apply to all civilian executive branch agencies, officials, and employees in the federal workplace. These Guidelines principally address employees' religious exercise and religious expression when the employees are acting in their personal capacity within the federal workplace and the public does not have regular exposure to the workplace. The Guidelines do not comprehensively address whether and when the government and its employees may engage in religious speech directed at the public.

(1) GUIDELINES FOR RELIGIOUS EXERCISE AND RELIGIOUS EXPRESSION IN THE FEDERAL WORKPLACE

Executive departments and agencies shall permit personal religious expression by federal employees to the greatest extent possible, consistent with the Religious Freedom Restoration Act (Title 42, USC, Section 2000bb-1) and Title VII of the Civil Rights Act of 1964 (Title 42, USC, Section 2000e et seq.), as amended and interests in workplace efficiency as described in this set of Guidelines. Agencies shall not discriminate against employees on the basis of religion, require religious participation or nonparticipation as a condition of employment, or permit religious harassment. Agencies shall accommodate employees' exercise of their religion in the circumstances specified in these Guidelines. These requirements are but an application of the general principle that agencies shall treat all employees with the same respect and consideration, regardless of their religion (or lack thereof).

(a) Religious Expression. As a matter of law, agencies shall not restrict personal religious expression by
employees in the federal workplace except where the employees' interest in the expression is outweighed by the government's interest in the efficient provision of public services or where the expression intrudes upon the legitimate rights of other employees or creates the appearance, to a reasonable observer, of an official endorsement of religion.

As a general rule, agencies may not regulate employees' personal religious expression on the basis of its content or viewpoint. In other words, agencies generally may not suppress employees' private religious speech in the workplace while leaving unregulated other private employee speech that has a comparable effect on the efficiency of the workplace, including ideological speech on politics and other topics. To do so would be to engage in presumptively unlawful content or viewpoint discrimination. Agencies, however, may, in their discretion, reasonably regulate the time, place, and manner of all employee speech, provided such regulations do not discriminate on the basis of

content or viewpoint. The federal government generally has the authority to regulate an employee's private speech, including religious speech, where the employee's interest in that speech is outweighed by the government's interest in promoting the efficiency of the public services it performs. Agencies should exercise this authority evenhandedly and with restraint, and with regard for the fact that in some cultures it is not appropriate to disagree on controversial subjects, including religious ones. Agencies are not required, however, to permit employees to use work time to pursue religious or ideological agendas. Federal employees are paid to perform official work, not to engage in personal, religious, or ideological campaigns during working hours.

(2) EXPRESSION IN PRIVATE WORK AREAS

Employees should be permitted to engage in private religious expression in personal work areas not regularly open to the public to the same extent that they may engage in nonreligious private expression, subject to reasonable content- and viewpoint- neutral standards and restrictions: such religious expression must be permitted so long as it does not interfere with the agency's performance of its official responsibilities.

(a) Expression Among Fellow Employees. Employees should be permitted to engage in religious expression with fellow employees, to the same extent that they may engage in comparable nonreligious private expression, subject to reasonable and content- neutral standards and restrictions. Such expression should not be restricted so long as it does not interfere with workplace efficiency. Though agencies are entitled to regulate such employee speech based on reasonable predictions of disruption, they should not restrict speech based on merely hypothetical concerns, having little basis in fact, that the speech will have a deleterious effect on workplace efficiency.

(3) EXPRESSION DIRECTED AT FELLOW EMPLOYEES

(a) Employees are permitted to engage in religious expression directed at fellow employees, and may even attempt to persuade fellow employees of the correctness of their religious views, to the same extent as those employees may engage in comparable speech not involving religion. Some religions encourage adherents to spread the faith at every opportunity, a duty that can encompass the adherent's workplace. As a general matter, proselytizing is as entitled to constitutional protection as any other form of speech -- as long as a reasonable observer would not interpret the expression as government endorsement of religion. Employees may urge a colleague to participate or not to participate in religious activities to the same extent that, consistent with concerns of workplace efficiency, they may urge their colleagues to engage in or refrain from other personal endeavors. But employees must refrain from such expression when a fellow employee asks that it stop or otherwise demonstrates that it is unwelcome.

(b) Though personal religious expression is protected in the same way, and to the same extent, as other constitutionally valued speech in the federal workplace, such expression should not be permitted if it is part of a larger pattern of verbal attacks on fellow employees (or a specific employee) not sharing the faith of the speaker. Such speech, by virtue of its excessive or harassing nature, may constitute religious harassment or create a hostile work environment and an agency should not tolerate it.

(4) EXPRESSION IN AREAS ACCESSIBLE TO THE PUBLIC

(a) Where the public has access to the federal workplace, all federal employers must be sensitive to the Establishment Clause's requirement that expression not create the reasonable impression that the government is sponsoring, endorsing, or inhibiting religion generally, or favoring or disfavoring a particular religion. This is particularly important in agencies with adjudicatory functions.

(b) However, even in workplaces open to the public, not all private employee religious expression is forbidden. For example, federal employees may wear personal religious jewelry absent special circumstances (such as safety concerns) that might require a ban on all similar nonreligious jewelry. Employees may also display religious art and literature in their personal work areas to the same extent that they may display other art and literature, so long as the viewing public would reasonably understand the religious expression to be that of the employee acting in his/her personal capacity, and not that of the government itself. Similarly, in their private time employees may discuss religion with willing coworkers in public spaces to the same extent as they may discuss other subjects, so long as the public would reasonably understand the religious expression to be that of the employees acting in their personal capacities.

(5) RELIGIOUS DISCRIMINATION

Federal agencies may not discriminate against employees on the basis of their religion, religious beliefs, or views concerning religion.

(a) Discrimination in Terms and Conditions. No agency within the executive branch may promote, refuse to promote, hire, refuse to hire, or otherwise favor or disfavor, an employee or potential employee because of his or her religion, religious belief, or views concerning religion.

(b) Coercion of Employees' Participation or Nonparticipation in Religious Activities. A person holding supervisory authority over an employee may not, explicitly or implicitly, insist that the employee participate in religious activities as a condition of continued employment, promotion, salary increases, preferred job assignments, or any other incidents of employment. Nor may a supervisor insist that an employee refrain from participating in religious activities outside the workplace except pursuant to otherwise legal, neutral restrictions that apply to employees' off-duty conduct and expression in general (e.g., restrictions on political activities prohibited by the Hatch Act).

1. This prohibition leaves supervisors free to engage in some kinds of speech about religion. Where a supervisor's religious expression is not coercive and is understood as his or her personal view, that expression is protected in the federal workplace in the same way and to the same extent as other constitutionally valued speech. For example, if surrounding circumstances indicate that the expression is merely the personal view of the supervisor and that employees are free to reject or ignore the supervisor's point of view or invitation without any harm to their careers or professional lives, such expression is so protected.

2. Because supervisors have the power to hire, fire, or promote, employees may reasonably perceive their supervisor's religious expression as coercive, even if it was not intended as such. Therefore, supervisors should be careful to ensure that their statements and actions are such that employees do not perceive any coercion of religious or nonreligious behavior (or respond as if such coercion is occurring), and should, where necessary, take appropriate steps to dispel such misperceptions.

(c) Hostile Work Environment and Harassment. The law against workplace discrimination protects federal employees from being subjected to a hostile environment, or religious harassment, in the form of religiously discriminatory intimidation, or pervasive or severe religious ridicule or insult, whether by supervisors or fellow workers. Whether particular conduct gives rise to a hostile environment, or constitutes impermissible religious harassment, will usually depend upon its frequency or repetitiveness, as well as its severity. The use of derogatory language in an assaultive manner can constitute statutory religious harassment if it is severe or invoked repeatedly. A single incident, if sufficiently abusive, might also constitute statutory harassment. However, although employees should always be guided by general principles of civility and workplace efficiency, a hostile environment is not created by the bare expression of speech with which some employees might disagree. In a country where freedom of speech and religion are guaranteed, citizens should expect to be exposed to ideas with which they disagree.

(6) ACCOMMODATION OF RELIGIOUS EXERCISE

(a) Federal law requires an agency to accommodate employees' exercise of their religion unless such accommodation would impose an undue hardship on the conduct of the agency's operations. Though an agency need not make an accommodation that will result in more than a de minimis cost to the agency, that cost or hardship nevertheless must be real rather than speculative or hypothetical. The accommodation should be made unless it would cause an actual cost to the agency or to other employees or an actual disruption of work, or unless it is otherwise barred by law.

(b) In addition, religious accommodation cannot be disfavored as compared with other, nonreligious accommodations. Therefore, a religious accommodation cannot be denied if the agency regularly permits similar accommodations for nonreligious purposes.

(c) In those cases where an agency's work rule imposes a substantial burden on a particular employee's exercise of religion, the agency must go further. An agency should grant the employee an exemption from that rule, unless the agency has a compelling interest in denying the exemption, and there is no less restrictive means of furthering that interest.

(7) ESTABLISHMENT OF RELIGION

Supervisors and employees must not engage in activities or expression that a reasonable observer would interpret as either government endorsement or denigration of religion or a particular religion. Activities of employees need not be officially sanctioned in order to violate this principle; if, in all the circumstances, the activities would leave a reasonable observer with the impression that government was endorsing, sponsoring, or inhibiting religion generally or favoring or disfavoring a particular religion, they are not permissible. Diverse factors, such as the context of the expression or whether official channels of communication are used, are relevant to what a reasonable observer would conclude.

(8) GUIDING LEGAL PRINCIPLES

In applying the guidance set forth in this order, executive branch departments and agencies should be advised of the following legal principles.

(a) Religious Expression. It is well-established that the Free Speech Clause of the First Amendment protects government employees in the workplace. This right encompasses a right to speak about

religious subjects. The Free Speech Clause also prohibits the government from singling out religious expression for disfavored treatment: "?P rivate religious speech, far from being a First Amendment orphan, is as fully protected under the Free Speech Clause as secular private expression," Capitol Square Review Board v. Pinette, 115 S.Ct. 2448 (1995). Accordingly, in the government workplace, employee religious expression cannot be regulated because of its religious character, and such religious speech typically cannot be singled out for harsher treatment than other comparable expression.

1. Many religions strongly encourage their adherents to spread the faith by persuasion and example at every opportunity, a duty that can extend to the adherent's workplace. As a general matter, proselytizing is entitled to the same constitutional protection as any form of speech. Therefore, in the governmental workplace, proselytizing should not be singled out because of its content for harsher treatment than nonreligious expression.

2. However, it is also well-established that the government in its role as employer has broader discretion to regulate its employees' speech in the workplace than it does to regulate speech among the public at large. Employees' expression on matters of public concern can be regulated if the employees' interest in the speech is outweighed by the interest of the government, as an employer, in promoting the efficiency of the public services it performs through its employees. Governmental employees also possess substantial discretion to impose content-neutral and viewpoint-neutral time, place, and manner rules regulating private employee expression in the workplace (though they may not structure or administer such rules to discriminate against particular viewpoints). Furthermore, employee speech can be regulated or discouraged if it impairs discipline by superiors, has a detrimental impact on close working relationships for which personal loyalty and confidence are necessary, impedes the performance of the speaker's duties or interferes with the regular operation of the enterprise, or demonstrates that the employee holds views that could lead his/her employer or the public reasonably to question whether he/she can perform his/her duties adequately.

3. Consistent with its fully protected character, employee religious speech should be treated within the federal workplace, like other expression on issues of public concern. In a particular case, an employer can discipline an employee for engaging in speech if the value of the speech is outweighed by the employer's interest in promoting the efficiency of the public services it performs through its employee. Typically, however, the religious speech cited as permissible in the various examples included in these guidelines will not unduly impede these interests and should not be regulated. And rules regulating employee speech, like other rules regulating speech, must be carefully drawn to avoid any unnecessary limiting or "chilling" of protected speech.

(b) Discrimination in Terms and Conditions. Title VII of the Civil Rights Act of 1964 makes it unlawful for employers, both private and public, to "fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's ... Religion." 42 U.S.C. Section 2000e-2(a)(1). The federal government also is bound by the equal protection component of the Due Process Clause of the Fifth Amendment, which bars intentional discrimination on the basis of religion. Moreover, the prohibition on religious discrimination in employment applies with particular force to the federal government, for Article VI, Clause 3 of the Constitution bars the government from enforcing any religious test as a requirement for qualification to any office. In

addition, if a government law, regulation or practice facially discriminates against employees' private exercise of religion or is intended to infringe upon or restrict private religious exercise, then that law, regulation, or practice implicates the Free Exercise Clause of the First Amendment. Last, under the Religious Freedom Restoration Act, 42 U.S.C. Section 2000bb-1, federal governmental action that substantially burdens a private party's exercise of religion can be enforced only if it is justified by a compelling interest and is narrowly tailored to advance that interest.

(c) Coercion of Employees' Participation or Nonparticipation in Religious Activities. The ban on religious discrimination is broader than simply guaranteeing nondiscriminatory treatment in formal employment decisions such as hiring and promotion. It applies to all terms and conditions of employment. It follows that the federal government may not require or coerce its employees to engage in religious activities or to refrain from engaging in religious activity. For example, a supervisor may not demand attendance at (or a refusal to attend) religious services as a condition of continued employment or promotion, or as a criterion affecting assignment of job duties. Quid pro quo discrimination of this sort is illegal. Indeed, wholly apart from the legal prohibitions against coercion, supervisors may not insist upon employees' conformity to religious behavior in their private lives any more than they can insist on conformity to any other private conduct unrelated to employees' ability to carry out their duties.

(d) Hostile Work Environment and Harassment. Employers violate Title VII's ban on discrimination by creating or tolerating a "hostile environment" in which an employee is subject to discriminatory intimidation, ridicule, or insult sufficiently severe or pervasive to alter the conditions of the victim's employment. This statutory standard can be triggered, at the very least, when an employee because of her or his religion or lack thereof, is exposed to intimidation, ridicule, and insult. The hostile conduct - which may take the form of speech - need not come from supervisors or from the employer. Fellow employees can create a hostile environment through their own words and actions.

1. The existence of some offensive workplace conduct does not necessarily constitute harassment under Title VII. Occasional and isolated utterances of an epithet that engenders offensive feelings in an employee typically would not affect conditions of employment, and therefore would not in and of itself constitute harassment. A hostile environment, for Title VII purposes, is not created by the bare expression of speech with which one disagrees. For religious harassment to be illegal under Title VII, it must be sufficiently severe or pervasive to alter the conditions of employment and create an abusive working environment. Whether conduct can be the predicate for a finding of religious harassment under Title VII depends on the totality of the circumstances, such as the nature of the verbal or physical conduct at issue and the context in which the alleged incidents occurred. As the Supreme Court has said in an analogous context:

Whether an environment is "hostile" or "abusive" can be determined only by looking at all the circumstances. These may include the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance. The effect on the employee's psychological well-being is, of course, relevant to determining whether the plaintiff actually found the environment abusive. Harris v. Forklift Systems, Inc., 510 U.S. 17, 23 (1993).

2. The use of derogatory language directed at an employee can rise to the level of religious harassment if it is severe or invoked repeatedly. In particular, repeated religious slurs and negative religious stereotypes, or continued disparagement of an employee's religion or ritual practices, or lack thereof, can constitute harassment. It is not necessary that the harassment be explicitly religious in character or that the slurs reference religion. It is sufficient that the harassment is directed at an employee because of the employee's religion or lack thereof. That is to say, Title VII can be violated by employer tolerance of repeated slurs, insults and/or abuse not explicitly religious in nature if that conduct would not have occurred but for the targeted employee's religious belief or lack of religious belief. Finally, although proselytization directed at fellow employees is generally permissible (subject to the special considerations relating to supervisor expression discussed elsewhere in these Guidelines,) such activity must stop if the listener asks that it stop or otherwise demonstrates that it is unwelcome.

(e) Accommodation of Religious Exercise. Title VII requires employers "to reasonably accommodate..... an employee's or prospective employee's religious observance or practice" unless such accommodation would impose an "undue hardship on the conduct of the employer's business." 42 U.S.C. Section 2000e(j). For example, by statute, if an employee's religious beliefs require him/her to be absent from work, the federal government must grant that employee compensation time for overtime work to be applied against the time lost, unless to do so would harm the ability of the agency to carry out its mission efficiently. 5 U.S.C. Section 5550a.

1. Though an employer need not incur more than de minimis costs in providing an accommodation, the employer hardship nevertheless must be real rather than speculative or hypothetical. Religious accommodation cannot be disfavored relative to other, nonreligious, accommodations. If an employer regularly permits accommodation for nonreligious purposes, it cannot deny comparable religious accommodation: "Such an arrangement would display a discrimination against religious practices that is the antithesis of reasonableness." Ansonia Bd. of Educ. v. Philbrook, 479 U.S. 60, 71 (1986).

2. In the federal government workplace, if neutral workplace rules - that is, rules that do not single out religious or religiously motivated conduct for disparate treatment - impose a substantial burden on a particular employee's exercise of religion, the Religious Freedom Restoration Act requires the employer to grant the employee an exemption from that neutral rule, unless the employer has a compelling interest in denying an exemption and there is no less restrictive means of furthering that interest. 42 U.S.C. Section 2000bb-1.

(f) Establishment of Religion. The Establishment Clause of the First Amendment prohibits the government including its employees from acting in a manner that would lead a reasonable observer to conclude that the government is sponsoring, endorsing or inhibiting religion generally or favoring or disfavoring a particular religion. For example, where the public has access to the federal workplace, employee religious expression should be prohibited where the public reasonably would perceive that the employee is acting in an official, rather than a private, capacity, or under circumstances that would lead a reasonable observer to conclude that the government is endorsing or disparaging religion. The Establishment Clause also forbids federal employees from using government funds or resources (other than those facilities generally available to government employees) for private religious uses.

(9) GENERAL

These Guidelines shall govern the internal management of the civilian executive branch. They are not intended to create any new right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. Questions regarding interpretations of these Guidelines should be brought to the Office of the General Counsel.

1-27 SERVICE AS AN EXPERT WITNESS

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

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

(a) After consultation with the agency representing the Government in the proceeding or, if the Government is not a party, with the Department of Justice and the agency with the most direct and substantial interest in the matter, the Designated Agency Ethics Official determines that the employee's service as an expert witness is in the interest of the Government; or

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

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

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

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

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

his/her employing agency, but shall remain subject to the conflict of interest prohibitions in Title 18 of the United States Code.

(3) DETAILS TO NON-FEDERAL ENTITIES: Except to the extent exempted in writing pursuant to this paragraph, an employee detailed to a non-Federal entity remains subject to the OGE standards of conduct, the FBI standards of conduct and any supplemental agency regulation of the FBI. When an employee is detailed pursuant to statutory authority to an international organization or to a State or local government for a period in excess of six months, the Designated Agency Ethics Official may grant a written exemption from the restrictions of 5, CFR, subsections 2635.201 - 2635.205, based on his/her determination that the entity has adopted written ethical standards covering solicitation and acceptance of gifts which will apply to the employee during the detail and which will be appropriate given the purpose of the detail.

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

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

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

1-29 Deleted (See *Security Policy Manual* at http://rmd.fbinet.fbi/ppu/manuals-desk/manuals_published_in_new_format.htm)

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

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

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

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

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

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

(3) Every employee is strongly recommended to take steps to avoid operating a motor vehicle after consumption of any alcoholic beverages. Steps such as making prior arrangements for a designated driver at social events are not only a prudent but reasonable course of action which should be taken by all employees despite the minor inconvenience which may be involved.

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

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

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

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

(2) Immediately following an employee's arrest for driving while under the influence (DUI) or while intoxicated (DWI), an employee will be prohibited by his/her division/office head from operating a government motor vehicle for an indefinite period of time This indefinite suspension of an employee's privilege to operate a government motor vehicle will continue until an administrative determination has been reached regarding the employee's guilt or innocence of the alleged misconduct. In such matters, renewal of an employee's privilege to operate a government motor vehicle will be resolved by an administrative determination of the Bureau made in association with adjudication of employee's alleged misconduct. While the result of a judicial review of the employee's actions, his/her plea bargaining, or entry into a diversion or substance abuse program as a result of his/her arrest will be considered in reaching this administrative determination, such

factor(s) will NOT, in and of themselves, determine the appropriateness of the Bureau's renewal of an employee's privilege to operate a government motor vehicle. That decision will be made on the merits of each case and the government's responsibility to ensure the public's safety through proper licensing of the operator of official motor vehicles.

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

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

(5) As the suspension of a Special Agent's entitlement to earn Availability Pay compensation is an adverse personnel action, it is dependent upon completion of adverse action procedures set forth in, MAOP, Part I, 13-14. These procedures are designed to afford employees due process as well as procedural entitlements which arise from an employee's personnel status. For example, a preference- eligible veteran has specific procedural entitlements which are set forth in MAOP, Part I, 13-10.

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

in which a Special Agent fails to comply with a program of rehabilitation determined necessary by his/her fitness for duty examination, or other appropriate cause.

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

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

(b) Employees subject to a medical standard for fitness for duty - such as Special Agents - who are suspected to have an alcohol abuse problem, will be referred for a fitness for duty exam. This examination will confirm whether the problem exists, and, if appropriate, will enable management to refer the employee through EAP for professional treatment and assistance. In addition, it will facilitate the Bureau's issuance of a notice to employees with alcohol abuse problems to avoid misconduct/performance deficiencies arising from alcohol abuse which are contrary to the efficiency of the Bureau's operations. Such a "firm choice" notice may be required for the Bureau to finalize adverse personnel action against the employee if he/she fails to correct his/her misconduct/performance which arises from alcohol abuse.

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

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

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

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

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

SECTION 2. EMPLOYEE INDOCTRINATION PROCEDURES

**EffDte: 02/28/1978 MCRT#: 0 Div: D2D3 Cav: SecCls:

2-1 REQUIREMENTS FOR INDOCTRINATION

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Support and Special Agent personnel must be given detailed indoctrination on rules, regulations, procedures, and policies of the
| FBI as soon as they enter on duty. |Additionally, it essential that
| they have a thorough understanding of the culture of the FBI. This
| can only be accomplished through a complete orientation process, which
| should begin as soon as a Bureau employee reports for duty. This
| process is to be more than an administrative one, and should include
| briefings on history, traditions, and folklore of the FBI.| Additional indoctrination must continue during the course of their Bureau careers. All employees (field and Headquarters) must enter on duty on the Monday following a pay period Sunday. The effective date of appointment will be recorded by the Bureau on SF-50, Notification of Personnel Action, as Sunday, the beginning of the pay period.

**EffDte: 07/30/1999 MCRT#: 894 Div: D3D2 Cav: SecCls:

2-2 NONINVESTIGATIVE PERSONNEL AT FBIHQ

**EffDte: 08/25/1989 MCRT#: 0 Div: D3 Cav: SecCls:

| 2-2.1 |FBIHQ|Orientation|Session|

A new support employee must initially receive an oath of
| office|and "FBI Employee Handbook," be photographed for identification
| and building access media, be fingerprinted, and complete the required
| entry-on-duty forms. The new employee is required to attend a
| training course, where various topics mentioned in the "FBI Employee
| Handbook" are discussed, including the government-wide and FBI
| benefits programs. The new employee must promptly read and digest the
| contents of this handbook.| A tour of FBIHQ is part of his/her initial indoctrination.

**EffDte: 06/21/2001 MCRT#: 1136 Div: D3 Cav: SecCls:

| 2-2.2 |Responsibilities of Employing Division/Office|

| (1) |Following the orientation session, the new employee
| reports to his/her employing office. The employee's immediate
| supervisor meets the new employee and explains the duties of the
| employee's new position, as well as office policies on matters such as
| working hours, lunch periods, maintenance of property, supplies, and
| use of equipment. The supervisor is responsible for issuing the
| employee's position description and performance plan under the
| Bureau's Performance Appraisal System.|

| (2) |As soon as practical after the new employee reports
| for duty, the employee should be introduced to his/her Assistant
| Director. The Assistant Director describes the nature of the
| division's duties and responsibilities, and reiterates rules
| concerning safeguarding confidential Bureau data and maintaining high
| standards of conduct. The Assistant Director advises that his/her
| door (and the door of every official in the division) is open to any
| employee who has a problem of any type to discuss. The Assistant
| Director must make a record of such interviews. The new employee's
| section chief and unit chief must also greet the employee and brief
| him/her on the division's administrative organization, the
| confidential aspect of Bureau records, any special section or unit
| regulations, and desired personal conduct. A tour of the division
| should also be arranged.|

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| 2-2.3 |Deleted|

**EffDte: 07/24/1996 MCRT#: 572 Div: D3 Cav: SecCls:

2-3 NONINVESTIGATIVE FIELD OFFICE EMPLOYEES

**EffDte: 06/28/1991 MCRT#: 0 Div: D3 Cav: SecCls:

2-3.1 Field Orientation

|(1)| Orientation similar to that afforded new support employees at FBIHQ must also be given. A formal five-day course is not practical since new employees usually enter on duty singly in the field. |Therefore, field orientation for new support employees is to be done within the first six months of employment. This process will be outlined herein. As part of this orientation the "FBI Employee Handbook"|must be given to each support employee for ready reference and|is|to be studied and digested. |Additionally, an Orientation Checklist (FD-877) must be completed to document that new support hires receive their orientation training. The checklist highlights those items, which are to be incorporated in the orientation process as well as a number of the most significant areas to be included in this training. This checklist can be modified by adding additional orientation task items as defined by the head of the office. Upon completion, the checklist should be filed in a subfile of the Support Employee Orientation Program control file.

(2) The field orientation program will consist of five blocks. New support employees should be given the opportunity to participate in the orientation program within the first six months of employment with the exception of block one. Block one should be presented on the first day the employee comes on board, even before the employee is taken to his/her office supervisor. While each office has the discretion to adjust the time commitments necessary for the orientation goal to be realized, it is recommended that a total of 25 hours, divided into five, five-hour blocks, be used as the initial format. It is recommended that blocks one through three be conducted on consecutive days; block four, approximately one month later; and the final five-hour block, the following month.

(3) Each field office should standardize its orientation program to include the information contained in the model below. Receiving offices should take the liberty to adapt this model for differences in their operating structures or mission, taking into consideration the number of new employees coming on board.

(4) Block One: Administer Oath of Office and fingerprint; incoming employees must complete their payroll forms (i.e., Skills Survey, disability (SF-256) and race/national origin (FD-758) forms, statements of previous federal service (FD-173 and FD-195), W-4 tax form, appointment affidavits (SF-61), etc.). (See also MAOP, Part 1, 2-6.) Completing these forms is both mandatory and time sensitive, and should be accomplished on the first day of orientation.

(a) The new employee must make decisions regarding health insurance, life insurance, SAMBA, SATI, and the Benevolent Fund within the first 30 days (60 for health benefits) of employment. It is essential that each new employee have the benefit of the full 30 days to explore his or her options, seek consultation, and arrive at a decision in the above areas. Benefits such as retirement and workers' compensation coverage, earning of leave, and basic life insurance coverage take effect immediately upon reporting to duty. Employees should be made aware of these benefits without delay in the event that they need them after entry on duty. Other employee benefits and information should be explained, such as the Thrift Savings Plan,

| resources such as Employee Assistance Program (EAP), AEGIS Employee
| Advisory Committee, Equal Employment Opportunity (EEO), OMBUDSMAN, and
| the Federal Bureau of Investigation Recreation Association (FBIRA).
| Field office policies concerning use of telephone for personal
| business, Voluntary Leave/Transfer Program (VLTP), and annual/sick
| leave policies; and alternate and flexible work schedules should be
| discussed.

| (b) In this "Welcome to the Office" phase of the
| orientation process, the new employee may view videos produced by the
| FBI Academy regarding the FBI's mission (such videos will be provided
| by the Office of Information and Learning Resources, FBI Academy);
| review field office organizational charts; learn the chain of command
| in the office for SAs and support personnel; define Bureau jargon and
| acronyms (such as "creds," "unsubs," "on the box," and "FNU LNU");
| review the FBI's organizational culture and history; tour the physical
| office space; and be provided a description of the various support
| functions shown on the support organizational chart.

| (c) One hour of ethics training should be part of the
| orientation. This training needs to be given within the first two
| days of orientation. It is recommended that field office Agents or
| support attorneys, approved by the Office of the General Counsel
| Designated Agency Ethics Official, be on hand to answer questions the
| new employees may have. Also to be discussed are the standards
| outlined in the Director's "bright line" and other Office of
| Professional Responsibility directives rather than relying on the
| employee to read the "Ethics Handbook."

| (d) A discussion by the Security Office should include
| physical security measures within the office space, the location of
| restricted areas, and critical response plans for the field office in
| the event of an emergency, office takeover, etc. The prohibition
| against unauthorized disclosure of information should also be
| addressed. Block one should be interpreted to include provisions of
| any security and Bureau identification (credentials, badges, or other
| materials) so the new employees may promptly enter the field office
| without "red tape" or other delays.

| (e) The administrative processing of new employees, as
| well as briefings to introduce them to the FBI and make them aware of
| both their benefits, and their responsibilities as Bureau employees,
| must be given the utmost priority. The urgency of our security
| matters and the time sensitivity of the decisions new employees must
| make (and the paperwork involved) suggest that this material must be
| covered within the first day or two of a new employee's tenure.

| (5) Block Two: The continuation of the "Welcome Phase"
| should include a review of the map of the division's territory,
| including the location and description of work in the resident
| agencies. A map of the United States with the 56 field offices and
| other field entities highlighted should be shown, along with a mention
| of the worldwide locations of all FBI Legats and our international
| training initiative.

| (a) Present an overview of all office equipment used

by support employees; e.g., radios, facsimile machines, computers, copiers, and telephone systems. Introductions should be made to the Assistant Director in Charge (if applicable), the SAC, Associate SAC (if applicable), and ASAC(s); squad supervisor introductions, to include brief presentations by each squad supervisor or relief supervisor concerning the squads' assignments; explanation of the daily work and support positions on the squad. (This could be combined with the squad briefings given to new Agents arriving from Quantico.) In the larger offices where meeting all supervisors may not be feasible, videotaped presentations could be distributed with a communication listing the squad designation, location, supervisor, criminal violations or other work addressed, and the names of the squad secretary and rotor. FBI Task Forces with non-Bureau personnel assigned should be noted, to include the agencies represented and their particular missions.

(6) Block Three: Finally, conclusion of squad introductions; recognition for performance such as "on-the-spot" awards, time-off awards and incentive awards should also be explained. A discussion/presentation of a major case handled by the division could also be scheduled; the case Agent could discuss the course of the investigation, with particular attention to the support employees/functions utilized and how they impacted on the success of the case.

(a) Public relations materials, such as "FBI Fact and Figures," should be provided for review. A bibliography of books written about the FBI may also be distributed, if employees are interested. Such a bibliography will be provided by the Office of Information and Learning Resources at the FBI Academy.

(7) Block Four: View the SA applicant recruiting video for background information, followed with a brief discussion by recent Quantico graduates on their experiences in the training program; the Administrative Officer presents the basics of job criteria and position classification and provides an explanation of the Merit Promotion and Placement Plan and the Performance Appraisal System.

(a) The Training Technician should explain how to get supervisory approval to obtain in-service training and identify where the training schedules are published; consideration should be given to the establishment of a mentoring program for new support employees with volunteers from the senior support staff and arrange introductions. Field offices may also consider a SA/support mentoring program which would facilitate SA/support interaction, and would serve to increase the support employees' understanding of how the office works.

(8) Block Five: Short presentations should be presented by selected SA personnel on subject areas that Probationary SAs are briefed on when they report for duty. New support employees will benefit from this information as they develop a general understanding of how the FBI works. Possible areas include:

(a) A discussion by the Chief Division Counsel (CDC) about the use of subpoenas (Federal Grand Jury, Administrative); the

| Privacy Act of 1974 concerning dissemination of information; the various Attorney General's Guidelines; how pen registers, consensual monitoring and Title III's are worked; what we do when we execute a search warrant; why we need to work well with the United States Attorney's Office; and how the Federal Grand Jury gets selected and how it fulfills its role in the criminal justice system.

| (b) A discussion by the Telecommunications Manager (TM) concerning technical equipment, familiarization, radio operations and protocol; and the use of call signs for all investigative support staff.

| (c) Moot Court should be required (outside of the orientation program) for all new investigative support staff, including pretrial testimony preparation, instruction on testifying before the Grand Jury.

| (d) A general discussion by the Undercover Coordinator concerning undercover operations and the history of undercover cases in the division.

| (e) A discussion by the Principal Firearms Instructor concerning the weapons used by the FBI and those weapons which support staff may have occasion to see in the office or in Bureau vehicles.

| (f) A discussion of the roles of the Evidence Response Team (ERT), Special Weapons and Tactics Team (SWAT), and Computer Analysis and Response Team (CART) within the office and the support positions available on them.|

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| 2-3.2 |Deleted|

**EffDte: 07/24/1996 MCRT#: 572 Div: D3 Cav: SecCls:

2-4 INVESTIGATIVE EMPLOYEES

See Part II, 8-1.1.2 of this manual.

**EffDte: 06/28/1991 MCRT#: 0 Div: D3 Cav: SecCls:

2-5 OATH OF OFFICE

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

**EffDte: 04/02/1998 MCRT#: 766 Div: D3 Cav: SecCls:

| 2-6 FORMS EXECUTED BY NEW EMPLOYEES |(See 2-3.1.)|

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

Allotment for Employee Benevolent Fund (FD-862)

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

Appointment Affidavits - SF-61

Beneficiary for Employee Benevolent Fund (FD-863)

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

Change of Address - FD-310 (Do not forward to FBIHQ) (This form is printed through BPMS - Address/Locator)

Classified Information Nondisclosure Agreement - SF-312

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

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

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

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

Employee's Withholding Exemption Certificate - Form W-4

Employment Agreement - FD-291

Employment Eligibility Verification Form - Form I-9

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

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

Five-Year Reinvestigation Questionnaire - FD-814

Health Benefits Registration Form - SF-2809 (executed within 60 days after entry-on-duty date)

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

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

Life Insurance Election - SF-2817

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

Personnel Record Card - FD-380

Race and National Origin Identification - FD-758

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

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

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

Self-Identification of Reportable Handicap - SF-256

Statement of Federal Service - FD-195

|Statement of Military Reserve Obligations - FD-942 (if not collected during applicant phase, or if information has changed since last collected)|

**EffDte: 05/31/2002 MCRT#: 1207 Div: D3FD Cav: SecCls:

2-7 INFORMATION PAMPHLETS FURNISHED TO NEW EMPLOYEES

Beware| Be Safe (distributed by FBIHQ)

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

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

FBI Career Opportunities

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

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

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

| |FBI Employee Handbook|

Health and Immunization Record Form (no number)

Leave Record Chart and Calendar (distributed by FBIHQ)

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

**EffDte: 12/06/1999 MCRT#: 938 Div: D3 Cav: SecCls:

2-8 SPECIAL INDOCTRINATION SERVICES

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

**EffDte: 08/25/1989 MCRT#: 0 Div: D3 Cav: SecCls:

********** END OF REPORT **********

SECTION 3. SPECIAL AGENT CAREER DEVELOPMENT MATTERS

**EffDte: 02/28/1978 MCRT#: 0 Div: D3 Cav: SecCls:

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| 3-1 SPECIAL AGENT PROMOTIONS

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

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

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

(3) Waiting periods could lengthen by a corresponding amount of time if, during that period of time, the SA received an overall Does Not Meet Expectations Performance Appraisal Report (PAR) on his/her latest PAR.

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

(5) Agents in full-time supervisory assignments in GS-12 may be considered for promotion to GS-13 upon approval effective the first pay period after assumption of the supervisory position. Any of

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

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

(7) At the discretion of management, a vacant position may be filled by the temporary or term promotion or the temporary assignment of a qualified and eligible Special Agent. In the case of a temporary assignment, the affected Agent must hold a permanent position at the same or higher grade level as that of the temporary position. Competitive selection is required when the Agent will be promoted and the assignment will extend for a period of 120 days or more. When a position is filled with a temporary or term promotion, unless otherwise specified in the announcement which advertised the vacant position, the Agent will be returned to his/her permanent grade at the conclusion of the term. When a vacant position is filled by the temporary assignment of a qualified Agent at the same or higher grade level, there will be no effect upon that Agent's permanent grade or pay status.

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3-1.1 Initiation of Consideration for Promotion of Special Agents

(1) Promotion action with respect to nonsupervisory Special Agents or supervisory Special Agents who have met time-in-grade restrictions is generally initiated by the Personnel Division at FBIHQ requesting a recommendation submitted by electronic Standard Form 52-B from the appropriate SAC or division head. However, in any case in which the SAC or division head believes that an Agent is performing his/her duties in such a manner as to warrant advancement, a recommendation submitted by electronic Standard Form 52-B with appropriate justification may be submitted at any time by the SAC or division head and this recommendation will be afforded appropriate

consideration at FBIHQ.

(2) Deleted

(3) Rate of pay for supervisors returning to investigative assignments - Special Agent personnel in supervisory positions at FBIHQ, or in the field, who request to be returned to nonsupervisory investigative|assignments, at the employee's request and not demoted for personal cause, will be eligible to receive their "highest previous rate."| An FBIHQ Supervisory Special Agent in grade|GS 15,|who voluntarily requests reallocation to a grade |GS 14|field supervisory position in order to qualify for|further advancement as part of the career development program, will be granted the greater of indefinite pay retention or highest previous rate. (See MAOP, Part I, Section 8-9 for information concerning the highest previous rate.) For example:

(a) If upon a change to a lower grade, the SSA's GS 15 pay rate falls within the rate range for the GS 14 level (i.e, between Steps 1 and 10), the highest previous rate (HPR) rule applies and the salary will be set at the appropriate step within the GS 14 rate range; if the SSA's current salary falls between two steps of the GS 14 rate range, the salary will be set at the higher step.

(b) If upon a change to a lower grade the SSA's GS 15 pay rate exceeds GS 14, Step 10, pay retention applies. Under pay retention, the SSA will be entitled to one-half of any general increase in the General Schedule until the basic salary established for GS 14, Step 10, equals or exceeds the SSA's retained rate of pay, at which time pay retention terminates.|

**EffDte: 06/10/1994 MCRT#: 260 Div: D3 Cav: SecCls:

3-1.2 Guidelines in the Submission of Recommendations for the Promotions of Special Agents

**EffDte: 08/29/1990 MCRT#: 0 Div: D3 Cav: SecCls:

3-1.2.1 Promotion to Grades GS-11, GS-12, and GS-13

(1) Agents will be considered for promotion from grade GS-10 to grade GS-11, from grade GS-11 to GS-12, and from GS-12 to GS-13, contingent upon the work record of the individual.

(2) The most current performance appraisal on the Agent being considered for promotion must be at least at the|Meets Expectations|level in each critical element. (See MAOP, Part 1, 3-1.2.5.)

(3) The Agent must be completely available for general or special assignment wherever his/her services may be required. (See MAOP, Part 1, 3-1.2.2(4).)

(4) Any probationary action taken against an Agent during the pertinent period will be taken into consideration. However, this action may be offset by otherwise exceptional or outstanding performance. (See MAOP, Part 1, 3-1.2.2(3).)

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3-1.2.2 Promotions to Grade GS-13 (See MAOP, Part 1, 3-1.2.5.)

(1) Agents will be considered for advancement from GS-12 to grade GS-13 contingent upon the work record of the individual. The Agent's most current performance appraisal must be at least at the
| |Meets Expectations|level in each critical element.

(2) An Agent being considered for grade GS-13 promotion on the basis of supervisory service (as distinguished from investigative service) must be interested in and ambitious to progress in the Bureau's service either in the field or at FBIHQ, must be potential material for advancement, and his/her services must have been entirely satisfactory in all aspects during his/her period of supervisory assignment.

(3) An Agent being considered for GS-13 promotion on the basis of investigative service (as distinguished from supervisory service) must meet the following qualifications:

His/Her services in all aspects must be entirely satisfactory. Any adverse administrative action against the individual during the pertinent period will be taken into consideration, but full consideration will also be given to favorable action recognizing above-average and meritorious performance or may be offset by otherwise exceptional or outstanding performance. (See Part 1, 13-13(8), of this manual, "Disciplinary Matters.") (See 3-1.2.1(4).)

(4) The Agent must be completely available for general or special assignment wherever his/her services may be required. (See Part 1, Section 13, (13-13(8)) of this manual, "Disciplinary Matters.") (See 3-1.2.1 (3).)

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| 3-1.2.3 |Deleted|

**EffDte: 06/14/1993 MCRT#: 35 Div: D3 Cav: SecCls:

| 3-1.2.4 |Deleted|

**EffDte: 04/10/1996 MCRT#: 531 Div: D3 Cav: SecCls:

3-1.2.5 Denial of Promotions of Special Agents to GS-11, GS-12, and GS-13 (See MAOP, Part 1, 3-1.2.1 & 3-1.2.2.)

(1) No consideration will be given to the promotion of a
| Special Agent (SA) who has been rated below|Meets Expectations|in any
critical element of the most recent PAR.

(2) The SAC may recommend an SA for promotion 90 days
after the denial. An SA previously denied a promotion due to
| performance below the|Meets Expectations|level will not be considered
for promotion unless a special PAR in which the SA is rated|at the
| Meets Expectations|level in each critical element is issued.
A minimum of 90 days must elapse between the issuance of PARs.

(3) The SAC's personal recommendation to promote the SA
must be set forth in a cover communication forwarding the PAR to the
Personnel Officer (Attention: Performance, Recognition and Awards
| Unit (PRAU),|Administrative Services|Division). This recommendation
must be based on the SA's performance since the denial, must
specifically describe the achievements or accomplishments that warrant
the SA's promotion, and must explain why the SA's performance has been
determined to be commensurate with the next grade level.

(4) The Personnel Officer will make a decision regarding
the SA's promotion based on an analysis of the information contained
in the SAC's recommendation and the accompanying PAR. The office will
be notified in writing of the Personnel Officer's decision regarding
the SA's promotion and the reason(s) for this decision. The decision
of the Personnel Officer, who has been delegated this authority by the
Director, is final.

(5) In the event the Personnel Officer determines a
promotion is warranted, the PRAU will coordinate all actions necessary
| to effect the promotion with the requesting office and the|Staffing
| Unit.|

(6) In the event that the Personnel Officer determines
that a promotion is not warranted, the SAC may again recommend the SA
for promotion once the SA is eligible to receive another PAR in
compliance with the 90-day time requirement.

**EffDte: 05/01/2002 MCRT#: 1191 Div: D3 Cav: SecCls:

3-1.2.6 Term Promotions for Special Agents

(1) A term promotion is a promotion of an employee to a higher grade level for a defined period of time to handle a specific assignment, project or duties and responsibilities which can be accomplished within that time frame. |Term positions, once approved by the Resource Management and Allocation Board, should be posted Bureauwide by the EDSP. If equally or better qualified candidates apply from within the division, then those candidates will be given preference for the term position. If no such candidates exist, or if the division head/career board makes the judgment that a candidate from outside the division possesses qualifications that significantly exceed those of candidates from within, then selection of a candidate from outside the division, even if it requires a cost transfer, may be justified. Should the position be converted from a term to permanent position, the selectee could be converted to a permanent GS-14 or GS-15 since appropriate competitive posting procedures had been employed when the term position was originally filled.|

(2) The experience obtained by employees who have been given a term promotion may be considered when selecting an employee for permanent promotions to that position. Management personnel have the discretion to end a term promotion at any time. When a determination is made by management to end the term, the employee must be returned to his/her permanent position or to a position at or above his/her permanent grade level for which he/she is|qualified unless he/she successfully competes for another position. The candidate will receive supervisory credit for the amount of time spent in the term supervisory assignment.|

(3) The duration of a term promotion may be set by a division/office head with the concurrence of the Personnel Officer for any period of time not less than 120 days or more than three years' duration. A term promotion may be extended by the Personnel Officer in one-year increments, for a maximum period, to include extension(s), not to exceed five years.

|(4) At the conclusion of a term promotion, an employee will be placed in another position at his/her permanent grade and for which he/she is qualified. Consideration may be given to placement of that individual at the conclusion of a term promotion in a vacant position in the division/office in which he/she has been serving on a temporary basis. However, if a suitable position at the appropriate grade level is not vacant in that division/office/duty station, or if the needs of the Bureau dictate, the individual may be afforded a transfer to a different duty station for purposes of placement. The Personnel Officer may temporarily detail an employee at the conclusion of a term assignment to a position in the division in which he/she has been temporarily assigned, if there is a reasonable expectation of a staffing vacancy at the employee's permanent grade in the immediate future. Such detail assignment(s) should not exceed a period of six months and must be considered only an interim measure to permanent placement.

|(5) When a GS-15 SSA position is staffed in a non-FBIHQ division/office as a term position, individuals who hold the

| permanent grade of GS-15 may be considered and selected to staff that
| vacancy. At the conclusion of the term assignment, action will be
| necessary to place the GS-15 SSA in another GS-15 position for which
| he/she is qualified. As the overwhelming majority of GS-15 SSA
| positions are located at FBIHQ, it is likely that it will be
| necessary to transfer the individual back to FBIHQ for placement.
| Nothing would preclude assignment of the individual to a lower grade,
| i.e., a GS-14 SSA position, or GS-13 SA position, for which he/she is
| qualified and from which assignment he/she obtains no competitive
| advantage within the EDSP, if the individual is willing to
| voluntarily demote to the permanent grade. It will not be
| permissible for an individual completing a GS-15 term assignment to
| be placed in a vacant ASAC position inasmuch as ASAC selections are
| made using the new Special Agent Mid-Level Management Selection
| System (SAMMSS). Selection of ASACs under SAMMSS is made only from
| the competitive list of eligible ASAC candidates. Therefore, an
| individual completing a GS-15 term assignment may compete, if
| eligible, for such a vacant ASAC position, but he/she will not be
| placed into such a position without competition.|

**EffDte: 09/22/1997 MCRT#: 708 Div: D3 Cav: SecCls:

3-1.2.7 Temporary Promotions for Special Agents

(1) A temporary promotion is a nonpermanent promotion of
a Special Agent on an immediate basis to a higher grade position for
| any specified period of time not more than one year in duration. |As
| with term positions, new temporary supervisory positions require
| Resource Management and Allocation Board approval. Candidates for
| temporary positions will be limited to qualified Special Agents
| assigned to the field offices or FBIHQ component in which the vacancy
| occurs. Such candidates will be identified through posting the
| position only in the office where the vacancy exists.| With the
exception of the Bureauwide posting of the notification of vacancy,
competitive selection procedures consistent with EDSP policy must be
| employed. When filling a temporary field Supervisory Special Agent
position, the most qualified candidates will be those who are relief
supervisors in the EDSP. However, if extenuating circumstances exist,
the Special Agent Mid-Level Management Selection (SAMMS) Board may
approve the consideration of a candidate who is not a relief
supervisor.

(2) Upon identifying an SSA position which will be
| temporarily vacated,|a division/office head|has the discretion to
| |temporarily fill the position or leave it vacant for the duration. If
| the division/office head intends to temporarily fill the position,
| he/she must advise the Administrator, EDSP, in writing, to request
| authority to post the temporary vacancy within the office, indicating
| the reason for the vacancy and the expected duration of the temporary
| assignment. It should be noted that the justification must show that
| the length of time of the temporary assignment will be at least 180
| days, but not more than one year.| Upon securing approval, a

| memorandum, patterned after the position postings in the EDSP,|a copy
| of which must be provided to EDSP,|will be posted for a period of ten calendar days. The vacancy announcement must include a statement that a temporary promotion may be ended at any time. Interested Special
| Agents should provide a memorandum of interest to the|division/office
| head|before the deadline of the posting. Thereafter, a division/office career board must review the candidate pool and make a recommendation through the division/office head to the SAMMS Board. The SAMMS Board will make the final decision regarding temporary promotions unless the selected candidate is the subject of a pending disciplinary action or has been disciplined within the past three years. The SAMMS Board will forward to the Director the candidate's name along with two other candidates from which the Director will make the final decision. The selected individual will be advised, in writing, that the promotion is temporary in nature. At the conclusion of a temporary promotion, an employee must be returned to his/her
| permanent grade level. |Individuals selected for temporary promotion
| will not receive supervisory credit since there is no Bureauwide
| posting. If a temporary assignment is converted to a permanent
| position, the selectee must recompete for the position through a
| Bureauwide posting.|

(3) Temporary promotions of Special Agent personnel may be made for any specified period of time not more than one year. (In most instances, a variety of constraints associated with review and approval of temporary promotions for SA personnel will preclude consideration of such action if the initial term does not equal or exceed 180 days.) The Personnel Officer may extend the period of a temporary promotion in 60-day increments. The maximum period of a temporary promotion, to include extension(s), will not exceed one year. At management discretion, a temporary promotion may be ended at any time prior to its anticipated conclusion.

**EffDte: 09/22/1997 MCRT#: 708 Div: D3 Cav: SecCls:

| 3-1.2.8 Temporary Assignments

| A temporary assignment is the filling of a vacant position
| for a fixed period of time with a Special Agent whose grade is equal
| to or greater than that associated with the position. The Agent
| placed in a temporary assignment must be notified that he/she will not
| remain in the position on a permanent basis and can expect
| reassignment at the conclusion of a given period of time. Unless
| otherwise specified by management at the outset of the assignment, at
| the conclusion of the term the Special Agent will be returned to
| his/her former position or will be reassigned to a position at his/her
| permanent grade level for which he/she is qualified. Competitive
| advantage, i.e., advancement or reassignment to a position offering
| greater promotion potential, may not result from placement at the
| conclusion of a temporary assignment. There is no limitation upon the
| period for which a temporary assignment may be established.|

**EffDte: 04/04/1996 MCRT#: 528 Div: D3 Cav: SecCls:

3-2 SPECIAL AGENT CAREER PATHS (See Legal Attache Manual, 4-1.)

(1) Career development within the FBI targets both investigative and managerial components of the Special Agent career path. With regard to the investigative path, specialized training courses and on-the-job training assignments are utilized to develop skills and knowledge necessary for successful investigative performance. For those Special Agents who desire to pursue a horizontal path as a career investigator, the FBI provides training opportunities designed to update and enhance their professional investigative skills.

(2) This section on career development matters will deal exclusively with Special Agent promotional opportunities and administrative advancement procedures within the FBI. One of the most critical responsibilities of FBI managers, at all levels, is to provide for the continuation of sound management within the FBI. Each manager in the Bureau must be personally involved in identifying those Special Agents who have expressed an interest in administrative advancement and have demonstrated some level of potential. There will be occasions, however, when requirements of a particular expertise or the lack of fully qualified personnel necessitate exceptions to the regular management career path. The Special Agent Mid-Level Management Selection (SAMMS) Board will have primary responsibility for each exception. Such exceptions will be held to an absolute minimum and each exception will be fully justified and documented by the SAMMS Board.

**EffDte: 04/23/2001 MCRT#: 1097 Div: D3 Cav: SecCls:

3-2.1 Relief Supervisor (See MAOP, Part 1, 3-2.2; Part 2, 1-1.1(4).)

(1) Management development and selection in the FBI begins with the appointment of relief supervisors. Special Agents who are interested in administrative advancement should be considered for the position of relief supervisor. Application for entrance into the EDSP as a relief supervisor should be by formal memorandum from the candidate to the SAC.

(2) SACs are responsible for the recruitment of talented Special Agent personnel as relief supervisors. If a suitable number of relief supervisors cannot be enlisted, the SAC is authorized to employ temporary relief supervisors. The use of the temporary relief supervisory status should not be used unless an SAC deems it absolutely necessary. Temporary relief supervisors are not part of the EDSP.

(3) Deleted

(4) Each SAC is responsible for verification of the Agent's qualifications to assume relief supervisory status. If there is any question of an Agent's qualifications to become a relief supervisor, it should be resolved with FBIHQ prior to designating the Agent as a relief supervisor. The qualifications for recommending a Special Agent for relief supervisor status are:

(a) Candidates must have two years of investigative experience in the FBI and field career board approval.

(b) Candidates must not be on probation as the result of administrative action. If the candidate is currently on probation, he or she will not be eligible for consideration as a relief supervisor until such time as the probationary period has concluded.

(c) Candidate's most recent performance appraisal | must be at the Meets Expectations level. (See MAOP, Part 1,|3-12.)|

(5) Deleted

(6) Administrator, EDSP, need only be advised by electronic communication (EC) when the relief supervisor requests removal from relief supervisory status. This advisement must state the reasons for withdrawal from the EDSP and describe in detail any equal employment opportunity impact on the Agent's decision.

(7) The field office career board must select each relief supervisor in the division, with the exception of those relief supervisors transferred in from a different division. The SAC must make certain that every relief supervisory position is fully justified and that each relief supervisor is given sufficient administrative assignments to meet managerial development needs. Relief supervisors should be kept advised of current problems and pertinent matters on the supervisory desk.

(8) Newly appointed relief supervisors must receive ten days of initial training. This should include on-the-job training with the regularly appointed supervisor and a thorough indoctrination in the various aspects of the service and support functions of the field division. Facts concerning the training of relief supervisors shall be included in an EC prepared for the field office training file.

(9) It is the responsibility of the SAC to ensure that Agents approved for supervisory or relief supervisory assignments are fully aware of their responsibilities. It should be impressed upon them that when serving in such capacity they are acting for the SAC and the division. Any questions or doubts they may have regarding the proper course of action to take in connection with the performance of their duties should be resolved before action is taken.

(10) An Agent approved for the position of relief supervisor will maintain relief supervisory status when transferred from one office to another provided the Agent is still interested in

administrative advancement and continues to meet the criteria set forth above regarding the selection of supervisors. This is not true of a full-time supervisor transferred from one office to another. In these cases, specific SAMMS Board approval is necessary for the retention of the supervisory position.

(11) Before being considered for further advancement in the management career path, an Agent should generally serve as a relief supervisor for at least two years during which time the Agent should receive as much administrative experience as possible to assist in evaluation of potential candidates for administrative advancement.

(12) Relief supervisors serving on hardship transfer orders may participate in the EDSP to the extent that they can serve as relief supervisors and participate in the developmental aspects of the EDSP. However, the individuals will not be allowed to vie for openings in the EDSP until such time as their hardship transfers are rescinded and they are available for transfer. See 3-6.13 (4).

(13) Deleted

(14) Deleted

(15) Deleted

(16) Deleted

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| 3-2.2 Principal/Secondary Relief Supervisors (See MAOP, Part |1,|3-2.1.)

(1) One principal relief supervisor and one secondary relief supervisor are to be designated for each supervisory desk by the field division career board. Criteria to be reviewed in selecting a principal and secondary relief supervisor include experience, length of time and performance as a relief supervisor as well as the knowledge, skills and abilities (KSAs) described in MAOP, Part 1, 3-2.10.2(1). A temporary relief supervisor is not eligible for selection as a principal or secondary relief supervisor. There is no limit to the number of relief supervisors that a field office or squad may have; however, only one principal and one secondary relief supervisor are designated per squad. While it is recognized that the optimum number of relief supervisors will vary among squads, this should not preclude qualified candidates from entering the EDSP.

(2) Principal and secondary relief positions will be
| rotated|every two years|among the qualified relief supervisors within the division and will not be restricted to relief supervisors assigned to the squad with the vacancy. It is emphasized that selection for a principal or secondary relief supervisor position will not constitute the basis for a cost or noncost transfer.

(3) Each principal and secondary relief supervisor vacancy must be advertised within the division by an all Agent memorandum from the SAC and posted for ten calendar days in an area accessible to all Agents. However, it is recognized that in large field divisions an advertisement delineated by branches, divisions, sections or other similar configuration may be appropriate. If such a process is utilized, documentation setting forth the basis for this methodology must be maintained by the field division and reported to FBIHQ. Agents who are interested in applying for the posted positions should submit a memorandum to the SAC setting forth their interest and background. Although candidates for these positions are encouraged to use their KSAs (described in MAOP, Part 1, 3-2.10.2(1)) to explain their investigative and management experience, local field office career boards may also consider overall FBI experience and performance as well as length of time and performance as a relief supervisor before reaching a final decision.

(4) The same individuals are not to serve consecutively in principal or secondary relief supervisor positions unless no other qualified Agents request to be considered for the position. The secondary relief supervisor may serve as principal relief supervisor
| |for|the following|two-year period|if that individual is the best qualified of all applicants. The principal relief supervisor may not
| serve as secondary relief supervisor|for|the following|two-year
| period|unless no other qualified Agents request to be considered for the position. In the event the former principal relief supervisor is the only candidate for the position, the local career board may recommend that SA's selection. The SAC may delay the rotation of the principal or secondary relief supervisor if warranted by operational or administrative necessity. In such a circumstance, to extend the time served, the SAC must submit written documentation to the EDSP. Time extensions will be approved by the Special Agent Mid-Level Management Selection (SAMMS) Board. It is the responsibility of the SAC to ensure that appropriate ticklers are in place so that the principal and secondary relief supervisors are rotated within their
| divisions|every two years.|

(5) The secondary relief will perform the duties of the principal relief at the direction of the squad supervisor or in the absence of supervisor and/or principal relief supervisor.

(6) The principal/secondary relief supervisor rotation policy is not intended to require selection of relief supervisors who lack the investigative or program experience needed to function effectively on the new squad. Thus, if the only candidates for these positions are determined by the supervisor and field office career board to lack the necessary investigative or program experience, the board may recommend that the former principal relief supervisor be
| permitted to remain in place for another|two-year period.|

(7) Principal relief supervisors may be granted cash awards (see MAOP, Part 1, 5-15.5). Secondary relief supervisors are not eligible for principal relief supervisor awards, but are eligible for other applicable performance recognition.

3-2.3 Supervisory Special Agent

The next step in progression under the management career path is an assignment to FBIHQ as a Supervisory Special Agent or directly to a field supervisory position.

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| 3-2.4 FBIHQ Supervisory Special Agent (See Legal Attache Manual, Part 1,|4-1.4, 4-1.5.|)

(1) As a Supervisory Special Agent at FBIHQ, the Agent will participate in the formulation of Bureau policy and programs thereby gaining insight into the impact of policy on field operations. This assignment would allow the Agent to acquire a conceptual viewpoint of FBI operations and provide opportunities for administrative development for those Agents in the management career path.

(a) Headquarters supervisors will be required to have (1) a minimum three years' FBI field investigative experience; (2) one year of relief supervisory experience; (3) a current Meets Expectations performance appraisal; and (4) must be a current EDSP participant. Relief supervisory experience is strongly preferred but not required for Agent supervisory vacancies in the Office of the General Counsel and Laboratory Division. (See also MAOP, Part 1, 3-12.)

(b) Agents are required to serve in the Supervisory Special Agent position at FBIHQ a minimum of two years before consideration for further progression on the management career path. An Agent assigned at FBIHQ must have at least 18 months' service at FBIHQ before he/she can apply for GS-14 field supervisory positions. In the event an Agent transfers from one division to another at FBIHQ, all service at FBIHQ will count toward the minimum 18 months. FBIHQ candidates who are selected for field supervisory positions will still be required to serve the full 24 months at FBIHQ prior to reporting to the field office assignment. FBIHQ SSAs must remain in assigned division a minimum of nine months before applying for other FBIHQ
| |vacancies, regardless of grade of the vacancy.| In the event Agents transfer from one FBIHQ division to another, the minimum length of service in the new assignment should be agreed upon between the Agent and the head of the division. In this case he/she should be advised as to their minimum commitment at the beginning of their new assignment so there is no misunderstanding when the Agent wishes to apply for a field supervisory assignment. (See MAOP, Part 1, 3-6.6.5.)

(c) Deleted

(d) Agents promoted to supervisory positions will be credited with FBIHQ supervisory time beginning from the date that the Agent reports to the assignment, regardless of time-in-grade requirements for promotion. This does not apply to temporary supervisors who are not credited with supervisory time.

(2) There are currently two paths to becoming an FBIHQ Supervisor. One path entails becoming a field supervisor or SSRA and serving at least two years in a field division in this capacity. Agents with two years' field supervisory experience, and no previous
| FBIHQ supervisory experience, who are selected for|a permanent|FBIHQ supervisory position will be designated a term GS-15 for two years. Such individuals are required to compete and be selected for a permanent GS-15 Unit Chief position in order to maintain the GS-15 after the two-year term. Agents who do not successfully compete for a GS-15 Unit Chief position will become a permanent GS-14 at the end of the two-year term.

(3) The second path would be for a relief supervisor to become an FBIHQ Supervisor. Agents who do not have two years' field supervisory experience will be designated permanent GS-14 supervisor.

(4) Accelerated promotion within Bureau guidelines will be available to those Special Agents transferred to FBIHQ under the EDSP.

(5) SAMMS Board action is not required for supervisory reorganization within an office.

**EffDte: 01/28/2003 MCRT#: 1263 Div: D3 Cav: SecCls:

3-2.5 Field Supervisor and Supervisory Senior Resident Agent (SSRA) (See also MAOP, Part 1, 3-12.)

(1) Field supervisors will be required to have: (1) a minimum three years' FBI field investigative experience; (2) one year of relief supervisory experience; (3) a current Meets Expectations performance appraisal; and (4) must be a current EDSP participant. A relief supervisor may progress directly to the position of field supervisor or SSRA without having first served a minimum of two years in a supervisory position at FBIHQ. However, Agents who advanced directly from relief supervisor to field supervisor positions will be required to serve at FBIHQ as their next level of progression under the management career path.

(2) The SAMMS Board views the field supervisor/SSRA position as a critical first-line management position and, as such, the unique experience acquired in occupying this position will greatly enhance one's competitive qualifications for future executive-type, field management positions.

(3) SAMMS Board action is not required for supervisory reorganization within an office.

(4) Agents promoted to GS-14 supervisory positions will be credited with field supervisory time beginning from the date that the Agent reports to the assignment, regardless of time-in-grade requirements for promotion to GS-14. This does not apply to temporary supervisors who are not credited with supervisory time.

|(5) The Field Office Supervisory Term Limit Policy (FOSTLP)

Individuals selected for supervisory positions which award field credit after June 3, 2004, receive five-year term assignments, and these assignments will expire on the fifth year anniversary of their promotion date. The following options are available to SSAs at the end of the five-year term.

(a) If an SSA requests to return to investigative duties, EDSP will coordinate with the SSA's field office to administratively process this request, which will be effective on the term limit expiration date. At that time, the SSA will relinquish his/her managerial position and return to investigative duties within his/her current field division. The one-year penalty associated with vacating an EDSP position will be waived, thereby allowing the employee to remain in EDSP as a relief supervisor and retain eligibility to apply for promotions in the future. This waiver is being granted to encourage continued movement within the career development program.

(b) If an SSA accepts a voluntary lateral (noncompetitive) transfer to FBIHQ, EDSP will coordinate with the SSA's field office to process the request and ensure transfer orders are issued on or about the term limit expiration date. Consideration for personal preferences and prior work experience will be given when designating assignments at FBIHQ, however final decisions will be based primarily on needs of the Bureau. Final authority regarding placement at FBIHQ will rest with EDSP. Transfers will occur consistent with normal Transfer Program policies and procedures.

(c) SSAs electing to accept a lateral (noncompetitive) transfer to FBIHQ could be affected by the following administrative matters, which may impact on eligibility to receive a lateral transfer:

1. If an SSA has an administrative issue (i.e., OPR, EEO, Security, DOJ-OIG, or Inspection) which is pending or has been adjudicated within the preceding three years, the Deputy Director must approve the voluntary transfer taking into account the administrative issue, prior to the employee receiving transfer orders to FBIHQ. If the Deputy Director declines to approve the transfer, the SSA will then be required to return to investigative duties within his/her current field division.

2. If an SSA is performing under a Warning PAR,

| the SSA must notify EDSP of this fact at the time the SSA provides
| notice of career intent (50-60 days prior to term expiration). As
| part of this notification, the SSA will identify his/her career
| choice, subject to successful completion of his/her Performance
| Improvement Plan (PIP). If the PIP extends beyond the term
| expiration date, the SSA will remain in his/her current position
| until the PIP period is completed and a final resolution concerning
| performance has been rendered. Upon the successful resolution of the
| Warning PAR, standard term limit options will immediately recommence.

| 3. SSAs will be required to take the Leadership
| Skills Assessment (LSA) prior to receiving a lateral (noncompetitive)
| position at FBIHQ, but will be allowed to accept the assignment
| irrespective of test results. However, those SSAs accepting a
| position at FBIHQ who have not passed the LSA will not receive
| headquarters credit until a passing result on the LSA is obtained.
| Upon receiving a passing score on the appropriate LSA exam,
| headquarters credit will be applied retroactively to the SSA's FBIHQ
| report date. In addition, although SSAs may accept a lateral
| assignment to headquarters upon taking the LSA, SSAs must eventually
| pass the LSA in order to subsequently pursue other supervisory
| positions. SSAs voluntarily transferred (noncompetitively) to FBIHQ
| under the term limit policy may not be transferred into lateral
| positions outside the original FBIHQ section to which he/she was
| assigned without the concurrence of EDSP.

| 4. SSAs who choose not to take the LSA by the
| conclusion of their five-year supervisory term limit will not be
| eligible for transfer to FBIHQ and must return to investigative
| duties within their assigned field divisions. In addition, whereas
| by policy stationary SSAs who successfully compete for a supervisory
| position at FBIHQ are eligible to receive GS-15 pay, SSAs who do not
| successfully compete for a supervisory position and instead elect to
| accept a lateral (noncompetitive) transfer to FBIHQ will not be
| eligible for GS-15 pay, since they were not selected for a career
| enhancing position via the competitive process.

| (d) If an SSA competes for any non-ASAC EDSP position
| in which the posting closed at least 90 days prior to his/her term
| limit expiration date, the SSA will be allowed to remain in his/her
| current position the posted position has been awarded, up to a
| maximum time period of 90 days past original term limit date. SSAs
| must previously designate in their response EC to EDSP (approximately
| 50-60 days prior to term expiration) whether they are going to return
| to investigative duties within their current field divisions or
| accept a lateral (noncompetitive) transfer to FBIHQ, in the event
| they are not selected for the position(s)for which they applied.

| (e) SSAs may continue to compete for positions posted
| within 90 days of their term expiration, but subsequent to the term
| expiration date will not be allowed to remain in his/her current
| supervisory position awaiting a final decision on those selections.
| At the time of term limit expiration, SSAs must return to
| investigative duties withing their current field divisions and await
| a final determination concerning those positions being pursued.
| SSAs who decline a lateral (noncompetitive) transfer to FBIHQ in

| favor of awaiting the outcome of a competitive selection and who
| ultimately are not selected will be required to return to
| investigative duties within their current field divisions, will
| retain eligibility as EDSP participants, and may continue to compete
| for positions at FBIHQ. However, they will be ineligible for a
| lateral (noncompetitive) assignment at FBIHQ due to having previously
| declined the opportunity.

| (f) SSAs competing for ASAC positions will be allowed
| to remain in position through completion of the ASAC List quarter in
| which his/her SSA term limit expires. If the SSA is ranked in one or
| more ASAC packages during that final ASAC List quarter, the SSA will
| be eligible to remain in position for a second ASAC List quarter.

| (g) Field offices will be limited to no more than 30
| percent turnover (attributable to the FOSTLP and not including
| unrelated retirements, resignations, etc.) during any one-year
| period. In those situations where the impact of the FOSTLP would
| result in a turnover of more than 30 percent of the division's SSA
| staff, movement of the senior most SSA personnel will be deferred to
| the subsequent calendar year. EDSP will contact affected divisions
| and identify approximately one year in advance which SSAs will have
| his/her term limit extended (done as part of the official notice
| received by SSAs one year prior to term limit date). In these
| instances, term limits will be extended only to January of the
| calendar year following the term limit year, rather than to
| individual EOD anniversary dates for affected SSAs. In limited
| situations, EDSP may extend an SSA's term limits slightly beyond
| January the following year, in order to ensure a reasonable extension
| period. Those SSAs whose terms are extended to the following year
| due to field office impact will not count in the division's impact
| calculation for the new year.

| (h) Field offices that experience difficulty in
| attracting a pool of qualified candidates for nonstationary SSA
| positions may request a special designation for the position. In
| these instances, field offices will be allowed to readvertise such
| vacancies as "hard to fill" after EDSP review of the candidate pool
| and concurrence to re-post. During this subsequent re-posting,
| stationary and nonstationary SSAs from other field offices with at
| least five years or more experience as a field SSA, will be allowed
| to compete as Tier I candidates for the "hard to fill" position and
| receive a second, five-year SSA term. SSAs assigned to the
| advertising division will not be allowed to apply for "hard to fill"
| vacancies within their own division. At the end of the second,
| five-year supervisory term, the SSA must either move to a career
| advancing position or return to investigative duties within his/her
| current field division. In addition, former SSAs who elect to return
| to investigative duties upon the expiration of his/her supervisory
| term may also compete as a Tier I candidate for designated "hard to
| fill" positions in other field offices, as the one-year penalty for
| vacating a supervisory position and voluntarily returning to
| investigative duties will be waived.

| (i) Employees are generally provided up to 90 days to
| report to a new assignment in conjunction with a transfer, and a

| minimum of 12 months of service is required subsequent to the
| transfer to make the transfer cost effective for the Bureau. In that
| regard, if an SSA's term limit expiration date is within 15 months of
| his/her mandatory retirement date, the SSA will be allowed to remain
| in his/her current SSA position until retirement. Employees within
| 15 months of retirement eligibility will be subject to normal term
| limit requirements.

| (j) SSAs facing term limit expiration who wish to
| seek a hardship waiver to remain in position should submit their
| waiver request to EDSP via EC no later than 120 days prior to their
| term expiration. The hardship request will be decided by EDSP using
| a standard similar to that utilized when determining hardship
| transfer requests. IT SHOULD BE NOTED THE STANDARD UTILIZED FOR
| REVIEWING FOSTLP WAIVER REQUESTS WILL BE EXTREMELY STRINGENT. In the
| event a hardship waiver is granted, the SSA will be allowed to remain
| in his/her current SSA position and the hardship/waiver request will
| be reviewed on an annual basis. Should a determination be made that
| the hardship ceases to exist, the SSA will immediately be subject to
| all aspects of the FOSTLP.|

**EffDte: 02/23/2006 MCRT#: 1412 Div: D3 Cav: SecCls:

3-2.6 Assistant Inspectors

| (1) GS-14 Assistant Inspectors|(FBIHQ SSAs)|

| (a) |SSAs assigned to FBIHQ, to include Legats, who
| have a minimum tenure of 18 months' FBIHQ supervisory experience but
| who have not completed one year of field supervisory experience, will
| be eligible to be designated as Assistant Inspectors and may
| participate in two inspections during their FBIHQ or Legat
| assignment, at the discretion of the Inspection Division.|

| |(b)| Minimum requirements for GS-14 Assistant
Inspectors are: (1) current FBIHQ supervisory experience, (2) current
| Meets Expectations performance appraisal; (3) |section chief|
recommendation; and (4) must be a current EDSP participant. With the
exception of SSAs assigned to the Inspection Management Unit (IMU)
and Organizational Program Evaluation and Analysis Unit (OPEAU),
Inspection Division, a minimum tenure of 18 months' FBIHQ supervisory
experience is also necessary. Upon the assignment of an SSA to the
IMU or OPEAU, such SSA will be eligible for designation as an
Assistant Inspector provided the SSA possesses a current Meets
Expectations performance appraisal and receives the recommendation of
the Assistant Director, Inspection Division.
|
| (c) |Upon assignment to a field supervisory position,
| the SSA will be obligated to meet the requirements for designation
| as an Assistant Inspector-in-Place in order to continue participation
| in the inspection process and complete requirements for inspection
| certification.|

| (d) |Deleted|

| (2) |Term GS-14 Assistant Inspectors|

| (a) |Candidates who apply for the term GS-14 TDY
| Assistant Inspector position must be current FBIHQ SSAs with a
| minimum tenure of 18 months' FBIHQ supervisory experience. An
| individual may serve in the term GS-14 Assistant Inspector position
| for 12 months with the continued concurrence of the Assistant
| Director, Inspection Division. An individual serving as a term GS-14
| Assistant Inspector in the Office of Inspections will have the
| opportunity to become inspection certified.|

| (b) |Minimum requirements for term GS-14 TDY Assistant
| Inspectors are: (1) current FBIHQ supervisory experience; (2) current
| Meets Expectations performance appraisal; (3) division head
| recommendation; (4) a current EDSP participant; and (5) a minimum
| tenure of 18 months' FBIHQ supervisory experience.|

| (c) |Term GS-14 Assistant Inspectors may apply for
| other EDSP positions after six months, provided all other criteria
| have been met. If a candidate successfully competes for a position
| outside the Inspection Division, he/she will be required to serve the
| full 12 months in the Inspection Division prior to reporting to
| his/her new position. If after 12 months the individual has not yet
| been selected for another EDSP position, he/she will return to the
| FBIHQ division of his/her prior assignment. Assistant Inspectors may
| serve beyond the initial 12-month assignment with the concurrence of
| INSD and the division head of their assigned division.|

| (d) |Due to the TDY nature of the assignment and its
| inherent career progression enhancement, newly selected Assistant
| Inspectors will be evaluated critically after completion of three
| inspections. Those individuals who would benefit from service as a
| field SSA prior to conducting further inspections will return to their
| division of assignment.|

| |(3)| Term GS-15 Assistant|Inspectors/Team Leaders|

(a) Deleted

(b) The SAMMS Board views the assignment as an
Assistant Inspector as a valuable step within the EDSP. Assignment as
a term GS-15 Assistant Inspector is based on the needs of the
Inspection Division as well as the demonstrated ability of the Agent
Supervisor. Candidates who may apply for the term GS-15 Assistant
| Inspector position|must be|SSAs with a minimum of 21 months' field
supervisory experience who have been designated an Assistant
Inspector-in-Place or FBIHQ supervisors who have been designated
and served as term GS-14 Assistant Inspectors for a minimum of six
months. All candidates for the term GS-15 Assistant Inspector
position must be recommended by their division head and have
concurrence of the Office of Inspections.

(c) The Assistant Inspector Team Leader position will

be advertised and staffed as a term GS-15 assignment generally not to exceed one year. Those candidates who are selected on a term basis are not eligible for permanent transfer to the Inspection Division; however, they may apply for other FBIHQ positions after successful performance for six months, and leave the Inspection Division after 12 months. As a term assignment, the candidate may return to the field office in which he/she was previously assigned after completing a maximum one-year assignment without effecting a permanent household transfer. If the candidate was assigned to FBIHQ, he/she will return to the FBIHQ division in which he/she was previously assigned if/when a vacancy exists. The time assigned as an Assistant Inspector will be credited toward FBIHQ time from a career development standpoint and may be used as part of the two years required to satisfy FBIHQ supervisory requirement for the ASAC position. The GS-15 salary, including locality pay from their office of permanent assignment, is used in computation of the "high three" for retirement purposes. The SAC of the office from which the Assistant Inspector is selected will be authorized by the EDSP to post a temporary GS-14 supervisory position within the affected division to backfill the vacancy. The FBIHQ division from which the Assistant Inspector is selected will be authorized to post for a permanent vacancy to replace the candidate, with the understanding that the candidate may return to the FBIHQ division at the end of one year, providing a vacancy exists. Term GS-15 Assistant Inspectors will be authorized travel to and from their home of record when it is cost effective, such as travel home prior to or after an inspection.

(d) FBIHQ and field supervisors selected for the term GS-15 Assistant Inspector position may begin to apply for other EDSP positions, including ASAC, after six months, provided all other criteria have been met. If the candidate successfully competes for a position outside the Inspection Division, he/she will be required to serve the full 12 months in the Inspection Division prior to reporting to his/her new position.

|(4)| Audit|Teams/Human Intelligence Coordinators (HC)|

|(a)| Inspection audit teams are required to complete specific program audits which are|typically|in advance of the inspection staff's arrival. Whether or not the audit team deploys in advance of the main inspection team will be at the discretion of the Inspector-in-Charge (IIC) of the office being inspected. The field office|HC|or|the Human Intelligence Management Unit (HIMU)/ Human Intelligence Policy and Planning Unit (HIPPU)|SSA, as a member of the audit team, and under the direction of an Office of Inspection (OI) Team Leader, will conduct|complete audits of the|Criminal Informant Program (CIP)|and Asset Program (AP),|draft the appropriate inspection-related documentation, and assist the Team Leader as required. Upon completion of the|CIP/AP audits|and inspection documentation, the field office|HC|will be released by the IIC to return to his/her division. Each|HC|will participate in an on-site inspection approximately every two years. When contacted by the INSD for an on-site inspection audit assignment, the|HC|will be required to perform the duty unless compelling circumstances are articulated in writing by an ASAC or above, and approved by the INSD. Field office |HCs,|when applying for promotions or lateral positions, may utilize

their inspection experience to enhance their FD-954's.

|(b)| Inspection credit will only be afforded to field office|HCs who: (1) are SSAs and have previously been designated Assistant Inspectors-in-Place and (2) those SSAs assigned to either the HIMU or the HIPPU.| These SSAs will be required to remain at the inspection site for the duration of the inspection and assist as directed once the|CIP/AP audits are|complete. |HIMU/HIPPU SSAs|will be credited with one of the two inspection credits which headquarters SSAs may earn after completing 18 months at FBIHQ.

|(c) HC|inspection staffing will be coordinated by the INSD and will be conducted on a quarterly basis. The |HIMU/HIPPU|will maintain a current list of field office|HCs|and |HIMU/HIPPU|SSAs which will be used for scheduling purposes by the INSD.

**EffDte: 03/22/2006 MCRT#: 1413 Div: D3D0 Cav: SecCls:

3-2.7 Assistant Inspectors-in-Place

|(1) |GS-14 Assistant Inspectors-in-Place|

|(a)| Participation in the Assistant Inspector-in-Place (AIIP) Program is no longer mandatory for all Supervisory Special Agents|(SSAs); however,|participation is still encouraged. Participation as an AIIP is predicated upon the recommendation of the SAC, a current Meets Expectations performance appraisal report,|one year of field supervisory experience,|and approval by the Special Agent Mid-level Management Selection (SAMMS) Board. Supervisors determined to|have management deficiencies|will not be considered by the SAMMS Board for designation as AIIPs for one year from the last day of the inspection in which they were found|to have those deficiencies.| This will allow the supervisor sufficient time to adequately resolve the identified deficiencies. The division head must submit documentation showing the supervisor has overcome the identified deficiencies prior to the individual being considered for AIIP designation. Furthermore, AIIPs identified|to have management deficiencies|by inspection will not be allowed to participate, for credit, in on-site inspections, shooting incident investigations, or Office of Professional Responsibility (OPR) inquiries for one year from the date of the last day of the inspection in which|the deficiencies were identified.| In order to become eligible following the one-year period, the division head must provide documentation to INSD showing the AIIP has overcome the identified deficiencies.

|(b)| SSAs assigned to FBIHQ who have|one year of|field supervisory experience|and have met the other minimum requirements| will also be eligible to participate in the AIIP program upon arrival at FBIHQ. GS-14 and GS-15 SSAs assigned to FBIHQ or a Legat who have

| |a minimum tenure of 18 months' FBIHQ supervisory experience, but have
| not completed one year of field supervisory experience,|will be
eligible to participate in two inspections during their FBIHQ or
| Legat assignment. SSAs will be given|a|credit for each inspection
successfully completed. Such SSAs will not be designated as AIIPs.
Participation will be incumbent upon the recommendation of the Section
Chief, a current Meets Expectations performance appraisal, and the
needs of the Inspection Division. Upon assignment to a field
supervisory position, the SSA will be obligated to meet the
| requirements for designation as|an|AIIP in order to continue
participation in the inspection process and complete requirements for
inspection certification.

| (2) |Inspection Certification|

AIIPs must successfully complete six inspections, with not less than three being field office inspections, to be certified by the Assistant Director, Inspection Division.

**EffDte: 03/22/2006 MCRT#: 1413 Div: D3DO Cav: SecCls:

3-2.8 FBIHQ Special Agent Unit Chief (See MAOP, Part 1, 3-12 (4).)

(1) Minimum requirements for permanent Special Agent GS-15 FBIHQ vacancies include: (a) three years' FBI investigative experience; (b) one year of relief supervisory experience; (c) a current Meets Expectations performance appraisal; (d) two years' experience as a field supervisor or one year as an FBIHQ supervisor; and (e) must be a current EDSP participant. An individual promoted to a Unit Chief position (from a field office position) will be required
| to serve at least nine months prior to|applying for an ASAC vacancy,
| provided all other qualifications for the ASAC position are met.|

(2) When a GS-15 Unit Chief is assigned to a tour on the Inspection Staff and plans to return to his/her position at the end of that tour, the Assistant Director may replace him/her with another employee in an "acting" capacity by posting the position within his/her division as a temporary promotional opportunity. The temporary promotion is allowed when the individual serves in an "acting" capacity for more than 180 days or at the outset if it is known that the term of service will exceed 180 days.

**EffDte: 09/10/2003 MCRT#: 1298 Div: D3 Cav: SecCls:

| 3-2.9 |Deleted|

**EffDte: 10/12/1994 MCRT#: 318 Div: D3 Cav: SecCls:

| 3-2.10 Assistant Special Agent in Charge (See also MAOP, Part 1,|3-12.)|

(1) The Special Agent Mid-Level Management Selection System (SAMMSS) is being utilized for filling ASAC vacancies. SAMMSS is a job-related, validated selection system which allows candidates an opportunity to provide detailed examples of core Knowledge, Skills and Abilities (KSAs).

(2) The minimum requirements for ASAC eligibility are: two (2) years' FBIHQ supervisory experience, two (2) years' field supervisory experience, Inspection Certification, a current Meets Expectations rating on the most recent Performance Appraisal Report (PAR), and must be a current EDSP participant. In order to compete for an ASAC vacancy, candidates must have a completed Career Development Evaluation (CDE), completed attendance at Executive Development Institute I, and have a current Meets Expectations PAR. With the exception of Phase II participants, ASAC candidates must be in supervisory positions in order to be eligible to compete for ASAC vacancies.

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

3-2.10.1 Initial Application

(1) Candidates may begin the SAMMSS process when they are within 180 days of meeting the minimum requirements for ASAC eligibility (FBIHQ or field supervisory time), or have half the number of inspections required for certification. Eligible candidates will be queried at that time by the Administrator, EDSP, through a "Letter of Intent" (LOI). The LOI will query the candidate regarding his/her desire to obtain a Career Development Evaluation (CDE). The LOI will be provided to a candidate only once in a candidate's career. If the candidate declines an evaluation at that time, future consideration must be initiated by the candidate.

(2) Upon receipt of an affirmative response to an LOI, the EDSP will furnish to the candidate, among other items, an evaluation package called an Achievement Inventory (AI), as well as detailed instructions for its completion. The submission of this AI by the candidate will begin the SAMMSS process. It is the responsibility of the candidate to comply with all of the SAMMSS deadlines and instructions provided in the AI. As a result of the amount of time necessary to administer a candidate's package through the evaluation process, failure to comply with these deadlines and instructions could result in a minimum four-month delay of ASAC eligibility. Actual activation will not take effect until candidates complete all requirements for the ASAC position and their CDE is factored into an official candidate pool, which is prepared in
| February,|May, August, and November.|

**EffDte: 04/02/2001 MCRT#: 1087 Div: D3 Cav: SecCls:

3-2.10.2 Achievement Inventory

(1) Significant accomplishments are documented in the Achievement Inventory (AI) which is prepared by the candidate. The candidate is required to describe specific and verifiable accomplishments which demonstrate possession of core Knowledge, Skills and Abilities (KSA) which have been identified as important for success as an ASAC. The KSAs and their definitions are as follows:
| |(See MAOP, Part I, 3-2.2(1) & (3).)|

(a) Leadership: The ability to motivate and inspire others; to develop and mentor others; to gain the respect, confidence and loyalty of others; to articulate a vision; to give guidance and to direct others in accomplishing goals.

(b) Interpersonal Ability: The skill required to deal effectively with others; to establish and maintain rapport with management, colleagues, and subordinates; to treat others with respect and courtesy; and to recognize and show sensitivity to differences in the needs and concerns of others.

(c) Liaison: The ability to establish contacts and to interact effectively with federal, state, and local investigative agencies; government officials; the media; the community (business, academic, local); internal Bureau contacts; and other organizations and agencies.

(d) Organizing and Planning: The skill to establish priorities, timetables, and goals/objectives; to structure a plan of action for self and/or others; and to develop both strategic and tactical plans.

(e) Problem Solving/Judgment: The ability to critically evaluate conditions, events, and alternatives; to identify problems, causes, and relationships; to base decisions or recommendations on data or sound reasoning; and to formulate objective opinions. Included is the ability to make effective decisions without undue hesitancy, to defend decisions when challenged, and to accept responsibility for decisions made.

(f) Flexibility/Adaptability: The ability to respond positively to and to successfully manage change at work; to willingly accept new priorities, procedures, or goals; to adapt to unanticipated problems or conflicts; to respond positively and productively to work challenges.

(g) Initiative: The ability and willingness to begin projects/work or to address issues/problems; to persist and follow through to complete all aspects of work; to respond proactively/creatively to problems/issues/tasks.

(h) Communication: The skill to express thoughts and ideas clearly, concisely, persuasively, and effectively orally and in writing; to interpret and understand verbal or written communications; and to tailor the communication to the experience, exposure, or expertise of the recipient.

For each of these KSAs, (with the exception of "communication" which will be addressed separately) the candidate will describe two examples of achievements that, in their opinion, best demonstrate the possession of the KSA. The examples may result from the individual's activities in any kind of setting, current or previous job assignments, within or outside the FBI, volunteer work, educational endeavor, hobby, etc. The examples should provide good evidence regarding the individual's capabilities. At least one of the examples for each KSA MUST, however, be related to work performed at the FBI.

(2) For each Achievement Inventory example, the candidate must identify a supervisor who can verify the achievement described by the candidate. The candidate must provide the name, current address, and telephone number of their immediate supervisor at the time of the achievement. If the immediate supervisor has separated from the Bureau, that individual should still be used as the verifier unless no current address can be identified. An alternate verifier should be provided only if the immediate supervisor is deceased or the example is an achievement performed outside the FBI.

(3) Each example must be limited to one page in length and contain:

(a) The job or position held at the time of achievement;

(b) What the problem or objective was;

(c) What was actually done and when (approximate date);

(d) What the outcome or result was; and

(e) Any formal recognition received for the achievement (awards, citations, etc.).

(4) Once an Achievement Inventory is completed by the candidate and submitted to the EDSP for verification, the candidate cannot submit modifications to examples/achievements.

**EffDte: 10/18/1995 MCRT#: 463 Div: D3 Cav: SecCls:

| 3-2.10.3 Verification of Achievements

| The EDSP Staff will forward to the verifier identified by

| the candidate a copy of the applicable accomplishment and an
| Achievement Inventory Verification Form. The verifier is to carefully
| review the accomplishment and indicate on the verification form
| whether the accomplishment described by the candidate is accurate and
| if the accomplishment is representative of the quality of performance
| that can be expected from this candidate on a day-to-day basis.
| Comments are encouraged and space is provided.

**EffDte: 07/07/1995 MCRT#: 400 Div: D3 Cav: SecCls:

3-2.10.4 Competency Profile

(1) The Competency Profile (CP) is completed by the candidate's current rating official. The CP has been designed to focus on the candidate's managerial potential, not current job performance. The rating official considers behaviors associated with each of the eight core knowledge, skills, and abilities (KSAs) and evaluates the extent to which the candidate has demonstrated and/or developed these KSAs. For each KSA, the rating official documents the relationship between the candidate's performance and the core managerial KSAs with SPECIFIC OBSERVATIONS of the candidate's behavior. The rating official is to consider any and all relevant candidate behaviors. If the rating official has supervised the candidate for several years, the official should consider the quality and consistency of performance throughout the years. However, if the rating official has supervised the candidate for less than three months, he/she should NOT complete the evaluation. In this instance, the CP will be completed by the candidate's previous rating official. If the rating official has supervised the candidate for more than three months but less than one year, the PREVIOUS rating official
| |MUST|be contacted by the current rating official to obtain additional input. Thereafter, the CP is reviewed by the candidate's reviewing official and forwarded to the EDSP.

(2) Once the candidate's AI has been completed and all of the subsequent KSA verifications and the CP have been received by the EDSP staff, the candidate's package will be ready for evaluation.

(3) It is noted that, in rare circumstances, candidates who are one inspection away from certification when they began completing their AI, might still not be certified when their AI packages have been completed. When so identified by the Inspection Division, the candidates WILL NOT BE EVALUATED until they are certified. Their AI packages will be stored at FBIHQ until they have met ASAC qualification.

**EffDte: 04/15/1996 MCRT#: 532 Div: D3 Cav: SecCls:

3-2.10.5 Career Counsel Boards

(1) Candidates will be evaluated with respect to their core KSAs by a panel called the Career Counsel Board (CCB). The evaluation performed by the CCB is refewrred to as the Career Development Evaluation (CDE) and is based on input received from the candidate in the Achievement Inventory and verifications, the results of the Competency Profile and an interview conducted with each candidate.

(2) The CCBs are centralized boards composed and managed by the EDSP Administrator. The members are either executive-level managers (Senior Executive Service) with prior ASAC experience, or incumbent ASACs with at least one year of experience at the ASAC level. Final selection of CCB members will be determined by the Assistant Director, Administrative Services Division. Each CCB will consist of three members at least one grade level above the candidate being evaluated. Incumbent ASACs will only participate in evaluations of GS-14 candidates. All CCB members receive formal training in the evaluation process prior to participating on a CCB.

(3) All CCB evaluators will be given the opportunity to review a list of prospective candidates for evaluation. They are instructed that they can opt themselves out of evaluating any specific candidate(s) if they believe that they would be unable to fairly evaluate, or that there might be the PERCEPTION of an unfair evaluation. Matching the CCB evaluators to candidates is the responsibility of the EDSP Administrator.

| (4) CCBs will be called for evaluations|FOUR|TIMES A YEAR,
| during January,|April, July, and October.|

**EffDte: 04/02/2001 MCRT#: 1087 Div: D3 Cav: SecCls:

| 3-2.10.6 Evaluating the Candidates

| (1) Before a CCB meets as a group, each member will
| independently review the candidate's achievements and the results of
| the verifications of those achievements. Each member will then
| independently rate each achievement using the rating guidelines
| provided for this evaluation which are contained in their
| Implementation Guide. The RATING GUIDELINES for each KSA include: a
| definition of the KSA; behaviors representative of the KSA; and a
| 7-point rating scale ranging from 1 - 7.

| (2) The following is the scale used in the evaluation of
| candidates:

| 1 = Inexperienced/Ineffective - A lack of skill/ability; "green";
| needs extensive training/development to achieve competence.
| 2 = Marginal
| 3 = Minimally Acceptable - Demonstrates some skill/ability; needs
| to fine tune, hone or expand skill/ability to achieve competence.
| 4 = Competent/Acceptable

| 5 = Skilled/Effective - Demonstrates considerable skill; is
| adept; exceeds an acceptable level of competence.
| 6 = Highly Skilled/Highly Effective
| 7 = Exemplary - Demonstrates exceptional skill/ability -- so
| exceptional as to warrant special merit/recognition; a
| role model.

| (3) Preliminary ratings are assigned by each CCB member
| for each behavioral element. Pluses and minuses may be used with the
| numerical rating to accurately describe the level of performance.
| (Note, however, that there is no "1-" or "7+").

| (4) Thereafter, the CCB will convene and determine what
| questions need to be asked during the candidate's interview.
| Interviews are for the purpose of clarifying the AI and are not scored
| separately. All CCB interviews will be conducted telephonically
| regardless of the proximity of the CCBs to their candidates.

| (5) Following the completion of the candidate's
| interview, each CCB member will have an opportunity to modify their
| individual rating for each of the candidate's achievements using the
| same rating guidelines and 7-point scale described previously.
| Following the interview, each CCB member will assign a final rating
| for EACH KSA. The rating takes into account all information obtained
| about both examples cited for EACH KSA as well as information obtained
| during the interview and represents the rater's best assessment of the
| level at which the candidate is functioning on the 7-point scale.
| Each KSA rating must fall within the range of ratings assigned for the
| two examples cited. For example, if the lower rating assigned for one
| example of the KSA was a 3+ and the higher was a 5-, the final rating
| must be within the range of a 3+ and 5- (a 3+, 4-, 4, 4+ or 5-). The
| KSA score is not necessarily an arithmetic average of the two
| achievement examples. After discussion and deliberation, the CCB
| members come to a final consensus rating for each KSA.

| (6) A final step for the CCB is to integrate the
| Achievement Inventory/interview information with the Competency
| Profile (CP) scores provided by the rating official to arrive at the
| Board's final overall rating of the candidate for each KSA. The Board
| members compare their ratings and rationale with those contained in
| the CP. A final rating is agreed upon by the CCB and
| recorded. If a consensus cannot be achieved, the final rating
| assigned to a KSA is that of a majority.

| (7) It is noted at this point that the final KSA rating
| for Communication is based primarily upon the input of the rating
| official through the CP. The system recognizes that the CCB does not
| have as great an exposure to the candidate's oral/written abilities as
| his/her immediate supervisor. It is feasible that the CCB might be
| favorably or unfavorably influenced by the candidate's interview and
| disagree with the CP score. In that event, the CCB may make an
| adjustment to the candidate's CP communication score by only +/-. As
| an example, if the candidate's CP score is 5+, the CCB may only make
| an adjustment to 5 or 6-.

| (8) The CCB will also prepare a Career Development

| Evaluation (CDE) narrative which is a summary of the consensus
| evaluation of the candidate by KSA, citing examples of the behaviors
| and accomplishments on which the rating was based. The CDE narrative
| will be provided to the candidate and utilized by the EDSP for
| feedback purposes. It also becomes a part of the overall candidate
| profile package reviewed by the SAC and SAMMS Board for selection
| decisions.

**EffDte: 07/07/1995 MCRT#: 400 Div: D3 Cav: SecCls:

3-2.10.7 CDE Scores

(1) Upon completion of each evaluation by the CCBs, the candidate's final score for each of the eight KSAs will then be processed by the EDSP staff to obtain a candidate's overall CDE score. In order to accomplish this, each of the KSA scores is "weighted." The weights are used to contrast the importance of each KSA. It is referred to as the "Importance Scale" and is a 4-point system. The scale is defined as: 1 = No Importance, 2 = Moderately Important, 3 = Very Important, and 4 = Critical. The following is the Importance Scale for the ASAC position by KSA.

Leadership..... 3.68
Interpersonal..... 3.82
Liaison..... 3.04
Organizing and Planning..... 3.39
Problem Solving & Judgment.... 3.66
Flexibility & Adaptability.... 3.36
Initiative..... 3.43
Communication..... 3.51

(2) Each KSA will be multiplied by the weighted factors. If a score contains a +/-, it is converted to a numerical value. As an example: if a score is 6+, it is converted to 6.3; if a score is 6-, it is converted to a 5.7. Ultimately, each candidate will receive a final CDE score which will be carried out to two decimal places. Every three months each candidate will receive documented feedback to include: ranking within the ASAC candidate pool, CDE score by KSA, overall CDE score and CDE narrative.

(3) The candidate's ASAC CDE score will be subject to the Privacy Act and, as such, under normal circumstances will be provided ONLY to the candidate. A candidate's decision to advise his/her supervisor, or others, of the results of the evaluation is a personal decision. However, candidates must NOT discuss their CDE score with an SAC during the course of an interview for an ASAC vacancy. (See
| |3-2.10.15.)|

(4) A candidate's ASAC CDE score CANNOT be used in any way with respect to a candidate's annual performance appraisal.

(5) The ASAC CDE score ONLY pertains to the ASAC

selection process. ASAC CDE scores MAY NOT be utilized in ANY Career Board deliberation, to include ASAC selections (see MAOP, Part 1, |3-2.10.14).|

(6) The CDE score will remain valid until:

(a) The candidate is promoted to ASAC,

(b) The candidate requests to be reevaluated, or

(c) The candidate requests removal from further consideration.

**EffDte: 01/28/2003 MCRT#: 1263 Div: D3 Cav: SecCls:

| 3-2.10.8 Feedback

| All candidates can request additional oral feedback from the EDSP staff. Additionally, if so desired, the candidate can contact a member of their Career Counsel Board to obtain additional oral feedback.

**EffDte: 07/07/1995 MCRT#: 400 Div: D3 Cav: SecCls:

3-2.10.9 CDE Reevaluation

| A candidate|desiring|a CDE reevaluation|may submit a new Achievement Inventory 12|months after receiving a CDE score. The candidate will be required to submit an entirely new Achievement Inventory for the reevaluation. A candidate must select investigations/efforts to highlight which were not previously submitted. The examples set forth in the new package could also address the same investigations previously utilized, but could not use the same KSA. For example, a candidate who previously presented a KSA on Leadership regarding his/her efforts during the Pan Am 103 investigation could again use the Pan Am 103 investigation, but would have to use it for a different KSA, such as Organizing and Planning. In the event that a candidate requests reevaluation, the last score received will be the score of record, regardless of the previous CDE score.

**EffDte: 02/11/1999 MCRT#: 858 Div: D3 Cav: SecCls:

3-2.10.10 Voluntary Removal from ASAC Candidate Pool

A candidate may withdraw from future consideration for ASAC, either temporarily or permanently, by notifying the EDSP Administrator, in writing, of his/her request. In that event, the candidate's name will be withdrawn from consideration for a period of not less than six months from the date of his/her submission. ASAC candidates who are already included in pending ASAC vacancies as either volunteers or draftees and have been interviewed by the SAC may not withdraw from consideration until those vacancies have been resolved. If a candidate requests withdrawal from the ASAC candidate pool, his/her request will be held in abeyance until all pending ASAC vacancies for which he/she is a candidate are resolved. If he/she is not selected for one of the pending ASAC vacancies, he/she will then be withdrawn from the ASAC candidate pool. If the candidate is selected to fill one of the pending vacancies, the withdrawal request will not affect his/her selection. Once a candidate is withdrawn from the ASAC list at his/her request, he/she may request reactivation, following the minimum six-month period, by requesting same in writing. However, actual reactivation will not take effect until the candidate's name and CDE score are again factored into an official candidate pool, which is prepared every three months. Inactive candidates may request CDE reevaluation in accordance with policy. Upon reactivation, the candidate's CDE score will be his/her most
| recent score. (See MAOP, Part 1,|3-2.10.13.)|

**EffDte: 01/28/2003 MCRT#: 1263 Div: D3 Cav: SecCls:

| 3-2.10.11 |Withdrawal from ASAC Vacancies

| An ASAC candidate may request withdrawal from an ASAC
| vacancy at any time prior to his/her interview. Once the candidate
| has been interviewed by the SAC, the candidate may not withdraw from
| the vacancy.|

**EffDte: 01/28/2003 MCRT#: 1263 Div: D3 Cav: SecCls:

| |3-2.10.12| Establishing the Competitive Pool |(Formerly 3-2.10.11)|

(1) Deleted

(2) Deleted

(3) Candidates should be aware that the competitive pool will change with each quarterly evaluation. At that time candidates who have been selected will be removed, new candidates and re-evaluation scores will be added, and those who request removal will be removed.

(4) Only those candidates who have a current Meets

Expectations performance appraisal will be allowed to compete for an ASAC vacancy. Should an ASAC candidate's performance appraisal report fall to a Does Not Meet Expectations level, he/she will remain off the ASAC ranking list until such time as the candidate notifies the EDSP that his/her performance has returned to the Meets Expectations level. When confirmed, EDSP will return the individual to the ASAC ranking list.

(5) Each ASAC candidate who is listed on any and each quarterly potential ASAC ranking list for the full period of time that list is utilized as a part of the ASAC application process must apply and compete during the utilization period for each list for at least one ASAC vacancy. Absent exigent circumstances occurring after the posting has closed, volunteer candidates are expected to be willing to serve if selected. If a volunteer candidate withdraws from consideration or otherwise indicates an unwillingness to serve in the position, the candidate will not be given credit for volunteering. Failure to apply and compete for at least one ASAC vacancy will preclude the individual from being a candidate on the next two successive quarterly potential ASAC ranking lists. A candidate who is removed from the list due to nonparticipation is required to submit a written request to EDSP in order to be reinstated on the ASAC list after a two-cycle absence. Upon receipt of such a request, the individual will be included in the next ASAC list cycle.

(a) FBIHQ SSAs at the GS-15 level who are on the ASAC-eligible list are encouraged to serve two years at FBIHQ and, therefore, are not subject to draft or otherwise penalized by not competing for ASAC positions during that two-year period. This policy insulates the Unit Chief who is ASAC eligible from being drafted, but it does not preclude the individual from applying for ASAC positions during that two-year period. At the end of two years' service in the GS-15 position, the candidate is obligated to apply for one ASAC position each quarter and will be subject to the ASAC draft provisions.

**EffDte: 01/28/2003 MCRT#: 1263 Div: D3 Cav: SecCls:

| |3-2.10.13| ASAC Application Process (See MAOP, Part 1, 3-6.4.2.) |(Formerly 3-2.10.12)|

(1) ASAC VACANCY POSTINGS

All ASAC vacancies will continue to be posted on-line through the Job Posting Application.

(2) ASAC APPLICATION PROCESS

(a) Candidates for specific ASAC vacancies are to complete and submit only Page 1 of the FD-638 directly to the SAMMSS Board Chairman, EDSP, Room 4981, FBIHQ. Division head recommendations are no longer required and should not be solicited. All applications

must be received no later than the close of business on the last day of the posting deadline. FD-638s received after the deadline will not be accepted.

(b) The EDSP staff will compile all qualified applicants for each ASAC vacancy and arrange their candidacy by their respective CDE score. A total of ten candidates for each vacancy will be presented to the SAC for consideration. If there are ten or more voluntary candidates for a position, the top ten candidates, based upon their individual CDE score, will constitute the entire pool of
| candidates for the vacancy.

(3) DRAFTING

(a) On those occasions where an ASAC vacancy posting does NOT attract at least ten volunteers, the EDSP Administrator will DRAFT into consideration an appropriate number of candidates (from the highest scoring candidate downward) from the ASAC candidate pool, resulting in a candidate pool totaling ten candidates. Nonvolunteers will be identified to the advertising SAC as draftees. It will be the prerogative of the advertising SAC to determine if any of the draftees are considered to be the best qualified for the advertised position.

(b) Candidates who are notified that they are being drafted into consideration for an ASAC vacancy may exercise their option to withdraw from the ASAC candidate pool, as detailed in MAOP, Part 1, 3-2.10.10. Candidates should immediately notify EDSP of their decision and confirm it in writing. This option is forfeited once a candidate has been interviewed by the advertising SAC.

(c) All ASAC candidates who are drafted into a candidate pool for an advertised vacancy will be notified of that fact by the EDSP staff when the ASAC package is sent to the advertising SAC.

(4) ASACs COMPETING FOR OTHER ASAC VACANCIES

(a) EDSP discourages sitting ASACs from applying for ASAC vacancies. Service in hard-to-fill ASAC positions could be considered justification to allow an ASAC with two years in San Juan, or another hard-to-fill office, to apply for other ASAC positions. This flexibility may prove to be a recruiting opportunity and will be reviewed on a case-by-case basis.

**EffDte: 01/28/2003 MCRT#: 1263 Div: D3 Cav: SecCls:

| |3-2.10.14| Banding |(Formerly 3-2.10.13)|

(1) "Banding" is a common and professionally accepted practice for identifying ranges of scores (or "bands") as equivalent for decision making purposes. It is a statistical measurement of the

final CDE scores in each quarterly evaluation list which will result in a "standard error of measurement" (SEM). The EDSP staff will utilize this SEM to indicate to the advertising SACs whether the scores for their top ten candidates are "substantially different." Banding the candidates provides an indication of potential statistically significant differences which might be evident between some of the ten candidates, as measured by the SEM.

(a) As an example, assume that the SEM for CDE scores computes to 8.0, for the quarterly list. For each pool of candidates (volunteer and, if necessary, draftees included), the top ten candidates will be identified. If the CDE scores for all of the top ten candidates range within 8 points of the top candidate, then all ten are simply referred to the selecting SAC, alphabetically. The selecting SAC is free to select any of the ten. Their qualifications, as measured by the SEM, are considered to be "equivalent."

(b) However, if the top ten candidates do not fall within the SEM (in this example, 8 points) of the highest scoring candidate, then "bands" will be identified. That is, all candidates within 8 points (for this example) of the highest scoring candidate will be assigned to Band 1. Band 2 will include the next group, all of whom are within 8 points of the highest scoring applicant in Band 2. If necessary, bands can continue to be identified until ten candidates are included.

(c) Of the ten names furnished to the SAC, only the volunteer candidates will be banded. If any draft candidates are included in the list of ten names, they will not be banded.

(2) Neither ASAC CDE scores nor rankings will be identified to the advertising SAC. Applicants in each band will be arranged in alphabetical order. (See MAOP, Part 1, 3-2.10.7.)

(3) The EDSP staff will advise the top ten candidates for each vacancy (including any draftees) that they are in the package going to the advertising SAC and, if applicable, what Band they are within for that vacancy.

**EffDte: 01/28/2003 MCRT#: 1263 Div: D3 Cav: SecCls:

| |3-2.10.15| Responsibilities of the Advertising SAC |(Formerly 3-2.10.14)|

(1) The EDSP will provide the advertising SAC with the names of the ten applicants/draftees, arranged alphabetically within bands. Additionally, for each applicant, the SAC will receive a Single Page Agent Profile, the candidate's Achievement Inventory and the CDE Narrative.

(2) The advertising SAC must confine his/her selection to this group of ten candidates. The SAC is required to start the

interviews for the vacancy within 21 days of the receipt of the ASAC package from EDSP. The SAC must contact the Administrator of the EDSP prior to the start of the interviews to determine if any of the ten candidates had been selected for another vacancy, thus allowing an opportunity for the EDSP to replace those candidates before the required interviews commence.

(3) The SAC's evaluation process will include a mandatory interview of each candidate. The candidates are cautioned that they must NOT discuss their individual ASAC CDE score with the advertising SAC during the course of their interview. At the conclusion of the SAC's review of available material and interviews, the SAC must articulate and justify his/her selection/ranking. Inasmuch as other ASAC vacancies may run concurrently with identical applicants, the SACs should recommend at least three candidates in rank order. (See 3-2.10.7.)

(4) Should an SAC select a candidate outside of Band 1, the SAC must provide additional justification for his/her selection. Although all ten applicants are considered the most competitive, the SEM recognizes the substantial statistical differences which can occur from one band to another.

**EffDte: 01/28/2003 MCRT#: 1263 Div: D3 Cav: SecCls:

| |3-2.10.16| SAMMS Board |(Formerly 3-2.10.15)|

The SAMMS Board will review the SAC's selection for adherence to policy and procedure. In those instances where identical applicants exist in multiple vacancies, the SAMMS Board may make its own recommendation to the Director in addition to the SAC's recommendation. The SAMMS Board must also confine its deliberations to the original ten candidates for each vacancy.

**EffDte: 01/28/2003 MCRT#: 1263 Div: D3 Cav: SecCls:

| |3-2.10.17| Final ASAC Selection |(Formerly 3-2.10.16)|

The SAMMS Board will furnish to the Director its observations/recommendations along with the SAC's recommendations, and all documentation relative to each of the ten candidates. The Director will interview the first-ranked ASAC candidate. If the Director does not agree with the recommendations made by the SAC/SAMMS Board, he would then interview all the candidates considered by the SAC/SAMMS Board to be the best qualified for the vacancy. The Director has the final selection authority. The Director may select any of the original ten candidates. If an individual below Band 1 is selected, the Director will set forth justification for that selection.

**EffDte: 01/28/2003 MCRT#: 1263 Div: D3 Cav: SecCls:

| |3-2.10.18| Refusal of ASAC Selection |(Formerly 3-2.10.17)|

It is important to note that any volunteer or draftee who is selected for an ASAC position may choose to turn down the position. In such cases, the draftee candidate will not be required to step out of the EDSP, but he/she will be immediately removed from the ASAC candidate pool for two (2) years. In contrast, the ASAC volunteer candidate who chooses to turn down the ASAC selection would be required to step out of the EDSP and return to investigative duties consistent with the needs of the Bureau. Situations involving compelling personal circumstances are addressed in MAOP, Part 1, 3-6.1 (6)(a).

**EffDte: 01/28/2003 MCRT#: 1263 Div: D3 Cav: SecCls:

| |3-2.10.19| Grievances and Appeals (Formerly|3-2.10.18)|

See MAOP, Part 1, 3-9 and 3-10, wherein detailed guidance is provided relative to the Career Development Grievance Process and SAMMS Board Selection Appeals.

**EffDte: 01/28/2003 MCRT#: 1263 Div: D3 Cav: SecCls:

| 3-2.11 |Moved to 3-11.4|

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| 3-2.12 |Moved to 3-11.5|

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| 3-2.13 |Moved to 3-11.6|

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| 3-2.14 |Moved to 3-11.7|

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| 3-2.15 |Moved to 3-11.8| (Formerly 3-2.14)

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| 3-2.16 |Moved to 3-11.9| (Formerly 3-2.15)

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

3-2.17 Separate Career Paths for Operational and Service Divisions (Formerly 3-2.16)

(1) The Laboratory Division will identify minimum time limits for service required of Supervisory Special Agents (SSAs) in order to meet divisional needs for special skills.

(a) SSAs within the Laboratory Division, excluding
| SSAs assigned as Polygraph|Examiners,|will be eligible for consideration of reassignment to Assistant Inspector or SSA positions outside the Laboratory Division upon the completion of an assignment of four years' service within the Laboratory Division. The SSAs excluded above bring the requisite skills with them and do not require the 1- to 1 1/2-year training period required of other Agent examiners; therefore, they will be eligible after the two years required of all FBI supervisors.

(b) Laboratory Division SSAs will be eligible for consideration of promotion and reassignment to positions at the GS-15 or higher level upon the completion of two years of service within the Laboratory Division.

(2) Minimum requirements for Office of the General Counsel supervisory vacancies are the same as for other supervisory FBIHQ vacancies. However, requirements of a particular expertise, such as a law degree and admission to a state bar, or lack of fully qualified personnel may necessitate exceptions to the regular management career path.

(3) For additional information on separate career paths for operational and service divisions, see MAOP, Part 1, Section 3-6.2(2).

**EffDte: 03/15/2001 MCRT#: 1083 Div: D3 Cav: SecCls:

3-2.18 Critical Incident Response Group (Formerly 3-2.17)

The Critical Incident Response Group (CIRG) is a separate entity from FBIHQ and the field and concerns the support of special investigations and crisis management situations.

(1) Supervisors assigned to the Hostage Rescue Team (HRT) are given field supervisory credit in the Executive Development and Selection Program (EDSP). (See also MIOG, Part 1, 244-6.)

(2) All other Supervisors assigned to CIRG are given credit for FBIHQ time in the EDSP.

| (3) |Deleted|

**EffDte: 03/15/2001 MCRT#: 1083 Div: D3 Cav: SecCls:

3-2.19 San Juan Division (See MAOP, Part 1, 11-3.8.)

The following incentives apply only to supervisory positions in San Juan and on the Island of Puerto Rico. They do not apply to the SSRA position in St. Thomas:

(1) Special Agent supervisors from other field divisions are encouraged to apply for field supervisory vacancies in the San Juan Division. These candidates will be eligible to compete on an equal basis with FBIHQ candidates for nonstationary San Juan field supervisory vacancies.

(2) FBIHQ supervisors may apply for San Juan supervisory vacancies after completing nine months at FBIHQ. Any individual selected for one of these supervisory positions will be required to complete a minimum of 12 months at FBIHQ prior to assuming the San Juan supervisory position. Such individuals will be determined to have fulfilled their FBIHQ supervisory time for future promotional opportunities.

(3) FBIHQ and field supervisors who successfully compete for San Juan GS-14 supervisory positions and have three years of
| successful performance as a San Juan field supervisor and a|current
| Meets Expectations|performance appraisal report will be allowed to compete for all nonstationary field supervisory positions Bureauwide on an equal basis with FBIHQ candidates.

(4) FBIHQ and field supervisors who successfully compete for any supervisory positions in San Juan Division will be offered an

opportunity to transfer out of the San Juan Division AFTER THREE YEARS. IF, AFTER THE THREE-YEAR PERIOD, the SSA has not successfully competed and been selected for another supervisory position, he/she may opt to be transferred to an FBIHQ position based on the needs of the Bureau as determined by the SAMMS Board.

(5) Local career boards and the SAMMS Board will give appropriate consideration to all highly qualified San Juan candidates when they apply for other supervisory positions consistent with aforementioned incentives.

(6) Deleted

**EffDte: 04/04/2001 MCRT#: 1088 Div: D3 Cav: SecCls:

| |3-2.20| Detail/Term Assignments Within the Executive Development and Selection Program |(Formerly 3-2.18)|

As noted in MAOP, Part I, Section 3-6.1 (3), all vacancies for GS-14 and GS-15 mid-level management positions will be advertised Bureauwide through the Job Posting Application System. This will include all detail assignments at these grade levels, regardless of the length of the assignment. This policy does not preclude division heads from laterally assigning a manager of equal grade from an FBIHQ position to a detail assignment within his/her own division.

(1) Special Agents serving in detail assignments at the GS-14 and GS-15 level will receive credit for management service at FBIHQ, unless stated otherwise in the job posting. This policy is NOT retroactive to individuals who have served in management detail assignments and were not competitively selected for those assignments.

(2) Upon completion of the detail assignment, Special Agents will be returned to the FBIHQ division responsible for the detail assignment, unless the candidate has successfully competed for a management position at another level or in another field or FBIHQ division, or unless specified to the contrary in the job posting. (Also see MAOP, Part I, 3-6.1 (11).)

(3) Division heads are responsible for the performance appraisals of Special Agents on detail assignment, and for ensuring that the candidates are included, where appropriate, in recommendations of candidates for career development activities, i.e., Inspection Staff, Executive Development Institute.

(4) Candidates selected by the Special Agent Mid-Level

Management Selection Board for management detail assignments will be evaluated as they would be for any management position at the GS-14 or GS-15 level.

(5) Special Agents serving on detail assignments on a

reimbursable basis may be promoted to a higher grade by the agency to which they are detailed provided they have competed for that position. However, this promotion will only be for the duration of the assignment, and upon return to a nondetail assignment, the Agent will revert to his/her previous grade level unless otherwise successful in competing for a higher-level position.

(6) Special Agents who are currently serving in term GS-14 or GS-15 positions and are in assignments which receive credit as Headquarters supervisors (such as the International Criminal Investigative Training Assistance Program) may compete for supervisory vacancies provided that he/she is otherwise qualified. Agents who do not successfully compete for promotions under this policy will revert to their permanent grade level at the end of their term and will be placed in an appropriate position.

**EffDte: 05/19/1997 MCRT#: 674 Div: D3 Cav: SecCls:

3-2.21 Chief Division Counsel (CDC) and Associate Division Counsel (ADC) (See MAOP, Part 2, 4-7.) (Formerly 3-2.19)

The Office of the General Counsel (OGC) career board will review the candidates who apply for GS-14 CDC and ADC positions, as well as GS-15 CDC positions. OGC will solicit and then consider the SAC's recommendation and evaluate the candidates against the criteria set forth in the job posting. The General Counsel will review the OGC career board recommendations and support or object by electronic communication. Final selection will be made by the SAMMS Board.

(1) GS-14 CDC and ADC

(a) Minimum qualifications for GS-14 CDC and ADC positions are: three (3) years' FBI investigative experience, current Meets Expectations performance appraisal, law degree and membership in a state bar.

(b) GS-14 CDC and ADC positions are not considered a part of the Executive Development and Selection Program (EDSP). However, they are subject to competitive selection and will be posted on-line in the Job Posting Application.

(c) A GS-14 CDC in one field office can apply for the same position in another field office; however, these transfers ordinarily will be approved only in circumstances where a GS-14 CDC in a smaller field office is applying for the GS-14 CDC position in a substantially larger field office. GS-14 ADCs will be permitted to compete for GS-14 CDC positions in any field office, but will be permitted to transfer laterally to a GS-14 ADC position in another field office only when a fully-qualified candidate is not identified in the advertising field office.

(2) GS-15 CDC

(a) Minimum qualifications for GS-15 CDC positions are: three (3) years' FBI investigative experience, relief supervisory experience, current Meets Expectations performance appraisal, law degree and membership in a state bar.

(b) GS-15 CDC positions are considered part of the EDSP; therefore, candidates for GS-15 CDC positions must be EDSP participants and incumbents will receive field supervisory credit.

(c) GS-15 CDC positions will count against the division's supervisory TSL; however, they will not be counted against the 50 percent stationary/nonstationary ratio.

| |(d) If a current CDC or ADC held a supervisory
| position prior to his/her promotion to CDC/ADC, or was a relief
| supervisor for one year prior to his/her promotion to CDC/ADC, he/she
| is eligible to compete for other supervisory positions in the field or
| at FBIHQ.|

**EffDte: 01/28/2003 MCRT#: 1263 Div: D3 Cav: SecCls:

| |3-2.22 Term GS-14 EEO Investigators (See MAOP, Part I, 4-5.2.)

| Term EEO Investigators will be located in regional field
| offices for a two-year term, with optional one-year extensions.
| Candidates may only apply for the position in the region where they
| are currently assigned. The candidate selected will remain in
| his/her field office and handle any complaints within that region,
| except for their own field office. In those instances, an
| investigator from another region will handle the investigation to
| avoid any perceived conflict of interest. The Term GS-14 EEO
| Investigator vacancies will be advertised by the EDSP and selected by
| the SAMMS Board; however, they are not considered part of the EDSP
| and individuals in these positions will not receive field or
| Headquarters supervisory credit. At the conclusion of the term, the
| selectee will revert back to investigative duties within his/her own
| field office.|

**EffDte: 08/03/1998 MCRT#: 813 Div: D3 Cav: SecCls:

| |3-2.23 Term GS-14 Regional Program Managers

| Term Regional Program Managers (RPM) will be located in
| regional field offices. Although these individuals will be assigned
| to field offices, they will assume management oversight
| responsibilities for the FBI's Employee Assistance Program (EAP)
| in field office territories within their respective region, which
| will require significant travel throughout the region. The EAP RPM

| positions will be term GS-14 management positions and will be
| responsible for implementing EAP policy, training and management in
| the field offices within the region of assignment. They will report
| directly to and be under the direct supervision of the Employee
| Assistance Administrator/Unit Chief of the Employee Assistance Unit,
| Administrative Services Division. Term GS-14 Regional Program
| Manager vacancies will be advertised by the EDSP and selected by the
| SAMMS Board; however, these positions are not considered part of the
| EDSP and individuals in these positions will not receive field or
| Headquarters supervisory credit.|

**EffDte: 08/03/1998 MCRT#: 813 Div: D3 Cav: SecCls:

3-3 SPECIAL AGENT CAREER BOARDS (See 3-6.4.2(2).)

| Field|office/division|Special Agent career boards are utilized in each field office having two or more field supervisory positions and may be ad hoc or permanent. For those field offices having less than two supervisory positions, the career board should include the ASAC and field supervisor.

**EffDte: 09/16/1998 MCRT#: 822 Div: D3 Cav: SecCls:

3-3.1 Field Office/Division Career Boards (See MAOP, Part 1, 11-3.9.)

(1) The purpose of the field office/division career board is to recommend to the SAMMS Board candidates for promotions to the Supervisory Senior Resident Agent and field supervisory positions. In addition, the field office career board selects Special Agents to become relief supervisors, secondary relief supervisors, principal relief supervisors, and Senior Resident Agents (SRAS). For those relief supervisor (including secondary and principal) and SRA selections, the SAC may provide his/her views to the field office career board regarding the candidates' qualifications, but may not override selections made by the board unless the SAC determines that the selected candidate has a pending or recently adjudicated (within three years) disciplinary issue. Local career boards are not permitted to consider disciplinary issues, either in recommending candidates for promotion to the SAMMS Board or in making final selections at the field office level. Consequently, for selections made by the local career board, it is the SAC's responsibility to determine whether there are any disciplinary issues with respect to the candidate selected that justifies overriding his/her career board selection. In contrast, SACs are not permitted to consider disciplinary issues in recommending candidates for promotion to the SAMMS Board. For information regarding field office career boards as they relate to EEO Counselors, see MAOP, Part 1, Section 4-5.1.1 (2). The local career board also recommends Special Agents to the SAC for attendance at relief supervisory training at Quantico. If feasible

and efficient for field office operations, the SAC may utilize the field office career board to assist him/her in other personnel matters such as: intraoffice transfers, quality increases, new Agent training matters, and selection of Agents to attend specialized in-services. The Special Agent career board should not be utilized to handle support personnel matters.

(2) Field office career boards will be chaired by an Assistant Special Agent in Charge (ASAC). Acting ASACs may chair a field office career board only in one-ASAC offices when the ASAC position is vacant. If there is a permanent ASAC assigned to the field office, an acting ASAC may not chair the career board. Field offices having an Assistant Director in Charge may opt to have the field career board chaired by either an SAC or ASAC. Field offices having Associate SACs may opt to have the career board chaired by either an Associate SAC or ASAC. FBIHQ division career boards will be chaired by either a Deputy Assistant Director or Section Chief if the vacancy being considered is a GS-15. If the vacancy being considered is a GS-14, the FBIHQ division career board may be chaired by a Deputy Assistant Director, Section Chief, or Unit Chief. In order to maintain separation between the local career board deliberations and the division head recommendations, the Deputy Assistant Director may only execute the division head review if that same individual did not chair the local career board. The Board will consist of a minimum of three members, at least one of whom will be of minority (race or sex) status. All members of the board should be of a rank equal to or greater than the position(s) being considered. If no minority member of appropriate rank is available, a minority member of a lower rank should be included in the career board process as an observer rather than as a voting member. |Career board members are reminded to review MAOP, Part 1, 1-15.4, as it relates to nepotism, favoritism, and the appearance of impropriety.|

(3) Complete documentation of all field office/division career board deliberations must be maintained, to include audio or stenographic recording of deliberations. Interviews of candidates conducted by the career board must be recorded. Appropriate security and classification is to be afforded the maintenance of the recording. Deliberations should be neutral with regard to the protected characteristics of age, color, religion, disability, national origin, race, sex, sexual orientation, marital status or political affiliation. Any discussion of these factors must be documented in the communication described below. In addition, no undocumented informal recommendations to members of the SAMMS Board are permitted. Documentation regarding the deliberative process must include the following information: (1) Names of all candidates applying for the position; (2) Names of all career board committee members and identification of minority member; (3) Date of deliberation, affirmation regarding the recording of deliberations; (4) Description of selection procedure including criteria utilized to make the selection and the basis for the rank order of candidates. This document must reflect the basis for the selection of the top candidates and the nonselection of others, to include evaluations of all those individuals who applied or were considered. A general grouping of candidates can be provided if they possess common deficiencies such as insufficient experience. All references to an

individual that cannot be verified by a review of the FD-638 must be fully documented; (5) Identification of candidates recommended, including a summary of candidates' careers. Career boards should recommend at least three candidates, if possible, in rank order; (6) This communication must state the SAC/division head recommendation and, if different from that of the career board, provide explanation; (7) Names of all candidates appearing before field/division career boards must be indexed in order that retrieval can be made at a later date; and (8) A matrix containing relevant data on each candidate must be included with documentation. (See 3-6.4.2 (2).)

(4) All Special Agent career boards, including the SAMMS Board, the Senior Executive Service and all field office and Headquarters division career boards' documentation and recording of career board deliberations should be retained for a period of ten years following a final determination by the Board. Any documentation and recording of career board action which is the subject of litigation will be retained for the purposes of litigation, regardless of the passage of time.

**EffDte: 09/06/2001 MCRT#: 1142 Div: D3 Cav: SecCls:

| |3-3.1.1 Career Board Selections for In-Service Training

| (1) All field offices that have 13 or more supervisors
| assigned to the field office will use a field office career board to
| make all selections for in-service training when both of the following
| conditions are met:

| (a) The field office has received enough advance
| notice of the in-service training opportunity so that the training
| vacancy can be posted, and each Agent has the opportunity to apply and
| be considered for the training vacancy at the next regularly scheduled
| field office career board meeting; and

| (b) More than one Agent who meets the minimum
| qualifications for the training vacancy has applied for the training
| vacancy.

| (2) Field office career boards are not required for
| conferences, meetings or non-FBI sponsored training courses.

| (3) It is not necessary to convene a field office career
| board when there is only one candidate who meets the minimum
| qualifications for a particular training vacancy.

| (4) When a field office has not received enough advance
| notice to comply with the above requirements for using the field
| office career board to make the training vacancy selection, or where a
| substitution is necessary due to the unavailability of the initial
| selectee, the field office should utilize an alternative career board
| as described for smaller field offices. In such situations, the field

| office should document the reasons for the use of the alternative
| career board.

| (5) All other field offices that do not meet the
| requirements of (1) above should consider using some form of a career
| board to oversee the selection of attendees at in-service training.
| This alternative career board can consist of as few as two supervisors
| or an ASAC and one supervisor, if necessary. The use of field office
| career boards or an alternative form in the smaller offices will help
| ensure that all in-service training selections are based on objective
| criteria that are documented and reviewed before being sent to the SAC
| for final approval.|

**EffDte: 05/22/1996 MCRT#: 547 Div: D2D3 Cav: SecCls:

| 3-3.2 |Deleted|

**EffDte: 07/07/1995 MCRT#: 400 Div: D3 Cav: SecCls:

| 3-3.2.1 |Moved to 3-3.3|

**EffDte: 07/07/1995 MCRT#: 400 Div: D3 Cav: SecCls:

| 3-3.2.2 |Moved to 3-3.4|

**EffDte: 07/07/1995 MCRT#: 400 Div: D3 Cav: SecCls:

| 3-3.3 |Moved to 3-11.3| (Formerly 3-3.2.1.)

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

3-3.4 SAMMS Board (Formerly 3-3.2.2.)

(1) The SAMMS Board is comprised of: Assistant Director, Office of Congressional Affairs; Deputy Assistant Directors, Criminal Investigative, Counterintelligence, Counterterrorism, Cyber, and
| Inspection Divisions|as well as a Deputy Assistant Director from the
| Directorate of Intelligence.| Three SACs|(including SACs from the
| Office of International Operations and Critical Incident Response
| Group),|with three alternates, will also serve as voting members of
the SAMMS Board, rotating throughout the field every six months on a

staggered schedule to ensure the continuity of field representation. The permanent Chairperson, who will vote only in the event of a tie, is the Assistant Director, Administrative Services Division. |One Deputy Assistant Director from one of the following divisions will serve as a voting member of the SAMMS Board on a six-month rotating basis to ensure representation of nonoperational divisions: Criminal Justice Information Services Division, Security Division, Records Management Division, Laboratory Division, Operational Technology Division, Administrative Services Division, Training and Development Division, Finance Division, Deputy General Counsel of the Office of the General Counsel, as well as the Assistant Director of the Office of Public Affairs and Assistant Director of the Office of the Chief Information Officer.| While the remaining FBIHQ divisions will|not|have a voting member of the SAMMS Board, they will be permitted to send one nonvoting representative to each|meeting. Nonvoting|members will also include a minority representative (when there is no minority representative among the voting membership) and an observer. The FBIHQ EDSP Staff is responsible for coordinating SAMMS Board activities and attending meetings. The Director personally approves each member of the career board.

(2) The permanent Chairperson of the SAMMS Board is the Assistant Director, Administrative Services Division. The Chairperson will cast a tie-breaking vote only.

(3) The Alternate Chairperson will be selected from either an operational or service division and from among those Assistant Directors who have served as SAC. The Alternate Chairperson will attend meetings in lieu of the Chairperson. The Alternate Chairperson, when serving as Chairperson, will cast a tie-breaking vote only.

(4) A nonvoting EDSP Manager will be an ex officio member of the board. Responsibilities of this position will focus on the compilation of background material, manpower forecasting, and policy formulation relative to career development. This position will also serve as point of contact with respect to questions and concerns regarding career movement within the FBI.

(5) By personal delegation from the Director, the SAMMS Board is authorized to make the final decision on all GS-14 supervisory positions and GS-15 Unit Chief positions. ASACs, GS-15 Legats and GS-14 Assistant Legats, Inspectors-in-Place, Ombudsman, and the GS-14 Supervisor of the Director's and Attorney General's Special Detail Group are selected by the Director based on recommendation of the SAMMS Board. The Director will interview each first-ranked ASAC, Legat and ALAT candidate recommended by the SAMMS Board to fill an advertised vacancy. In the event the Director does not agree with the recommendation made by the SAMMS Board, he would then interview all of the candidates considered by the Board to be the best qualified for the vacancy. (See 3-6.4.2(2).)

(6) Upon notification of the identities of the candidates for SAMMS Board job advertisements, and prior to any deliberation or discussion, a SAMMS Board member must recuse himself or herself from the deliberation/decision process if he or she has knowledge that one

or both of the following conditions apply: (1) the SAMMS Board member was or is currently a subject of an OPR investigation in which a job candidate, or his or her spouse, was or is the complainant, investigator and/or adjudicator; or (2) the SAMMS Board member was or is currently the Responding Management Official (RMO) in an EEO complaint in which a job candidate was the investigator, the complainant, or the spouse of the complainant.

(7) Only after the SAMMS Board selects/ranks a candidate will the SAMMS Board be informed of any relevant disciplinary or EEO matter concerning the candidate in the past three years. The SAMMS Board will then be provided with an overview of the relevant disciplinary matter.

If the selected/ranked candidate is the subject of a pending disciplinary action or EEO matter or has been disciplined within the past three years, the SAMMS Board will forward to the Director, his/her name, a summary of the OPR, security, inspection or EEO allegations and/or disciplinary action and their recommendation as to whether the particular pending matter or discipline will impact on the candidate's ability to perform the duties of the position. Additionally, the SAMMS Board will forward to the Director the names of two additional candidates, also accompanied by any information concerning the relevant disciplinary or EEO matters concerning those candidates. The Director will make the final decision. Additionally, if the selected candidate has been named a Responding Management Official in an EEO-related allegation of discrimination that has yet to be adjudicated or if there has been a determination that the candidate was culpable for an act of discrimination within the past three years, the SAMMS Board will forward his/her name with two additional candidates from which the Director will make the final decision. A summary of the allegations against the candidate, including the facts known at the time of selection and any information regarding the terms of any settlement agreement and/or reasons for settlement, will also be provided to the Director.

(8) Once a candidate is selected for a position, he/she will automatically be removed from consideration for other vacancies for which he/she has applied, with the exception of those vacancies for which he/she is already an applicant and selection would result in a grade increase.

**EffDte: 07/12/2005 MCRT#: 1395 Div: D3 Cav: SecCls:

3-4 TRAINING SCHOOLS

Various supervisory/management training courses are available to those Special Agents in the Executive Development and Selection Program. Courses include the Relief Supervisory Seminar, | FBI Supervisors Management Seminar, and Executive Development Institute (EDI). A description and career development prerequisite(s) of each training course is set forth below:

**EffDte: 02/24/1995 MCRT#: 372 Div: D3 Cav: SecCls:

| 3-4.1 |Relief Supervisors Training Program

| The Relief Supervisors Training Program is a three-day
| program designed to provide management training on EEO issues,
| cultural diversity, team building, leadership and improving
| interpersonal skills. Relief supervisors who attend this program
| should be interested in becoming a part of the FBI's EDSP. The relief
| supervisor attending this school will be selected by the local career
| board based on overall assessment of individual's commitment to, and
| the potential for, management training. This course can be conducted
| regionally or at Quantico.|

**EffDte: 06/14/1993 MCRT#: 35 Div: D3 Cav: SecCls:

3-4.2 Relief Supervisor Computer-Based Training Program

The computer-based training program was developed for relief supervisors to improve their management skills. After a short introduction to various management principles, the computer places the participant in the position of a field supervisor with approximately one hour to complete an "in-basket" of various types of FBI
| communications|(electronic communication,|etc.). The program then assists the participant in reviewing decisions reached by displaying the positives and negatives of each course of action. The relief supervisor will learn the importance of the management principles applied to the FBI such as control, delegation, leadership, and decisiveness and time management techniques.

| |Computer-based training exercises on mail handling, the in-basket and
| problem analysis are obtained through the Computer-Based Training Unit
| at the FBI Academy.|

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| 3-4.3 |Deleted|

**EffDte: 02/24/1995 MCRT#: 372 Div: D3 Cav: SecCls:

| 3-4.4 |Deleted|

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| 3-4.9 |Deleted|

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**EffDte: 06/14/1993 MCRT#: 35 Div: D3 Cav: SecCls:

3-4.12 FBI Supervisors Management Seminars

A one-week, intensive program at the FBI Academy has been crafted for FBI field supervisors. With the use of active learning techniques, participants, nominated for attendance by their SAC, concentrate on the practical managerial skills needed to plan, direct,

and control the work of FBI employees. The topical areas covered include field office inspection preparation, advanced leadership, employee assistance matters, EEO matters, performance appraisal matters, and Automated Case Support (ACS) matters. Opportunities are presented at each seminar to meet and confer with senior Bureau executives. This seminar is to be afforded all field supervisors, upon appointment, to introduce them to fundamental managerial skills.

**EffDte: 05/31/1996 MCRT#: 553 Div: D3 Cav: SecCls:

3-4.13 Executive Development Institute (EDI)

EDI I is a two-week course to develop managerial skills for experienced GS-14 and GS-15 FBIHQ and field Supervisory Special Agents, GS-13, GS-14 and GS-15 FBIHQ and field support supervisors and field Supervisory Administrative Specialists. EDI II is for ASAC candidates and newly assigned ASACs. The course focuses on personal and operational development and organizational issues specific to the ASAC positions.

(1) EDI I (Individual Development) - SSAs and support supervisors, who supervise an FBI workforce for a minimum of 18 months, will be eligible to attend EDI. Selection for attendance is made by the SAMMS Board. Attendance at EDI I is required for all ASAC candidates. Candidates should be recommended and ranked (if there is more than one candidate from the division) by their division head, and slots will be filled as they become available. The number of Agent/support supervisors selected by the SAMMS Board will be based on the ratio of Agent/support candidates. Prioritization for selection is as follows:

(a) Agent attendees: (1) GS-14 and GS-15 SSAs with a minimum of 18 months as a supervisor who are assigned either to the field or FBIHQ and have completed their inspections; (2) GS-14 and GS-15 SSAs with a minimum of 18 months as a supervisor who have the most number of completed inspections.

(b) Support attendees: GS-13, GS-14 and GS-15 (or equivalent) supervisors and Supervisory Administrative Specialists with 18 months of FBI supervisory experience. Preference will be given to those supervisors who have completed the Support Supervisors Management Seminar and either the Support Supervisors Advanced Management Seminar or the identified Ninth House Network E-Learning courses. This does not preclude new hires at the GS-13, GS-14 and GS-15 (or equivalent) levels or those entering into the Supervisory Administrative Specialist position with significant leadership and managerial skills from attendance at EDI I. In extraordinary and compelling circumstances where there is evidence that a candidate has qualified for attendance at EDI, but lacks the prerequisite 18 months supervising FBI personnel, the SAMMS Board has the discretion to review these circumstances and grant attendance, if warranted.

(2) EDI II (Operational Development) - Candidates are selected by the SAMMS Board from a pool of candidates who have recently been assigned as ASAC or who are otherwise ASAC candidates. Candidates who are not yet assigned as ASAC are prioritized in the following order:

(a) experienced as GS-14 and GS-15 SSAs who have been assigned to the field and FBIHQ and are Inspection certified and

(b) experienced field or FBIHQ GS-14 and GS-15 SSAs who have the most number of completed inspections.

**EffDte: 09/10/2003 MCRT#: 1298 Div: D3 Cav: SecCls:

| 3-5 |MOVED TO 3-4.12|

**EffDte: 06/14/1993 MCRT#: 35 Div: D3 Cav: SecCls:

| 3-6 GENERAL POLICY STATEMENTS PERTAINING TO THE OPERATION OF|EDSP|

**EffDte: 12/12/1991 MCRT#: 0 Div: D3 Cav: SecCls:

3-6.1 General Principles (See MAOP, Part 1, 11-7.)

(1) Entry into the EDSP is voluntary and withdrawal from the EDSP is also voluntary, except for supervisors who are demoted and removed from supervisory duties as a result of administrative action. (See 3-7.1 (8).)

(2) An Agent may remove himself/herself at any stage of career development. Agents who voluntarily remove themselves from the EDSP are permitted to request reentry into the program, if they desire to do so, after a period of one year. The divisional career board must then evaluate the candidate and make a recommendation to the division head or SAC regarding reinstatement as a relief supervisor. Reentry into the EDSP as a relief supervisor is based on the selection/recommendation of the field office career board. Agents who have removed themselves from the EDSP must reenter the program before they are eligible to compete for EDSP vacancies. (See 3-7.1.)

(3) All vacancies for GS-14 and GS-15 Special Agent mid-level management positions will be advertised Bureauwide through the Job Posting Application System. (See 3-2.20.)

(4) The EDSP definition of "current performance appraisal

report" as it relates to qualifications for job vacancies is: the most recent performance appraisal entered into BPMS by the closing date of the advertisement of a given vacancy. If the candidate has recently been given a performance appraisal, it is the candidate's responsibility to follow up with his/her division/office to ensure the appraisal has been entered and approved in the BPMS before the job posting deadline date.

(5) The SAMMS Board reviews the qualifications of volunteers as well as other qualified candidates and makes its selection based on the needs of the Bureau in conjunction with the qualifications of the candidates. The candidate selected may be required to transfer. Except as indicated in the following paragraphs, Agents not accepting the selection and/or transfer within ten days of issuance of orders will be required to withdraw from the EDSP. (See 3-7.1.)

(6) Declining a Selection

(a) Should a volunteer ASAC candidate decline an ASAC selection/transfer due to compelling personal circumstances arising subsequent to that selection, he/she may request to remain in the EDSP by fully documenting the circumstances in an electronic communication (EC) and sending it without delay to the Administrator, EDSP. The employee's division head should submit an EC with a recommendation as to whether the selectee should be permitted to remain in the EDSP. Should a drafted ASAC candidate decline an ASAC selection/transfer, he/she should document any compelling personal circumstances which form the basis for his/her decision to decline the selection/transfer. These circumstances may arise before, during, or after the selection. The employee's division head should submit an EC with a recommendation as to whether the selectee should be permitted to remain in the ASAC candidate pool. Each refusal to accept a selection/transfer will be addressed on a case-by-case basis by the SAMMS Board. The SAMMS Board will determine, based upon the record before it, whether such refusal is based upon compelling personal reasons, and it is, therefore, in the interest of the Bureau to permit the employee to remain in the ASAC candidate pool and/or in the EDSP. (See MAOP, Part 1,
| |3-2.10.18.)|

(b) Should a mid-level candidate for any vacancy other than an ASAC vacancy volunteer for selection but then decline the selection and/or transfer due to personal reasons arising subsequent to that selection, he/she may request to remain in the EDSP by fully documenting the circumstances in an EC and sending it without delay to the Administrator, EDSP. The same procedure is to be followed by a candidate for mid-level vacancies other than ASAC who did not volunteer but was selected by the SAMMS Board, but the personal reasons forming the basis for his/her decision to decline the selection and/or transfer can arise before, during, or after the selection. The employee's division head should submit an EC with a recommendation as to whether the selectee should be permitted to remain in the EDSP. Each refusal to accept a selection/transfer will be addressed on a case-by-case basis by the SAMMS Board. The SAMMS Board will determine, based upon the record before it, whether such refusal is based upon compelling personal reasons, and whether it is,

therefore, in the interest of the Bureau to permit the employee to remain in the EDSP.

(7) A decision by the SAMMS Board to allow an employee to remain in the EDSP due to compelling personal reasons as discussed in the previous paragraphs should not be construed as protecting the employee from being considered as a candidate for future selections by the SAMMS Board.

(8) A preference-eligible employee who will experience a reduction in grade as a result of his/her involuntary removal from the EDSP may be entitled to certain rights such as advanced written notice and an opportunity to respond. These are the same rights as are provided to preference-eligible employees who face certain proposed disciplinary-based adverse actions. See MAOP, Part 1, 13-10.

(9) Personnel Resource List promotions are permissible for EDSP participants if organizational needs are served.

(10) Agents in the EDSP should not have direct supervisory or rating responsibility for their spouse. For senior executives with husbands or wives in the EDSP, some form of recusal may be appropriate.

(11) Individuals who are participating in assignments outside of normal FBIHQ divisions, i.e., the War College, State Department School, Assistant Inspector, Legal Attache, are encouraged to apply for positions for which they are qualified and in which they have an interest prior to completion of their detail assignment. If the individual is unable to secure a position of interest, they will be returned to the division from which they came, either as an overage or to fill a vacant position. (See MAOP, Part 1, 3-2.20 (2).)

(12) Agents are required to serve a one-year probationary period for initial assignment to the following positions: (a) GS-14 field supervisors, including GS-15 Legal Attaches; (b) non-ASAC GS-15s, unless the selectee has previously completed a probationary period as a GS-14 field supervisor, and (c) first-time ASACs. FBIHQ GS-14 supervisors, including Assistant Legal Attaches, are not subject to a probationary period.

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3-6.2 Voluntary Policy

(1) Current EDSP policy requires that all entry-level FBIHQ supervisory positions be advertised Bureauwide. This procedure will ensure a Special Agent lawyer, firearms instructor, or any other Agent possessing a needed specialty and not seeking advancement through the structured EDSP, may advance within a specialized field. Persons selected for FBIHQ assignment will receive accelerated
| |promotions,|if applicable.

(2) When a person promoted to FBIHQ is not in the structured career path leading to future field management assignment and has not yet served as a relief supervisor or has had limited (usually less than five years) field experience, the SAMMS Board at the time of selection reserves the right to have a caveat placed on the Agent's transfer orders. This caveat places the Agent on notice as to what status the Agent is eligible to return to field operations in the future. (See 3-2.17 (3).)

(3) Regardless of prior field experience, all persons appointed to FBIHQ positions will have the opportunity to rise to higher levels of responsibility within the division or area of expertise according to their capabilities, work performance and division recommendations. However, in the event an FBIHQ supervisor, not having field supervisory experience, is promoted to Unit Chief, Section Chief, or above, and then seeks to return to the structured field management career path, the SAMMS Board, on a case-by-case basis, reserves the right to require the Agent return to field operations as a field supervisor or other appropriate level.

(4) While the advertising policy allows interested candidates to volunteer for a particular position, all qualified candidates are considered with final selections being made on the basis of the best person for the position. The individual selected will be required to transfer or remove himself/herself from the EDSP. (See 3-7.1.)

(5) The EDSP policy must call for a balanced interchange of personnel between field office assignments and FBIHQ assignments and more specifically to a balanced exchange of field office supervisors to FBIHQ supervisory assignments. In the event SAMMS Board notices an imbalance occurring where very few field supervisors are volunteering for posted FBIHQ positions, the following measure would be enacted:

(6) The SAMMS Board reserves the right to include the name(s) of supervisors who have served a minimum of two years in the nonstationary field supervisory position or a minimum of five years in the stationary field supervisory position, along with the name(s) of individual(s) who apply for advertised FBIHQ vacancies to make an appropriate selection.

**EffDte: 08/04/1999 MCRT#: 924 Div: D3 Cav: SecCls:

3-6.3 Supervisory Advertising Policy

(1) It is the responsibility of the division in which a
| Special Agent mid-level supervisory vacancy|(GS-14/GS-15)|occurs to advertise the position through the FBI computer network, "Job Posting Application (JPA)" process. (This policy does not preclude division heads/SACs from reassigning managers in their respective divisions to

other management positions at the same grade level.)

(2) The job posting announcement will be entered into the JPA and electronically transmitted to the Administrator, EDSP, where it will be reviewed, approved and transmitted Bureauwide. The deadline for applications for the position will be close of business two weeks from the date of approval and will be noted in the job posting announcement. No FD-638s will be accepted after the deadline.

(3) The job posting announcement is limited to the space available in the JPA system and will include the following information:

(a) Field supervisory positions will be designated as stationary or nonstationary

(b) Description of the duties of the position and work-related conditions

(c) The nature of the work and the number of persons supervised

(d) Qualifications for the position in order of priority

(e) Location of the position

(f) Name and phone number of points of contact

(g) Instructions for submitting FD-638s

(4) It is the responsibility of the divisions to ensure that all Special Agents who are interested in management assignments become familiar with the JPA system. Copies of each job posting are to be posted in a prominent location specifically dedicated to this
| purpose. |However, it is ultimately the responsibility of the Agent to
| be aware of postings in the JPA.|

**EffDte: 10/12/1994 MCRT#: 318 Div: D3 Cav: SecCls:

3-6.4 Reporting Procedures for Advertised Vacancies

(1) A standard, mandatory Form FD-638 has been developed for candidates to announce their interest in a particular supervisory vacancy either at FBIHQ or in a field office. Only Form FD-638 is to be utilized by an Agent requesting consideration for a supervisory vacancy.

(2) It is imperative that the FD-638 be utilized in every instance when requesting consideration for a supervisory vacancy. FD-638 includes self-explanatory instructions of how form is to be completed. Instructions should be strictly followed to ensure proper

filing at FBIHQ and information set forth should not exceed the allotted space.

**EffDte: 12/12/1991 MCRT#: 0 Div: D3 Cav: SecCls:

3-6.4.1 Legat Use of FD-638

Agent personnel assigned to Legal Attaches who respond to
| an advertised vacancy should submit background data by|facsimile
| or|teletype. Information set forth on teletype should follow format
of FD-638. Legat should ensure his/her recommendation is included in
| any teletype|and facsimile|being forwarded for consideration.

**EffDte: 06/14/1993 MCRT#: 35 Div: D3 Cav: SecCls:

3-6.4.2 Application and Selection Process

(1) Application Process

(a) Special Agents interested in applying for specific positions advertised in the JPA will prepare two Supervisory Vacancy Request Forms (FD-638), complete with the exception of Item 11 - Division Head Comments. Effective March 31, 2001, the narrative portion of the FD-638 must be no smaller than font size 10. No classified information should be included in any FD-638. One copy is to be forwarded directly to the Administrator, EDSP, FBIHQ, Room
| |10143.| The other copy is to be provided to the candidate's SAC or division head so that the appropriate recommendation may be added. Effective March 31, 2001, the SAC/division head is to either "not recommend," "recommend," or "highly recommend" the candidate and comment on the candidate's mandatory and preferred qualifications for the job advertised, as well as leadership ability, interpersonal skills and potential for advancement. The SAC/division head will then
| forward the FD-638 to the Administrator, EDSP, FBIHQ, Room|10143.| In order not to influence the field office career board, the SAC will not comment on the FD-638s for vacancies WITHIN HIS/HER DIVISION. FBIHQ division heads will review statements made by the candidate on the FD-638 and comment on the candidate's qualifications as listed in the posting, but will NOT include a recommendation, i.e., "recommended," "not recommended," or "highly recommended." Once the field office/division career board has met and submitted a recommendation for selection, the SAC/division head will, at that time, make his/her recommendations regarding selection for the vacancy and forward both the field office/division career board and SAC/division head recommendations to the Administrator, EDSP for presentation to the SAMMS Board. The SAC/division head will continue to comment on FD-638s on candidates for vacancies that are NOT within his/her division. If it is known that the candidate is the subject of an administrative inquiry, the division head should notify the SAMMS

Board of this by attaching a routing slip to the FD-638. Special Agents are to be advised of the substance of the recommendation by their SAC/division head so as to provide realistic expectations and developmental activities where necessary.

(b) Deleted

(c) A candidate who applies for a job vacancy may withdraw his/her name from consideration up to two weeks prior to deliberation by the SAMMS Board. All withdrawals must be submitted to the EDSP in writing. If a candidate wishes to withdraw from a position within two weeks of the scheduled SAMMS Board, the candidate must submit his/her request in writing with his/her division head's acknowledgment and comments. If the candidate withdraws prior to the closing date of a job posting, he/she may request that his/her FD-638 be reinstated. Once a job posting has closed, candidates who have withdrawn will not be permitted to reinstate.

(2) Selection Process (See 3-3.)

(a) Once the application deadline is reached, the Administrator, EDSP, will identify all qualified candidates, ensure that SAC/division head recommendations are included for each candidate, and provide this information to the advertising entity. This package will be sent to the chairperson of the career board of the advertising entity within 10 calendar days of the job posting deadline as listed in the JPA. It is essential that FD-638s be submitted on a timely basis, and where necessary, facsimile transmissions will be accepted. Except in exigent circumstances, applications received by the Administrator, EDSP, after 5:30 p.m. Eastern time on the posted deadline will NOT be considered. SACs and division heads should not request FD-638s from any source other than the Administrator, EDSP.

(b) Once the local career board chairperson receives the FD-638s from the Administrator, EDSP, a local career board meeting should be scheduled and conducted as soon as possible. Effective March 31, 2001, if the local career board is unable to evaluate the candidates within 60 days after the job posting announcement deadline, the advertising entity will be directed to re-post the advertisement and obtain a new list of candidates. Upon completion of its evaluation, the local career board will document its review and recommendations as described in Section 3-3.1 and forward pertinent material to the Administrator, EDSP.

(c) Interviews of candidates may be conducted at the discretion of the advertising entity. However, should the division choose to conduct interviews, then all candidates who apply must be interviewed, either in person or by telephone. The interviews may be conducted by the chairperson, his/her designee, or by the entire career board. Interviews must be recorded if conducted by the entire career board. In any case, the same individual(s) should conduct all interviews. Only in unusual circumstances and with the concurrence of the Administrator, EDSP, will Agents be allowed to travel for interviews. Interviews should be structured so as to elicit information not available on the FD-638, i.e., the candidate's oral

communication skills, decision-making abilities, and leadership potential. It is recognized that this is a partially subjective process and the career board chairperson may confer with the Leadership and Management Science Unit, Quantico, or the Administrator, EDSP, for assistance in structuring interviews.

1. For Legat and Assistant Legat (ALAT) vacancies only, interviews, if conducted, are not required for all candidates. Once a Legat Screening Panel (LSP) has completed its candidate review and deliberations for a Legat/ALAT position and has identified a best-qualified group of candidates, the LSP has the option of conducting interviews of those candidates in the best-qualified group. If interviews are conducted, all candidates in the best-qualified group, including at least the top three candidates, must be interviewed. The interviews must be conducted by the LSP as a group and must be recorded. The candidates will be asked identical questions, and a list of the questions will be set forth in the EC prepared by the LSP regarding the vacancy. The LSP is not required to interview candidates they determine to be obviously not highly qualified.

(d) THE CAREER BOARD'S SELECTION PROCEDURE IS DETERMINED BY THE ADVERTISING ENTITY; HOWEVER, ONCE ESTABLISHED, IT MUST BE APPLIED CONSISTENTLY TO EACH APPLICANT FOR THE ADVERTISED

POSITION. Career boards may obtain information from interviews of the candidates, the candidate's FD-638s, division head comments, and current rating officials (in cases where the current rating official has been so for less than one year, the former rating official may be interviewed). Career boards may also elect to verify achievements contained on FD-638s, i.e., may contact candidate(s) to obtain the name(s) of current and/or prior rating official(s) for the purpose of seeking verification of information contained on the FD-638(s). If the career board elects to verify achievements contained on FD-638(s), it is not required to verify all the achievements of a particular candidate, nor is it required to verify achievements of all the candidates. Contact with the candidate(s) must be limited to obtaining names of verifiers unless the local career board is interviewing all candidates who have applied for the position. Contacts with verifiers should be limited in scope to the verification of the achievement(s). Contact with a candidate's current rating official must also be limited to the verification of the achievement(s) unless the local career board is interviewing the rating officials of all the candidates. If any comments of rating officials other than FD-638 verifications are obtained and considered by the local career board, then similar comments from the rating officials of all candidates must be sought. If comments of the candidate's rating official are in conflict with the documented comments of the division head, the candidate's division must reconcile these differences in a communication to the local advertising entity and the EDSP in the form of an addendum to the division head comments. Career boards will not consider such information received that is in conflict with the division head comments until it is reconciled in this communication. Administrative inquiry/action must NOT be part of the deliberative process in the divisional career boards. These matters will be addressed at the SAMMS Board level.

(e) Local career boards are required to maintain all documents prepared as a result of their board meetings. In instances where it is determined to be necessary and appropriate to set aside and disregard a particular career board and reconvene another career board, all written documents and audio recordings of the initial career board that were set aside should be retained. Records for any subsequently held career board should reflect the following: that there was a previously held career board; the reason/basis for disregarding the previous career board; and that the original career board records have been sealed and placed in a secure location. There should be no mention made or documented concerning information discussed during or recommendations made by the previous career board.

(f) Field and Headquarters division career board recommendations are presented to the SAMMS Board during regularly scheduled SAMMS Board meetings. The SAMMS Board makes selections for most GS-14 and GS-15 positions and makes recommendations to the Director for ASAC, Legat, Assistant Legat, Inspector-in-Place, Ombudsman and the GS-14 Supervisor of the Director's and Attorney General's Special Detail Group positions. Once final selections are made, this information is transmitted by electronic communication to all FBI divisions, and is entered in JPA where it is maintained for 30 days. (See 3-3.4.)

| (g) See MAOP, Part 1,|3-2.10.13,|for the selection process for the ASAC position.

(3) Feedback

(a) Special Agent candidates may contact the EDSP staff for feedback and counseling with respect to particular positions or their overall competitiveness for management assignments. No information will be provided which may infringe on the privacy rights of any of the other candidates.

(b) Career counseling also occurs at the local level, by the advertising entity SAC, division head or career board, should an inquiry be made. The Agent candidate should be advised as to his/her rating by the local career board and the reasons for the rating. Any deficiencies detected or discussed by the local career board should be raised with the candidate as part of the developmental process. If the candidate is already assigned to the division having the vacancy, he/she should be given appropriate developmental opportunities where necessary.

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3-6.5 Stationary/Nonstationary Supervisors - General Policy

This program was implemented to provide supervisory continuity within a field office.

(1) Each SAC has the option of designating up to 50 percent (rounded down) of the supervisory personnel in his/her division as stationary supervisors. "Supervisory personnel" in this context means those holding GS-14 squad and resident agency positions, but not the ASAC or SAC positions. The SAC may also designate any fraction of his/her stationary supervisors, or may choose not to exercise the option at all. The SAC should secure the consent of an individual before recommending him/her as a stationary supervisor and is encouraged to consult with the field office career board. The SAC may request approval of the SAMMS Board to designate an additional field supervisory vacancy as stationary if that position would raise the stationary percentage to greater than 50 percent. This request must include sufficient justification that it is in the best interest of the field office to designate the position as stationary. If approval is granted, the increased stationary ratio will be temporary and will revert to no more than 50 percent through attrition.

(2) Once a person is so designated, the stationary status attaches to the INDIVIDUAL for a five-year period, not to the position he/she occupied when designated. Persons designated will remain in place for five years unless, in what is anticipated will be a rare exception, a change is necessary for the best interests of the Bureau or required by the supervisor's inadequate performance. The stationary period begins upon designation and must include time already spent as a field supervisor. Thus, if a supervisor had served on one or more desks for 18 months before appointment as a stationary supervisor, his/her term could be expected to run for an additional 42 months. At the conclusion of the term, the former "stationary supervisor" again becomes available for transfer, but HIS/HER TRANSFER IS NOT AUTOMATIC.

(3) At the end of the five-year stationary period, FBIHQ will request the SAC to determine if the stationary supervisor desires

at this time to resume investigative duties or is interested in continuing in the EDSP, thus making himself/herself available for transfer. AGAIN, THE TRANSFER IS NOT AUTOMATIC.

(4) It is important to note, however, that any stationary supervisor having fulfilled the five-year commitment will continue to be charged against the office as a stationary supervisor until such time as he/she is transferred or is removed from supervisory duties. This is done to ensure no field office accrues more than its authorized stationary supervisory quota.

(5) The SAMMS Board reserves the right to transfer stationary supervisors who have not served at FBIHQ, and who have served for five years in a supervisory position in a field office to a management position at FBIHQ. If the supervisor declines to accept a transfer, he/she will be removed from the EDSP and returned to investigative responsibilities. If the field office has a full share of stationary supervisors, and the remainder of nonstationary supervisors have in excess of three to five years in place, the SAMMS Board could deny the SAC authority to replace or remove a stationary supervisor with another stationary supervisor. The SAC could be

instructed to advertise the vacancy as a nonstationary position to afford qualified, eligible candidates from FBIHQ the opportunity to apply. This would provide the necessary flexibility for healthy interchange of supervisory personnel and is consistent with the original policy established for the stationary supervisor program.

(6) Under unusually exceptional circumstances a stationary supervisor, with the concurrence of the SAC, may remove himself/herself from that status anytime within the five-year "protection" period. Inasmuch as the objective of the stationary supervisory program is to provide for continuity, stability and accountability at the critical field supervision level, such request will be carefully reviewed on a case-by-case basis by the SAMMS Board which has final authority.

(7) During stationary supervisor status, the supervisor is not considered for promotion. A stationary supervisor can apply for position at FBIHQ after he/she has served two years in this capacity and with SAC concurrence.

| (8) |Nonstationary field supervisors are required to
| serve a minimum of 18 months before being eligible to apply for a
| position at FBIHQ, and they are required to serve a full two years as
| a field supervisor before reporting to FBIHQ.|

**EffDte: 05/01/2001 MCRT#: 1095 Div: D3 Cav: SecCls:

| 3-6.6 |SAMMS Board Selections - Field Supervisors|

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**EffDte: 05/19/1997 MCRT#: 674 Div: D3 Cav: SecCls:

3-6.6.1 Stationary/Nonstationary Field Supervisor – Selections (See also MAOP, Part 1, 3-2.19.)

(1) Selections made by the SAMMS Board for stationary supervisory positions will be from the pool of qualified candidates currently assigned to the field office where the vacancy exists. If no candidates in that pool are deemed qualified, the SAMMS Board will make a selection from among the qualified FBIHQ candidates.

(2) Selections made by the SAMMS Board for nonstationary supervisory positions will be from the pool of qualified FBIHQ candidates. If no FBIHQ candidates in that pool are deemed qualified, the SAMMS Board will make a selection from among the qualified candidates currently assigned to the field office where the vacancy exists.

(3) The SAMMS Board will consider candidates for field supervisory positions who are currently field supervisors or relief supervisors in other field divisions only in instances where there are no qualified candidates from FBIHQ or the division in which the vacancy exists.

(4) To permit the SAMMS Board to satisfy specific and
| often-changing managerial needs,|on rare occasions the SAMMS Board may
| make a selection from the existing pool of candidates, regardless of
| the candidates' current assignment.|

**EffDte: 04/19/2000 MCRT#: 968 Div: D3 Cav: SecCls:

| |3-6.6.2 Promotions of Relief Supervisors to Field Supervisor

| Relief supervisors in one field division can apply for
| field supervisory positions in other field divisions; however, these
| promotions will be extremely rare and approved only in the most
| unique situations.|

**EffDte: 05/19/2000 MCRT#: 674 Div: D3 Cav: SecCls:

| 3-6.6.3 |Lateral Transfer of Permanent Supervisors to Term Supervisory Positions

| Assistant Directors and SACs may laterally transfer
| permanent GS-14 field or permanent GS-14/GS-15 FBIHQ SSAs into term
| SSA positions. If the term SSA position is filled by the lateral
| transfer of a permanent field SSA from within the field office, then
| the subsequent vacancy will be posted as a temporary vacancy.
| However, the SAC must submit a written request for approval by the
| Administrator of the EDSP prior to the transfer. The EDSP, in
| coordination with Resource Management and Allocation Board, will
| provide written instructions concerning each approval granted, prior
| to the lateral transfer becoming effective.|

**EffDte: 09/06/2001 MCRT#: 1142 Div: D3 Cav: SecCls:

| |3-6.6.4| Lateral Transfer of Field Supervisors to other Field Divisions (Formerly 3-6.9|and 3-6.6.3)|

FBIHQ SSAs selected after August 4, 1999, for nonstationary field supervisory positions in the New York or Newark

Offices and who have completed three years' satisfactory service in the position, will be considered FBIHQ candidates when competing for lateral field supervisory positions. Otherwise, field supervisors in one field division can apply for lateral field supervisory positions in another field division; however, these transfers will be extremely rare and approved only in the most unique situations.

**EffDte: 09/06/2001 MCRT#: 1142 Div: D3 Cav: SecCls:

| |3-6.6.5| Return of Former Field Supervisor to Field Supervisory Assignments (Formerly 3-6.7|and 3-6.6.4)|

Former field supervisors who are serving at FBIHQ will be allowed to apply for field supervisory positions after they have completed a minimum of 18 months at FBIHQ. (See MAOP, Part 1, 3-2.4 (1)(b).)

**EffDte: 09/06/2001 MCRT#: 1142 Div: D3 Cav: SecCls:

| |3-6.6.6| Return of Former FBIHQ Supervisors to FBIHQ Supervisory Assignments (Formerly 3-6.8|and 3-6.6.5)|

Field supervisors with prior FBIHQ experience may apply for lateral transfer back to FBIHQ after serving two years as a field supervisor. This transfer will be in response to FBIHQ needs for talented, experienced supervision and will require concurrence of the respective SACs.

**EffDte: 09/06/2001 MCRT#: 1142 Div: D3 Cav: SecCls:

| 3-6.7 |Moved to 3-6.6.4|

**EffDte: 05/19/1997 MCRT#: 674 Div: D3 Cav: SecCls:

| 3-6.8 |Moved to 3-6.6.5|

**EffDte: 05/19/1997 MCRT#: 674 Div: D3 Cav: SecCls:

| 3-6.9 |Moved to 3-6.6.3|

**EffDte: 05/19/1997 MCRT#: 674 Div: D3 Cav: SecCls:

3-6.10 Return of FBIHQ Supervisors Having Less Than Three Years' Investigative Experience to Field Office Investigative Duties

A procedure has been established whereby Agents having less than three years' (investigative) experience can submit a request to be reassigned from FBIHQ to the field as an investigator and a relief supervisor. This allows the Agent to become sufficiently experienced in an investigative capacity to become more competitive for promotion to a field supervisory position. The request should be
| submitted to the Personnel Division, Attention: |Transfer Unit,|with a copy to the Administrator EDSP. The Agent must agree, in writing, to a voluntary reduction to a grade GS-13 if necessary. Such requests would have to receive the necessary approval from the Assistant Director to be released for an assignment in the field prior to the request coming to the Administrator, EDSP, and the Personnel Division. The requests should include the individual's listing of three major field offices and/or preferred geographical area should the needs of the FBI require them to be transferred.

**EffDte: 02/10/1998 MCRT#: 756 Div: D3 Cav: SecCls:

| 3-6.11 ASAC and SAC Rotation|(See also MAOP, Part 1, 3-11.10.)|

In order to prepare for potential turnover in the executive ranks and to address stagnation at these levels, ASACs and SACs due for rotation are reviewed on an annual basis. The Annual Succession Planning Conference first identifies these individuals and recommends their rotation for either lateral assignments to other field divisions, lateral assignments to FBIHQ, or promotional assignments to FBIHQ or other field divisions. These recommendations which are nonspecific as to exact location, are then reviewed by a joint board consisting of the membership of the SAMMS and SES Boards. The recommendations of this board are then submitted to the Director for his information and approval. Thereafter, the names are submitted to the SAMMS and SES Boards for their consideration as openings occur.

(1) ASAC Rotation

ASACs who have served in the same position for five years or more are reviewed for possible rotation by the Succession Planning Conference on an annual basis. ASACs identified for rotation will be contacted by the Deputy Director or his/her designee regarding the basis for reassignment. The affected ASAC will have 14 days to respond in writing to the Deputy Director setting out any facts and circumstances supportive of reconsideration by the Deputy Director. If the decision to reassign the ASAC stands, the ASAC will be advised by the Deputy Director or his/her designee of that decision and that

ASAC should exercise due diligence in reviewing the Job Posting Application (JPA) and apply for vacancies for which the ASAC believes he/she is competitive. If after 90 days the affected ASAC does not successfully compete for another assignment, the Deputy Director, with the assistance of the Executive Development and Selection Program, will identify an appropriate assignment for direct placement. Nothing in this policy would preclude the affected ASAC from requesting other appropriate reassignment which is in the best interest of the candidate, the Bureau, and is not in violation of law and/or policy prior to direct placement.

(2) SAC Rotation

SACs will generally be kept in their offices of assignment for a minimum of three years and an average of five years before being considered for rotation into other assignments. Thereafter, on a case-by-case basis, an SAC could remain in place for five to seven years. At seven years, barring any strong reasons to the contrary, the SAC should expect to be rotated out of the division. This policy does not condone poor or marginal performance. Therefore, any time the Board identifies an SAC whose performance has fallen to a level which it considers detrimental to the continued success of the office and the FBI, the Board will recommend to the Director that swift action be taken to remove that manager to a position of lesser responsibility, regardless of his/her tenure in that office.

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| 3-6.12 |Deleted|

**EffDte: 02/24/1995 MCRT#: 372 Div: D3 Cav: SecCls:

3-6.13 Hardship Transfer Policy for Special Agents in the EDSP

(1) The SAMMS Board, with the approval of the Director, has established a hardship transfer policy for supervisory personnel. Henceforth, hardship requests will be sent by the SAMMS Board to Personnel Division for review by the same system that presently reviews hardship transfer requests before the grade 14 level. The Personnel Division, after determining if the individual is eligible for hardship consideration, based on standards applied to all other such requests, will furnish this information back to the SAMMS Board.

(2) If the Personnel Division advises that the situation qualifies for a hardship transfer, and an appropriate opening within the EDSP exists, it will then be necessary for that position to be advertised just as any such opening is required to be advertised. Thereafter, the SAMMS Board will review the candidate with the hardship along with the other candidates and make the final determination.

(3) It is possible to envision a situation where the Personnel Division decides a hardship exists but the SAMMS Board cannot identify a transfer to alleviate it. It will then be necessary for the EDSP participant to decide if he/she wants to remove himself/herself from the EDSP in order to accomplish the transfer to the desired location.

| (4) See Section 3-2.1|(12)|for policy with respect to relief supervisors under hardship transfer.

**EffDte: 10/18/1995 MCRT#: 463 Div: D3 Cav: SecCls:

| 3-7 REMOVAL FROM|EDSP|

**EffDte: 12/12/1991 MCRT#: 0 Div: D3 Cav: SecCls:

3-7.1 General (See MAOP, Part 1, 3-6.1, 3-6.2 and 11-7.)

(1) All Supervisory Special Agents (SSAs) who request removal in writing from the EDSP will be afforded a PRL transfer only if that Agent is eligible for a PRL transfer, is number one on the PRL for the desired office, has not received a cost transfer within the past year, and a staffing need exists.

(2) An SSA assigned to FBIHQ who requests removal in writing from the EDSP and does not qualify for a PRL transfer as set forth in (1) above, will be reverted to a GS-13 and transferred, at no cost to the government, to Washington Field Office or Baltimore (unless staffing needs dictate otherwise) and, thereafter, be afforded the same PRL considerations as any other Agent.

(3) An SSA assigned to a field division who requests removal in writing from the EDSP and does not qualify for a PRL transfer as set forth in (1) above, will remain assigned, in an investigative capacity, in that same division with the same PRL eligibility as any other Agent and revert to a GS-13.

(4) Under exceptional circumstances and where critical operational/administrative needs dictate, an SSA assigned to FBIHQ who requests removal in writing from the EDSP but does not stand number one on the PRL for the desired office, or that office does not have a current staffing need, may request removal from the EDSP and remain in his/her current assignment until attaining number one standing on the PRL and a staffing need exists in the respective office; otherwise, he/she will be transferred in accordance with (2) above. This is contingent upon the approval of the division head and concurrence of the Special Agent Mid-Level Management Selection Board. The Agent will not be considered for further administrative advancement and will not be allowed to apply for positions in the EDSP while awaiting

movement into the desired office.

(5) Requests by SSAs for removal from the EDSP should be forwarded through the employee's SAC or division head to the Administrator, EDSP, with a copy to the Transfer Unit. The request must contain the statement that the SSA is willing to accept a reduction in grade in connection with the request, if appropriate. An SSA requesting removal from the EDSP resulting from the directed transfer of his/her Bureau-employed spouse must also be willing to accept a reduction in grade, however, may remain in the EDSP as a relief supervisor.

(6) An Agent may remove himself/herself from the EDSP at any stage of career development. Removal from the EDSP makes an individual ineligible to apply for any vacancy until he/she reenters the Program. Agents who voluntarily remove themselves from the EDSP are permitted to request reentry into the program, if they desire to
| do so, after a period of one|year. Reentry|into the EDSP as a relief supervisor is based on the selection/recommendation of the field office career board.

(7) When an Agent is transferred by the SAMMS Board and that Agent's SSA spouse must "step down" from the current grade in order to maintain a common household, the spouse may retain relief supervisory status and will not be required to remove himself/herself from the EDSP. If the SSA is a GS-13, he/she need not "step down" in grade, he/she will simply lose the SSA title.

(8) Supervisors who are demoted and removed from supervisory duties as a result of administrative action will be removed from the EDSP and must remain out of the EDSP for one year

before requesting to be reinstated into the program as a relief supervisor. (See 3-6.1 (1).)

**EffDte: 09/06/2001 MCRT#: 1142 Div: D3 Cav: SecCls:

| 3-8 HOUSE APPROPRIATIONS COMMITTEE - SURVEYS AND INVESTIGATIONS STAFF (See MAOP, Part I,|11-18.4.4.)|

(1) Many of the programs handled by the House Appropriations Committee - Surveys and Investigations Staff (hereinafter referred to as Staff) have national or worldwide significance and can include such studies as national energy problems, military readiness and deployment and worldwide intelligence activities. The responsibilities inherent in this highly visible, complex and important assignment require individuals who have strong potential to develop executive ability in order to accomplish the desired ends of the committee. Individuals considered for selection must exhibit personal responsibility; have initiative, resourcefulness and versatility; and possess outstanding qualities of logic, perception and organizational and literary ability. Special Agents

assigned to the Staff will be dealing with persons representing the highest level of Government and, therefore, it is imperative that they be capable of representing the FBI in an outstanding manner.

(2) The Surveys and Investigations Staff is directed by an Executive Staff composed of a permanent Chief, a Director and two Assistant Directors. The Director and two Assistant Directors are selected from the ranks of the FBI and GAO.

| (3) As stated in MAOP, Part I, Section|11-18.4.3,|Special Agents serving on the House Appropriations Committee, Surveys and Investigations Staff, may be promoted to the temporary position of Team Leader, GS-14. Upon returning to the rolls of the FBI, they will revert to their previous grade level unless they have successfully competed for another FBI management position.

(4) Special Agents assigned to the Staff will not be allowed to compete for FBI management assignments unless they have previously served as relief supervisors.

| (5) See MAOP, Part I, Section|11-18.4.2|for House Appropriations Committee staff personnel selection process.

(FOR FURTHER DETAILS CONCERNING SELECTION, ASSIGNMENT, AND PROMOTION WITHIN THE RANKS OF THE HOUSE APPROPRIATIONS COMMITTEE, SEE
| PART I,|11-18.4,|OF THIS MANUAL.)

**EffDte: 06/21/1994 MCRT#: 267 Div: D3 Cav: SecCls:

3-8.1 Deleted

**EffDte: 12/12/1991 MCRT#: 0 Div: D3 Cav: SecCls:

3-8.2 Deleted

**EffDte: 12/12/1991 MCRT#: 0 Div: D3 Cav: SecCls:

3-8.3 Deleted

**EffDte: 12/12/1991 MCRT#: 0 Div: D3 Cav: SecCls:

3-8.4 Deleted

**EffDte: 12/12/1991 MCRT#: 0 Div: D3 Cav: SecCls:

| 3-9 CAREER DEVELOPMENT GRIEVANCE PROCESS (See MAOP, Part 1, |3-2.10.19.)|

(1) Grievances regarding the selection process utilized by the SAMMS Board should first be discussed with the Administrator of the EDSP. Agents in the EDSP may have access to the documentation regarding career board deliberations which affect them through the Freedom of Information and Privacy Acts.

(2) Individuals who believe that they have not been selected for specific promotions based on discrimination relative to race, color, sex, sexual orientation, national origin, religion, age, disability, or reprisal, should contact their Equal Employment Opportunity Counselor within 45 days of the selection.

**EffDte: 01/28/2003 MCRT#: 1263 Div: D3 Cav: SecCls:

| 3-10 SAMMS BOARD SELECTION APPEALS COMMITTEE (See MAOP, Part 1,|3-2.10.19.)|

The Appeals Committee provides a formal process for Special Agents to appeal decisions of the FBI SAMMS Board and the Career Counsel Board (CCB) under the Special Agent Mid-Level Management Selection System (SAMMSS) based on misapplication or perceived misapplication of the published SAMMS Board policies and procedures. The Appeals Committee, when deemed necessary, will provide advice to SAMMS Board as to the effectiveness of established procedures and may recommend policy changes as a result of its review of appeals.

(1) The Appeals Committee is an independent body, under the general supervision of the Executive Assistant Director for Administration, consisting of five voting members: an Assistant Director (AD) who chairs the committee and four Special Agents in Charge (SACs) and/or Deputy Assistant Directors (DADs) and/or Section Chiefs (SCs); and one representative each from the Executive Development and Selection Program (EDSP), the Office of the General Counsel (OGC), and the Administrative Services Division (ASD). The representatives from the EDSP, the OGC, and the ASD are nonvoting members. The EDSP representative provides an authoritative interpretation of current SAMMS Board and SAMMSS policies; the OGC representative provides legal advice; and the ASD representative provides advice and authoritative interpretation of personnel management rules, as well as staff support, to the Committee members. The term of all voting members is one year, which may be extended at the discretion of the Director.

A meeting of the Committee can be held if a quorum, defined as a minimum of three voting members, is present. The Committee may only convene in the absence of a Chairperson when the current Chairperson appoints an Acting Chairperson in advance of the meeting. The Acting Chairperson must be a current voting member of the Committee.

(2) Inasmuch as promotion is not an employee entitlement, it is the policy of the federal government that agency appeal procedures should not include grievances for nonselection for promotion from a group of properly ranked and qualified candidates. Accordingly, FBI employees may not appeal actions solely based on nonselection; such appeal must be based on a claim of misinterpretation or misapplication of SAMMS Board or SAMMSS policies and/or procedures.

(3) Career development participants having questions/concerns regarding the application of governing SAMMS Board or SAMMSS should contact the EDSP Administrator. While such a contact is not required before formally appealing a selection decision, the Administrator may resolve a particular inquiry or concern. Although informal, this is highly recommended as the first step in the appeals process.

(4) Aggrieved career development participants have the right to file a formal appeal with the Appeals Committee. Such an appeal must be submitted in writing, within 30 calendar days of the posting of the SAMMS Board decision in the On-line Job Posting Application or official notification of the CDE score. All formal appeals and/or correspondence should be directed to the SAMMS Board Appeals Committee Chairperson. Unusual circumstances adversely affecting an Agent's ability to file his/her grievance in a timely manner may be cause for the Appeals Committee to extend the submission period. It is the Agent's responsibility to bring such circumstances to the attention of the Committee as soon as possible.

(5) Agents may be afforded administrative leave up to a maximum of four hours to prepare the written communication, which must include: (1) the title of the position for which application was made; (2) the participant's personal qualifications for the vacancy; (3) the reason for the appeal/the impropriety suspected in the application of the selection procedures; and (4) the requested corrective action or remedy. Any information/document(s) believed pertinent by the Agent should be included with the written communication.

(6) The Appeals Committee will review the specific appeal and the action taken by the SAMMS Board or CCB to determine its compliance with governing procedures. A written communication advising of the Committee's decision on the matter and of any corrective action(s) will be provided to the Agent and the SAMMS Board. Should the employee file any other complaint, including an OPR or EEO complaint or a civil action, based on substantially the same set of operative facts, the Committee will hold the appeal in abeyance pending the resolution of that complaint or civil action, and will advise the employee that no action will be taken by the Appeals Committee until the complaint or civil action is resolved. All

Appeals Committee correspondence related to an appeal will remain under the strict control of the Appeals Committee and will be purged ten years from the date of the response letter. Appeals Committee written decisions will not be made a part of any Agent's official personnel file.

**EffDte: 01/28/2003 MCRT#: 1263 Div: D3 Cav: SecCls:

| |3-11 |SENIOR EXECUTIVE SERVICE (SES)|

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| |3-11.1 Advertising Policy

| ALL FBI SES vacancies will be advertised Bureauwide for 14
| calendar days.|

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| |3-11.2 Application Process

| (1) Agents

| (a) Interested SES entry-level candidates (for Section
| Chief, Legal Attache, Special Assistant, Detail Assignment and Term
| SES positions) and first-time Special Agent in Charge (SAC) candidates
| will be required to submit a resume applying their accomplishments to
| the following SES competencies: Management, Leadership, Liaison,
| Problem Solving and Interpersonal Relations.

| (b) Candidates are to telephonically express their
| interest to the Administrator, EDSP and fax or mail resume and cover
| sheet to EDSP. The resume will be two pages long in which the spacing
| is equally divided between the five SES competencies and is to be
| prepared using Courier 10 font. The cover sheets are to contain the
| candidates' signature and date, but not the division heads' signature.

| (c) Recommendation by the candidate's rating official
| of all internal candidates will be required to demonstrate that the
| candidate has the skills described in the resume and that the
| candidate is recommended as an individual who possesses the ability to
| successfully perform as a leader.

| (d) The candidates will be reviewed and ranked by the
| advertising entity with recommendations forwarded to the SES Board.

| (e) Candidates currently in the SES ranks must
| telephonically contact the Administrator, EDSP in order to be
| considered for vacant SES positions. No resume must be submitted.

| (2) Support

| (a) The Director maintains the authority and
| flexibility to appoint support senior executives under the competitive
| procedures described below or under noncompetitive procedures.

| (b) Once a determination has been made to use the
| competitive process, a support SES position description is placed on
| record. The Staffing Unit (STAFU) will coordinate with management the
| opening and closing dates and area of consideration of the
| announcement. The area of consideration should be sufficient to yield
| a pool of well-qualified candidates.

| (c) The STAFU will advertise SES vacancies for a
| minimum of 14 calendar days.

| (d) Applicants will be directed to submit an
| application package addressing the Executive Core Qualifications
| (ECQs) and/or Mandatory Technical Qualifications (MTQs), if
| applicable. The ECQs are: Leading Change, Leading People, Results
| Driven, Business Acumen and Building Coalitions/Communication. The
| application package must include a detailed account of work history
| and/or other experience qualifying for the position (i.e., resume).
| There is no established limit on the number of pages a resume may
| contain as there is for Agent positions.

| (e) Applicants will also be directed to submit a copy
| of their most recent performance appraisal which will suffice as the
| supervisory recommendation.

| (f) The STAFU will review all applications to
| determine which candidates are minimally qualified for the position.
| This review will consist of a threshold evaluation of all applications
| against the ECQs and MTQs, if applicable.

| (g) The STAFU will work with management to identify a
| panel of senior executives (Qualifications Review Board (QRB)) to
| review minimally qualified candidates against the technical
| qualifications required by the position.

| (h) The STAFU will facilitate the QRB, ensuring proper
| documentation of ratings.

| (i) The applicants deemed "best qualified" will be

| referred to the appropriate Executive Assistant Director (EAD). The
| EAD may choose to interview none, some, or all of the best qualified
| candidates. It is left to his or her discretion.

| (j) The top candidates, as determined by the EAD, will
| then be forwarded to the EDSP for further review by the SES Board.

| (k) The SES Board will forward recommendations of up
| to three candidates to the Director in accordance with MAOP, Part 1,
| 3-11.3.|

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| |3-11.3 SES Board (Formerly 3-3.3)

| (1) The SES Board will consist of the following members:
| Chairperson - Executive Assistant Director (EAD) for Administration;
| Voting Members - EAD for Criminal Investigations, EAD for Law
| Enforcement Services, EAD for Counterterrorism and
| Counterintelligence, Assistant Director of Inspection Division, a non-
| Agent Assistant Director (AD) to be rotated annually, an ADIC/SAC
| representative to be rotated semiannually, and nonvoting member Equal
| Employment Opportunity (EEO) Manager.

| (2) Executives will make presentations to the SES Board as
| follows: EAD for Criminal Investigations will present SAC and ADIC
| positions; EADs will present ADs and office head positions within
| their branch; and ADs will present SES positions within their
| division.

| (3) The SES Board will review and discuss the presentations
| and the pool of candidates for each position and provide
| recommendations to the Director on the top-ranked (limited to three)
| candidates. (See MAOP, Part 1, 3-11.2.) Recommendations will include
| the candidates' backgrounds, assignments and abilities, as well as the
| rationale for the ranking. Prior to forwarding recommendations to the
| Director, administrative reviews will be conducted regarding the
| ranked candidates. For entry-level SES positions and Deputy Assistant
| Director (DAD) positions, FBI record checks for the past three years
| will be conducted by the FBI Office of Professional Responsibility
| (OPR), FBI Office of EEO Affairs and the FBI Personnel Security Unit.
| For the positions of SAC, AD, ADIC, EAD, and Deputy Director, record
| checks consisting of the entire length of the candidate's FBI career
| will be conducted by the above FBI entities as well as record checks
| completed by Department of Justice (DOJ) OPR, DOJ EEO and the DOJ
| Office of Inspector General.

| (4) The Director may choose to conduct interviews prior to
| the selection of a candidate.

| (5) The Director has final selection authority over all SES
| positions except for "key executives" including: Deputy Director,
| EADs, ADs, ADICs, General Counsel and SES executives who report
| directly to the Director. For these positions, the Director will
| recommend selectees, but final approval by either the Attorney General
| (AG) or the Deputy AG is required. SACs are selected by the Director;
| however, a 24-hour notification to the AG is required before the
| selection is finalized.|

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

3-11.4 Inspectors-in-Place (Formerly 3-2.11)

| |(1)| Recommendations for this position are made by the SAMMS Board and provided to the Director for approval. The candidates are selected from ASAC, Deputy Assistant Director, Section Chief, and Unit Chief positions based on recommendations made by the Agent's respective division head. ASACs must have successfully completed one year in the ASAC assignment before being considered for Inspector-in-Place position. ASACs who receive lateral transfers either to another ASAC position or to FBIHQ are required to successfully complete one year in that new assignment before being considered for Inspector-in-Place. If an ASAC has been identified for a lateral transfer, he/she cannot be considered for Inspector-in-Place until that transfer has occurred and the one year's successful service has been completed. After completion of this one-year period in either situation, the ASAC/Section Chief/Unit Chief may be recommended by his/her SAC or Assistant Director for Inspector-in-Place. A current Meets Expectations performance appraisal is required. Under normal circumstances, an Inspector-in-Place will not be called upon more than once each quarter.

| |(2) An ASAC determined to be less than Effective and
| Efficient (E&E) will not be considered by the SAMMS Board for
| designation as an Inspector-in-Place for one year from the last day of
| the inspection in which ASAC was found less than E&E. This will
| allow the ASAC sufficient time to resolve the identified deficiencies
| adequately. The division head must submit documentation showing the
| ASAC has overcome the identified deficiencies prior to the individual
| being considered for Inspector-in-Place designation. Furthermore,
| Inspectors-in-Place identified as less than E&E by inspection will not
| be allowed to participate, for credit, in on-site inspections,
| shooting incident investigations, or Office of Professional
| Responsibility (OPR) inquiries for one year from the date of the last
| day of the inspection in which they were found less than E&E. In
| order to become eligible following the one-year period, the division
| head must provide documentation to INSD showing the ASAC has overcome
| the identified deficiencies.|

**EffDte: 03/31/2004 MCRT#: 1326 Div: D3 Cav: SecCls:

| |3-11.5| Inspector |(Formerly 3-2.12)|

(1) Recommendations to fill Inspector vacancies on the Inspection Staff will be made by the Senior Executive Service Career Board to the Director for approval. Candidates for this position will come from the following levels:

(a) ASACs

(b) Section Chiefs

(2) Those candidates selected to serve as Inspectors have the option of transferring to FBIHQ or being placed in a temporary duty status for duration of assignment. The length of assignment as a full Inspector is contingent upon the needs of the Bureau but will usually not exceed 24 months.

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| |3-11.6| Section Chief |(Formerly 3-2.13)|

The Senior Executive Service (SES) Board will recommend to the Director for approval qualified candidates from the structured career management path from either Inspectors on the Inspection Staff or qualified ASACs for vacancies as Section Chief at FBIHQ. Any exceptions must be documented by the SES Board and based on the need for a specific skill or experience.

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| |3-11.7| Associate Special Agent in Charge |Formerly (3-2.14)|

The Senior Executive Service (SES) Board will recommend to the Director for approval qualified candidates from the structured career management path from either qualified ASACs, Inspectors on the Inspection Staff, Section Chiefs who have served as ASAC or ASACs who are Inspectors-in-Place for vacancies as Associate Special Agents in Charge. Any exceptions must be documented by the SES Board and based on the need for a specific skill or experience.

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| |3-11.8| Special Agent in Charge (SAC) (Formerly 3-2.14|and 3-2.15)|

Full Inspectors serving on the Inspection Staff, Associate SACs, or Section Chiefs who have served as ASAC or ASACs who are Inspectors-in-Place will be the primary candidates for SAC vacancies.

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| |3-11.9| Exceptions to Method of Progression (Formerly|3-2.15 and 3-2.16)|

Any exceptions to the method of progression to the positions of Inspector, Section Chief, or SAC must be fully justified and documented in the FBIHQ Senior Executive Service Career Board recommendations to the Director.

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| |3-11.10 SAC Rotation (See also MAOP, Part 1, 3-6.11.)

| (1) In order to prepare for potential turnover in the
| executive ranks and to address stagnation at these levels, SACS due
| for rotation are reviewed on an annual basis in order to make
| recommendations to the Director concerning their rotation. The Annual
| Succession Planning Conference first identifies these individuals and
| recommends their rotation for either lateral assignments to other
| field divisions, lateral assignments to FBIHQ, or promotional
| assignments to FBIHQ or other field divisions. These recommendations
| which are nonspecific as to exact location, are then reviewed by a
| joint board consisting of the membership of the SAMMS and SES Boards.
| The recommendations of this board are then submitted to the Director
| for his information and approval. Thereafter, the names are submitted
| to the SES for their consideration as openings occur.

| (2) SACs will generally be kept in their offices of
| assignment for a minimum of three years and an average of five years
| before being considered for rotation into other assignments.
| Thereafter, on a case-by-case basis, an SAC could remain in place for
| five to seven years. At seven years, barring any strong reasons to
| the contrary, the SAC should expect to be rotated out of the Division.
| This policy does not condone poor or marginal performance. Therefore,
| any time the Board identifies an SAC whose performance has fallen to a
| level which it considers detrimental to the continued success of the
| office and the FBI, the Board will recommend to the Director that
| swift action be taken to remove that manager to a position of lesser
| responsibility, regardless of his/her tenure in that office.|

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

| |3-12| REQUIREMENTS FOR CAREER PATH POSITIONS |(Formerly 3-11)|

(1) Relief Supervisor (See MAOP, Part 1, 3-2.1(4).)

(a) Two years' investigative experience

(b) Field office career board approval

(c) Current Meets Expectations performance appraisal

(d) Deleted

(2) Field Supervisor (See also MAOP, Part 1, 3-2.5.)

(a) Three years' investigative experience

(b) One year relief supervisor experience

(c) Selection by SAMMS Board

(d) Current Meets Expectations performance appraisal

(e) Must be current EDSP participant

(3) HQ Supervisor (See also MAOP, Part 1, 3-2.4.)

(a) Three years' field investigative experience

(b) One year relief supervisor experience

(c) Selection by SAMMS Board

(d) Current Meets Expectations performance appraisal

(e) For Laboratory Division, relief supervisory experience is strongly preferred but not required

(f) Must be current EDSP participant

(4) GS-15 HQ Positions (See MAOP, Part 1, 3-2.8.)

(a) Two years' experience as a field supervisor or one year as an FBIHQ supervisor

(b) Current Meets Expectations performance appraisal

(c) Must be current EDSP participant

(5) ASAC (See also MAOP, Part 1, 3-2.10.)

(a) Two years' field supervisor experience

(b) Two years' FBIHQ supervisor experience

(c) Certification by Inspection Division

(d) Must be current EDSP participant

(e) Current Meets Expectations performance appraisal

(f) Attendance at EDI I

(g) Completed career development evaluation

(6) SAC, DAD, ASSOCIATE SAC, SECTION CHIEF

(a) Proven performance at mid-level management

(b) Selection by Senior Executive Service Board

**EffDte: 06/11/2002 MCRT#: 1202 Div: D3 Cav: SecCls:

********** END OF REPORT **********

SECTION 4. EQUAL EMPLOYMENT OPPORTUNITY/UPWARD MOBILITY

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-21-2007 BY 60324 AUC BAW/CPB/STP

**EffDte: 02/28/1978 MCRT#: 0 Div: EE Cav: SecCls:

4-1 U.S. DEPARTMENT OF JUSTICE POLICY (See MAOP, Part 1, 1-1.)

| (1) |It is the policy of the Department of Justice (DOJ) and
| the Federal Bureau of Investigation (FBI) to: (a) prohibit
| discrimination in employment on the bases of the following twelve
| factors: race, color, religion, sex, pregnancy, sexual orientation,
| national origin, marital status, political affiliation, age, or
| physical or mental disability, or reprisal for previous involvement
| in an EEO-protected activity; and (b) to provide equal employment
| opportunity in each organizational element of the Department.|

| (2) |Management at all levels will take positive action to
| eliminate any internal policy, practice or procedure which denies

| equality of opportunity to any group or individual on the basis of
| the above twelve factors and will assure that questions and complaints
| of discrimination are promptly and thoroughly investigated, and
| resolved without reprisal or threat of reprisal to the employee or
| applicant.

| (3) The Pregnancy Discrimination Act of 1978, Public Law
| No. 95-955, is an amendment to Title VII, 29 C.F.R. 1604.10(a): "A
| written or unwritten employment policy or practice which excludes from
| employment applicants or employees because of pregnancy, child-birth
| or related medical conditions is prima facie violation of sex
| discrimination under Title VII."

| (4) FBI policy was revised on November 11, 1996, to add
| sexual orientation. The FBI's authority to investigate allegations of
| discrimination in matters pertaining to sexual orientation is derived
| from DOJ policy, Title 28, C.F.R., Part 42, and not from EEOC
| regulations. Therefore, upon completion of an OEEOA internal
| investigation of discrimination based upon sexual orientation, the DOJ
| Complaint Adjudication Office will review and issue a final decision.
| The rights traditionally provided to EEO complainants are not accorded
| to persons who bring complaints based on sexual orientation. These
| rights generally permit a complainant to seek remedies from the EEOC
| in the U.S. District Court. By Executive Order 13087, issued by
| President Clinton, on May 28, 1998, sexual orientation is defined as
| homosexuality, bisexuality, or heterosexuality.

| (5) Discrimination based on marital status and/or

| political affiliation is prohibited only by DOJ policy. Marital
| status and political affiliation are not protected classes under
| federal equal employment statutes and will not be addressed as EEO
| violations.|

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-2 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

The EEOC has Presidential authority to supervise and provide leadership and guidance in the conduct of Equal Employment Opportunity (EEO) programs for the civilian employees of, and applicants for, employment within the executive departments and agencies, and to review agency EEO program accomplishments
| periodically. The Commission has broad authority|to inspect|
| agency programs and application thereof.

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-3 REGULATIONS

| |An EEO poster entitled, "EEO Bulletin" must be displayed and
| maintained permanently on appropriate bulletin board(s) to ensure
| employees and applicants observe and review EEO literature which
| states the subject matter, and citations of the current EEO FBI
| policies, and relevant department orders. The EEO Bulletin indicates
| where the policies, reports, and the EEO information are located and
| accessible to all interested employees. In addition to the EEO
| Bulletin, the following posters must also be displayed: (a) the
| poster captioned "The FBI's Policy is Equal Opportunity" and EEO
| Counselors must be identified, and (b) "Discrimination on the Basis of
| Disability in the Federally Conducted Programs and Activities of the
| Federal Bureau of Investigation is Prohibited." The OEEOA may make
| available other materials on special emphasis programs or issues
| suitable for display on the office EEO bulletin board or in other
| prominent places in the office. The OEEOA will supply each office
| with copies of the current "EEO Bulletin" and will reissue a new
| edition to all offices any time the policies, regulations or orders
| change.|

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

| 4-3.1 Race and National Origin Identification - FD-758 |(See MAOP, Part 1, 2-6.)|

(1) The FBI is required to collect race and national origin data in accordance with federal regulations and directives. Form FD-758, Race and National Origin Identification, supersedes Office of Personnel Management Standard Form 181. Regulations, Privacy Act Statement, instructions and five racial/ethnic/national origin categories are defined on the FD-758. The form must be completed by each employee at the time of entry on duty or as necessary to clarify records. It is utilized to enter information into Headquarters' automated Bureau Personnel Management System (BPMS) for reporting statistical data and is subsequently destroyed. The
| |FD-758|and other data entered into the system are afforded proper control to preclude unauthorized access.

(2) Management is to supervise the collection of data to ensure compliance with federal requirements. Guidelines provide that agencies must accept the race and national origin data which is
| voluntarily submitted. In unusual cases, if it is|evident|the employee furnished inaccurate information, the employee should be counseled as to purpose, confidentiality afforded the information, and need for accuracy. If, after counseling, the employee still declines to change the categorization originally selected, the agency must accept the designation provided by the employee, except in certain instances. If an employee refuses to identify himself/herself, the agency is authorized and required to identify the employee's race or national origin as that which is visually perceived to be the correct classification for the employee.

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-3.2 Self-Identification of Handicap - Standard Form 256

Standard Form 256, Self-Identification of Handicap, must be completed by each employee at the time of entry on duty, whenever a change occurs in an employee's disability status and/or to clarify records. All employees, including Special Agent personnel, are to execute the form even to indicate no disabling condition, which is denoted by Code 05. The information obtained through this form is entered into FBIHQ's BPMS for compiling statistical data. Collection of the requested information is authorized by the Rehabilitation Act of 1973 (Public Law 93-112). Data is used for the purpose of producing statistical reports to show progress in hiring, placement
| and advancement of persons with disabilities. The|forms are| subsequently destroyed and data entered into the BPMS is afforded proper control to preclude unauthorized access.

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

| 4-3.3 Applicant Background Survey - FD-804 |(See MIOG, Part 1, 67-4.3.)|

(1) The Applicant Background Survey Form (FD-804) captures gender, race/ethnicity, sex, and a disability code for Agents and Support applicants. The purpose of the form is to track and study the efforts made in the FBI's recruitment/hiring programs. The FD-804 contains regulations, a Privacy Act statement, instructions, gender, defines five (5) racial/ethnic/national origin categories, and eleven (11) disability codes. The FD-804 will be presented to ALL APPLICANTS. The FD-804 should be completed, returned, along with an application for employment from each prospective Bureau applicant to initiate the applicant process. The information obtained through this form is entered into the FBI's Bureau Personnel Management System (BPMS) that compiles statistical data. Following the entry of this information into the BPMS, the form is subsequently destroyed. Such data entered into the BPMS will be afforded proper control to preclude unauthorized access.

(2) Guidelines provide that agencies must accept gender, race, national origin, sex, and a disability code which is voluntarily submitted by the applicant. Should the applicant desire not to return the FD-804, the entry into the FBI's BPMS should be N for the respective codes.

(3) The applicant background survey form will not REPLACE Forms FD-758 and SF-256 which MUST be executed by all employees upon entering on duty.

**EffDte: 09/16/1999 MCRT#: 919 Div: EE Cav: SecCls:

| 4-4 EEO COMPLAINTS (See MAOP, Part 1, 1-2.1.)

An employee or applicant for employment in the FBI who feels discriminated against because of race, color, religion, sex, including sexual harassment, sexual orientation, national origin, age, physical or mental disability, or reprisal for previous involvement in an EEO-protected activity must bring the matter to the attention of an
| EEO Counselor for the office or division in which the|incident|arose
| prior to filing a discrimination complaint. |EEOC mandates|that
| most|incidents|or grievances will be such that they can be resolved informally without the employee or applicant resorting to a formal complaint. The EEO Counselor must be contacted within 45 calendar
| days after the action|or incident|in question has taken place. Failure to contact an EEO Counselor within 45 calendar days of an alleged discriminatory action will likely result in forfeiture of a

complainant's right to pursue a claim of discrimination.

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-4.1 EEO Complaints on the Basis of Disability in FBI Federally Conducted Programs and Activities

(1) Complaints of discrimination can be filed on the basis of disability against any of the federally conducted programs or activities of the FBI (i.e., FBI training programs, as well as FBI office space, tour facilities and the Training Academy facilities) which are available to individuals receiving such services. These complaints of discrimination will be processed in accordance with the procedures set forth in Title 28, Code of Federal Regulations, Part
| 39.170. |Part 39.170 establishes a detailed complaint processing and
| review procedure for resolving allegations of discrimination in
| violation of Section 504 in the Department of Justice's programs and
| activities.| As indicated in this regulation, there are major
| distinctions|in processing|these complaints|as|compared with
employment complaints filed by employees or applicants with
| disabilities. The Office of EEO Affairs at FBIHQ,| [redacted] b2
should be contacted promptly if such a complaint is received.

| (2) |Deleted|

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-5 EEO OFFICIALS AND SPECIAL EMPHASIS PROGRAM MANAGERS

| The Chief of the FBI's Office of Equal Employment Opportunity Affairs (OEEOA) is assisted by two Assistant EEO Officers, one in charge of the Complaints Processing Unit and the other in charge of the Special Programs Unit. Identities of these individuals as well as identities of program managers within these entities are listed on the poster entitled, "The FBI's Policy is Equal Opportunity." The OEEOA is under the direction of the FBI's Deputy Director. Implementation of a positive equal employment opportunity program and application of the regulations are the responsibility of division heads, ADICs, SACs, and their managerial staffs.

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-5.1 EEO Counselors (See MAOP, Part 1, 3-3.1(1).)

(1) It is the responsibility of each ADIC/SAC and each Assistant Director to ensure that an adequate number of EEO Counselors are available to provide timely counseling and ready access to procedural information which may be needed by employees and/or applicants for employment. A minimum of two employees who are not members of the supervisory staff in the field or in a division at FBIHQ are to be selected in accordance with instructions set forth in 4-5.1(4). In some situations supervisory personnel may serve as EEO Counselors; however, ensure persons other than supervisory staff are available as Counselors. To provide diversity in Counselors, promote the opportunity for peer counseling and maximize opportunities for informal resolutions, both Special Agent and support personnel should be selected. Special Agents serving as Chief Division Counsels (CDCs) and Assistant CDCs (ACDCs) should not be designated to serve as EEO Counselors as the EEO Counselor role might conflict with the legal advisory role.

(2) Employees assigned to the Legat Offices and the El Paso Intelligence Center (EPIC) who may need EEO information and/or a Counselor should contact the OEEOA at FBI Headquarters. If an EEO Counselor is not available within an employee's work entity, referral to a Counselor will be made by the OEEOA.

(3) Names of EEO Counselors for each division and each field office, along with their telephone extensions and names of FBIHQ EEO Officials and Special Emphasis Program Managers, must be publicized on the office EEO Bulletin Board(s). The information should be prominently displayed at all times on key bulletin boards in clear view of all employees and all applicants.

(4) The selection of Agent and Support personnel to perform as EEO Counselors is to be a participatory process. Notice of the division's need for EEO Counselors should be made known to all employees and should indicate the skills and abilities desired for the position. A person wishing to become an EEO Counselor should submit an application reflecting their interest, skills and abilities. The division may utilize its regular career board system, or may establish a committee of employees representative of both Agent and Support staff to consider the applicants and make selection recommendations to the division head. Guidance on the composition of Special Agent career boards is set forth in MAOP, Part 1, 3-3.1 and for Support personnel career boards in MAOP, Part 1, 7-6.4.2. The views of ADICs/SACs/Assistant Directors and the OEEOA on the candidate(s) may be considered by the selecting career board. The OEEOA should be promptly advised of the EEO Counselor(s) name(s). The OEEOA has the authority to remove an ineffective EEO Counselor for cause. (See 4-5.1(1).)

(5) Employees serving as EEO Counselors will receive a

| Basic EEO|Counselor|course as soon as possible following their
| selection. |Counselors may request supplemental training provided by
| the Graduate School, USDA, or other GETA training providers by
| contacting the Equal Employment Specialist, OEEOA, at the FBI
| Academy.|

(6) EEO Counselors receive guidance from the FBI EEO Officer. They are responsible for this collateral duty under the direction of the EEO Officer. Special Agents, and, where applicable, those Support employees who record their time using the TURK system,
| acting in the capacity of EEO Counselors, should attribute the time
| spent|as Counselors|by indicating the 280B classification on their
| TURK Form (FD-420a).

(7) Each ADIC, SAC and Assistant Director should likewise remain vigilant in those circumstances involving the replacement of an EEO Counselor to ensure that the outgoing Counselor's notes are appropriately packaged and forwarded to the OEEOA, FBIHQ (see MAOP, Part 1, 4-5.1.5).

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-5.1.1 Role of EEO Counselor

| (1) The Counselor's role is to|convincingly establish|an open and direct channel through which employees may raise questions,
| discuss grievances, get answers, and on an informal basis,|effectively
| resolve the|problems connected with equal employment opportunity.
| The Counselor is responsible for trying to|resolve problems which are
| raised by employees. The Counselor works toward reconciliation by
| discussing the employee's problems with the employee and with the
| employee's supervisors or associates, if necessary; PROVIDED THE
| EMPLOYEE GIVES PERMISSION TO DO SO. If the employee or applicant does
| not give permission to use his/her name, anonymity must be safeguarded
| and his/her identity may not be divulged to anyone by the Counselor.
| Where anonymity is requested, the Counselor needs to point out to the
| individual that it may be difficult to fully develop facts, although
| as much information as possible should be ascertained by the Counselor
| while safeguarding the anonymity of the complainant. A written
| Release from Anonymity form should be executed in every instance where
| anonymity has not been requested.| The EEO Counselor must exercise good judgment, be objective and fair, be able to secure the confidence
| of|both the|employees who are to be counseled|and the responding
| management officials,|and be able to work and communicate effectively.
| EEO Counselors must|perform|their role as outlined in the Department's regulations.

| (2) It is preferred that EEO Counselors not be|used|
| on career boards|or|selection panels. |Service on these panels places
| an EEO Counselor|in the position of potentially being involved in a
| grievance|or|complaint regarding a selection issue. This then results

| in a conflict and ultimately their|recusal from counseling
| on the specific selection,|thereby reducing the number of|available
| counselors.| Counselors may be members of selection panels
if they are serving based on their subject-matter expertise pertaining
| to the position being filled,|e.g.,|Accounting Technician, Training
| Technician, Computer Specialist, rather than|in|their role as EEO
Counselors.

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-5.1.2 Files and Records Available to EEO Counselors (See MIOG, Part 1, 280-2.2.)

(1) EEO Counselors are authorized to review all RELEVANT files in order to effectively attempt an informal resolution. This includes relevant personnel files in the field offices, FBIHQ Divisions, as well as the Official Personnel File (OPF) at FBIHQ. Relevant OPFs include only the files of those persons logically connected to, or having some bearing on the allegations of discrimination. In addition, the Counselor is authorized to review pertinent administrative records in field offices and FBIHQ which have a bearing on the matter under counseling. Such records include, but are not limited to, control files, medical records, administrative/criminal inquiry files of the Office of Professional Responsibility (OPR) and the Adjudication Unit, as well as written documentation and/or taped recordings of Career Board deliberations, to the extent such records have a bearing on the allegations being
| raised by the aggrieved|person.|

(2) With regard to field office and FBIHQ Career Board records, and/or field office or FBIHQ OPR records, EEO Counselors must contact the OEEOA for guidance and approval PRIOR TO requesting access to these records. Access to OPR documents is currently limited to the predication only for pending matters, or the investigative file on closed matters. Access to any of these records through the informal EEO precomplaint counseling process is limited to those situations
| where an aggrieved|person|has clearly articulated a specific basis
which falls within EEO jurisdiction. This is necessary in order to
| provide an aggrieved|person|with a viable opportunity to informally
resolve the matter, and yet protect the integrity of the Career Board
| and OPR processes. EEO Counselors must|indicate in their notes|the
name of the OEEOA employee they spoke with and the date of the OEEOA
| authorization, and in any subsequent Report of Counseling should the
matter proceed to the formal stage. OEEOA approval to review taped
recordings of Career Board deliberations will be closely coordinated
with the affected field office, FBIHQ division, and/or the Special
| Agent Mid-Level Management Selection (SAMMS) Board|and Executive
| Development and Selection Program (EDSP)|pursuant to specific
instructions/limitations.

(3) It should be noted, however, that a Counselor seeking

access to relevant Employee Assistance Program files must obtain the prior written authorization, or a statement evidencing such a waiver of confidentiality, from the subject of such files.

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-5.1.3 Counselor Matters Data Base

(1) The Equal Employment Opportunity Commission mandates each agency to report EEO counseling contacts at the end of each fiscal year. To properly capture this information, as well as manage the Counselor Program, a Counselor Matters Data Base has been developed and can be accessed through the Bureau Personnel Management System (BPMS) on the FBINET. Each active EEO Counselor is required to report his/her counseling activity on a quarterly basis.

(2) All active EEO Counselors are granted access to the Counselor Matters Data Base via their User ID. Newly trained Counselors are granted access immediately following training. To access the data base, Counselors must enter their User ID and password, and then select the call key for the Counselor Matters application. Appropriate selections are available depending on the
| nature of the entry,|e.g.,|initial entry, modify entry,|or|delete.
| Specific information necessary to close out the record is|also|
| prompted|in order|to ensure|that|it is entered. A detailed instruction guide on this application is available through the OEEOA.

(3) On a quarterly basis, the OEEOA will run reports from this data base and reconcile any discrepancies. Counselors that have not entered their counseling activity (which includes a selection that they had no counseling activity for the quarter) by the 21st day following the end of the quarter, will be contacted by the OEEOA and requested to enter the data immediately.

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-5.1.4 Report of Counseling (JMD-379)

The EEO Report of Counseling, JMD-379, should
| be|completed|when a formal complaint has been filed|no matter what the
| basis of the complaint. The Report of Counseling is the initial
| document in the precomplaint phase. It, together with the Counselor
| Matters Data Base, is used by OEEOA in reporting instances of
| precomplaint counseling throughout the Bureau. In situations where
| the Report of Counseling is to be completed, the Counselor should
| develop the facts as would be done in any other type grievance or

| personnel matter requiring consideration and approval.|
Reports of Counseling must be submitted by the EEO Counselor to the OEEOA within 7 days of being advised by the OEEOA to furnish same. Notes created during the counseling activity are not to be included in these reports. Instead, the Counselor should retain and properly store his/her notes for a period of two (2) years. (See MAOP, Part 1, 4-5.1.5 & Part 2, 2-4.5.15.)

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-5.1.5 Storage of EEO Counselor's Notes (See MAOP, Part 1, 4-5.1(7), 4-5.1.4.)

(1) Each EEO Counselor will be responsible for the proper storage of notes created during the course of EEO counseling activities. Such notes should be stored in a secure or locked device such as a desk or safe to which access is restricted to the EEO Counselor. These notes should be retained for a period of two (2) years from the date of their creation, at which time they should be destroyed. Each EEO Counselor will be responsible for creation of his/her tickler system for the destruction of these notes (see MAOP, Part 2, 2-4.5.15).

| (2) |There|may be instances where, prior to the passage of the two years, the EEO Counselor may be suspended or terminated, may retire or resign from the FBI's employment, may be transferred from one office of assignment to another, or may decide to relinquish his/her duties as an EEO Counselor. As a result of such change of circumstances, and to ensure the integrity of the confidentiality required in the EEO process, it will be incumbent upon the Counselor to have the notes forwarded to the OEEOA, FBIHQ for appropriate storage.

(3) Each ADIC, SAC and Assistant Director should likewise remain vigilant in those circumstances involving the replacement of an EEO Counselor to ensure that the outgoing Counselor's notes are appropriately forwarded to the OEEOA, FBIHQ. In those instances where, due to unusual circumstances, the office management is tasked with forwarding the notes of an outgoing EEO Counselor, extra care should be given to the handling of such material to ensure that adequate confidentiality is maintained for these materials.

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-5.2 EEO Investigators (See MIOG, Part 1, 280-2.)

(1) EEO investigations are conducted by Special Agents

(GS 1811) serving either as TERM GS-14 Investigators or collateral duty Investigators. TERM Investigators are full-time positions selected by the OEEOA, and approved by the SAMMS Board, who serve in one of five regions across the country--Northeast, East, Southeast, Midwest and West. The East Region has four TERM Investigators, while the remaining regions have one investigator each. The TERM Investigator position is a two-year term, with optional one-year extensions approved by the OEEOA. Each TERM Investigator, when selected, remains in his/her field office, and investigates complaints arising in the field offices within their region (see MAOP, Part 1, 4-5.2 (7)), except for their own field office. TERM Investigators report directly to the OEEOA, which supervises their work and provides annual performance appraisal ratings. Collateral duty Investigators perform EEO investigations as a voluntary, collateral duty to their normal investigative responsibilities. Each field office is required to maintain a specific number of trained collateral duty Investigators as set forth by the OEEOA, and the division head is responsible for ensuring that those Investigators are impartial and professional representatives of that division.

(2) The collateral duty Investigator position can be filled through circulating a memo outlining the duties and qualifications of the position. Interested qualified employees may directly volunteer by making their interest known to management, or management may encourage such qualified employees to volunteer. No formal posting is required, but individuals selected for this position must have exhibited an ability to conduct THOROUGH and OBJECTIVE investigations in a timely manner. They do not have to be participants in the Executive Development and Selection Program (EDSP). Divisions may choose to select EEO Investigators through established career board procedures.

(3) Following selection, both TERM and collateral duty Investigators will be scheduled to attend the next available EEO Investigators' Seminar training course at the FBI Academy. Case assignments will not be made until completion of the training program. Investigations will be assigned by the Unit Chief of the Complaints Processing Unit (CPU). Assignments to collateral duty Investigators will be made by the CPU Unit Chief following concurrence with the respective Assistant Special Agent in Charge of the office where the Investigator is assigned. Investigations are assigned based on geographic region, but are NEVER assigned to an Investigator within his/her own division. During the investigation, Investigators are directly supervised by various personnel within the OEEOA, including the Supervisory Special Agents assigned to the CPU, the CPU Unit Chief, and the EEO Officer.

(4) Collateral duty Investigators who are promoted to supervisory positions, or who resign from the EDSP will be removed from the list of active Investigators. Exceptions can be made by the OEEOA on a case-by-case basis. A collateral duty Investigator who receives a nonpromotional transfer from one field division to another becomes a part of their new division's complement of EEO Investigators if they are still interested and available. It is the responsibility of each field office to immediately advise the OEEOA, by communication, of any personnel changes (retirements, transfers,

promotions, etc.) involving collateral duty Investigators. Offices experiencing a reduction below the recommended complement of collateral duty Investigators will be notified by the OEEOA and given preferential consideration for spaces at the next available EEO Investigator's in-service.

(5) At the conclusion of each investigation, the OEEOA will provide an evaluation of the collateral duty Investigator's work to the ADIC/SAC/AD, the Investigator's rating official, and the Investigator. The evaluation is to be used as a measuring tool of the
| Investigator's|additional|duty as an EEO Investigator and DOES NOT constitute an official performance rating. The significance given to this evaluation in the Investigator's annual Performance Appraisal Report will be left to the discretion of the rating official. The OEEOA has the discretion and authority to remove an ineffective collateral duty Investigator for cause in the event the quality of that Investigator's performance or work product does not meet the
| OEEOA's standards. Examples of such grounds would be biased behavior and/or reporting, or failure to follow OEEOA instructions regarding an investigation.

(6) Special Agents conducting EEO investigations should attribute time spent on TURK Form (FD-420a) as subclassification 280A.

(7) TERM GS-14 EEO Investigator regions are comprised of the following offices:

Northeast - AL, BF, BS, CV, DE, NH, NK, NY, PG, PH
Southeast - AT, BH, CE, CI, CO, IP, JK, JN, KX, LS, ME, MM, MO, NO, SJ, TP
East - BA, FBIHQ (to include Legats), NDIC, NF, RH, WFO
Midwest - AQ, CG, DL, DN, EP, HO, KC, LR, MP, MW, OC, OM, SA, SI, SL
West - AN, HN, LA, LV, PD, PX, SC, SD, SE, SF, SU (See (1).)

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

| 4-5.2.1 Authority and Role of EEO Investigator (See MIOG, Part I, |280-2.1.)|

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**EffDte: 12/11/1995 MCRT#: 482 Div: EE Cav: SecCls:

| 4-5.2.2 Files Available to Investigator (See MIOG, Part I, |280-2.2.)|

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**EffDte: 12/11/1995 MCRT#: 482 Div: EE Cav: SecCls:

| 4-5.2.3 EEO Investigation and Documentation (See MIOG, Part I, |280-2.3.)|

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**EffDte: 12/11/1995 MCRT#: 482 Div: EE Cav: SecCls:

| 4-5.2.4 Investigative Report/Review by Office of the General Counsel (See MIOG, Part I,|280-2.4.)|

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**EffDte: 12/11/1995 MCRT#: 482 Div: EE Cav: SecCls:

| 4-5.2.5 Theories of Discrimination (See MIOG, Part I,|280-2.5.)|

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**EffDte: 12/11/1995 MCRT#: 482 Div: EE Cav: SecCls:

| 4-5.2.6 |Moved to 4-5.3|

**EffDte: 12/11/1995 MCRT#: 482 Div: EE Cav: SecCls:

| 4-5.2.7 |Deleted|

**EffDte: 12/11/1995 MCRT#: 482 Div: EE Cav: SecCls:

4-5.3 Subclassifications (See MIOG, Part 1, 280-1; MAOP, Part 2, 3-1.1, 3-1.2, 3-3.2(3) & 3-4.5(5).)

(1) 280A (EEO Investigations) - Should ONLY be utilized for EEO investigative files and to record time spent on EEO investigations. FILE USE RESTRICTED TO OEEOA ONLY.

(2) 280B (EEO Counseling) - Should ONLY be utilized for recording time spent counseling.

(3) 280C (EEO Conferences) - Should ONLY be utilized to record time spent at conferences and training seminars.

(4) 280D (EEO Administrative) - Utilized for EEO administrative files that are unrelated to specific complaints of discrimination or that make reference to a complainant by name.

| |(5) 280E (Reasonable Accommodation Request) - FILE USE
| RESTRICTED TO OEEOA ONLY.|

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

| 4-6 |AFFIRMATIVE EMPLOYMENT|PROGRAM

| The Bureau's|Affirmative Employment Program|is|a
| continuing program for the recruitment of minorities and women to
| eliminate underrepresentation in various categories of employment and
| to ensure equality of opportunity by tracking and monitoring such
| activities as recruitment, hiring, disciplinary actions, promotions,
| and training.|

**EffDte: 12/12/1991 MCRT#: 0 Div: EE Cav: SecCls:

| 4-6.1 |Moved to 4-3|

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-6.1.1 Recruitment of Persons with Disabilities, Minorities and Women

(1) Suggested means of attracting individuals with disabilities are: contact various rehabilitation agencies, state employment services and Veterans' Assistance Centers, participate in job fairs, conferences and other events that focus on employment of persons with disabling conditions. |In addition, contacts should be be maintained with the suggested contacts for attracting minorities and women.|

(2) Suggested means of attracting members of minority groups and women are: contacts with high schools, business and specialty schools, colleges and law schools, women's colleges and organizations; contacts with civic, professional, business, and religious leaders; contacts with minority groups such as|the National|Urban League; contacts with military separation centers and other logical military bases including the transition officers at such centers and bases; contacts with graduating seniors who are also receiving commissions in the military as a result of ROTC programs at colleges having a predominance of minority students, suggesting career potential as SA in FBI following separation and that while in military they may be in contact with minority officers being separated from military or who would be inclined to separate if they were assured of a good job; contact with law enforcement agencies; contact with local offices of pertinent federal and state employment opportunity programs for the underprivileged; contact with state employment services; |notices regarding opportunities for employment included in relevant publications,|particularly appropriate women's, minority, and foreign language newspapers, e.g., Spanish, including publicity on achievements or career information on our individual women and minority employees;|participation in|radio and television broadcasts, particularly over minority-oriented stations, including participation by women and minority employees;|provide press releases related to the recruiting/hiring programs; speeches|before groups which include a representative number of women and minority group members;|use|of informal contacts, such as with friends, neighbors, etc.,|and discussion of career opportunities|during tours of field offices|and FBIHQ.| These suggestions are by no means all-inclusive but are to be supplemented consistent with individual field office effort. ADICs/SACs and FBIHQ division heads must ensure that handling of all applicants is proper, and that coverage of sources of applicants is complete. The positive EEO program implemented by each field office must be under the personal direction of the ADIC or SAC who must ensure that the office applies a positive and forward-looking approach toward recruitment in this area.

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-7 EMPLOYEES' AWARENESS OF EEO PROGRAM

(1) ADICs, SACs and FBIHQ division heads must ensure that all employees are familiar with the EEO policy and the responsibility of employees under the Department's regulations, and that all

supervisors are fully knowledgeable on this subject and particularly as to their responsibilities. This should be brought to the attention of supervisors at the time they are designated as such. Supervisors must make certain all employees thoroughly understand pertinent parts of the program and are aware of where details on the program can be located. It is imperative that all employees fully understand that allegations of discrimination must be brought to the attention of an EEO Counselor within 45 calendar days of the action in question, and that failure to contact an EEO Counselor within the required 45 calendar days may result in forfeiture of the complainant's right to pursue a claim of discrimination.

(2) To supplement training offered through management and supervisory courses on EEO at the FBI Academy and other FBI training sessions, supervisors and managerial staff, in particular the ASAC, Supervisory SAs, Administrative Officers (AOs), and Assistant AOs, | should attend EEO training provided|by the OEEOA at the FBI Academy.|

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-7.1 Conferences

The policy pertaining to EEO must be made a subject of discussion at annual conferences of Agent and support personnel in the field and at FBIHQ and should be appropriately documented. Such discussions should describe in general terms the discrimination complaint process and in particular the fact that all allegations of discrimination must be brought to the attention of an EEO Counselor within 45 calendar days of the action in question, and that failure to | contact an EEO Counselor within the required 45 calendar days|may| result in forfeiture of the complainant's right to pursue a claim of discrimination. It must be emphasized during such lectures that all | personnel actions in the Bureau|should be|based on merit and|job-| related criteria and that there must be no discrimination as to the | EEO factors.| Employees should be urged to consult their EEO Counselor at any time should they have any question(s) on this matter. Names of these EEO Counselors should be brought to the attention of the | conference attendees. (See MAOP, Part 2, 8-1.3.2(4) and 8-2.2(1),(2); Legal Attache Manual, Sections 2-12.1 and 2-12.3.)

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-7.2 Special Emphasis Program Coordinators

(1) To enhance opportunities for results-oriented programs and increase employee awareness of the Special Emphasis

| Programs, 15 major offices|(by office population size -|Atlanta,
| Baltimore, Boston, Chicago, Dallas, Detroit, Houston, Los Angeles,
| Miami, Newark, New York, Philadelphia,|San Diego,|San Francisco and
Washington Field Office) are required to designate coordinators as
follows: American Indian/Alaskan Native, Asian American/Pacific
Islander, Black Affairs, Federal Women's, Hispanic Employment, and
Persons with Disabilities (hiring and placement of persons with
| disabilities)|Programs.| The Applicant Coordinator is to coordinate
the active recruitment of persons with disabilities and, where
feasible, handle all matters pertaining to persons with disabilities
and serve as the Persons with Disabilities Coordinator. In certain
| instances, such as|with the Los Angeles, New York, and Washington
| Field Offices,|there is a need to fill the responsibility of handling
matters pertaining to the Persons with Disabilities Program by an
individual in addition to the Applicant Coordinator.

(2) In the above-named offices the coordinators are to
formulate an EEO Advisory Committee. Each coordinator and/or the
committee, collectively, should serve as a resource body or person to
management officials on concerns of the targeted group he/she
represents. These coordinators are to maintain contact with the FBIHQ
Special Emphasis Program Managers for necessary guidance and
direction.

(3) Training for each coordinator, apropos to the program
| for which he/she is responsible, is offered through the|Graduate
| School, USDA (formerly OPM Training). For additional information
| regarding this training call USDA toll free at (888) 744-GRAD.| The
| coordinators should arrange to attend|training provided through
| Graduate school|or comparable courses approved by the OEEOA. Standard
Form 182, "Request Authorization Agreement and Certification of
Training," must be utilized.

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

| |4-7.3 OEEOA Funding for Commemorative Events

| All requests for OEEOA funding assistance are subject to
| availability of funds. Budget limitations and increased demand for
| assistance require the OEEOA to allocate its assistance funds so as to
| encourage the broadest reach of programs.

| The OEEOA will apply the following guidelines:

| (1) GENERAL GUIDANCE

| (a) OEEOA funds, when available, are to supplement,
| not supersede, the contributions of the local office.

| (b) The EEO program/activity must highlight the
| contributions and provide awareness of the various affinity groups

| being highlighted. The OEEOA will consider funding the following
| items: exhibits, posters, workshops/seminars, guest speakers, and
| other related resources.

| (c) Other events may also provide an opportunity to
| include and celebrate the unique contributions made by other heritages
| and cultures not regularly celebrated throughout the year by the
| OEEOA. An example of this would be the "Unity Festivals" being held
| annually at FBIHQ and in various field offices.

| (d) Funding assistance request must be in writing and
| received by OEEOA at least one month prior to the event.

| (2) The request must contain the following information:

| (a) A statement of the SAC's approval for the date,
| place, and content of the event.

| (b) The scope of the program and how it highlights
| the contributions of various cultures or groups.

| (c) An itemized list of the cost of each program
| component or activity, to include but not be limited to, featured
| speakers and scheduled performances.

| (d) A proposed breakdown of the sponsoring
| office/OEEOA proportions of total costs.

| (3) In the event you are sharing the cost with other
| agencies or local entities, the requesting FBI office must provide a
| complete breakdown of expenses, as set forth below:

| (a) Overall expenses

| (b) Division's share of total

| (c) Requested OEEOA contribution|

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

| 4-8 |EXECUTIVE DEVELOPMENT AND SELECTION PROGRAM (EDSP)

| FBI Policy Statement dated July 26, 1994, reiterates long-
| standing policy under the Affirmative Employment Program Plan for
| Minorities and Women as follows:

| "As the Director of the FBI, I strongly encourage women
| and minorities to participate in the voluntary Executive Development
| and Selection Program (EDSP), and I, personally, support initiatives
| to affirmatively recruit women and minorities into the EDSP.
| Increasing the number of women and minorities participating in the

| EDSP at the entry level position of relief supervisor will broaden the
| pool of women and minority candidates eligible for selection as
| supervisors, mid-level managers and, ultimately, for selection as
| senior executives. It is my objective to encourage participation in
| the EDSP by sufficient numbers of highly talented and motivated women
| and minority SAs to ensure that women and minority SAs achieve
| leadership positions in the FBI, including the Senior Executive
| Service."|

**EffDte: 11/18/1994 MCRT#: 347 Div: EE Cav: SecCls:

| 4-8.1 |Moved to 4-9.1|

**EffDte: 11/18/1994 MCRT#: 347 Div: EE Cav: SecCls:

4-9 UPWARD MOBILITY PLAN

| |The FBI has developed an Upward Mobility Plan (UMP). This
| Plan includes all positions in the FBI to which all GS employees or
| any Wage Board employee can aspire, to enable them to realize their
| full work potential. The Plan is designed to ensure a continuing,
| results-oriented program of upward mobility within the FBI.
| Information concerning the Plan should be maintained on key bulletin
| boards in each office, division and field office so that every
| employee will have ample opportunity to observe and review same. In
| addition, information concerning upward mobility should be discussed
| during annual conferences of Support personnel and at any other times
| deemed appropriate. It must be emphasized during such lectures that
| upward mobility must conform with merit principles and equal
| opportunity requirements. Employees should be urged to consult their
| Upward Mobility (UM) Counselor should they have any questions on this
| matter.|

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-9.1 Role of Upward Mobility Counselor (Formerly 4-8.1)

Instructions regarding the selection of UM Counselors are included under Career and Educational Counseling in the FBI's UMP. The Counselor's role is an essential element in the UMP because the Counselor attempts to match the employee's interests, skills and potential to the organizational needs by bringing together

people and job opportunities. Such career counseling is designed to provide information and advise of the ways employees can use their skills, acquire more job satisfaction, and choose the education and/or training necessary to advance. Counselors should be able to deal effectively with all persons within the Bureau's diversified work force, including persons with disabilities. The Counselor should have an understanding of merit principles, performance evaluation procedures, Bureau promotional policy and other information necessary to assist employees so that employees will not have their hopes raised unrealistically. To ensure Counselors are well versed in personnel procedures, they should review FBI's promotion policy, thoroughly familiarize themselves with the various positions throughout the Bureau, and be familiar with the transfer policy for support employees. Counselors should furnish pertinent information to
| FBIHQ|semiannually|regarding the employees who seek them out for individualized counseling on upward mobility. This information should include the employee's name, entry-on-duty date, current
| position,|series number, grade|and what upward mobility|target
| position(s),|if any, the employee was|advised|he or she could aspire
| to in the future. |All reports should be received in the Office of
| EEO Affairs no later than March 15th and September 15th of each year.
| To reduce the time of transmittal the reports should be sent
| electronically to Ms. Kimberlee Swain, Upward Mobility Program
| Manager, via the FBI's internal e-mail system with a hard copy to
| follow. All divisions are required to submit negative responses when
| no activity has occurred during a reporting period.|

**EffDte: 06/18/2001 MCRT#: 1115 Div: EE Cav: SecCls:

4-10 PERSONS WITH DISABILITIES (FORMERLY SELECTIVE PLACEMENT) PROGRAM

| The FBI's Persons with Disabilities Program (PDP), located within the Office of Equal Employment Opportunity Affairs (OEEOA), monitors and reports on the recruitment, hiring, testing, placement, and advancement of persons with disabilities within the Bureau. The PDP also provides training to Bureau personnel regarding the employment of individuals with disabilities, general awareness, reasonable accommodation and other related issues. In addition, the PDP receives, reviews, researches, coordinates and makes
| recommendations|regarding|requests for reasonable accommodations received from employees and applicants. Recommendations for reasonably accommodating persons with disabilities are generally made with the assistance of the FBI's Reasonable Accommodation Committee (see MAOP, Part 1, 4-10.2).

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

| 4-10.1 Regulations Pertaining to Employment of Persons with Disabilities

| (1) The Rehabilitation Act of 1973 (Public Law 93-112), as amended by Public Law 93-516, the Vietnam Era Veterans' Readjustment Act of 1974 (Public Law 93-508), and the Americans with Disabilities Act of 1990 require that agencies within the Executive Branch of the federal government develop and implement affirmative action program plans that will expedite the hiring, appointment and promotion of persons with disabilities and develop policies that do not unnecessarily exclude or limit persons with disabilities because of architectural, procedural, communication, transportation or attitudinal barriers.

| (2) Federal law and EEOC guidance provide the following definitions:

| (a) "Person with a disability" is an individual who has a physical or mental impairment which substantially limits one or more of the person's major life activities; has a record of such an impairment; or, is regarded as having such an impairment.

| (b) "Physical or mental impairment" includes: any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and, endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. In addition, Congress included the following examples of conditions, diseases and infections as physical or mental impairments under the Americans with Disabilities Act of 1990: alcoholism; cancer; cerebral palsy; diabetes; drug addiction; emotional illness; epilepsy; and, infection with the Human Immunodeficiency Virus (HIV).

| (c) "Record of an impairment" means that the individual has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

| (d) "Is regarded as having an impairment" includes:

| 1. individuals with physical or mental impairments that do not substantially limit a major life activity, but are treated by a covered entity as constituting such a limitation;

| 2. individuals with a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others toward the impairment; or,

| 3. individuals with no physical or mental

| impairment who are treated by a covered entity as having such an
| impairment.

| (e) "Major life activities" include those basic
| activities that the average person in the general population can
| perform with little or no difficulty. Examples of these activities
| include but are not limited to: caring for one's self; performing
| manual tasks; walking; seeing; hearing; speaking; breathing;
| learning; and, working.

| (f) "Substantially limits" means that the individual
| is unable to perform or is significantly restricted as to the
| condition, manner or duration under which he or she can perform a
| major life activity as compared to the general population.
| Temporary, nonchronic impairments of short duration, with little or
| no long-term or permanent impact, are not usually considered a
| disability.

| (g) "Qualified individual with a disability" for the
| purpose of employment, includes those persons who, with or without a
| reasonable accommodation, can perform the essential functions of the
| employment position that the individual holds or desires.

| (h) "Reasonable accommodation" is a modification or
| adjustment to a job, the work environment or the way things are
| usually done, that will enable a qualified individual with a
| disability to attain the same level of performance or enjoy equal
| benefits and privileges of employment as are available to a similarly
| situated employee without a disability. Reasonable accommodation may
| occur in three phases of employment: in the application/recruitment
| process; in the performance of essential functions of a job; and/or
| in the receipt of all benefits of employment. Within the FBI, all
| requests for reasonable accommodations received from employees or
| applicants will be coordinated through the OEEOA.

**EffDte: 12/13/1996 MCRT#: 593 Div: EE Cav: SecCls:

4-10.2 Reasonable Accommodation Committee (See MAOP, Part 1, 4-10.)

On March 10, 1994, the Director approved the establishment
of the Reasonable Accommodation Committee (RAC) within the OEEOA to
assist the PDP in addressing individuals' requests for reasonable
| accommodation. The RAC is|comprised|of representatives from the
| |Administrative Services|Division and the Office of the
General Counsel (OGC) to include: the Persons with Disabilities
Program Manager; the Medical Officer (MO); the Safety Officer; and
personnel from the Facilities Management, Staffing, Position
| Classification, and Health Care Programs Units. |As|necessary,
personnel from the Employee Assistance and/or Employee Benefits Units
| are requested to assist.

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

4-10.3 Reasonable Accommodation Process

| |(1) The Rehabilitation Act of 1973 (Public Law (PL) 93-112), as amended by PL 93-516, requires that agencies within the Executive Branch of the federal government institute programs that will expedite the hiring, appointment, and promotion of persons with disabilities.

| (2) The reasonable accommodation process is administered through the Bureau's Persons with Disabilities Program (PDP), and is managed by the Office of Equal Employment Opportunity Affairs (OEEOA). The reasonable accommodation request process allows employees to make an informal request for assistive devices, "...modification or adjustment to a job, employment practice or work environment" which may assist AN EMPLOYEE WITH A DISABILITY in successfully performing the essential functions of their respective positions. The decision about the type of accommodation to be provided will be based upon what is deemed to be reasonable.

| (3) Generally, it is the responsibility of the employee to inform Bureau management of his or her need for an accommodation. In cases where Bureau management is aware that an employee with a known disability is having difficulty performing their duties, management should only approach the issue from a performance perspective. Bureau management should avoid making comments that suggest that poor work performance is the direct result of the employee's disability. For example, a manager who observes a change in an employee's performance should discuss the performance issue with the employee, and inquire about ways that management might assist the employee to improve work performance. In doing so, this may lead the employee to indicate that he or she does require an accommodation.

| (4) Any employee who believes that a current or ongoing medical condition, whether physical or mental, is impacting their ability to perform their duties, may seek an accommodation under the Bureau's process. Submission of a request does not guarantee approval. All requests for accommodations will be evaluated by the Office of the General Counsel (OGC), the Health Care Programs Unit (HCPU), and the OEEOA to ensure that the employee is a qualified "INDIVIDUAL WITH A DISABILITY," and thus is eligible for an accommodation. The ADA defines a "QUALIFIED INDIVIDUAL WITH A DISABILITY" as a person who has 1) a physical or mental IMPAIRMENT that SUBSTANTIALLY LIMITS one or more MAJOR LIFE ACTIVITIES; 2) has a record of such an impairment; or, 3) is regarded as having such an impairment. Once a determination is made by OGC, HCPU, and the OEEOA regarding the employee's filing status, the OEEOA will make recommendations based upon information and input provided by the OGC and the HCPU. Information submitted by employees as part of their request for an accommodation will be kept confidential. This

| information will be maintained by the OEEOA and will not be placed in
| the employee's personnel file.

| (5) If it is determined that an employee is eligible for an
| accommodation, the OEEOA will provide recommendations regarding the
| types of accommodations necessary to assist the requesting employee.
| Although the OEEOA issues the recommendations, and will provide
| technical assistance to managers and supervisors, IT IS THE
| RESPONSIBILITY OF EACH OFFICE TO ALLOCATE FUNDS IN THE ANNUAL BUDGET,
| AND TO INCUR THE COST OF PROVIDING AN ACCOMMODATION FOR AN EMPLOYEE.
| In cases where Bureau management believes that providing the
| accommodation would create an UNDUE HARDSHIP, Bureau managers and
| supervisors should submit written justification explaining the
| hardship to the OEEOA office. The determination of whether a
| particular accommodation would impose an undue hardship will be made
| by the OGC and OEEOA on a case-by-case basis.|
|

**EffDte: 11/18/1999 MCRT#: 935 Div: EE Cav: SecCls:

| 4-10.4 Request for Reasonable Accommodation

| |(1) Any employee who believes that a medical condition,
| whether physical or mental, is affecting his/her ability to perform
| their duties, should notify his/her immediate supervisor in an effort
| to cooperatively reach some sort of accommodation without the need to
| file a formal request. Employees seeking an accommodation should
| complete Section One (pages 1-3) of Form FD-856 (Request for
| Reasonable Accommodation) to initiate the reasonable accommodation
| process. In this section, employees shall clearly state the nature of
| their medical condition, and if possible, identify any accommodations
| they believe would assist them in performing the essential functions
| of their jobs. Submission of inadequate documentation will require
| the OEEOA to contact the requesting employee, which will result in a
| delay in handling the request. Employees must attach to their request
| all medical documentation which is relevant and that supports the need
| for an accommodation. The employee must also sign and date the FD-856
| in the designated area. Supervisors are required to complete Section
| Two (Supervisor Information) when presented an FD-856 by an employee.
| The supervisor shall acknowledge and provide the date of receipt of
| the FD-856, and review the request for accommodation. Supervisors
| are also required to advise the employee regarding the availability of
| the Employee Assistance Program (EAP). Whenever possible,
| supervisors shall attempt to accommodate the employee's request.

| (2) If the supervisor or manager is willing and able to
| provide the necessary accommodation, the information should be
| documented and acknowledged by the requesting employee. If an
| accommodation is provided, then a referral to the OEEOA for further
| action is not necessary. However, the completed FD-856 should be
| forwarded by the office head to the OEEOA for recordkeeping purposes.
| Copies of an employee's request shall NOT be placed in the employee's

| personnel file. In cases where the supervisor does not agree with
| the employee's request, the supervisor should express his or her
| concerns in writing where appropriate in the FD-856, and shall forward
| the FD-856 to the OEEOA for additional action.

| (3) During the preliminary stages, supervisors and managers
| are required to inform employees regarding the availability of
| Employee Assistance Program services. However, EAP Counselors are not
| involved in the accommodations process; therefore, employees should
| not pursue a request for accommodation using the EAP process.

| (4) The reasonable accommodation process is strictly a
| voluntary process. Managers and supervisors may not submit a request
| for accommodations on behalf of their employees without the employee's
| knowledge or consent. Managers and supervisors who recognize that an
| employee's medical condition is affecting his or her performance
| should attempt to resolve the matter prior to submitting an FD-856 to
| the OEEOA office.

| (5) All requests for accommodations (FD-856), including all
| correspondence and medical documentation, should be forwarded to:

| Office of Equal Employment Opportunity Affairs
| Persons with Disabilities Program Manager
| Federal Bureau of Investigation (HQ)
| Room 7901
| 935 Pennsylvania Ave. NW
| Washington, DC 20535-0001

| Upon completion of the process, the OEEOA will provide written
| notification to the employee and appropriate management official.|

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| |4-10.4.1 Medical Documentation

| The submission of medical documentation is essential to the
| effective handling of requests for accommodation. Under the ADA,
| employers are entitled to request adequate medical documentation in
| support of the request for accommodation. All Bureau employees are
| strongly encouraged to submit CURRENT medical documentation which
| supports the request for accommodation. Failure to submit adequate
| documentation may result in an inability to properly evaluate the
| request and accommodate the employee's needs. All medical
| documentation should include the employee's name and be signed and
| dated by the attending physician. In addition, the medical statement
| should include a response to the following:

| (1) Why did the patient seek your professional services?

| (2) What is his or her medical history?

| (3) What was the nature of the complaint?

| (4) What tests or examinations did you perform, and what
| were the results?

| (5) What is the diagnosis?

| (6) Is there a secondary diagnosis?

| (7) To what do you ascribe the condition?

| (8) What body system(s) does the condition affect?

| (9) What is the prognosis?

| (10) What effect does or will the condition have upon the
| patient?

| (11) What functions or activity does the condition impair,
| and to what extent are they impaired: slight, minor, moderate,
| substantial, severe, total?

| (12) How does the condition affect the patient's ability to
| perform everyday functions?

| (13) Will the extent of the impairment remain constant? If
| not, will it improve or degenerate?

| (14) If the condition affects the patient's ability to work,
| specifically how does it do so? What limitations, if any, should the
| patient be under while in the work environment?

| (15) What is the prescribed course of treatment, and how
| long will the treatment last? (What therapies, medications, or
| procedures are indicated)

| (16) What restrictions or limitations have you prescribed?

| (17) Are any special devices or equipment indicated?

| (18) Is there anything else that you believe warrants our
| attention in responding to the request by your patient?|

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| |4-10.4.2 Appeals Process

| (1) The reasonable accommodation process is intended to be
| interactive and ongoing. An employee may seek a reevaluation and
| assessment for additional accommodation by submitting updated medical

| documentation. Although the OEEOA does not guarantee that an
| additional accommodation will be provided, all requests will be given
| full consideration under applicable laws.

| (2) An employee whose request for accommodation is
| declined may choose to pursue their concerns beyond the reasonable
| accommodation process. This may be accomplished by contacting an EEO
| Counselor to initiate the informal complaint process.|

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| |4-10.4.3 Definitions/Terms

| (1) "Major Life Activities" - Walking, speaking,
| breathing, performing manual tasks, seeing, hearing, learning,
| working, caring for oneself

| (2) "Substantially Limits" - Unable to perform, or
| significantly limited in the ability to perform, an activity compared
| to an average person in the general population

| (3) "Undue Hardship" - Excessively costly, extensive,
| substantial, or disruptive, or that would fundamentally alter the
| nature or operation of the business

| (4) "Mental impairment" - Any mental or psychological
| disorder, such as mental retardation, organic brain syndrome,
| emotional or mental illness, and specific learning disabilities

| (5) "Physical impairment" - Any physiological disorder,
| or condition, cosmetic disfigurement, or anatomical loss affecting one
| or more of the following body systems: neurological, musculoskeletal,
| special sense organs, respiratory (including speech organs),
| cardiovascular, reproductive, digestive, genito-urinary, hemic and
| lymphatic, skin, and endocrine|

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4-10.5 Reasonable Accommodations for Bureau Applicants

Applicants for employment with the FBI requesting
reasonable accommodation for their physical or mental disability
| during the application process should provide a
written request for accommodation and supporting medical documentation
detailing the applicant's diagnosis, prognosis, limitations and
recommendations for accommodation. All documentation from the

applicant's physician or therapist should be forwarded to the OEEOA along with an explanatory communication from the division or office requesting assistance. Generally, applicants will be provided with accommodations such as sign language interpreters, text-enlarging adaptive equipment for use with written materials, or up to double time to complete written portions of application tests. Each request will be addressed by the OEEOA in coordination with the Administrative Services Division.

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********** END OF REPORT **********

| SECTION 5. PERFORMANCE|APPRAISALS,|RECOGNITION AND AWARDS

**EffDte: 03/18/1983 MCRT#: 0 Div: D3 Cav: SecCls:

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-21-2007 BY 60324 AUC BAW/CPB/STP

| 5-1 PERFORMANCE|APPRAISAL|SYSTEM |(PAS)|(See MAOP, Part 1, 21-2(4); & Legal Attache Manual, 4-2.)

| The|PAS|was designed to integrate the performance-related facets of personnel management. It encompasses not only performance
| appraisal, but also|employee development and|performance-based
| personnel decisions|such|as promotions,|Office of Preference| transfers, within-grade and quality step increases, and superior
| accomplishment awards. The|PAS|covers all non-Senior Executive Service employees.

**EffDte: 05/01/2002 MCRT#: 1191 Div: D3 Cav: SecCls:

5-1.1 Purpose

| The purpose of the|PAS|is to provide a tool for executing basic management and supervisory responsibilities by:

(1) Communicating and clarifying agency goals and objectives;

(2) Identifying individual accountability for the accomplishment of organizational goals and objectives;

(3) Evaluating and improving individual and
| organizational accomplishments;

| (4) |Evaluating employees' development needs and providing
| them with guidance and/or resources to help them improve their
| performance; and|

| |(5)| Using the results of performance appraisal as a basis for adjusting basic salary, determining performance awards, training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees.

**EffDte: 05/01/2002 MCRT#: 1191 Div: D3 Cav: SecCls:

| |5-1.1.1 An Overview of the PAS

| The FBI has developed a PAS designed to ensure an effective
| and fair performance appraisal process. This system is designed both
| to create a partnership between employees and supervisors in the
| performance appraisal process and to focus on the developmental
| aspects of employee performance.

| (1) Definitions

| Under the PAS, FBI JOB TITLES (with the exception of those
| found only in the Senior Executive Service) have been categorized into
| JOB FAMILIES, or groups of jobs, where similar work is performed.

| These job families are an important part of the PAS because each
| employee's performance is evaluated based on the critical elements
| identified for his/her job family.

| CRITICAL ELEMENTS are the rating components that will be
| used to evaluate employees' performance. There are two types of
| critical elements, CORE critical elements and SPECIALIZED critical
| elements. CORE critical elements are relevant for all persons in a
| given job family, whereas SPECIALIZED critical elements may only be
| relevant for some persons in a job family (depending upon their
| position's requirements). In order to be a critical element, a work
| assignment or responsibility must be of such importance that
| unacceptable performance on the element would lead to a summary
| performance rating indicating that the employee's overall performance
| is at the Does Not Meet Expectations level. This, in turn, could
| serve as the basis for the employee's reduction-in-grade,
| reassignment, or removal from the FBI.

| PERFORMANCE STANDARDS explicitly define the performance
| expectations for each of the critical elements. Performance standards
| change as one advances in performance levels or is assigned to a
| position in a different job family. Therefore, for each critical
| element, multiple levels of performance standards are provided that
| describe the performance expectations of employees at different grade
| levels.

| PERFORMANCE LEVELS are based upon the specific job family,
| specific grade, and other various factors (e.g., the type of work
| performed).

| (2) General Description

| The PAS includes some elements of the former performance
| appraisal system, but also incorporates several novel elements
| specific to the new PAS. Similar to the previous system, standard
| rating periods for the performance appraisal process will begin and
| end at one-year intervals. At the beginning of the process,
| supervisors will provide employees with a Performance Plan containing
| a detailed description of the performance expectations established for
| the employee's position and grade level. Approximately midway through

| the rating period, employees will participate in a Progress Review
| Session with their supervisors. During this session, employees will
| have the opportunity to share their views of their performance with
| their supervisors and obtain from supervisors feedback regarding their
| performance. The formal Performance Appraisal Session, conducted at
| the end of the performance appraisal period, completes the performance
| appraisal process. During this session, supervisors discuss
| employees' Performance Appraisal Report (PAR) ratings with them.

| Several of the new elements incorporated into the PAS are the rating
| levels and the use of job families, performance standards and
| performance levels. Performance will be evaluated using two
| rating levels, Meets Expectations and Does Not Meet Expectations. In
| addition, supervisors will provide developmental recommendations which
| will act as a guide for how employees can improve their performance.
| These recommendations will not be furnished to any other FBI personnel
| or become part of the employee's official personnel records. For more
| detailed information regarding employee development refer to the "PAS
| Employee Development Manual" and the "PAS Supervisor Handbook."

| The FBI's PAS has been designed to accomplish two major objectives.
| The first objective is to measure job-relevant performance in a
| clear, fair and systematic manner. The second objective is to provide
| supervisors and employees with tools, resources and information that
| will encourage employee development and career management. It is
| expected that this system will both foster employee/supervisor
| communication and facilitate employee development.|

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5-1.2 Responsibilities

The Personnel Officer is responsible for the overall
| administration of the FBI's|PAS|as it applies to Special Agent and
support personnel. In this regard, the Personnel Officer shall ensure
that the performance appraisal and recognition processes are properly
administered and applied. At any time deemed appropriate, the
Personnel Officer or his/her designee will conduct a substantive
| review and validation of any|Performance Plan/PAR|and institute any
actions necessary to ensure compliance with applicable law,
regulation, or policy as set forth herein. The specific
responsibilities of other executives, management officials and
supervisors follow:

(1) Heads of offices (e.g., Special Agents in Charge
| |(SAC)|or Assistant Directors) shall personally ensure that:

(a) Employees under their jurisdiction are
adequately informed of their rights and responsibilities under the
| |PAS|in a timely manner;

(b) Managers and supervisors under their

jurisdiction who serve as rating and/or reviewing officials are given training and periodic reminders of their duties and responsibilities under the|PAS,|in addition to receiving supplementary directives as necessary;

|(c) |Managers and supervisors under their jurisdiction are made fully aware of the design of the system, including the job family structure, performance levels and the distinction between core and specialized critical elements;|

(d) Periodic evaluations of the performance appraisal processes within their offices are conducted and that only employees whose performance|Meets Expectations, as defined by their critical elements and performance standards set forth in their Performance Plans, are rated at the Meets Expectations level;|

(e) Ratings of record issued to employees in their offices are approved;

(f) Performance-based personnel action recommendations are reviewed and|approved; and

|(g) Development needs are identified and communicated to employees and that employees are afforded guidance and/or assistance to improve as needed.|

(2) Reviewing officials are at a higher organizational level than rating officials and|are normally the supervisors of rating officials|and as such will ensure that:

|(a)| PARs completed by rating officials are reviewed and accepted or adjusted as warranted; and

|(b)| Rating officials provide advice or instruction as appropriate to subordinates.

|(c) |Deleted|

|(3) Rating officials are|supervisors, including those employees with the word supervisor, manager, officer, or foreman in their position titles and/or position description. They are normally the employees' immediate supervisors who train, assign and review the employees' work.| In appraising subordinates, rating officials are to:
|

|(a)| Collect and maintain specific examples of employees' accomplishments and deficiencies|and any developmental information (e.g., development needs, development goals) throughout the rating period;|

|(b)| Afford guidance,|developmental feedback and developmental opportunities (where feasible)|to all subordinates;

|(c)| Issue PARs to employees as prescribed; and

|(d)| If applicable, review the performance appraisal practices of subordinate supervisors and provide advice as

appropriate.

| (e) |Deleted|

| (4) Employees subject to the|PAS|are responsible for:

| (a) Participating, as requested, in|discussions
| regarding their Performance Plans at the beginning of the performance
| appraisal period;|

(b) Actively engaging in performance discussions
| during Progress Review Sessions,|Performance Appraisal Sessions,|and
at other appropriate times; and

(c) Maintaining current knowledge of their rights
| and responsibilities under the|PAS.|

| |(5) The Performance, Recognition and Awards Unit (PRAU)
| is responsible for:

| (a) Administering, coordinating and managing the
| FBI's PAS;

| (b) Reviewing PARs issued at the Does Not Meet
| Expectations rating level to ensure compliance with applicable law,
| regulation, and the PAS policy;

| (c) Providing, as the Personnel Officer's designee,
| a substantive review of Reconsideration Requests to ensure compliance
| with applicable law, regulation, and the PAS policy and to make
| recommendations to the Personnel Officer regarding action to be taken;

| (d) Reviewing performance-based action
| recommendations based on performance at the Does Not Meet Expectations
| rating level and making recommendations to management of the
| Administrative Services Division on action to be taken; and

| (e) Providing guidance/training to rating and
| reviewing officials in the applications of the PAS with respect to the
| interrelationship with other human resource areas such as discipline,
| promotions, within-grade increases, and other recognition matters.|

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5-1.3 Authority

| The FBI's|PAS|was designed in accordance with applicable
portions of Title 5, United States Code, Chapter 43, and Title 5, Code
of Federal Regulations, Parts 430 and 432. Through the appraisal
process, employees are placed on notice of the critical
| functions/duties|associated with their job family and performance
| level and of the performance standards they are expected to meet.|

Performance appraisal information controls and/or influences various personnel actions.

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| 5-1.4 |Deleted|

**EffDte: 10/09/1996 MCRT#: 595 Div: D3 Cav: SecCls:

5-2 PERFORMANCE PLANS

(1) ISSUANCE OF A PERFORMANCE PLAN: An original Plan, comprised of a Notice page and Critical Element and Performance Standard(s) pages is to be issued within 30 days of the beginning of an employee's entry on duty, an employee's change in position due to a change in grade outside of his/her performance level, an employee's change in position due to reassignment to a position outside his/her performance level or reassignment to a
| position outside his/her current job family. |The employee's appraisal
| period will begin the day he/she signs the Plan.| The original Plan, in its entirety, must be entered into the Bureau Personnel Management System and maintained by the office of origin. The original Plan is to be forwarded to FBIHQ, only when a PAR is completed. At that time, if the PAR is issued at the MEETS EXPECTATIONS level, the Plan along with the original PAR is to be forwarded to Personnel Records, Records Management Division. (See 5-4.6.1.) If the PAR is issued at the DOES NOT MEET EXPECTATION level, both the PAR and the Plan must be forwarded to the PRAU for review. A copy of the Plan must be retained by the issuing office.

(2) MODIFYING PERFORMANCE PLANS: Performance Plans reflect performance expectations for the job family and performance level as established by a thorough job analysis. Therefore, the content of Performance Plans cannot be modified in any way (i.e., no additions, deletions, or adjustments to Performance Plans are allowed).

(3) RENEWAL OF PERFORMANCE PLANS: When the same Plan is being continued from one annual appraisal period to the next, the rating official and employee must review the Plan, including each critical element and Performance Standards page within 30 days
| after the beginning of the new period. |The employee's appraisal
| period will begin the day he/she renews the Plan.| The annual renewal of notice of the Plan must be documented by the rating official and the employee by initialing and dating the Notice Page inside the Plan renewal block. Failure to renew Plans will result in invalidation of PARs.

(4) PERFORMANCE STANDARDS: Define the performance expectations associated with each critical element and performance level identified for a job family and are expressed in terms of

quality, quantity, timeliness, or other appropriate measurement criteria. Rating levels to be used to assign a performance rating to each critical element are as follows:

(a) Meets Expectations: Employee consistently meets the standards.

(b) Does Not Meet Expectations: Employee repeatedly fails to meet one or more of the standards, such that performance is well below expected levels.

(c) Deleted

(d) Deleted

(5) Deleted

(6) Deleted

(7) Deleted

(8) Deleted

(a) Deleted

(b) Deleted

(c) Deleted

(d) Deleted

(e) Deleted

**EffDte: 11/08/2002 MCRT#: 1241 Div: D3 Cav: SecCls:

5-3 PROGRESS REVIEWS

(1) A progress review is an evaluation of an employee's progress toward achieving a performance level. Rating officials are responsible for imposing and maintaining appropriate controls to permit the assessment of employees' performance throughout the appraisal period. At the midpoint of the appraisal period, rating officials must conduct Progress Review Sessions with their subordinates. If an employee's appraisal period is altered by a
| change in grade|that results in the employee being placed in a
| different performance level in his/her job family or placed in a
| different job family,|the rating official must institute a review session approximately midway through the newly established rating period. Although employees are, at a minimum, to be advised of their
| level of performance on each|critical|element in relation to the
| measurement criteria in the performance standards,|supervisors are

| also responsible for providing developmental feedback to employees to
| address improvement, where needed. However, advice regarding
| performance appraisal rating levels|is not to be construed as an
official rating. An employee cannot request reconsideration of
his/her progress review ratings.

(2) Progress reviews are mandatory and may be conducted
orally. At the conclusion of the Progress Review Session, the date of
the review is to be recorded by the rating official inside the
Progress Review block on the Notice Page of his/her copy of each
subordinate's Performance Plan.

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5-4 PERFORMANCE-RELATED DOCUMENTATION

(1) PERFORMANCE APPRAISAL REPORTS (PARs): A PAR is
| comprised of a Cover|Page, Evaluation Page(s), and Narrative Page(s)
| (for Does Not Meet Expectations rating only).| An employee must have
served at least 90 calendar days on notice of his/her critical
element(s) and performance standards before a PAR may be issued.

| |When an employee is issued a PAR within 90 days of his/her End of
| Annual appraisal period, the PAR may be marked as an End of Annual
| PAR, and another PAR does not need to be issued to satisfy the End of
| Annual period requirement.|

(2) REVIEWING PARs WITH EMPLOYEES: Most performance
appraisal procedures are to be accomplished through direct contact
with the employee. Inasmuch as certain assignments may preclude face-
to-face contact because of geographic location or the sensitive nature
of the assignment, telephonic contact may be considered an appropriate
substitute. When personal contacts are not possible for a reason
other than undercover assignment, performance appraisal documents are
to be forwarded to the employee in an envelope marked "Personal and
Confidential" for his/her review and subsequent signing and dating.
| (NOTE: Rating officials are|discouraged from including classified
| information in PAR narratives. However, if necessary to include, they
| must|ensure classified material is appropriately marked.) Upon
| issuance of a PAR, a copy|will|be furnished to the employee.

| (3) |PROVIDING DEVELOPMENT FEEDBACK TO EMPLOYEES: In
| addition to discussing performance appraisal ratings with employees,
| supervisors are responsible for assigning developmental
| recommendations to their subordinates and providing them with a
| development plan (if appropriate) that specifies that actions they
| should take to improve their performance. Developmental
| recommendations are to be communicated only between supervisors and
| their subordinates and will not be furnished to any other FBI
| personnel or become part of employee's personnel records.
| Developmental Plans, however, are considered official documents and
| may be shared with the reviewing official and/or higher level

| management.|

| (a) |Deleted|

| (b) |Deleted|

| (c) |Deleted|

| (d) |Deleted|

| (e) |Deleted|

| (f) |Deleted|

| |(4)| MAINTENANCE AND DESTRUCTION OF PERFORMANCE-RELATED
| INFORMATION/DOCUMENTATION: |Performance-related information and
| documentation is defined as any material gathered, prepared and/or
| maintained by an employee's team leader, supervisor, rating official,
| and/or reviewing official, for the exclusive purpose of evaluating the
| employee under the Bureau's performance appraisal process. This may
| include, but is not limited to, information maintained in any
| performance file or folder, other than the employee's official FBIHQ
| or field office personnel file.| Unless otherwise instructed by FBIHQ,
| all performance-related information and documentation,|including, but
| not limited to information maintained in any performance file or
| folder, other than the employee's official FBIHQ or field office
| Personnel File,|must be maintained for a period of one calendar
| year|from the date of the End of Annual PAR. Further, any and|all
| performance-related information and documentation,|whether maintained
| in the employee's performance folder or otherwise, which is not part
| of the employee's official FBIHQ or field office Personnel File,|must
| be destroyed within|30 days|after the expiration of the one-year
period as specified above.

| (a) |Information or documentation which is relevant
| to a pending complaint, charge, or internal investigation should be
| maintained until final resolution of the matter. Performance-related
| information and documentation which is maintained pending a complaint,
| charge, or internal investigation will be destroyed one year from the
| date the matter becomes final.|

| (b) |Any copies of file review sheets and/or FD-865
| Performance Assessment forms, which are maintained in an employee's
| performance folder/used in determining an employee's performance
| rating must be destroyed as instructed above. However, the above
| provision does not apply to original file review sheets and FD-865s
| which are maintained for inspection and other purposes not related to
| the performance appraisal process.|

| |(5)| EMPLOYEE ACCESS TO PERFORMANCE INFORMATION AND
DOCUMENTATION: Rating and reviewing officials are to make available
to each employee, upon request, any and all performance-related
documentation, whether maintained in the employee's performance file
or folder, or otherwise, which has been or will be used as a basis
for, or the development of, a Progress Review Session or PAR.
| |(See 5-5.1.)|

(a) Copies of classified documents (e.g., PARs, progress review information) may be released to an employee; however, the employee should not release such material to any other individual, without proper authority.

(b) There may be particular circumstances which preclude the release of certain performance-related information or documentation to the employee. These circumstances may include, but are not limited to, information or documentation which is relevant to a pending complaint, charge, or internal investigation. For guidance on withholding performance-related information or documentation, rating officials should consult with the PRAU.

(c) If a rating official makes a decision to withhold performance-related information or documentation from an employee who has made a request pursuant to this policy, the employee will have the right to appeal the rating official's decision to the SAC or head of office. This appeal must be in writing, and must be submitted to the SAC or head of office within 15 business days of the denial of access to this material. The submission must then be reviewed and a written response provided to the employee within 10 business days of the receipt of the employee's appeal.

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5-4.1 Appraisal Periods

Employees' performance is to be appraised on an annual basis, according to the following schedule:

(1) Special Agents (SAs): April 1 through March 31. For probationary SAs, see MAOP, Part 1, 5-4.3.

(2) Support:

(a) Field: July 1 through June 30.

(b) FBIHQ: December 1 through November 30.

(c) Criminal Justice Information Services/Finance Divisions: March 1 through February 28.

(3) All Supervisory and Managerial Agent and Support Personnel: Grades 1 through 15 (includes wage board supervisors): November 1 through October 31.

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5-4.2 Types of PARs

(1) End-of-Annual Period

| (a) Special Agents (SAs): |A PAR will be completed
| immediately|after March 31 for any employee who has not received a PAR
since January 1 and who has been in grade and on notice of critical
| |elements|and performance|standards|for at least 90 days. For
probationary SAs, see MAOP, Part 1, Section 5-4.3.

| (b) Support: |A PAR will be completed
| immediately|after February 28 (CJIS/Finance Division(s), June
| 30|(field), November 30|(FBIHQ) for any employee who has not received
| a PAR since|December 1/April 1/September 1,|respectively, and who has
| been in grade and on notice of|critical elements and performance
| standards|for at least 90 days.

When an employee has not received any PAR and is not eligible for a
| rating by February 28 (CJIS/Finance Divisions), June 30|(field),
| November|30 (FBIHQ) for support personnel and March 31 for SA
personnel, the annual period must be extended until the employee
| completes 90 calendar days on notice of his/her|critical elements and
| performance standards.| The next annual period begins the
| |day the employee renews his/her plan.|
|
| |(c) Supervisory and Managerial Personnel Agent and
| Support: A PAR will be completed immediately after October 31 for any
| supervisory/managerial employee who has not received a PAR since
| August 1, and who has been in grade and on notice of critical elements
| and performance standards for at least 90 days.|

(2) Position Change/Transfer: Whenever an employee is
scheduled to leave his/her official position, due to reassignment,
| promotion,|or demotion, that results in a change to the employee's job
| family, grade, or performance level, a PAR will be completed. This
| type of PAR can only be completed after meeting the 90-day appraisal
| requirements since the employee's last rating.|

| (3) Headquarters' Request: |When|a recommendation is due
for the denial of a within-grade increase (WIGI) and the last PAR
issued is over six months old or the WIGI denial decision does not
| support the rating of record,|FBIHQ will request a PAR. When
| requested by the Inspection Division and/or the PRAU.|

(4) Current Appraisal: Whenever an employee's last
rating is more than 90 days old and the office desires to update
performance appraisal information or to capture performance to date
when a significant change in duties occurs (e.g., change from reactive
| squad to Chief Division|Counsel), a PAR will be completed.| A current
PAR, covering at least a 90-day period, is necessary when a WIGI
decision is not supported by the rating of record. Also, a PAR is
required in some instances after the issuance of a Warning Resolution.

| (5) |Warning PAR: Whenever an employee's performance is

| judged to be at the Does Not Meet Expectations level in any critical
| element, a PAR will be completed.|

| |(6)| Warning Resolution: At the conclusion of an
| opportunity period to resolve an employee's warning|status, a PAR will
| be completed.|

| (7) |Deleted|

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5-4.3 Probationary Agents (See MAOP, Part 1, 5-4.1 and 5-4.2.)

(1) In accordance with the provisions of the Probationary Agent Program (PAP), as set forth in the MAOP, Part 2, Section 8, the
| first annual period for new|SAs|ends upon completion
| of the first year on|duty, and the|second annual period ends upon completion of the second year on duty (see MAOP, Part 1, 21-1). Subsequent annual periods are in accordance with established
| |PAS|policy.

| (2) |Deleted|

| (3) |Deleted|

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5-4.4 Issuance of PARs

(1) When an appraisal is due, the rating official must
| review his/her documentation of the employee's|performance|to
| determine the level achieved on each critical|element|in which the employee has had the opportunity to perform by comparison with the performance standards of the employee's Performance Plan. In preparing PARs at the end of the annual period, the rating official must also consider any prior PAR issued during the annual period. The appraisal of a disabled veteran may not be lowered because the veteran has been absent from work to seek medical treatment.

| (2) |Supervisors must maintain documentation regarding
| both positive and deficient employee performance as it occurs
| throughout the rating period. When issuing a PAR, a narrative summary
| of an employee's performance must be provided to the PRAU, FBIHQ, only
| for critical elements to which a supervisor assigns a Does Not Meet
| Expectations rating. The narrative for this rating must include the
| assistance to be afforded to the employee in improving. Such
| assistance must include reviewing with the employee his/her
| Performance Plan to reconvey the performance requirements for his/her
| job family and performance level.| Additional assistance may include,

but is not limited to, formal or informal training, counseling, change
| in work|assignments, and|closer supervision. (See MAOP, Part 1, 5-4.7
and 5-4.7.1.)

| |(3) When issuing a PAR because of inspection results,
| the head of office must ensure that a current PAR is prepared and
| issued which will cover the employee's performance since the period
| covered in the last PAR. The rating official must consider and
| include in the PAR narratives for "Does Not Meet Expectations" ratings
| only, information from the inspection report, as well as other
| documented performance information, pertaining to performance which
| took place since the period covered in the last PAR. (NOTE: If 90
| days have not passed since the end of the period covering the last
| PAR, issue the PAR once 90 days have passed.)|

**EffDte: 05/01/2002 MCRT#: 1191 Div: D3 Cav: SecCls:

| |5-4.5| Determining Summary Ratings|(Formerly 5-6)|

| |A rating of Does Not Meet Expectations on any critical
| element results in a Summary Rating of Does Not Meet Expectations
| regardless of the Meets Expectations performance level achieved on
| other critical elements.

PERFORMANCE LEVELS

Meets Expectations

Does Not Meet Expectations|

**EffDte: 05/01/2002 MCRT#: 1191 Div: D3 Cav: SecCls:

| |5-4.6| Prior Review of PARs by the Reviewing Official |(Formerly 5-4.5)|

The PAR must be submitted to the reviewing official, who must be at a higher level in the organization than the rating official, for approval BEFORE it is presented to the employee. The reviewing official has the authority to accept or modify any PAR in keeping with the proper application of these provisions.

Modifications to a PAR must be justified in writing and such comments, to include specific examples of performance that support the rating level, are to be attached to the PAR.

**EffDte: 05/01/2002 MCRT#: 1191 Div: D3 Cav: SecCls:

| |5-4.6.1| Entry of PARs into the Bureau Personnel Management System (BPMS)|(Formerly 5-4.6)|

| PARs are to be entered into the BPMS no later than 42 days after the appraisal period has ended. After each PAR is entered, a
| notation|in box 10 on the PAR Cover Page should include the initials
| of the individual who entered the PAR in BPMS; the date the PAR was
| entered; the date of the Performance Plan which was used to rate the
| employee; and the date of the Plan Renewal if applicable. PARs rated
| at the Meets Expectations rating level are to be forwarded to
| Personnel Records, along with the original Plan. WHEN THE SAME PLAN
| IS BEING RENEWED FROM ONE APPRAISAL PERIOD TO THE NEXT, THAT PLAN DOES
| NOT HAVE TO BE SENT TO PERSONNEL RECORDS. (See 5-2.) If a PAR is
| issued at the Does Not Meet Expectations level, it must be forwarded
| to the PRAU for review along with the Plan. This is necessary for the
| PRAU to ensure that the employee has been placed on the correct Plan
| for his/her job family, and performance level, and to ensure that the
| Does Not Meet Expectations rating is properly documented and in
| compliance with the PAS policy.|

**EffDte: 05/01/2002 MCRT#: 1191 Div: D3 Cav: SecCls:

| 5-4.7 Personnel Actions Based on "Does Not Meet Expectations" Ratings (See MAOP, Part 1,|8-8.4 and|14-4.2.)

(1) Assistance must be provided to employees in improving performance rated at the Does Not Meet Expectations level. In this regard, at any time an employee's performance in one or more critical elements is rated at the Does Not Meet Expectations level, the rating official must review the Performance Plan with the employee to reconvey the performance requirements of his/her position and performance level through formal or informal training, counseling, closer supervision, or other appropriate means, such as a reassignment. The rating official must append a separate statement on plain white bond paper, as part of the PAR, stating the assistance to be offered to the employee. (Also see MAOP, Part 1, 5-4.4 and 5-4.7.1.)

(2) In some instances, performance may be found to be of such significance (e.g., demonstrating a reasonable potential for jeopardizing physical safety) that treatment through the performance appraisal process would not be appropriate; therefore, the office may request reassignment to another position without affording the employee a 90-day opportunity period. Other situations may combine poor performance and actions subject to policy governing disciplinary matters, as set forth in the MAOP, Part 1, Section 13. Except in cases meeting requirements for action under BOTH the PAS AND disciplinary policy, it is generally unnecessary and inappropriate to recommend a disciplinary action such as probation when issuing a Warning PAR.

(3) A Does Not Meet Expectations rating is a basis to reassign, reduce in grade or remove an employee. Such remedial action may be taken only after an employee has been provided with notice of the performance that led to the Does Not Meet Expectations rating, in the form of a Warning PAR and given a 90-day opportunity period to demonstrate performance that Meets Expectations.

(4) Deleted

**EffDte: 05/31/2002 MCRT#: 1207 Div: D3 Cav: SecCls:

5-4.7.1 Warnings, Resolutions, and Personnel Recommendations (See MAOP, Part 1, 5-4.4 and 14-4.2.)

| (1) |Warning PAR|NARRATIVE SUMMARIES must be provided for
| EACH critical element|rated at the Does Not Meet Expectations rating
| level.| Narratives for|these critical elements|must include specific
| instances of|the|performance|that demonstrate a clear rationale for a
| Does Not Meet Expectations rating.| The rating official must
append a separate statement on plain white bond paper, as part of the
| PAR, regarding the assistance|to|be offered to the employee to
| improve. |(See 5-4.7.)| Such assistance must, without exception,
include affording the employee the opportunity to review his/her
| Performance Plan, thereby reconveying the requirements of the|Meets
| Expectations rating|for each|critical element,|which must be
achieved/maintained throughout the opportunity period. A copy of the
| employee's Plan must be submitted to the|PRAU,|FBIHQ, along with|the
| PAR. This is necessary for the PRAU to ensure that the employee has
| been placed on the correct Plan for his/her job family, and
| performance level, and to ensure that the Does Not Meet Expectations
| rating is properly documented and in compliance with the PAS policy.|

(a) Length of Opportunity Period - The opportunity period is uniformly set at 90 calendar days for all employees. An office may extend the opportunity period for an additional 30 calendar days if the rating and reviewing officials determine that the employee
| (1) has improved, (2) may yet achieve the|Meets Expectations|level if
given some additional time, and/or (3) requires additional time due to an unusual circumstance, such as absence due to sick/maternity/military leave. Given concurrence by the head of the office, a written communication regarding such extension must be
| forwarded to the|PRAU.|

| (b) Interruption of|Opportunity|Period - Once an
| employee is given a Warning PAR, he/she should NOT|normally|be
reassigned/transferred prior to the completion of the opportunity period. Circumstances may necessitate the reassignment/transfer of an employee to protect an investigative operation or the employee; however, generally, reassignments/transfers are supervisory options which should be exercised before issuing a Warning PAR.

| (c) Termination of|Opportunity|Period - To terminate an employee's opportunity period for any reason (e.g., reassignment, transfer, or at the employee's request) will nullify that employee's chance to demonstrate positive performance with respect to
| the|critical elements|in question. As a result, the|Warning PAR|must be considered unresolved, and no recommendation for reduction in grade or removal may be made. The office should notify the PRAU of such termination by written communication.

(2) Warning Resolution PAR - At the completion of the opportunity period, a Warning Resolution PAR must be prepared. The Resolution PAR is to reference the Warning PAR and document the employee's performance during the opportunity period. Narrative
| summaries of performance|at the Does Not Meet Expectations level|must
| be provided for EACH|critical element|and must include specific examples of performance demonstrated and the level achieved during the opportunity period. The narrative for any element rated at
| the|Does Not Meet Expectations|level must include a description of the
| assistance|afforded.| When the Resolution PAR satisfies the end-of-the-annual-period requirements, the rating official must consider all
| performance and/or ratings issued|for|the same grade level during the annual period.

| (a) Positive|Resolution:| If the employee
| consistently demonstrates performance at|the Meets Expectations level
| for a critical element during the opportunity period, a PAR must be
| issued at the Meets Expectations level at the end of the opportunity
| period. If all elements are rated Meets Expectations, the Warning is
| considered to be resolved at a positive level and no recommendation
| for remedial action may be made.|

Jeopardy Period - When a warning is resolved at a positive level, a separate statement on plain white bond paper, initialed by the employee, must be appended to the PAR indicating that the employee has been advised of his/her responsibility to maintain an acceptable level of performance. The statement must include advice that failure to
| maintain at least the|Meets Expectations|level in the|critical
| elements|for which the opportunity period was provided, for one year from the date of issuance of the Warning PAR, will be cause for the
| immediate issuance of a PAR at the|Does Not Meet Expectations|level and the submission of an appropriate recommendation for personnel
| |action (i.e., reassignment, reduction-in-grade or removal). NOTE:
| The PAR must be forwarded to the PRAU.|

| (b) |Negative|Resolution - If the employee
| continues to perform|at the Does Not Meet Expectations|level during
| the opportunity period, a recommendation by the SAC or head|of
| office,|in accordance with Title 5, United States Code, Section
| |4304,|to reassign, reduce in grade, or remove is to be set forth in a
| cover communication forwarding the PAR to the|PRAU.| The recommendation must be based on the unacceptable performance addressed
| by the|Does Not Meet Expectations - Warning Resolution|PAR and should reflect consideration of the employee's record - a factor not
| addressed by the PAR, but appropriate for inclusion in|the| recommendation for personnel action.

| (NOTE: Failure to issue|Warning|and Warning Resolution PARs in a
| timely manner|may preclude|the consideration of some of the employee's unacceptable performance in supporting reduction-in-grade or removal decisions.)

1. Approval of Recommendation - When FBIHQ approves a recommendation to reassign, reduce in grade or remove the
| employee based on a PAR at the|Does Not Meet Expectations|level, the employee is entitled to: 30 days' advance written notice of the proposed action. This notice will be provided to the employee by FBIHQ. The written notice will identify instances of less
| than|Meet Expectations|performance, as well as actions taken to assist the employee to improve, advise the employee of his/her right to representation by an attorney or other counsel, and provide the employee with 10 days to respond to the proposed action orally and in writing.

2. Expiration of the 30-day Notice Period - Upon expiration of the 30-day Notice Period, action will be taken by FBIHQ to reassign, reduce in grade, or remove the employee, unless otherwise notified by the head of office.

3. Written Decision - A written decision will be provided by FBIHQ. This decision will describe instances of less
| than|Meet Expectations|performance by the employee on which the reassignment, reduction in grade, or removal is based. A written decision to reassign, reduce in grade, or remove the employee will be made as soon as practicable after the date of expiration of the notice period. Furthermore, in the case of a reassignment, reduction in grade, or removal, the decision must be based on those instances of unacceptable performance by the employee which occurred during the one-year period ending on the date of the advance written notice of the proposed action. The employee will also be advised in this decision of any appeal rights available to him/her.

(3) If, because of an improvement in performance by the employee during the notice period, the employee is not reassigned, reduced in grade, or removed, and the employee's performance continues to be acceptable for one year from the date of the advance written notice, the Warning Resolution PAR and ANY entry or other notation with reference to same MUST be removed from ANY OFFICE or FBIHQ RECORD relating to the employee.

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5-5 RECONSIDERATION REQUESTS (Formerly 5-6) (See MAOP, Part 1, 14-2.)

| (1) |Requesting Reconsideration for Does Not Meet
| Expectations Ratings: Employees may only request reconsideration of
| Does Not Meet Expectations ratings.|

| (2) |Request Reconsideration for Developmental

| Recommendations: The purpose of the developmental recommendations are
| to provide supervisors with a tool for providing targeted, meaningful
| feedback to employees on each critical element and to allow them to
| work with their subordinates to improve performance where needed.
| Given that there will be no official record of the developmental
| recommendations, or official documentation for them, employees will
| not be allowed to appeal or grieve them.|

| (3) |Request Reconsideration Based on Ratings Relevant to
| their Job Family and Performance Level: Employees may only request
| reconsideration for ratings based on critical elements relevant to
| their job family and performance level (i.e., those critical elements
| specified in their Performance Plan). That is, an employee will not
| be permitted to request reconsideration based on the belief that
| he/she should have been assigned to a different job family and/or
| rated on a different set of critical elements. Similarly, an
| employee is not allowed to file a grievance based on the belief that
| he/she belongs in a different performance level than that identified
| for his/her job family/grade.|

| (4) |Rating Information Communicated in the Progress Review
| Session: Employees may not request reconsideration for information
| communicated in the mid-year Progress Review Session. This is because
| this discussion is considered to be an informal review of the
| employee's performance, not an official communication of performance
| appraisal ratings.|

| (5) |Deleted|

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**EffDte: 05/01/2002 MCRT#: 1191 Div: D3 Cav: SecCls:

| 5-5.1 |Procedures for Requesting Reconsideration

| Employees may request reconsideration for any Does Not Meet
| Expectations performance appraisal rating that is assigned.

(1) An employee who is dissatisfied with a rating of Does Not Meet Expectations must respond in writing to his/her rating/reviewing officials within ten business days of his/her receipt of the rating. A request for an extension of this time will be considered by the PRAU, FBIHQ, on a case-by-case basis. (Note: An employee of the Personnel Management Branch, Administrative Services Division must direct a reconsideration request of a PAR to the Deputy Assistant Director - Personnel Officer, Personnel Assistance and Facilities Management Branch.)

(2) An employee's written request must clearly identify the specific aspect(s) of the appraisal for which the employee seeks reconsideration (e.g., the name(s) of the critical elements for which a Does Not Meet Expectations rating was assigned). In addition, the request must clearly specify all relevant facts and performance-related information, which, in the opinion of the employee, support an adjustment to the PAR. In effect, this document must provide the factual basis upon which the employee chooses to request reconsideration of his/her performance appraisal. In the event that an employee seeks to receive a Meets Expectations rating for an individual critical element, the employee must provide sufficient documentation to support that action in his/her reconsideration request. The employee should not only refute the information in the PAR but also provide specific examples of work performance they believe is at the higher level.

(3) When a reconsideration request is filed by an employee, it will be the responsibility of his/her reviewing official to ensure that the rater and the employee attempt to identify not only the issues which are the basis for the employee's discontent, but, if possible, to reach an agreement on the factual basis for those issues as well. These discussions should serve to crystallize the specific, factual issues and/or points of disagreement between the rater and the employee in their respective assessment of the ratings assigned to the critical elements.

(4) An employee must be allowed a reasonable amount of work time, at the discretion of management, to prepare his/her reconsideration request. An employee must also be allowed access to the personnel folder/performance-related documentation maintained by the rating/reviewing officials, in order to prepare his/her reconsideration request. (See MAOP, Part 1, 5-4(5) for further information.)

(5) The reviewing official must review the submission by the employee and provide a written response to the employee within ten business days (a request for extension of this time will be considered on a case-by-case basis by the PRAU) commenting on the issues raised by the employee. This finding will set forth the action being taken by the reviewing official to resolve the reconsideration request and the rationale for his/her decision. This response should address the validity of the facts, if any, presented by the employee in his/her reconsideration request. Information considered by the reviewing official must be drawn from the narrative statements set forth by the rating official in the contested appraisal, additional facts presented by the employee in his/her reconsideration request, and any response

| prepared by the rating official to that information.

| Issues/deficiencies which were not addressed in the contested appraisal by the rating official may not be introduced by the reviewing official in the reconsideration request process, unless in specific response to new facts/issues presented by the employee. A reviewing official may sustain and/or adjust rating levels for critical elements in the appraisal, to include the Summary Rating.

| (6) If the reviewing official decides to adjust the appraisal, he/she will change the appraisal document to reflect Meets Expectations ratings for those critical elements in which he/she believes the employee has met expectations. The reviewing official will attach a copy of his/her written findings regarding the reconsideration request. The reviewing official will then present this document to the employee for review and signature. Subsequently, the reviewing official must forward the adjusted PAR along with the documentation supporting the adjustment to the PRAU, which will ensure BPMS is updated to reflect the adjustment(s) to the PAR. (NOTE: If all critical element ratings in the PAR at this point are at the Meets Expectations level, the employee cannot pursue the matter any further, even if he/she does not agree with the language in the reviewing official's response. This is true inasmuch as the Meets Expectations rating cannot be grieved, and the reconsideration request process is designed to assist employees who are dissatisfied with their PAR rating(s)n not the verbiage contained therein.)

| (7) If the reviewing official decides to sustain the rating(s), he/she must present his/her written findings to the employee, who, in turn, must sign and date the document to indicate formal notice that the document has been received.

| (8) If an employee wishes to continue his/her reconsideration request of the appraisal following receipt of the reviewing official's written decision, he/she must inform the reviewing official and the Personnel Officer of that fact within two business days (a request for an extension of this time will be considered on a case-by-case basis by PRAU). The notice to the Personnel Officer (Attention: PRAU) must be in writing.

| (9) Upon notification by an employee that he/she wishes to continue the reconsideration process, the reviewing official must notify the Personnel Officer (Attention: PRAU) of that fact by telephone on that date and confirm the notice by written communication. The written communication will also be used to forward the originals of the reviewing official's written decision, the PAR, Plan, and the employee's written responses to the rating/reviewing officials, to the Personnel Officer (Attention: PRAU) for use in adjudicating the reconsideration request.

| (10) A reconsideration by PRAU on behalf of the Personnel Officer will include a review of the facts/issues discussed in the employee's appraisal, those presented by the employee in his/her reconsideration request, the information supplied by the reviewing official, and rebuttal information provided by the employee. The Personnel Officer will conduct a substantive review of those critical

| elements contested by the employee. The Personnel Officer may sustain
| or modify the level assigned to any critical element contested and, as
| warranted, the Summary Rating, or invalidate the PAR to ensure its
| compliance with policies governing the PAS. Normally, PRAU will
| complete the action within 30 business days.

| (11) An employee will be informed in writing of the
| decision of the Personnel Officer in adjudicating his/her
| reconsideration request. Since the Director has delegated the
| authority for adjudication of PAR reconsideration requests to the
| Personnel Officer, the decision made by the Personnel Officer is
| final.

| (12) In the event that a PAR is adjusted by the Personnel
| Officer, a copy of the adjusted PAR will be provided to the issuing
| division/office for the employee's review and for retention in lieu of
| the original appraisal issued to the employee.|

**EffDte: 05/01/2002 MCRT#: 1191 Div: D3 Cav: SecCls:

| 5-5.2 |Moved to 5-6.2|

**EffDte: 10/09/1996 MCRT#: 595 Div: D3 Cav: SecCls:

| 5-6 |Moved to 5-4.5|

**EffDte: 05/01/2002 MCRT#: 1191 Div: D3 Cav: SecCls:

| 5-6.1 |Deleted|

**EffDte: 05/01/2002 MCRT#: 1191 Div: D3 Cav: SecCls:

| 5-6.2 |Deleted|

**EffDte: 05/01/2002 MCRT#: 1191 Div: D3 Cav: SecCls:

| |5-7 DELETED|

**EffDte: 08/25/1989 MCRT#: 0 Div: D3 Cav: SecCls:

| |5-8 DELETED|

**EffDte: 08/25/1989 MCRT#: 0 Div: D3 Cav: SecCls:

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| |5-12 DELETED|

**EffDte: 08/25/1989 MCRT#: 0 Div: D3 Cav: SecCls:

5-13 RECOGNITION AND AWARDS

**EffDte: 08/25/1989 MCRT#: 0 Div: D3 Cav: SecCls:

5-13.1 Legal and Administrative Bases

(1) Title 5, U.S. Code Annotated, Chapters 45, 53, and 54

(2) Title 28, Code of Federal Regulations (CFR), 0.137

(3) Title 5, CFR, 430.501-506; 451.101-107; and 531.501-508

(4) Departmental Order DOJ 1451.1A

(5) The Director is authorized by the Attorney General to grant Quality Step Increases (QSI) to qualified employees at intervals of not less than 52 weeks, within the limits of available

funds. The Director is also authorized to approve for Bureau
| |employees special|achievement (incentive) awards up to $5,000.
Special achievement awards in excess of $5,000 are referred to the
| Department of Justice for|approval.|

**EffDte: 04/25/2001 MCRT#: 1096 Div: D3 Cav: SecCls:

5-13.2 Purpose of Recognition and Awards

(1) The primary objective of the awards program is to improve the economy and efficiency of government operations. Its purpose is to motivate employees to increase productivity and creativity by rewarding those whose job performance and adopted ideas benefit the government and are substantially above normal job requirements and performance standards.

(2) The FBI has established several means by which its employees may be recognized which are described in this portion of the
| manual. These include QSIs, incentive awards based|on special|
achievement, and certificates of commendation. Bureau supervisors and managers should be knowledgeable of these means of recognition and should ensure that only the most deserving employees are recommended for recognition through these awards. They should also bear in mind that the performance level and contributions of employees being recommended for the same matter differ and should indicate same in their recommendations. Careful consideration should be given to the appropriateness of the award recommended in comparison to the performance or achievements of the employee.

(3) For all performance-related awards, the employee must be shown to have significantly exceeded the requirements of his/her position. The position description and performance appraisal of the employee will be reviewed, as applicable, to determine the propriety
| of granting incentive awards. |The PRAU will provide
| guidance/assistance for all offices concerning the application of

| awards criteria and various award options in regard to those
| recommendations deemed not meeting the criteria, including those
| without appropriate and sufficient justification.|

(4) Promotions are ordinarily considered sufficient recognition of sustained employee performance and must be taken into consideration prior to the recommendation for an incentive award.

(5) Division heads and SACs should ensure, on at least an annual basis, that supervisory personnel are knowledgeable of the intent of the recognition program, and their effective use of the program should be taken into consideration with regard to their own performance.

(6) If an employee is assigned to an office other than the one making the recommendation for recognition, the employee's

division head or SAC should be contacted, and the recommendation should state that the recommendation is being made with the concurrence of the employee's division head or SAC.

**EffDte: 04/25/2001 MCRT#: 1096 Div: D3 Cav: SecCls:

5-14 QUALITY STEP INCREASES (See MAOP, Part 1, 8-8.1(2).)

(1) QSIs are intended to recognize those exemplary employees whose sustained, high-quality performance is at a level that substantially exceeds an acceptable level of competence by authorizing faster than normal step increases. FBI policy provides that QSIs may be granted, within limits of available appropriations, on an annual basis. Therefore, FBIHQ will request recommendations for QSIs to be submitted in April of each year for Special Agent personnel; March for Criminal Justice Information Services (CJIS)/Finance Divisions' support personnel; July for field support personnel; November for Supervisory Special Agents and Professional Support managers; and December for FBIHQ support personnel other than the CJIS and Finance Divisions.

(a) The Performance, Recognition and Awards Unit will advise each division head and SAC, prior to the date recommendations are required, of the number of QSIs allotted for their respective offices. QSIs will be distributed at the discretion of management, not to exceed the authorized number of allotted QSIs.

(2) Criteria Necessary for QSI Nominations

(a) An employee may be recommended for a QSI only when his/her annual performance appraisal reflects a summary rating of MEETS EXPECTATIONS with no critical element rated below Meets Expectations.

| (b) |As long as an employee has demonstrated
| sustained performance of high quality and has a Performance Appraisal
| Report on record at the Meets Expectations level, he/she can be
| considered for a QSI.| Furthermore, the employee should be expected to remain in the same or similar position for at least 60 days following the awarding of the QSI. If an employee is scheduled for promotion within 60 days, he/she should NOT be recommended for a QSI.

(c) An award for a special act or achievement during the 52-week period is not disqualifying.

(d) The following employees may not be recommended for QSIs: Federal Wage Scale; employees who have reached step 10 of their GS grade; employees who have reached statutory salary limitations (the pay cap); employees whose salaries are fixed under the Executive Pay Act.

(e) A cash award may be recommended in lieu of a QSI

for an eligible GS employee who has reached step 10 of their grade or when the employee would enjoy the benefits of a QSI for an insufficient length of time. Also, eligible Federal Wage Scale employees may be recommended for cash awards in lieu of QSIs.

(3) Documentation for QSI Recommendations (Form FD-608). FD-608 is to be used to submit nominations for QSIs. This form should be completed and submitted in duplicate. A narrative setting forth the accomplishments of the individual is required as an attachment to this form.

(4) Relationship to Regular Within-Grade Increases. An employee who receives a QSI does not start a new waiting period to meet the time requirements for a regular within-grade increase; however, if a QSI places the employee in the 4th or 7th step, the waiting period is extended by 52 weeks. For example, a QSI is awarded to an employee in step 3 who has completed 40 weeks of creditable service to the 4th step. After the QSI places the employee in step 4, a 2-year (104-week) waiting period, the employee will only require 64 more weeks of creditable service to complete the 104-week waiting period for advancement to the 5th step. (See MAOP, Part 1, 8-8.1(2).)

(5) Presentation of QSIs. To increase employee understanding of the QSI program, FBIHQ division heads, Assistant Directors in Charge, and SACs will make presentations of QSIs at an office ceremony attended by employees in the immediate work area, with statements of specific reasons why the employee's contribution merited the QSI, including its impact on the division.

(6) Deleted

**EffDte: 12/15/2003 MCRT#: 1310 Div: D3 Cav: SecCls:

5-15 INCENTIVE AWARDS

(1) Incentive awards are in addition to the basic pay of an employee and are based on the superior performance of work-related assigned tasks or performance of official duties, so that one or more important job elements are performed in a manner substantially exceeding normal requirements over a period of time or on special achievements or service-type contributions of a one-time, nonrecurring nature, connected with or related to official employment.

| (2) |Deleted|

| (a) |Deleted|

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(c) Deleted

(4) Criteria for Determining Individual(s) Eligibility
| for Special Achievement Awards. |(See 5-15.2.)|

Due to the variety of circumstances and possible unanticipated factors that may influence an employee's performance, the following criteria should not be considered all-inclusive. Award nominations will be considered on a case-by-case basis; therefore, as much detail as possible concerning the employee's performance should be included to ensure an appropriate evaluation. The recommendation should also clearly state the complexity of the task(s) performed and
| the significance of the contribution(s). Furthermore,|the criteria
| specified for each of the categories within the 4-Category Award
| structure should be used to distinguish the level of recognition
| requested. The PRAU will not direct that a higher or lower award be
| granted, but will offer guidance regarding the proposed amount in
| light of the justification an office provides.

| (a) |Category Award Structure

| CATEGORY A ($300 - $500)

| Accomplishment(s): Can result from any assignment or self-initiated
| contribution by an employee.

| Duties and Responsibilities: Work was within scope of position duties
| but extra effort applied.

| Impact: Typically addresses a short-term or reactive objective of
| minor to moderate complexity. Benefit may be limited to the immediate
| work area.

| CATEGORY B ($501 - $1200)

| Accomplishment(s): Typically results from an assignment with
| specified goals and time frames.

| Duties and Responsibilities: Work involved the sustained application
| of extra effort and/or the performance of additional duties.

| Impact: Attainment of a planned or reactive objective of moderate to
| difficult complexity which notably supports the mission of the unit,
| program, or squad.

| CATEGORY C ($1201 - $2000)

| Accomplishment(s): Must be associated with the objectives outlined
| under the FBI Strategic Plan. (SEE BELOW.)

| Duties & Responsibilities: Work involved the sustained application of
| extra effort and/or the performance of additional duties.

| Impact: Contributed toward the attainment of an objective under the
| FBI Strategic Plan. (SEE BELOW.) Performance represents an
| uncharacteristically high level of achievement.

| CATEGORY D ($2001 - above)

| Accomplishment(s): Must be associated with the objectives outlined
| under the FBI Strategic Plan. (SEE BELOW.)

| Duties and Responsibilities: Success was dependent upon the ability
| to perform at a greater capacity than defined for the employee's
| position.

| Impact: Contributed toward the attainment of an objective under the
| FBI Strategic Plan. (SEE BELOW.) Performance serves as a model for
| success and/or introduces new innovations in investigative strategy or
| technique.

| FBI STRATEGIC PLAN:

| Support of the FBI's Strategic Plan 1998-2003 will play a pivotal
| role in the submission of nominations for investigative achievements.
| Before submitting nominations, all offices should take into
| consideration and include reference to how the efforts being proposed
| for recognition were in furtherance of the goals and objectives
| established in the FBI's Strategic Plan. Moreover, nominations for
| noninvestigative matters, not in association with special projects of
| significant nature or direct support to operations, should include
| reference to the employee's efforts that supported the FBI's
| strategies. If such a link does not exist, other types of recognition
| should be considered, e.g., Time Off from Duty (TD) Award, On-the-Spot
| Award, or Certificate of Commendation.

| 1. Award nominations pertaining to complex,
| long-term and/or major cases will be vetted by the Criminal
| Investigative Division; recognition for national security issues will
| be addressed by the National Security Division; and employees' efforts
| regarding terrorism matters will be reviewed by the Counterterrorism
| Division. Critical query checks on all award nominees will be
| conducted by the PRAU.

| 2. SES members are ineligible for cash awards
| throughout the year, and awards will be granted only incident to their
| annual performance appraisals. Any exceptions would be based on
| highly unusual events and would require the approval of the SES Board
| and the Director. (See 5-15.4.)|

(5) Documentation Insufficient to Support Awards.

(a) An employee is successful in an investigation and performed in an excellent fashion but not beyond normal job expectations for his/her grade and experience.

(b) An investigation which makes an interesting case write-up but which fails to describe what employee did to exceed normal job expectations.

(c) A case receiving favorable publicity but which does not describe employee's performance exceeding normal job expectations.

(d) Overtime for which an employee has been compensated by overtime pay or compensatory leave.

(e) Performance has not been work-related while on duty or in the performance of official duties.

(6) Group awards are granted to two or more employees who performed the same task and whose contributions are such that they are all considered equal. Each member of the group will be granted an equal amount of the overall group award.

(7) Multiple award recommendations may be made for two or more employees whose contributions to a particular situation are not considered of equal merit. These award amounts will be determined proportionate to each employee's contributions and the overall significance of the project/case; therefore, clear justification must be provided to ensure that all employees are recognized equitably. Recommendations for multiple awards should rank the employees to
| clarify the level of their contributions, utilizing the|appropriate
| 4-category concept.| To determine each employee's ranking, the complexity of their assigned duties and the significance of their contributions to the final results attained should be considered. The recommending official should make every effort to identify all employees contributing to the matter and include a statement at the end of the recommendation certifying that all reasonable steps were taken to ensure that all appropriate employees were considered for
| inclusion.

(8) Presentation of Awards. FBIHQ division heads, Assistant Directors in Charge, SACs, or individuals acting on their behalf, will make incentive award presentations with appropriate publicity to enhance the purposes of the awards program.

**EffDte: 04/25/2001 MCRT#: 1096 Div: D3 Cav: SecCls:

5-15.1 Form FD-255 (Recommendation for Incentive Award)

(1) Form FD-255 should be used to submit recommendations
| |for special|achievement awards. Instructions on the form should be carefully followed and the documentation should include clear, specific statements of fact, including the following:

(a) The specific time frame employee worked on the project/case.