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SECTION 61. TREASON

61-1 STATUTES

EFFECTIVE: 01/31/78

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

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

EFFECTIVE: 01/31/78

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

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

EFFECTIVE: 01/31/78

61-2 RELATED STATUTES

EFFECTIVE: 01/31/78

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

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

EFFECTIVE: 01/31/78

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

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

EFFECTIVE: 01/31/78

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

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

EFFECTIVE: 01/31/78

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

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

EFFECTIVE: 01/31/78

61-3 CONSTITUTIONAL PROVISIONS

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

EFFECTIVE: 01/31/78

61-4 ELEMENTS

EFFECTIVE: 01/31/78

61-4.1 Treason

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

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

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

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

EFFECTIVE: 01/31/78

61-4.2 Misprision of Treason

(1) Person owes allegiance to U.S.

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

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

EFFECTIVE: 01/31/78

61-5 INVESTIGATIVE PROCEDURE

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

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

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

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

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

(6) Information received from any source indicating that firearms and ammunition are being collected for possible treasonous undertakings should be subject of immediate and thorough investigation to ascertain details concerning type of firearms and ammunition, source thereof, place of storage, and identity of individuals involved. Investigation must be pursued for purpose of definitely determining whether arms or ammunition actually being collected and stored in connection with treasonous plot or other possible violations within FBIHQ's jurisdiction, such as neutrality laws. [redacted] b2 Such allegations should be subject to discreet investigation to determine basis for suspicion of treason. In latter connection necessary to ascertain following:

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

(b) All information indicating any connection between the

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

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

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

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

EFFECTIVE: 09/25/91

61-6 POLICY

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

EFFECTIVE: 09/25/91

61-7 VENUE

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

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

EFFECTIVE: 09/25/91

Sensitive
PRINTED: 02/18/98

SECTION 62. ADMINISTRATIVE INQUIRIES, ET AL

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

EFFECTIVE: 05/08/80

62-1.1 Policy

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

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

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

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

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

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

EFFECTIVE: 05/08/80

62-1.2 Other Investigations of Government Employees

EFFECTIVE: 05/08/80

62-1.2.1 Policy

(1) Administrative investigations involving Government officials or employees shall not be conducted without prior FBIHQ authority.

(2) Prior FBIHQ authorization is not necessary in the investigation of alleged criminal violations by Government officials or employees when the alleged activities are unrelated to their official duties, except when such officials or employees are highly placed.

(3) FBIHQ authorization is not necessary in investigations of criminal violations within our primary jurisdiction by any official or employee of the Department of Justice even though the activities are related to their official duties.

(4) In any event FBIHQ should be immediately advised by LHM transmitted by airtel, or by teletype, as the exigencies of the case dictate, of the full facts of the complaint and the action being taken. (If teletype is used, also submit LHM by airtel immediately.)

(5) Investigation of violations of statutes within the Bureau's investigative jurisdiction by Treasury Department employees and other persons in matters within the administrative control of the Treasury Department are conducted by the Bureau under a Justice Department agreement with that Department dated 2-5-55. This agreement supplements Public Law 725, 83rd Congress (approved 8-31-54), which confers upon the Attorney General and FBI the authority to investigate violations of Title 18, USC, on the part of Government employees unless such authority is otherwise assigned by another provision of law.

(6) Because of certain provisions of the Internal Revenue Code relative to corruption violations involving employees of the Treasury Department, an agreement was necessary to bestow exclusive jurisdiction upon the FBI in these matters. Prior to this agreement, the Bureau was estopped from conducting investigations of allegations of bribery and fraudulent practices on the part of employees of the Treasury Department by the provisions of Public Law 79, 82nd Congress,

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

EFFECTIVE: 02/22/88

62-1.3 Misconduct Investigations of FBI Employees

EFFECTIVE: 02/22/88

62-1.3.1 Policy

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

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

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

EFFECTIVE: 02/22/88

62-1.4 Privacy Act - Requirements

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

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

EFFECTIVE: 02/22/88

62-1.5 Character - Administrative Inquiries

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

EFFECTIVE: 02/22/88

62-2 STATUTES

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

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

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

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

(4) Section 214 - Wrongful disclosure of information.

(5) Section 221 - Refusal or neglect to answer questions; false answers.

(6) Section 222 - Giving suggestions or information with intent to cause inaccurate enumeration of population.

(7) Section 223 - Refusal, by owners, proprietors, etc., to assist census employees.

(8) Section 224 - Failure to answer questions affecting companies, business, religious bodies, and other organizations; false answers.

(9) Section 304 - Delayed filings.

(10) Section 305 - Miscellaneous other violations of rules or regulations.

EFFECTIVE: 01/31/78

62-2.1 Jurisdiction

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

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

(3) Offenses committed by persons other than census

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

EFFECTIVE: 01/31/78

62-2.2 Policy

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

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

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

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

EFFECTIVE: 01/31/78

62-2.3 Investigative Procedures

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

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

EFFECTIVE: 01/31/78

62-2.4 Character - Census Matters

EFFECTIVE: 01/31/78

62-3 STATUTE

EFFECTIVE: 05/08/79

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

"(a) The Attorney General shall -

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

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

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

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

EFFECTIVE: 05/08/79

62-3.2 Jurisdiction

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

EFFECTIVE: 05/08/79

62-3.3 Policy

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

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

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

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

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

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

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

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

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

(7) Domestic Police Cooperation cases are not to be opened in the field for the purpose of conducting foreign inquiries through Interpol. All state and local law enforcement agencies in the United States have direct access to the United States National Central Bureau (USNCB), Interpol, by mail or via the National Law Enforcement Telecommunications System (NLETS). The USNCB mailing address is: Interpol, U.S. Department of Justice, Washington, D.C. 20530. The NLETS ORI is "DCINTER0/0/."

EFFECTIVE: 10/16/90

62-3.4 Office of Origin

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

EFFECTIVE: 10/16/90

62-3.5 Classification

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

EFFECTIVE: 10/16/90

62-4 STATUTE

Title 40, USC, Sections 327-333.

EFFECTIVE: 06/09/80

62-4.1 Section 328

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

EFFECTIVE: 06/09/80

62-4.2 Section 332

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

EFFECTIVE: 06/09/80

62-4.3 Penalty (Title 40, USC, Section 332)

Misdemeanor - $1,000 fine, 6 months in prison or both.

EFFECTIVE: 06/09/80

62-4.4 Jurisdiction

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

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

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

EFFECTIVE: 06/09/80

62-4.5 Policy

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

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

EFFECTIVE: 06/09/80

62-4.6 Reporting Procedures If Investigation Conducted

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

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

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

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

EFFECTIVE: 06/09/80

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

EFFECTIVE: 06/09/80

62-5 STATUTES

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

EFFECTIVE: 01/31/78

62-5.1 Section 1681q

EFFECTIVE: 01/31/78

62-5.1.1 Elements

(1) Any person who knowingly and willfully

(2) Obtains information on a consumer from a consumer reporting agency under false pretenses.

EFFECTIVE: 01/31/78

62-5.2 Section 1681r

EFFECTIVE: 01/31/78

62-5.2.1 Elements

(1) Any officer or employee of a consumer reporting agency who knowingly and willfully

(2) Provides information concerning an individual from the agency's files to a person not authorized to receive that information.

EFFECTIVE: 01/31/78

62-5.3 Departmental Instructions

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

EFFECTIVE: 01/31/78

62-5.4 Policy

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

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

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

EFFECTIVE: 01/31/78

62-5.5 Penalties

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

EFFECTIVE: 01/31/78

62-5.6 Investigative Procedure

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

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

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

(4) Obtain and secure any written or printed consumer

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

EFFECTIVE: 01/31/78

62-5.7 Character - Fair Credit Reporting Act

EFFECTIVE: 01/31/78

62-6 STATUTE

Title 15, USC, Section 1333

EFFECTIVE: 01/31/78

62-6.1 Elements

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

EFFECTIVE: 01/31/78

62-6.1.1 Other Provisions

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

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

EFFECTIVE: 01/31/78

62-6.1.2 Policy

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

EFFECTIVE: 01/31/78

62-6.1.3 Penalty

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

EFFECTIVE: 01/31/78

62-6.1.4 Character - Federal Cigarette Labeling and Advertising Act

EFFECTIVE: 01/31/78

62-7 INSTRUCTIONS

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

EFFECTIVE: 01/31/78

62-8 STATUTE

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

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

EFFECTIVE: 01/31/78

62-8.1 Elements

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

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

EFFECTIVE: 01/31/78

62-8.2 Legal Interpretations of Statute

(1) Persons liable -

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

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

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

(2) Type of work -

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

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

(3) Source of kickback payments -

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

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

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

(4) Inducement for payment -

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

(5) Involvement of Federal funds -

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

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

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

EFFECTIVE: 01/31/78

62-8.3 Related Statutes

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

EFFECTIVE: 01/31/78

62-8.4 Policy

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

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

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

EFFECTIVE: 01/31/78

62-8.5 Investigative Procedure

(1) Establish identity of project or work involved, and Government agency furnishing funds.

(2) Identify labor officials, contractors, or others involved.

(3) Obtain details of payments made by employees, including dates, places, to whom, manner of payment, witnesses, written evidence, and exact source of funds.

(4) If payments were made to or solicited by union official, determine:

(a) Under what authority from union, if any, he acted.

(b) Provisions of collective bargaining agreement, if any, with employer under which union official acted, especially whether it provided for "closed shop" or "union shop." Obtain copy of this agreement.

(c) How collection was designated; i.e., was it for initiation fees, dues, permit fees, charity donation, etc.

(d) Whether funds collected went into union treasury.

(5) Interview each employee alleged to have been induced or solicited to make payments. Obtain from each names of other employees in same category.

(6) Obtain details concerning termination of employment of employees who made kickbacks or were solicited for same. If employee was discharged for inefficiency, due to a general reduction in personnel or for some other reason which might negate suggestion that violation of act is involved, such circumstances should be clearly shown.

(7) Determine attitude of employees regarding having their identities revealed and testifying in event of prosecution.

EFFECTIVE: 01/31/78

62-8.6 Character - Kickback Racket Act

EFFECTIVE: 01/31/78

62-9 LANDS DIVISION MATTER

EFFECTIVE: 01/31/78

62-9.1 Background

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

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

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

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

EFFECTIVE: 01/31/78

62-9.2 Policy

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

(a) Nature of facts which attorneys desire developed

(b) Background information indicating scope of investigation

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

(a) Execute affidavits

(b) Serve summonses and complaints

(c) Attempt to have defendants sign form of stipulation

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

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

EFFECTIVE: 01/31/78

62-9.3 Privacy Act - Requirements

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

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

EFFECTIVE: 01/31/78

62-9.4 Character - Lands Division Matter

EFFECTIVE: 01/31/78

62-10 OTHER VIOLATIONS AND/OR MATTERS

This is for information fitting no other character.

EFFECTIVE: 01/31/78

62-11 CIVIL SUITS - MISCELLANEOUS

EFFECTIVE: 01/31/78

62-11.1 Background

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

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

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

EFFECTIVE: 01/31/78

62-11.2 Policy

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

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

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

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

(c) Scope of investigation requested by USA.

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

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

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

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

(a) Amount of suit

(b) Settlement or award

EFFECTIVE: 01/31/78

62-11.3 Privacy Act - Requirements

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

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

EFFECTIVE: 01/31/78

62-11.4 Character - Civil Suits - Miscellaneous

EFFECTIVE: 01/31/78

62-12 STATUTES

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

EFFECTIVE: 01/31/78

62-12.1 Purpose

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

EFFECTIVE: 01/31/78

62-12.1.1 Section 520. False Affidavits or Declarations

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

EFFECTIVE: 01/31/78

62-12.1.2 Section 530. Eviction or Distress

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

EFFECTIVE: 01/31/78

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

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

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

EFFECTIVE: 01/31/78

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

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

EFFECTIVE: 01/31/78

62-12.1.5 Section 534. Termination of Leases by Lessees

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

EFFECTIVE: 01/31/78

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

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

EFFECTIVE: 01/31/78

62-12.2 Miscellaneous

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

EFFECTIVE: 01/31/78

62-12.3 Penalties

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

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

EFFECTIVE: 01/31/78

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

EFFECTIVE: 01/31/78

62-13 STATUTE

Title 19, USC, Section 1304

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

EFFECTIVE: 01/31/78

62-13.1 Elements

(1) Articles involved of foreign origin and have been imported into U. S.

(2) Articles coming within provisions of Tariff Act of 1930 requiring country of origin be designated on imported articles.

(3) Marks indicating country of origin have been defaced, destroyed, removed, altered, etc., with intent to conceal information given thereby or contained therein.

(4) Defacement, destruction, removal, etc., of marks occurred after articles passed through U. S. Customs Service.

EFFECTIVE: 01/31/78

62-13.2 Investigative Jurisdiction

(1) Vested in either FBI or U. S. Customs Service dependent upon time identifying marks removed from imported article.

(2) If marks indicating country of origin removed from article after passed through U. S. Customs Service, FBI has primary jurisdiction.

(3) If marks removed prior to time merchandise cleared Customs, violation investigated by that agency.

EFFECTIVE: 01/31/78

62-13.3 Investigative Procedures

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

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

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

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

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

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

EFFECTIVE: 01/31/78

62-13.4 Penalties

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

EFFECTIVE: 01/31/78

62-13.5 Character - Tariff Act of 1930

EFFECTIVE: 01/31/78

62-14 STATUTES

Title 15, USC, Sections 375 and 376

EFFECTIVE: 01/31/78

62-14.1 Section 375 (Definitions)

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

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

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

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

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

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

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

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

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

EFFECTIVE: 01/31/78

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

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

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

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

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

EFFECTIVE: 01/31/78

62-14.2.1 Elements

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

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

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

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

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

EFFECTIVE: 01/31/78

62-14.3 Policy

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

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

EFFECTIVE: 01/31/78

62-14.4 Penalties

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

EFFECTIVE: 01/31/78

62-14.5 Character - Unreported Interstate Shipment of Cigarettes

EFFECTIVE: 01/31/78

62-15 STATUTE

Title 29, USC, Sections 201-219

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

EFFECTIVE: 01/31/78

62-15.1 Elements

The act declares it unlawful:

(1) To transport, sell, etc., goods in production of which any employee was employed in violation of act.

(2) To violate any provision of wage and hour sections of act, or any regulation or order of Administrator with respect to learners, apprentices, and handicapped workers.

(3) To discharge or discriminate against an employee who has filed a complaint or acted pursuant to any provision of act.

(4) To violate any of child labor provisions of act.

(5) To knowingly keep record or file report that is false in some material respect.

EFFECTIVE: 01/31/78

62-15.2 Investigative Jurisdiction

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

EFFECTIVE: 01/31/78

62-15.3 Policy

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

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

EFFECTIVE: 01/31/78

62-15.4 Investigative Procedure

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

EFFECTIVE: 01/31/78

62-15.5 Penalties

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

EFFECTIVE: 01/31/78

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

EFFECTIVE: 01/31/78

62-16 STATUTE

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

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

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

EFFECTIVE: 01/31/78

62-16.1 Elements

(1) Two or more persons agree together to:

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

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

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

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

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

EFFECTIVE: 01/31/78

62-16.2 Related Statutes

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

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

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

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

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

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

EFFECTIVE: 01/31/78

62-16.3 Statute of Limitations

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

EFFECTIVE: 01/31/78

62-16.4 Policy

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

EFFECTIVE: 01/31/78

62-16.5 Investigative Procedure

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

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

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

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

(5) [redacted]

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

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

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

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

EFFECTIVE: 01/31/78

62-16.6 Venue

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

EFFECTIVE: 01/31/78

62-16.7 Classification

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

EFFECTIVE: 01/31/78

62-16.8 Character

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

EFFECTIVE: 01/31/78

SECTION 63. MISCELLANEOUS - NONSUBVERSIVE

63-1 MISCELLANEOUS - NONSUBVERSIVE

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

EFFECTIVE: 10/16/90

SECTION 64. FOREIGN MISCELLANEOUS

64-1 FOREIGN MISCELLANEOUS

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

Information in this file is broken down by country.

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

EFFECTIVE: 02/14/97

SECTION 65. ESPIONAGE

65-1 ESPIONAGE

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

EFFECTIVE: 02/14/97

SECTION 66. ADMINISTRATIVE MATTERS

66-1 ADMINSTRATIVE MATTERS

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

EFFECTIVE: 01/31/78

SECTION 67. BUREAU APPLICANT MATTERS - GENERAL

67-1 RECRUITING AIDS

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

EFFECTIVE: 10/25/89

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

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

EFFECTIVE: 10/25/89

67-3 INQUIRIES

EFFECTIVE: 10/25/89

67-3.1 Employment Opportunities

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

EFFECTIVE: 10/25/89

67-3.2 Status of Application

EFFECTIVE: 10/25/89

67-3.2.1 Deleted

EFFECTIVE: 10/25/89

67-3.2.2 Support Positions

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

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

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

unfavorable recommendation during the interview. If a field office determines that a "no encouragement" letter should be sent to a support applicant under these circumstances, then the field office should forward a "no encouragement" letter to the applicant. |For clerical support applicants, the pass/fail letters for the CSB interview are computer-generated by the field office through the support applicant tracking system within the BPMS.|

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

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

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

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

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

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

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

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

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

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

EFFECTIVE: 03/24/97

67-3.2.3 Special Agent Position

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

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

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

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

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

(3) Under no circumstances should personnel in a field

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

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

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

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

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

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

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

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

EFFECTIVE: 04/29/97

67-4 EMPLOYMENT OF RELATIVES

EFFECTIVE: 10/22/84

67-4.1 Public Law 90-206

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

EFFECTIVE: 10/22/84

67-4.2 Relative

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

EFFECTIVE: 10/22/84

67-4.3 Restrictions on Public Official

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

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

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

EFFECTIVE: 10/22/84

67-4.4 Restrictions on a Relative

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

EFFECTIVE: 01/11/85

67-4.5 Inquiry

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

EFFECTIVE: 01/11/85

67-5 |MILITARY STATUS

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

EFFECTIVE: 01/11/85

67-6 PRIVACY ACT AND CONFIDENTIALITY

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

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

EFFECTIVE: 01/11/85

67-7 BUREAU APPLICANT INVESTIGATION

EFFECTIVE: 12/10/91

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

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

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

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

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

EFFECTIVE: 04/07/97

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

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

EFFECTIVE: 07/25/97

67-7.2 Deadlines

(1) Thirty calendar days except where FBIHQ advises otherwise.

(2) Deadline necessary to ensure early appointment of applicant if determined to be qualified.

(3) Deadline date is date report to be received at FBIHQ.

(4) In furnishing leads to additional offices, advise them of deadline. Such leads must be expeditiously furnished other offices as soon as developed to avoid delay in completion of investigation.

(5) If unavoidable circumstances cause delay, field supervisor or Agent handling case should notify FBIHQ by Form FD-205 setting forth all information required on the form. The FD-205 may be filled out in legible longhand. Field office need not retain copy if notation made on serial in file regarding sending of FD-205. It should reach FBIHQ by deadline date.

(6) |Deleted|

EFFECTIVE: 11/25/94

67-7.3 Character - Bureau Applicant (Position Sought)

EFFECTIVE: 04/24/90

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

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

EFFECTIVE: 04/07/97

67-7.5 Indices Search

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

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

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

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

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

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

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

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

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

EFFECTIVE: 11/25/94

67-7.6 Objectives of Investigation

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

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

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

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

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

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

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

rendering final judgment.

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

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

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

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

EFFECTIVE: 01/31/94

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

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

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

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

(4) Investigation must be painstakingly exact, fair, unbiased.

(5) Interviews must be thorough and exhaustive.

(6) Request those interviewed to treat inquiries as confidential.

(7) Investigating Agent should be persistent in his/her effort to pursue every lead to its logical conclusion.

(8) Derogatory information should be fully developed and reported in detail. Ascertain facts on which derogatory conclusions predicated and follow through in questioning to obtain such facts. If derogatory information is developed, telephonically advise FBIHQ without delay. Advise all auxiliary offices by teletype (copy to FBIHQ) if so instructed by FBIHQ. Reports should show unbiased and complete inquiry. If some question exists regarding accuracy of derogatory information, identify original sources. Field offices discovering derogatory data must ensure that sufficient investigation is conducted to verify or disprove same. Promptly advise other offices which should be cognizant of derogatory information to facilitate their part of the investigation. All questions concerning information furnished under a promise of confidentiality will be resolved at FBIHQ in accordance with provisions of the Privacy Act of 1974 (Title 5, USC, Section 552a (e) (2)).

(9) Do not protract investigation when derogatory information developed obviously disqualifies applicant for Bureau employment.

(10) Bear in mind that copies of applicant reports may be disseminated upon request to any agency within executive branch of government, as well as under the provisions of FOIPA.

(11) The results of derogatory information developed on support and Special Agent applicants should be reported to FBIHQ on an FD-302. The results of completed favorable background investigations on support and Special Agent applicants should be submitted to FBIHQ by summary airtel, teletype, or report.

(12) Deleted

(13) Deleted

(14) Be aware of Privacy Act and confidentiality

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

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

EFFECTIVE: 10/13/95

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

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

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

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

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

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

(4) Neighborhoods

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

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

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

(5) References

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

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

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

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

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

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

(6) Social acquaintances

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

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

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

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

(7) Relatives and associates

(a) Obtain information concerning close relatives and associates during course of investigation on applicant. References and neighborhood of applicants are likely sources of such information. Close relatives under ordinary circumstances include spouse, parents, brothers, sisters, in-laws and adult offspring (includes all relatives requested on BUAP Form FD-140). Be alert to special instances of circumstances which may require broadening this definition. Set out lead for FBIHQ with adequate identifying data to check records of Central Intelligence Agency [redacted] b3 b7e CIA

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

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

(8) Education

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

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

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

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

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

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

(9) Employment

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

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

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

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

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

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

(10) Organizations

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

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

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

(12) Law Enforcement Agencies

(a) In all localities of residence, education and

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

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

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

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

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

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

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

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

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

(13) Financial Responsibility

(a) Credit checks will be processed by contractor personnel at FBIHQ on applicant's name in all localities covering his/her residence, employment, or education for the most recent seven-year period. It is not necessary to individually verify an account an applicant lists on the FD-140, Application for Employment, that is not shown on the credit bureau report if the credit report is favorable. However, individual creditors must be contacted wherein the credit bureau report reflects any history of late payments. Additionally, if the account is significant enough that the applicant would not be offered Bureau employment if the account is not current, i.e., tax and mortgage payments and large loans and student loans, verification of such is necessary. The same policy applies to accounts held jointly with a relative and/or other individual(s).
It is not necessary to verify a student loan that is listed in applicant's credit report as currently being in a deferred status as the applicant is not required to begin payment on the loan until they have graduated from college. All student loans must be individually checked at the respective institution handling the loan if the applicant is no longer attending college. Any account revealed by credit bureau records to be in default or have a history of late payment(s) should be further verified by directly accessing the records of this account at the issuer of the credit. In checking status of credit accounts, utilize FD-406, DOJ-461, DOJ-462, and DOJ Letterhead Memorandum entitled "Customer Rights Under the Right to Financial Privacy Act of 1978." A separate set of executed DOJ documents will be necessary to access the records of each separate financial institution or credit card issuer in the event individual credit checks are needed. The following information should be included when verifying delinquent accounts: outstanding balance, any penalties or interest added to the amount owed, the date the account was classified as uncollectible, classified as a "charge off" account, or placed for collection or repossession if applicable, whether any applicable repayment plan has been agreed upon and, if so, whether the creditor holder is adhering to the agreement.

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

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

(15) Agency checks - FBIHQ personnel will conduct Office of Personnel Management (OPM) checks for all applicants and the National Crime Information Center record check for any applicant who is scheduled to enter on duty. A Defense Clearance and Investigations Index check will only be conducted on those applicants who are serving or have served in the military or employed by the military in a civilian capacity. WFO, in appropriate instances, must receive a lead to handle record checks, such as at the State Department, etc. If an [redacted] It is not necessary to conduct a CIA check [redacted] A CIA check should also be conducted if the applicant has applied for a position with the CIA. (See (7)(a) of this section.)

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CIA

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

(16) Reinterview of applicant

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

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

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

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

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

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

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

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

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

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

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

(a) If in Reserve, ascertain whether Ready or Standby. If applicant is currently in military reserve, determine whether active or inactive (Standby normally inactive but may be active on volunteer basis) and have applicant furnish complete address for reserve unit to which he/she is currently assigned. Whether in active or inactive reserve, records must be reviewed in all Bureau applicant cases. If applicant is affiliated with an active reserve unit, also interview superiors and fellow reservists regarding current performance. During supplemental investigation, reserve status must be rechecked when more than 60 days have elapsed since previous check. If affiliated with active reserve unit, supplemental investigation must include reinterview of superiors and fellow reservists to ensure that applicant remains in good standing with unit.

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

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

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

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

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

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

EFFECTIVE: 04/07/97

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

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

EFFECTIVE: 10/14/93

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE: 07/22/93

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

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

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

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

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

(b) Foreign travel or foreign residences of applicant.

(c) Relatives of applicant or applicant's immediate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE: 04/29/97

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

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

(a) Deleted

(b) Deleted

(c) Deleted

(d) Deleted

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

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

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

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

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

EFFECTIVE: 04/07/97

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

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

(a) Passed - No Indication of Deception

(b) Failed - Deception Indicated

(c) Inconclusive - Unable to Determine Results

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

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

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

(c) Failed - Denies Deception

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

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

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

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

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

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

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

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

EFFECTIVE: 04/29/97

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

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

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

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

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

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

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

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

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

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

EFFECTIVE: 04/29/96

67-8 MAINTENANCE OF AVAILABILITY LISTS ON SUPPORT APPLICANTS

EFFECTIVE: 02/16/89

67-8.1 Potential Availability List

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

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

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

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

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

EFFECTIVE: 02/16/89

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

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

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

EFFECTIVE: 03/24/97

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

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

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

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

EFFECTIVE: 05/21/97

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

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

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

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

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

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

EFFECTIVE: 04/29/96

67-9.3 Availability

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

EFFECTIVE: 02/16/89

67-9.4 Appointment

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

EFFECTIVE: 02/16/89

67-10 SPECIFIC QUALIFICATIONS FOR SUPPORT POSITIONS

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

EFFECTIVE: 02/16/89

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

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

EFFECTIVE: 04/29/96

| 67-10.2 |Office Automation Clerk/Assistant|

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

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

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

EFFECTIVE: 04/29/96

67-10.3 Clerk-Stenographers

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

EFFECTIVE: 04/29/96

67-10.3.1 Deleted

EFFECTIVE: 04/29/96

67-10.4 Photographers

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

EFFECTIVE: 02/16/89

67-10.5 Nurses

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

EFFECTIVE: 02/16/89

67-10.6 Fingerprint Examiners

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

EFFECTIVE: 02/16/89

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

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

EFFECTIVE: 05/21/97

67-10.8 |Deleted|

EFFECTIVE: 04/07/97

67-10.9 Laboratory|Physical Science and Biological Laboratory| Technicians

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

EFFECTIVE: 04/07/97

67-10.10 Electronics Technicians

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

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

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

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

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

EFFECTIVE: 06/10/88

67-10.11 Computer Programmer and Computer Systems Analyst

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

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

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

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

| Resources | Division.

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

EFFECTIVE: 04/29/96

67-11 GENERAL INSTRUCTIONS FOR PROCESSING SUPPORT APPLICANTS

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

EFFECTIVE: 03/23/92

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

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

EFFECTIVE: 04/29/96

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

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

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

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

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

EFFECTIVE: 04/07/97

67-11.1.2 Support Applicant Tracking System

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

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

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

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

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

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

(a) Criteria for Veterans' Preference Eligibility

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

1. in a war; or,

2. in a campaign or expedition for which a campaign badge has been authorized; or,

3. during the period beginning 4/28/52, and ending 7/1/55; or,

4. for more than 180 consecutive days, OTHER THAN FOR TRAINING, any part of which occurred during the period beginning 2/1/55 and ending 10/14/76.

5. A person who entered on active duty in the Armed Forces after 10/14/76 and before 9/8/80 may qualify if he/she:

a. served during a war or campaign or expedition for which a campaign badge has been authorized, or

b. is a disabled veteran.

6. A person who enlisted in the Armed Forces after 9/7/80, or who entered on active duty (through means other than

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

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

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

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

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

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

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

(b) Proof of Veterans' Preference Eligibility

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

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

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

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

EFFECTIVE: 03/24/97

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) SCORING

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

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

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

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

|(11)| SELECTION OF TEST TAKERS

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

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

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

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

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

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

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

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

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

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

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

1. 3-829 (Clerical Selection Test Answer Sheet);

2. 3-842 (Clerical Applicant Interview Rating Sheet);

3. FD-800 (Clerical Applicant Rating Form);

4. Training and Experience (T&E) Questionnaires that supplement the CSB for specific positions; and

5. Interview Summary Rating Forms that supplement the CSB for specific positions.

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

1. FD-840 (Checklist for the CSB Written Test);

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

3. FD-798 (Clerical Applicant Preliminary Interview Questions);

4. FD-858 (CSB Interview Follow-Up Sheet)(if used); and

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

EFFECTIVE: 03/24/97

67-11.2.1 Administration of Tests

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

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

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

EFFECTIVE: 08/19/85

| 67-11.2.2 |Deleted|

EFFECTIVE: 04/29/96

| 67-11.2.3 |Deleted|

EFFECTIVE: 04/29/96

| 67-11.2.4 |Deleted|

EFFECTIVE: 04/29/96

| 67-11.3 |Deleted|

EFFECTIVE: 04/29/96

67-11.3.1 Social Security Number

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

EFFECTIVE: 09/25/91

67-11.3.2 Applicants of Asian Ancestry

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

EFFECTIVE: 09/25/91

67-11.3.3 Deleted

EFFECTIVE: 09/25/91

67-11.3.4 Military Status

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

EFFECTIVE: 05/28/85

67-11.3.5 Verifying Prior Government Service

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

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

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

EFFECTIVE: 05/28/85

67-11.3.6 Lesser Positions

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

EFFECTIVE: 05/28/85

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

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

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

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

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

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

EFFECTIVE: 07/27/81

67-11.3.8 Fingerprinting

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

EFFECTIVE: 07/27/81

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

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

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

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

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

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

EFFECTIVE: 04/29/96

67-11.3.10 |Deleted|

EFFECTIVE: 04/29/96

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

(1) SUBMITTING COMPLETED WRITTEN TEST MATERIALS

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

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

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

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

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

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

(2) SUBMITTING COMPLETED INTERVIEW MATERIALS

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

1. FD-800 (Clerical Applicant Rating Form); and

2. 3-842 (Clerical Applicant Interview Rating Sheet).|

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

EFFECTIVE: 03/24/97

67-11.5 Physical Examinations

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

required scope of examination.

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

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

EFFECTIVE: 05/21/97

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

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

EFFECTIVE: 04/29/96

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE: 03/24/97

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

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

EFFECTIVE: 04/29/96

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

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

EFFECTIVE: 04/29/96

67-12.4 Reinstatement Applicant for Specialty Position

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

EFFECTIVE: 04/29/96

67-12.5 Preferential Treatment for Reinstatement Applicants

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

EFFECTIVE: 04/29/96

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

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

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

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

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

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

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

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

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

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

EFFECTIVE: 03/24/97

67-14 HONORS INTERNSHIP PROGRAM

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

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

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

EFFECTIVE: 02/27/96

67-14.1 Selection Procedure

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

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

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

The field offices are:

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

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

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

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

EFFECTIVE: 02/27/96

67-14.2 Qualifications

The qualifications for|applicants|for this program are as follows:

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

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

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

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

(5) |Applicants|must be United States citizens.

EFFECTIVE: 02/27/96

67-14.3 Application Process

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

(a) an FD-646a application form

(b) a current academic transcript

(c) a two-page resume

(d) a written recommendation from the appropriate dean or department head

(e) a 500-word essay addressing the applicant's motivation for participating in the program

(f) two professional photographs (photographs should be current, approximately 2 X 2 inches in size, and a good likeness of the candidate)

(g) an FD-804 (Applicant Background Survey)

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

Each nomination package to FBIHQ should include the following:

(a) an FD-646a (Preliminary Application)

(b) an FD-140 (Application for Employment)

(c) an FD-406 (Authority to Release Information)

(d) an academic transcript

(e) letter(s) of reference

(f) a two-page resume

(g) a 500-word essay

(h) fingerprint card

(i) two professional photographs

(j) SAC's Interview/Recommendation

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

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

EFFECTIVE: 02/27/96

67-14.4 Assignments

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

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

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

EFFECTIVE: 02/27/96

67-14.5 Program Objective

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

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

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

EFFECTIVE: 02/27/96

67-15 DELETED

EFFECTIVE: 08/28/91

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

EFFECTIVE: 08/28/91

67-16.1 General Requirements - All Applicants For SA Position

(1) Must be citizens of the United States.

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

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

support his/her eligibility for consideration beyond age 37.

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

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

EFFECTIVE: 08/28/91

67-16.2 Physical

EFFECTIVE: 07/23/90

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

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

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

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

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

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

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

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

(7) Preemployment Physical Fitness Test

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

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

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

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

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

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

1. Bureau personnel and applicant should meet at a site and time agreed upon.

2. Applicant should execute a second Waiver of Liability (FD-701) at the time of actual testing.

3. Allow reasonable period of time for warm-up.

4. Review test sequence and procedures. Allow reasonable recuperation time between events--generally not to exceed five minutes.

5. Record results on the Preemployment Physical Fitness Test Evaluation Sheet, Form FD-740, and forward same to FBIHQ.

6. Bureau personnel present during testing should witness results by signing the Preemployment Physical Fitness Test Evaluation Sheet, Form FD-740.

7. Applicants failing initial test must satisfactorily perform retest within six months of the date of the initial test. During this period retests will be granted by the field based on totality of circumstances (i.e., prior score obtained, improvements between testing, Bureau hiring needs, etc.). Applicant must request retests by recontacting appropriate field office. After six months, Special Agent Applicant Unit, Personnel Division, should be contacted and decision will be made as to future action to be taken.

8. Submit results to FBIHQ with original waivers. Copies will be maintained by field office.

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

EFFECTIVE: 05/13/97

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

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

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

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

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

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

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

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

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

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

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

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

2. The nature and seriousness of the conduct;

3. The circumstances surrounding the conduct;

4. The recency of the conduct;

5. The age of the applicant at the time of the conduct;

6. Contributing societal conditions; and,

7. The absence or presence of rehabilitation or efforts toward rehabilitation.

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

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

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

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

EFFECTIVE: 05/13/97

67-16.2.3 Frequently Disqualifying Factors

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

(1) |Deleted|

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

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

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

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

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

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

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

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

(c) Have had a normal neurological examination.

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

EFFECTIVE: 05/13/97

67-16.3 Qualifying Programs and Educational Requirements

EFFECTIVE: 03/23/92

67-16.3.1 Law Program

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

EFFECTIVE: 03/23/92

67-16.3.2 Accounting Program

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

Education.

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

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

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

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

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

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

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

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

EFFECTIVE: 05/17/93

67-16.3.3 Language Program

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

EFFECTIVE: 05/17/93

67-16.3.4 Engineering/Science Program

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

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

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

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

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

(a) through (c) Deleted

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

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

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

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

EFFECTIVE: 04/08/96

67-16.3.5 Diversified Program

Applicant must have either:

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

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

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

EFFECTIVE: 05/17/93

67-16.3.6 Deleted

EFFECTIVE: 02/25/91

67-17 PROCESSING APPLICANTS FOR THE SPECIAL AGENT POSITION

EFFECTIVE: 02/25/91

67-17.1 General Instructions

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

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

EFFECTIVE: 02/25/91

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

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

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

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

EFFECTIVE: 10/16/95

67-17.1.2 Social Security Number

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

EFFECTIVE: 09/26/90

| 67-17.1.3 |Deleted|

EFFECTIVE: 06/21/94

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

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

EFFECTIVE: 09/26/90

67-17.1.5 Affiliation with Ready Reserve

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

EFFECTIVE: 09/26/90

67-17.1.6 SA Applicants of Asian Ancestry

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

EFFECTIVE: 09/26/90

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

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

EFFECTIVE: 04/21/94

67-17.1.8 Deleted

EFFECTIVE: 02/12/92

67-17.1.9 Early Processing

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

EFFECTIVE: 02/12/92

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

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

EFFECTIVE: 10/13/95

67-17.2 Testing of SA Applicants

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

EFFECTIVE: 02/12/92

67-17.2.1 Test Security

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

EFFECTIVE: 04/07/97

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

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

EFFECTIVE: 02/25/91

67-17.2.3 Selection System Briefing

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

EFFECTIVE: 02/25/91

67-17.2.4 Tests Given to SA Applicants

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

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

(b) Deleted

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

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

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

3. Service Shotgun - Utilize a Remington Model

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

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

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

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

EFFECTIVE: 09/08/93

67-17.2.5 Deleted

EFFECTIVE: 12/16/88

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

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

EFFECTIVE: 12/16/88

67-17.2.7 Retesting

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

(2) The Accounting Proficiency Test, if passed the first time, is not to be readministered. The Accounting Proficiency Test is limited to two test opportunities with a one-year interval between each test. The higher of the two test scores will remain as the score of the record. |(See MAOP, Part I, 22-1 regarding foreign language tests.)|

EFFECTIVE: 09/08/93

67-17.3 Interviewing SA Applicants

Special Agent applicants who were initially afforded the test battery consisting of the Cognitive Functions Test and the Agent Entrance Test can be granted as many as three interviews at graduated intervals. Six months must elapse between an applicant's first and second interview and one year between the second and third interview. Applicants whose first testing occurred after the implementation of the Special Agent Entrance Examination will be permitted to interview a maximum of two times, with a one-year waiting period being required between interviews.

(1) Initial Special Agent interviews - See 67-17.3.2 (1). Support, former employees and relatives of on-board and former employees should be scheduled for interview in another office.

(2) Applicants who retest can retain their original interview score, if they so desire, and applicants who do not wish to retest can request an additional interview. Any individual who receives an interview beyond the initial one will forfeit any previous interview score, the last interview score being the one of record.

(3) Reinterviews - are to be automatically scheduled by the field upon the request of Special Agent applicants provided the following criteria have been met: the initial results are acceptable; the Special Agent Entrance Examination results are currently competitive under a minimum of one selection category; and the required one-year waiting period has been fulfilled since the initial interview. Field offices are not to advise FBIHQ that reinterviews are being scheduled.

(4) It is necessary to request FBIHQ authorization to reinterview any candidate who was previously rated as "unacceptable," since these are permitted on a very selective basis after a consideration of all factors involved.

EFFECTIVE: 02/25/91

67-17.3.1 Deleted

EFFECTIVE: 02/25/91

67-17.3.2 Interview Board

(1) When eligible, SA applicants will automatically be interviewed by an interview board consisting of three Special Agents, all of whom must have attended the one-week in-service training program for the Targeted Selection Interview (TSI). This is an absolute policy. No exceptions may be made, and the presence of any untrained interviewers on the panel may open the TSI process to a challenge as to the validity of the interview. Supervisory personnel above the relief supervisor level may not participate on the Interview Board. |(See MIOG, Part I, 67-17.3 (1).)|

(2) All offices MUST conduct a TSI panel interview within established Buded. To expedite processing, each applicant should have been provided an FD-140 at time the entrance examination was afforded, with instructions to complete same. Then, upon notification of eligibility for interview, there will be no delay in having the applicant's FD-140 available for the TSI board.

(3) At the conclusion of the panel interview, the interview should be recorded on the Special Agent Interview Form (FD-190) and immediately scored by the field office. Once the TSI is scored, should the score be competitive, the field is to forward all processing material to the|SAAU|within established Buded for background initiation consideration. The|SAAU|will not authorize any background investigation unless in receipt of the FD-190 and the typed interview narrative. Should the score not be competitive, the field office is to forward all processing material directly to the |Information Resources Division.| In both instances, it is the lead interviewer's responsibility to ensure that the FD-190 has been signed by all three interviewers.

(4) Priority of Interviews - Interviews are to be conducted in accordance with the priorities established by FBIHQ, and furnished to the field periodically.

(5) Availability of Interviewers - Interviewers are to be made available in each field office to ensure SA applicant interviews are conducted in a timely fashion.

(6) Interviews must be carefully planned, penetrative, exhaustive, and designed to determine an applicant's suitability for the position of Special Agent and to develop any information bearing on his/her suitability for the position. A copy of the FD-190 and narrative is furnished to each auxiliary field office when the background is initiated. It is utilized by investigatory personnel for the purpose of verifying and expanding on the information provided by the applicant during the interview.

(7) Special Agent Dimension Evaluation Work Sheet (FD-511) - FD-511 is to be utilized as note-taking device during the course of interview. Each member of the interview board is to fill out one copy of this form during the interview and subsequently make his/her own independent numerical evaluation of the applicant in each dimension being evaluated. The composite grade on each dimension is arrived at after discussion within the interview board and is then recorded on the FD-190. It is not necessary to fill out an additional FD-511 with a composite grade. The FD-511s are then attached to the FD-510 (Special Agent Applicant Interview Board Background Information Form) and maintained in the field office applicant file subject to normal file destruction procedures.

EFFECTIVE: 04/07/97

67-17.3.3 Deleted

EFFECTIVE: 02/25/91

67-17.3.4 Special Agent Interview Form (FD-190)

All SA applicant interviews are to be recorded on Form FD-190 and forwarded to FBIHQ, as instructed in 67-17.3.2 (3).

(1) The FD-190 must be accurate, completely executed and signed by all three interviewers. Interviewers are obligated to report on this form any information of a derogatory nature developed during the course of the interview which might have any bearing on the applicant's suitability for the SA position.

(2) In connection with Item #13, Special Agent applicants must be advised that it will be necessary for them to agree to remain in the Bureau's service for at least three years if they receive an appointment and their work is satisfactory. Interviewing Agents must make certain that each SA applicant thoroughly understands the responsibilities inherent in the SA position, that long hours are demanded, that occasional personal hardships are involved, that all assignments are based upon the needs of the service, and that Agent personnel are expected to be completely available for general or special assignment wherever their services are needed.

(3) Item|#17|concerning drug usage, if answered affirmatively, must be fully commented on in narrative comments. Ascertain during the interview the exact and complete details of any and all usage as well as the applicant's attitude with regard to usage and the law. The foregoing applies only to marijuana and not to any other drugs of abuse, any usage of which, regardless of the degree, is grounds for an unfavorable recommendation.

(4) Item|#27|(Narrative Comments) must contain detailed behavioral justification for numerical grade awarded or each of the eight dimensions, set forth in the same order as dimensions are arranged on the FD-190.

EFFECTIVE: 04/19/91

67-17.3.5 Interview by SAC or ASAC

Subsequent to the interview by the interview board, at the discretion of the SAC, an applicant may be interviewed by either the SAC or the ASAC. Concurrence or nonconcurrence with the findings of the interview board will be reported in the form of an addendum to the FD-190.

EFFECTIVE: 04/19/91

67-17.3.6 Processing of Support Personnel

(1) When a support employee is within the specified time frame of fully qualifying under any of the various Special Agent programs, and provided that his/her services in a support capacity are rated Fully Successful, employee's qualifications are to be briefly set forth in a communication to FBIHQ, with a request to process for the SA position. If employee received his/her college degree after entry on duty with the FBI, a copy of this degree or a transcript of college credits showing issuance of the degree should be attached to the communication. Additionally, if employee is attempting to qualify under the Engineering/Science Program, college transcripts should also be submitted. After review, FBIHQ will issue specific instructions regarding processing, but the written examination to be given employee will be the same as that afforded other applicants. A support employee's test will be processed at FBIHQ, and a letter advising employee of his/her status based on test performance will be sent directly to employee. A copy of same will be forwarded to the SAC, Assistant Director or Inspector in Charge of the division/office to which employee is assigned. |(See MAOP, Part I, 17-2.1(4).)|

(2) Interviews are afforded support employees only upon specific instructions from FBIHQ. A support employee's formal interview is conducted by the interview board of a field office other than the one to which employee is assigned and will be appropriately designated by FBIHQ in the aforementioned instructions. In the case of support personnel assigned to FBIHQ, the interview will be conducted in one of the surrounding field offices. These interviews must be identical to those afforded to individuals applying from outside the Bureau. The FD-140, FD-190 and typed narrative must be forwarded directly to SASAU for scoring. The results of the interview will be sent to employee by means of a computer-generated status letter.

(3) When a support employee is selected for consideration for appointment to a New Agents' Training Class, a written communication containing processing instructions will be sent by FBIHQ to the employee's office of assignment. Specific comments and recommendations are to be given, in the form of separate memoranda, by each of employee's current and former supervisors to cover a two-year period. Comments should also be obtained from the SAC and a representative number of co-workers, including Agent personnel who are familiar with the employee and can comment relative to his/her suitability for the SA position. If comments and recommendations are favorable, employee should be given a complete physical examination. A drug screening test should also be|taken;|and arrangements should be

made to interview employee's spouse, if married. A current application should be obtained and investigation conducted to update all items since employee's entry on duty, including up-to-date criminal checks on all listed relatives. |A current neighborhood check should be conducted to include any applicant who currently resides with a relative who is a Bureau employee. It is necessary to interview, conduct arrest and indices checks on CURRENT roommates. FORMER roommates who have resided with the applicant for the past five years should also be interviewed and indices checks conducted on them. Arrest checks should be conducted on former roommates ONLY if a date of birth is provided by the applicant. If the roommate resided with the applicant OVER five years ago, no investigation will be necessary.| The only checks not to be initiated are credit checks which will be handled by|FBIHQ. References and social acquaintances should not be interviewed.| If appointed to the SA position, the support employee will, at the appropriate time, proceed to the FBI Academy at Quantico, Virginia, where he/she will be administered the oath of office.

(4) Support employees meeting the requirements for SA position will continue to be considered for possible appointment to this position upon separation from Bureau service, if they so desire. ||(See MAOP, Part I, 17-2.1(4).)|

EFFECTIVE: 11/25/94

67-17.3.7 Computation of Grades

(1) Test Ranking Grade (TRG) - This is the grade that is achieved by an applicant in the testing portion of the Special Agent Selection System. It has a maximum of 45 points and is based on an applicant's performance in the Special Agent Entrance Examination.

(2) Interview Grade - An applicant may earn a maximum of 55 points in the interview.

(3) Percentile Ranking Grade (PRG) - This is an applicant's total score under the Selection System. It is composed of the TRG, to which is added the interview grade and veterans' preference points, where applicable. The PRG is utilized to rank each applicant in the program(s) under which he/she may qualify.

(4) Veterans' Points - Any veterans' points earned are awarded one-half to the TRG and one-half to the interview grade if the candidate achieves the minimum qualifying scores on both the test and the interview.

(5) Reprocessing - If an applicant elects to be reprocessed, the higher test score will be the score of record. This score will be combined with the most recent interview score to arrive at the PRG.

EFFECTIVE: 02/25/91

67-17.3.8 Special Agent Reinstatement Requests (See MIOG, Part I, 67-7.11.)

Reinstatement of a former Special Agent is by no means an automatic process. Since resignations and reinstatements of Special Agent personnel are costly to the Bureau, it is to our advantage to keep turnover to a minimum. The Bureau is very favorably disposed to reinstating former Agents because of the benefits that experienced Agents bring back to the FBI. Reinstatement appointments are, however, at the discretion of management and other factors will be considered when approving such an appointment, including the FBI's anticipated hiring plan and specialized needs.

(1) To qualify for reinstatement consideration:

(a) Former Agents who have met their initial three-year obligation during prior service may apply for reinstatement at any time, without regard to the length of time since their resignation. However, reinstatement requests will be denied to applicants who cannot complete 20 years of FBI service by mandatory retirement age.

(b) Deleted

(c) Individuals who are eligible for reinstatement consideration based on the above guidelines will then be required to meet the following criteria:

1. Must meet the same entrance-level medical and general suitability guidelines of a new applicant;

2. Must be completely available for

assignment/transfer anywhere in the Bureau;

3. Must have received at least an overall Fully Successful rating on all performance appraisals;

4. Must successfully complete an SAC/ASAC interview and be recommended for reinstatement by the interviewer;

5. Must be recommended for reinstatement by his/her former FBI supervisors and co-workers;

6. Must not have resigned during or as the result of an administrative inquiry;

7. Must not have resigned due to academic, firearms or physical fitness failure during New Agents' Training;

8. Must not have retired from the FBI.

(2) Upon receipt of a reinstatement request from a former Agent, you should immediately forward same to FBIHQ. A review of the former Agent's personnel file will be conducted. The request will be immediately denied if any unfavorable information exists or if the individual fails to meet the above guidelines.

(3) If no information is located which warrants an immediate denial, the SAC of the office covering the applicant's current residence will be requested to conduct an in-depth interview of the former Agent. Concurrent with or shortly after the SAC's interview, comments will be solicited from former supervisors and co-workers about the individual's performance and suitability for reemployment. After the above material has been reviewed, a decision will be made as to whether the reinstatement request will be further considered.

(4) Assuming that the comments are favorable and further action is to be taken, an updated background investigation (see Section 67-7.11 for general instructions concerning the updating of investigations), physical fitness test, drug test, physical examination, Personnel Security Interview (PSI) and polygraph examination will be ordered.

(5) |Assignment of SAs who have been reinstated will be determined by the Special Agents Transfer Unit based strictly on the needs of the Bureau. The Agent will be given the opportunity to indicate geographic preferences; however, ultimate assignment will be

determined by the staffing needs of the field offices as well as the need for any skills the Agent may possess. First consideration will be given to assign the Agent to his/her last office of assignment. Unique and unusual situations will continue to be addressed separately and evaluated on a case-by-case basis; for example, reinstating an Agent who qualifies for a Personnel Resource List transfer or who is married to an on-board Agent. (See MAOP, Part I, 11-13.)

(6) Former Agents who were in grades GS-10 through GS-13 at the time of their resignation will be reinstated at their former grade level. Former Agents who were in grades GS-14 or higher will be reinstated at the GS-13 level. (See MAOP, Part I, 8-9.)

(a) Reinstated GS-10 through GS-13 Agents will be placed in a step within the rate range (Steps 1 to 10) of their former grade level that equals as much as the highest previous rate he/she received for previous federal government service. To receive the highest previous rate, the individual's former pay system must be compatible with that of the FBI (i.e., General Schedule).

(b) Agents who resigned at grade GS-14 or higher will be placed in the step of the GS-13 rate range, not to exceed Step 10, that equals as much as the highest previous rate they received for previous federal government service, if the former pay system is compatible with that of the FBI.

(c) A "highest previous rate" is defined as the highest rate of basic pay previously paid to an individual while employed in the federal government. This provision has reference to the actual salary rate rather than the step rate within the grade. The highest previous rate must be for employment in excess of 90 continuous calendar days and cannot be based on a special salary rate or on a rate received for an appointment as an expert or consultant.

(7) A former Agent who at the time of reinstatement has been off the Bureau's rolls for MORE than two years is required to again complete New Agent's Training School. Those who have been off the rolls for LESS than two years will be ordered to report directly to one of our field offices.

EFFECTIVE: 10/16/95

67-18 CLASSIFICATION 67E--REINVESTIGATION OF FBI PERSONNEL
(See also MIOG, |Introduction, 2-2.4.3;|Part I, 259-1, 261-1; Part II, |26-10;|MAOP, Part I, 20-2.5.1, 20-25, |20-26.)|

The 67E personnel reinvestigation classification was in existence at the time the FBI Security Program was approved as an operational program at both Headquarters and in the field in September, 1986. Personnel reinvestigations are an integral part of the Program. However, in order to avoid creating additional files on FBI employees by creating new classifications, it was decided employee investigations emanating from the FBI Security Program would be TURK'd under the existing numerical and alpha designator 67E. Therefore, 67E was reprogrammed from the Applicant Investigations Nonreimbursable Program to the FBI Security Program.

(1) FBI employee reinvestigations are conducted to determine whether or not an employee's continued federal employment is consistent with the interests of national security. The following FBI Security Program activities reflect the various types of reinvestigations where the focus is on employee "trustworthiness" for continued access to National Security Information (NSI) under provisions of Executive Order (EO) 10450 entitled "Security Requirements for Government Employment."

(a) MARRIAGE PROGRAM: This is an investigation of the intended spouse of an FBI employee to determine whether or not the marriage could result in the possible coercion or undue influence by the intended spouse over the employee so as to possibly compromise NSI. (See Manual of Administrative Operations and Procedures (MAOP), Part I, Section 20-2.5.1 and MIOG, Part I, 67-18.1.2(2)(k).)

(b) FIVE-YEAR REINVESTIGATION: In compliance with Executive Orders and Federal Personnel Security policies, all FBI employees are subject to a five-year reinvestigation, which consists of a personnel file|review, interviews of employee, supervisors, co-workers, neighbors, references, associates, and roommates, verification of court actions, military service, and education, and criminal and indices searches on the employee and all individuals over the age of 16 residing with the employee. This reinvestigation will cover the period within five years of the date of the employee's entry on duty and at least once every five years thereafter. The results of this investigation will be adjudicated to determine the employee's eligibility to continue access to national security information.| (See MIOG, Part I, 67-18.1.1, and MAOP, Part I, 20-26.)

(c) TRAVEL PROGRAM: This reinvestigation consists of a determination as to what, if any, impact the proposed foreign travel of an employee will have on his/her trustworthiness. This type of reinvestigation could consist of briefings/debriefings, possibly polygraph examinations, etc. (See MAOP, Part I, Section 1-20.)

(d) DELETED

(e) SENSITIVE COMPARTMENTED INFORMATION (SCI) INVESTIGATIONS AND REINVESTIGATIONS: The Security Programs Manager (SPM), FBIHQ, will initiate and direct the field to conduct the initial and five-year update investigations.

The Security Countermeasures Program Manager (SCMPM) within each field office and FBIHQ component is required annually, usually by May 1st of each calendar year, to recertify each employee's SCI access level. The Security Programs Manager (SPM), FBIHQ, is to forward to each FBI component a list of employees with SCI access. The list will contain the employee's name, social security number, SCI access, briefing date/debriefing date and comment section. The comment section is to be used to justify an employee's continued SCI access.

Upon completion of the review and recertification process, the list is to be returned to the SPM, FBIHQ. (See Part II, 26-10.2.6, of this manual and National Foreign Intelligence Program Manual, Part I, 8-2.10.6.)

(f) ROOMMATE BACKGROUND DATA PROGRAM: This is an investigation of all individuals (non-Bureau/nonmembers of the immediate family) with whom an employee resides or intends to reside for a period of 30 days or more. The purpose of this investigation is to assist the FBI in making a determination that an individual residing with an employee does not constitute a potential threat to the national security of the United States, or an imminent threat to the personal safety of an employee. (See MAOP, Part I, Section 20-25.)

(2) The above listing is REPRESENTATIVE of those personnel reinvestigations which will be conducted under the auspices of the FBI Security Program, and field time expended will be TURK'd to the 67E classification. There will be other employee reinvestigations which do not fall squarely within the listing above, and they will also be TURK'd to the 67E. An example of the latter would be excessive financial hardship of an employee.

(3) The other classifications in the FBI Security Program

are 259, 260, and 261 and are explained in those sections of the MIOG, Part I.

(4) Any questions regarding policy and/or procedures under this classification should be directed to the SPM, Security Countermeasures Section, National Security Division, or members of the SPM's staff in the Personnel Security Unit.

EFFECTIVE: 04/10/96

67-18.1 Procedures for Specific Programs

EFFECTIVE: 12/10/91

67-18.1.1 Five-Year Reinvestigations (See MAOP, Part I, 20-26; MIOG, Introduction, 2-2.4.3; Part I, 67-18.)

The following investigative and recordkeeping instructions are designed to (1) make the most effective use of our limited personnel resources; (2) provide appropriate privacy to the data developed by the investigation; and (3) ensure the FBI is in compliance with National Security Directive 63, Department of Justice Order 2610.2A, and Federal Personnel Manual requirements for government employees with "Top Secret" security clearances.

(1) The SPM's staff will forward directly to the personal attention of the SAC, Legal Attache, Assistant Director in Charge (ADIC), or, in the case of FBIHQ, the Division Assistant Director (AD) or Inspector in Charge, a computerized listing of employees subject to a five-year reinvestigation. These individuals will be mandated to execute Form FD-814, entitled "Five-Year Reinvestigation Questionnaire." Within five years of the date of EOD and at least once every five years thereafter consistent with guidance furnished by the Security Programs Manager (SPM), each employee will be required to execute Form FD-814, entitled "Five-Year Reinvestigation Questionnaire," so that a reinvestigation may be conducted. Failure to complete Form FD-814 could result in the termination of the employee's "Top Secret" security clearance.

(2) Upon receipt of the SPM's computerized listing of

employees subject to five-year reinvestigations, the field division's investigation will be designated a "67E" matter using the Universal Case File Number of the FBIHQ file and thereafter opened and assigned to the Security Officer (SO), Security Countermeasures Program Manager (SCMPM), and/or other individual deemed appropriate to handle this responsibility. This individual must be one able and willing to afford these matters the extraordinary security and privacy warranted due to the sensitive nature of these investigations.

All information about the employee is to be maintained in the 67 Sub S personnel file and kept under the direct supervision and security of the SAC or ADIC. At FBIHQ, the 67 Sub S personnel file will be maintained in the Special File Room, Information Resources Division.

(3) The SCMPM/SO should obtain a completed FD-814 from each designated employee. The SCMPM, SO, or other designated employee(s) will review the FD-814 with the employee to ensure completeness and accuracy. Forms with questions unanswered or not signed will be returned.

(4) The SO or other designated security-trained individual should conduct a Personnel Security Interview (PSI) to identify any areas of potential concern. The results of this PSI should be reported on an FD-302. During the PSI, the employee's FD-814 should be reviewed and the following additional information should be obtained:

(a) The names, addresses (both residence and business), and telephone numbers of three references and three associates who preferably are not FBI employees.

(b) Identify the name, location, and telephone number of employee's current supervisor.

(c) Current addresses and telephone numbers of former roommates should be obtained.

(d) Outside employment of employee.

(e) Alternate residences, such as vacation homes, where the employee might spend a substantial number of days during the calendar year.

(f) Full identifying data will be obtained concerning the other parent of each child born to the employee. This should include name, date of birth, current address, current degree of

association, social security number (if available), and any other information available concerning this (these) individual(s).

(g) Include an in-depth discussion of the employee's financial and personal situation as it may impact on issues of trustworthiness.

(h) As an accommodation to employees who reside in neighborhoods where knowledge of FBI employment could be detrimental and/or whose neighbors are unaware of their employment, the PSI should include questions designed to elicit this information. Neighborhood investigations will be conducted unless a waiver is requested and received from the SPM.

(5) Each employee will be afforded a reintroduction to their responsibilities in handling sensitive and classified information by reviewing the appropriate briefing form(s). The employee should read and sign each form.

(6) In Headquarters Divisions, the original FD-814, PSI, and additional releases, as necessary, will be forwarded to the SPM, PSU, FBIHQ. The original notes for the PSI will also be forwarded for retention in the Sub S file. FBIHQ PSU personnel will set out leads as required.

(7) In those field offices covered by the Background Investigations Contract Services Unit (BICS), the original FD-814, PSI, results of office indices searches and criminal checks for employee and all individuals over the age of 16 residing with the employee (for field office personnel), and additional releases, as necessary, will be forwarded to the SPM, PSU, FBIHQ, within 30 days from the receipt of the opening communications. A copy of the documentation will also be retained in the employee's field Sub S file. FBIHQ personnel will set out leads as required. (See (12).)

(8) In those offices not covered by BICS, the SCMPM should assign senior, mature Agents in view of the fact that they will be conducting investigations regarding personnel assigned to their office. The sole purpose of the investigation is to assure the employee merits continued access to national security information. Therefore, the investigation will focus in the areas of the character and trustworthiness of the employee.

(a) The full-field reinvestigation will include the following:

1. Neighborhood inquiry at any place of residence during the past five years (minimum of four neighbors per residence absent extenuating circumstances).

2. Interview of supervisors and co-workers at all places of employment (including FBI) during the period covered.

3. Interview of references, associates, and any roommates who resided with the employee during the period covered.

4. Law enforcement record checks in all jurisdictions of residence, employment, and alternate residences for the employee and all individuals over the age of 16 residing with the employee.

5. Verification of educational courses completed during the period covered.

6. Verification and documentation should be obtained for any court action.

7. Any other investigation deemed appropriate based upon information developed during the inquiry.

(b) Leads should be sent by the office of origin (OO) to lead field offices. A 67E file is to be opened and assigned. Results of investigation should be returned to the OO in sufficient time for inclusion in the final report which is to be submitted by Buded.

(c) The completed package, consisting of the complete FD-814, the PSI, briefing forms, and the original completed reinvestigation report, should be sent to FBIHQ, Attention: PSU.|

(9) |In all cases, correspondence is to be sent in a sealed envelope and be directed to the "PERSONAL ATTENTION" of the employee's current SAC, ADIC, or to the PSU for all employees assigned to FBIHQ, so that suitable security will be afforded the transmittal of the investigative results. In those occasions where a lead is required to be sent to BICS, the correspondence is to be sent in a sealed envelope and directed to the "PERSONAL ATTENTION" of the BICS Unit, Northern Virginia Metropolitan Resident Agency.|

(10) |Adverse information is to be fully developed by the SCMPM, SO, or other designated security-trained individual. The results are to be recorded and furnished to the employee's SAC, ADIC,

AD, or Inspector in Charge for consideration and immediate action, if warranted. Simultaneously, the developed information is to be forwarded to the FBIHQ, PSU, for review, further investigation, if necessary, and adjudication.

(11) Information acquired during this reinvestigation that would be considered inconsistent with the standards set forth in Executive Orders 10450, entitled "Security Requirements for Government Employment," and 12968 entitled "Access to Classified Information," requires a security adjudication by the SPM, FBIHQ. The purpose of the security adjudication is to determine the trustworthiness of the employee and whether or not the employee's access to classified or sensitive information should be continued.

(12) In those offices not covered by BICS, completed investigation, including the fully executed FD-814, is to be forwarded to the SPM, PSU, FBIHQ, within 90 days from the receipt of the opening communication. In those offices covered by BICS, the original FD-814, PSI, and other requested information, as indicated supra in 67-18.1.1(7), is to be forwarded to the SPM, PSU, FBIHQ, within 30 days from the receipt of the computer-generated listing.

(13) All communications concerning an employee's reinvestigation should be filed in the employee's "67 Sub S" file. (See MAOP, Part I, 20-4.1.)

EFFECTIVE: 04/10/96

67-18.1.2 Marriage Program (See MAOP, Part I, 20-2.5.1 (6).)

The Security Officer (SO) will review the FD-292, "Change in Marital Status" form, and the results of a field office records check to determine if a Personnel Security Interview (PSI) is required. The PSI is required when the FD-292 and/or the results of a field office records check indicates certain factors (set out below) are present. The following information describes factors under which a PSI should be conducted, who should conduct the PSI, areas to cover during the PSI, proper submission of results to FBIHQ, and how to capture time spent on the PSI for Time Utilization Recordkeeping (TURK) purposes.

(1) Role of Executive Order (EO) 10450 in Bureau Employee PSIs

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

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

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

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

4. Other criteria warranting consideration in evaluating cases, but arising less frequently, are enumerated in EO 10450, Section 8(a). (Each SO retains a copy of EO 10450.)

(b) The SPM, utilizing the minimum standards set forth in EO 10450, after reviewing the results of the investigation, adjudicates whether the employee remains reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States.

(2) Instructions for the Initiation and Conduct of PSI

(a) The processing field office, utilizing guidelines set forth, will review the FD-292 and initiate appropriate action for the PSI to be conducted.

(b) The SO of the processing field office will review the FD-292 and will initiate the PSI simultaneously with the initiation of the background investigation. The processing field office will advise the Personnel Security Unit, Security Countermeasures Section, National Security Division (NSD), by a notation at the bottom of the FD-388, the cover letter for the FD-292, that a PSI is required and must be conducted and reported by the same

Bureau deadline.

(c) A PSI will be instituted whenever any of the following factors are present after a review of the FD-292:

1. The intended spouse is foreign born and does not have United States citizenship.

2. The employee may have possible contact with foreign nationals, as a result of the marriage (i.e., future in-laws are not United States citizens residing in or out of the United States).

3. The intended spouse has a criminal record.

4. The intended spouse is sought by law enforcement authorities in connection with an outstanding warrant.

5. The intended spouse has questionable associations.

(d) While the Special Agent in Charge (SAC) will have the discretion to designate the Special Agent (SA) to conduct the PSI, it is considered beneficial to utilize an FCI-experienced Agent when conducting PSIs when the Bureau has an investigative interest in the country of the intended spouse's origin.

(e) When the background of an employee's intended spouse or future in-laws indicates any connection (travel, residence, relatives, contacts, etc.) with a specified foreign country (see NFIP Manual, Introduction, 1-1.1), an FCI-experienced Agent should conduct an in-depth PSI and determine whether the employee would submit to a voluntary polygraph examination to resolve any remaining security concerns, should a substantial basis exist in accordance with existing FBI policy.

(f) In those cases where the concerns center around the criminal record of the employee's intended spouse, an outstanding open warrant(s) exists for the employee's intended spouse, or the intended spouse has dubious associations, the SO of the processing field office and/or other personnel designated by the SAC should conduct the PSI.

(g) Although the main thrust of the PSI should be developed through expertise of the interviewing personnel, the following points, at a minimum, and where applicable, must be

addressed:

1. Personal contacts or associations developed with foreign nationals, as a result of employee's marriage.

2. Degree of association and any relevant background data regarding future in-laws and associates who are not United States citizens.

3. Intended spouse's immigration status and consideration for seeking United States citizenship.

4. Determine the employee's awareness of the criminal record of his/her intended spouse.

5. If the employee is aware of the criminal record of his/her intended spouse and this information was not provided on the FD-292 (Question 8 on the FD-292), determine why this information was not provided.

6. Determine if employee knows of any circumstances which could cause him/her to be subjected to coercion, influence, or pressure due to employee's marriage.

7. When the criminal record of the employee's intended spouse centers around illegal drug usage, possession, or distribution of illegal drugs, determine the employee's knowledge of his/her intended spouse's previous or current involvement with illegal drugs and provide details of employee's knowledge.

8. Determine if the employee is familiar with any of his/her intended spouse's associates who may have criminal records and ascertain to what extent he/she has contact with those associates.

9. Determine if the employee's intended spouse or any of the intended spouse's associates made any specific inquiries concerning the FBI duties or the type of information accessible to the employee.

10. Determine if the employee deliberately or inadvertently disclosed sensitive FBI information to the intended spouse or any of his/her associates.

11. The field office will ensure all outstanding warrant(s) are resolved as soon as possible, either by the employee or

by notifying local law enforcement agencies concerning same.

12. Solicit an explanation from the employee concerning any delinquency in notifying FBIHQ of their marriage (see the MAOP, Part I, Section 20-2.5.1), especially when the delinquency is further aggravated by security concerns arising from the marriage.

13. An unsatisfactory explanation regarding the delinquent submission of Form FD-292 will be referred to the Administrative Summary Unit, Personnel Division, for appropriate administrative action.

14. Failure to execute Form FD-292 will be construed as insubordination and could result in both administrative action and the suspension of the employee's access to classified information until the matter is resolved.

15. In all cases, should a substantial basis exist in accordance with existing FBI policy, ascertain whether the employee will submit to a voluntary polygraph examination to dispel any remaining security concerns.

(h) Following the completion of the PSI, the SO and/or other personnel designated by the SAC, must afford the employee a security awareness briefing, specifically tailored to highlight the security concerns of his/her intended spouse's or his/her family's background, associations, or any other circumstances developed during the PSI and the investigation. This briefing should further remind the employee of his/her responsibility to safeguard national security information and to protect information obtained by him/her, as a result of his/her FBI employment. The employee should be reminded of his/her responsibility to report attempts by anyone to obtain information from him/her and of the criminal penalties for unauthorized disclosures.

(i) In all cases, the SO of the processing field office will review the executed FD-292 for completeness. This review should also identify any facts, as enumerated in EO 10450, which furnish reason to believe the employee's marriage could result in the possible coercion or undue influence by the intended spouse over the employee so as to possibly compromise the interests of national security, or whether the intended spouse or intended spouse's family members are non-U.S. citizens which indicates possible security consequences. The SO must also determine if the employee has access to Sensitive Compartmented Information (SCI) or is being considered for such access and note same in the communication containing the

results of the PSI and the security awareness briefing. The SPM, in his/her capacity as the designated representative of the Director regarding SCI matters, will evaluate the eligibility of the employee for access to SCI in accordance with the Director of Central Intelligence Directive (DCID) No. 1/14, entitled "Minimum Personnel Security Standards and Procedures Governing Eligibility for Access to SCI." Simultaneously, the SPM will address the security issues bearing on the employee's continued trustworthiness and "Top Secret" security clearance. (Each SO retains a copy of DCID No. 1/14.)

(j) The results of the PSI, investigation and security awareness briefing will be transmitted immediately upon completion by|electronic communication|to FBIHQ, marked to the attention of the SPM. The caption should list: Official Bureau Name, Position, EOD, Division, Reinvestigation of FBI Personnel, Change in Marital Status.

(k) The time expended on the interview of the employee is to be captured for TURK purposes under the FBI Security Program, entitled "Reinvestigation of FBI Personnel," by utilization of classification 67E. The alpha designator (E) will be followed by the Universal Case File Number of the FBIHQ file. (See MIOG, Part I, Section 67-18(1)(a).)

EFFECTIVE: 02/27/96

SECTION 69. CONTEMPT OF COURT

69-1 STATUTES

Title 18, USC, Sections 401, 402, 3285, 3691, 3692; Title 10, USC, Section 847; and Rule 42, Federal Rules of Criminal Procedure.

EFFECTIVE: 01/31/78

69-1.1 Section 401 (Power of Court)

EFFECTIVE: 01/31/78

69-1.1.1 Elements

(1) A person misbehaves

(2) In the presence of the court or so near thereto as to obstruct justice, or

(3) An officer of the court

(4) Misbehaves in an official transaction, or

(5) A person having a duty to perform a writ, process, order, rule, decree, or command

(6) Either disobeys or resists

EFFECTIVE: 01/31/78

69-1.2 Sections 402 (Contempts Constituting Crimes)

EFFECTIVE: 01/31/78

69-1.2.1 Elements

(1) Any person, corporation, or association having a duty under a writ, process, order, rule, decree, or command of a district court

(2) Willfully disobeys by doing

(3) An act or thing forbidden therein

(4) Such act being a violation of Federal law or the law of the state in which committed.

EFFECTIVE: 01/31/78

69-1.3 Other Statutory Provisions Related to Contempt of Court

(1) Section 3285 - No proceeding for criminal contempt under Section 402 (see above) for criminal contempt shall be instituted unless begun within one year from the date of the act complained of.

(2) Sections 3691 and 3692 - These sections provide for the right of trial by jury in certain contempt cases.

(3) Title 10, USC, Section 847 - Provides for prosecution of persons not subject to military law who have been in contempt of process of military courts.

(4) Rule 42(a), Federal Rules of Criminal Procedure - Provides for summary punishment by the court for contempts committed in the presence of the judge or so near thereto as to obstruct justice. The judge must certify that he saw or heard the conduct constituting the contempt and that it was committed in the actual presence of the court. The order of contempt shall recite the facts and shall be signed by the judge and entered of record.

(5) Rule 42(b), Federal Rules of Criminal Procedure - Provides for the prosecution of a criminal contempt charge with notice and hearing in all other criminal contempt cases where the conduct

constituting the contempt was committed outside the presence of the court.

EFFECTIVE: 12/23/93

69-2 POLICY

(1) SAC may authorize investigation on request of USA or Federal judge, except in the following situations:

(a) Trial in which Bureau did not have primary jurisdiction or conduct original investigation.

(b) Hearing before another agency or congressional committee.

(c) Labor controversy or matter affecting national security.

(2) Advise the USA of all complaints and expeditiously provide full details of all complaints to FBIHQ.

(3) When trial is in progress:

(a) USA must assure that the judge has been informed and is agreeable to the investigation.

(b) Authority of USA and the judge is necessary for interviews of witnesses.

(c) Requests to interview witness in a pending trial should be relayed to FBIHQ for clearance by the Department of Justice. No action should be taken without specific FBIHQ authority.

EFFECTIVE: 01/31/78

69-3 INVESTIGATIVE PROCEDURES

(1) Investigation of misbehavior on the part of an officer of the court in an official transaction will generally require:

(a) A determination of the official status of the accused.

(b) A description of the official transaction in which he was engaged.

(c) Interviews with witnesses who can testify to the improper conduct.

(2) In investigations involving disobedience or resistance to a writ, process, order, rule, decree, or command of a district court:

(a) Examine court records and other official documents to determine to whom the writ, process, etc., was directed.

(b) Determine the language of the document.

(c) Determine through official records and interviews the time and circumstances under which the order was entered, notice given, service obtained or resulted.

(d) Determine the status of the person, corporation, or association named in the order.

(e) Determine the time and nature of any act of disobedience.

(f) Determine through examination of Federal and State statutes and consultation with the USA whether the acts of disobedience complained of constitute a State or Federal crime.

EFFECTIVE: 01/31/78

PRINTED: 02/18/98

opinions rendered by the United States Attorney's Office should be confirmed in writing and copies of such documents forwarded to the substantive case office of origin.

(2) Results of the investigation and the prosecutive opinion should be reported to FBIHQ (Attention: Civil RICO Unit). Thereafter the office of origin for the contempt of court case should submit reports to FBIHQ in accordance with the reporting requirements of the substantive violation.

EFFECTIVE: 12/23/93

SECTION 70. CRIMES ON GOVERNMENT RESERVATIONS

70-1 STATUTES

Title 18, USC, |Sections|7 and 13

EFFECTIVE: 08/19/85

70-1.1 Section 7. Special Maritime and Territorial Jurisdiction of the U.S. Defined

The term "special maritime and territorial jurisdiction of the United States," as used in this title states in part as applies to this section:

"Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building."

EFFECTIVE: 08/19/85

70-1.1.1 Section 7. Jurisdiction Over Crimes by or Against United States Nationals In Place Outside the Jurisdiction of Any Nation

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

EFFECTIVE: 08/19/85

70-1.2 Section 13. Laws of States Adopted for Areas Within Federal Jurisdiction

"Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in Section 7 of this title, is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State, Territory, Possession, or District in which such place is situated, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment."

EFFECTIVE: 08/19/85

70-2 PENALTIES

The following sections of Title 18, United States Code, provide penalties for the specified crimes when committed within the special maritime and territorial jurisdiction of the United States as defined above:

Section 13.	Laws of states adopted for areas within Federal jurisdiction
Section 47.	Hunting of wild horses by use of aircraft or motor vehicle on Federal reservation
Section 81.	Arson
Section 113.	Assault
Section 114.	Maiming
Section 661.	Theft
Section 662.	Receiving stolen property
Section 1025.	False pretenses on high seas and other waters
Section 1111.	Murder
Section 1112.	Manslaughter

Section 1113. Attempt to commit murder or manslaughter

Section 1201. Kidnaping

Section 1363. Destroying or injuring buildings or property

Section 2111. Robbery

Section 2241. Aggravated sexual abuse

Section 2242. Sexual abuse

Section 2243. Sexual abuse of a minor or ward

Section 2244. Abusive sexual contact

EFFECTIVE: 08/22/89

70-3 JURISDICTION

(1) Mere ownership of land does not put the United States in a position different from that of an ordinary purchaser. In other words, if the Federal Government buys a piece of land without any special provision relative to jurisdiction thereover, it acquires only a proprietary interest, the extent of which is limited by the terms of the deed.

(2) Unless the state in which the particular property is located consents to the acquisition of jurisdiction or cedes jurisdiction over the property to the United States, the Federal Government does not have the right to investigate or punish crimes which may occur on the property. It is only when the state has parted with its jurisdiction that Congress becomes vested with the right to legislate concerning the property. This may be done by the states by a formal cession to the United States or by simple concession of acquisition of the land by the United States Government from the state.

EFFECTIVE: 08/22/89

70-4 POLICY

(1) Investigation and prosecution of crimes committed by military personnel - See Part II, Section 18, of this manual pertaining to memoranda of agreements presently in effect between the Departments of Justice and Defense and the Departments of Justice and Transportation (Coast Guard). |(See MIOG, Part II, 18-3 & 18-4.)|

(2) The dangerous nature of investigations involving military personnel - The FBI receives requests from the military authorities for investigative assistance in connection with crimes committed by military personnel on Government reservations and other crimes constituting Federal violations within the FBI's investigative jurisdiction, such as theft of Government property. Generally, such crimes are a violation of Federal statute, as well as a violation of military law. Extreme caution should be used by Agents in the investigation of cases of this type and particular care should be used in apprehending of military personnel for the commission of offenses within the FBI's jurisdiction. This type of individual may be armed and the military offender could realize that under military law he/she may receive a severe penalty. In cases in which an offender is known to be dangerous or circumstances indicate the offender may be dangerous, authorized process should be secured through the office in whose territory the offense was committed prior to conducting an investigation designed to locate and interview dangerous military subjects.

(3) With regard to offenses occurring in U.S. post offices over which there is Federal jurisdiction, an agreement has been had with the postal authorities whereby duplication of investigative effort is avoided. Under the terms of this agreement, postal inspectors will have investigative jurisdiction over offenses committed in post office buildings for which the U.S. Postal Service is responsible, property used in the carriage of the mails, personal property of postal employees, and offenses committed therein by employees of the post office. Investigative jurisdiction over offenses committed in post office buildings other than those already enumerated is with the FBI.

(4) In handling complaints relative to minor crimes on Government reservations where there are no known aggravating or unusual circumstances, immediately present facts to USA for a prosecutive opinion. If USA will not consider Federal prosecution, conduct no investigation, advise complainant, and confirm conversations to USA and complainant in writing. Where appropriate, refer the matter to the law enforcement agency having policing

jurisdiction, and also furnish this information to USA and complainant. Lesser violations, such as trespassing, petty thievery, drunkenness, disturbing the peace (including minor assaults), reckless driving, drunken driving, speeding, illegal cohabitation, and infractions of rules and regulations imposed by the administering agency, in the absence of aggravated circumstances, should be handled by the Federal agency having administrative and policing responsibilities over the reservation or by local authorities. Petty gambling offenses are generally considered as being in the same category and as such should be controlled by the responsible agency in its ordinary policing function of the reservation. The SAC is authorized to initiate an FBI investigation should a situation arise in which a series of petty offenses or other conditions create an aggravated situation and the case is reported by representatives of the Federal agency charged with the responsibility of policing the reservation or by the USA.

(5) By memorandum dated 8/12/77 and 6/20/77, the Department of Justice advised that violations of Title 21, USC, Section 844, Controlled Substance Act (CSA), occurring on military reservations and in national parks, should be referred to the Drug Enforcement Administration (DEA) for investigation. Complaints concerning CSA violations should be immediately referred to the DEA.

(6) Any drug activity originating on a Government reservation will be directed and managed under the Government Reservation Crimes Subprogram in coordination with the Organized Crime/Drug Operations Sections of the Criminal Investigative Division.

(a) Bureau investigations should be concentrated on and directed at major drug trafficking organizations and specific individual situations to determine the flow of money derived from these activities. Investigative strategy should include discussion with the appropriate prosecuting attorney in an effort to seize assets realized from these drug transactions.

(b) [redacted] b2/7E

(c) To ensure that there is no conflict between the FBI and DEA, prior to the initiation of any drug or primarily drug-related investigation, each field office is required to contact the local DEA office in order to determine:

1. If DEA currently has an ongoing

investigation with regard to the subject(s) of the proposed FBI investigation;

2. Any intelligence information which DEA has regarding the subject(s), such as class violator or known drug associates; and

3. Any interest on the part of DEA to enter into a joint investigation with the FBI regarding the targeted subject(s) of the FBI investigation.

If DEA currently has an ongoing investigation regarding any of the proposed FBI subjects, FBI assistance should be offered to DEA and specific policy should be established regarding the specific role of the FBI in the investigation.

(d) Following contact with the DEA office, a teletype should be forwarded to FBIHQ, Attention: |Interstate Theft/Government|Reservation Crimes Unit, Criminal Investigative Division, setting forth the identities of all subjects and/or their organizational base, intelligence data from FBI and DEA records, realistic aims and objectives of the investigation, the nature of the investigation contemplated within the next 90 days and the fact that DEA has been contacted for not only intelligence information but for a decision as to what involvement or role it will have in the investigation. The purpose of this communication will be to seek, on a UACB basis, FBIHQ authority to initiate an investigation regarding the subject matter. Through this quality control, FBIHQ will be able to determine proper allocation of manpower, the quality of cases initiated by FBI field offices and that proper coordination and communication have been initiated with DEA.

(7) For administrative reporting requirements and procedures governing the loss and/or theft of personal property from FBI space, refer to MAOP, Part II, Section 6-7.5.

(8) Investigations Regarding Criminal Allegations Against Public Officials

(a) It is recognized that during the course of an investigation within this classification information is sometimes developed alleging that a Federal, state or local official is in violation of Federal law. If the focus of the investigation continues to be this substantive classification and/or Federal crimes committed by a person who merely happens to be a Federal, state or local official, "Corruption-Related Matter," should be added to the

character of the case, and it will continue to be managed under the Violent Crimes and Major Offenders Program. If, however, the focus of the investigation shifts to the abuse of his/her position of trust by the Federal, state or local official in violation of Federal criminal law, a new "Corruption of Federal Public Officials" (58) or "Corruption of State and Local Public Officials" (194) matter should be opened within the White Collar Crimes Program.

(b) |Deleted|

(c) |Deleted|

(d) |Deleted|

(e) |Deleted|

EFFECTIVE: 09/16/94

70-5 VENUE

The venue in such cases is in the judicial district in which the situs of the offense is located.

EFFECTIVE: 11/20/90

70-6 INVESTIGATIVE PROCEDURE

(1) Among the places over which the Federal Government most frequently has either exclusive or concurrent jurisdiction under this classification to investigate major crimes are Army, Navy, Marine, Air Force, and Coast Guard reservations, forts, arsenals and armories, post buildings, Federal courthouses, |Department of Veterans Affairs| facilities, customhouse, and other buildings wherein business of the Federal Government is transacted, national parks, some Federal land, Federal roads and highways, and Federal penal institutions.

(2) While it is impractical to attempt to analyze and make investigative suggestions as to each of the many minor or major crimes on Government reservations and lands, jurisdiction over such crimes should be determined by the USA before the collection of evidence of the particular offense is begun.

(3) Agents are frequently called upon to investigate homicides occurring on Government reservations; therefore, Agents handling homicide investigations should be thoroughly familiar with the procedures in arranging for autopsies. Valuable evidence may be discovered or possibly destroyed during an autopsy examination. Therefore, if at all possible, a Special Agent completely familiar with the circumstances surrounding the homicide should be present during the autopsy to provide pertinent facts to the coroner or pathologist and to ensure the proper preservation of the evidence.

EFFECTIVE: 11/20/90

70-7 TRIAL OF PETTY OFFENSES BY U.S. MAGISTRATES

In connection with the prosecution of offenses occurring on Government reservations, your attention is directed to Title 18, USC, Section 3401, authorizing the U.S. Magistrates to try petty offenses.

EFFECTIVE: 11/20/90

70-8 CHARACTER

Crime on Government Reservation, followed by a description of the crime; as, Crime on Government Reservation - Murder.

EFFECTIVE: 11/20/90

SECTION 71. BILLS OF LADING ACT

71-1 STATUTE

Title 49, USC, Section 121

EFFECTIVE: 01/31/78

71-1.1 Elements

"Any person who, knowingly or with intent to defraud, falsely makes, alters, forges, counterfeits, prints or photographs any bill of lading purporting to represent goods received for shipment among the several States or with foreign nations, or with like intent utters or publishes as true and genuine any such falsely altered, forged, counterfeited, falsely printed or photographed bill of lading, knowing it to be falsely altered, forged, counterfeited, falsely printed or photographed, or aids in making, altering, forging, counterfeiting, printing or photographing, or uttering or publishing the same, or issues or aids in issuing or procuring the issue of, or negotiates or transfers for value a bill which contains a false statement as to the receipt of the goods, or as to any other matter, or who, with intent to defraud, violates, or fails to comply with, or aids in any violation of, or failure to comply with any provision of this chapter, shall . . ."

EFFECTIVE: 01/31/78

71-1.1.1 Other Provisions

Title 49, USC, Section 81, provides: "Bills of lading issued by any common carrier for the transportation of goods in any Territory of the United States, or the District of Columbia, or from a place in a State to a place in a foreign country, or from a place in one State to a place in another State, or from a place in one State to a place in the same State through another State or foreign country, shall be governed by this chapter."

Note that venue lies in the judicial district in which the

violation occurred.

EFFECTIVE: 01/31/78

71-2 INVESTIGATIVE PROCEDURE

(1) Examine records of the common carrier to locate bills of lading involved in a particular shipment believed to be covered by a false or altered bill of lading.

(2) An examination of the records maintained by the consignee should be made to locate the particular bill in question. Complete information should be obtained regarding the shipment as contained in the records of the consignee.

(3) The records of the consignor of the articles or substance shipped under the bill of lading should be thoroughly examined to obtain all information concerning the shipment involved. The Agent should be alert to determine any discrepancies in the records of the consignee, consignor, and common carrier to ascertain if there is any variance in these bills of lading.

(4) Locate and interview the persons who prepared the goods or substances for shipment, ascertaining from them the content of the shipment so that it may be determined if there is any variance between the actual shipment made and the facts as they appear on the bill of lading.

(5) Locate and interview the persons at the point of ultimate destination of the shipment to testify as to the receipt of the shipment and as to the content.

(6) If more than one common carrier is used in the transportation of the goods, the complete route of the transportation should be determined and the appropriate records of each common carrier examined.

(7) [redacted]

b2/b7E

b2/b7E

[redacted] If there is any indication that the subject has attempted to evade the payment of Federal taxes, the appropriate office of the Treasury Department should be contacted to ascertain any pertinent information.

(8) The names of all individuals necessary to produce documentary evidence should be obtained, as well as their official capacities and exact addresses.

(9) Interview subject, obtaining from him/her a complete, detailed story of the particular shipment involved. During the course of this interview, an effort should also be made to determine if the subject has been involved in any other offenses. Subject should be closely questioned concerning the identity of any other individuals who may have aided or assisted him/her in committing the particular violation.

(10) During the course of this type of investigation, the Agent should be alert to the possibility of the existence of a conspiracy, and every effort should be made to ascertain the identity of all individuals who may be involved in the offense.

EFFECTIVE: 11/08/78

71-3 REPORT WRITING RULES

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

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

EFFECTIVE: 11/08/78

||71-4| PENALTIES

A fine not exceeding $5,000 or imprisonment not exceeding five years or both.

EFFECTIVE: 11/08/78

||71-5| CHARACTER - BILLS OF LADING ACT

EFFECTIVE: 11/08/78

SECTION 72. OBSTRUCTION OF JUSTICE

72-1 STATUTES

Title 18, USC, Sections 1503 through 1515.

EFFECTIVE: 02/20/90

72-1.1 Section 1503 (Influencing or Injuring Officer or Juror Generally)

EFFECTIVE: 02/20/90

72-1.1.1 Elements

(1) A person corruptly or by threat, force, threatening letter or communication

(2) Endeavors to influence, intimidate, impede or injures the person or property of

(3) A juror or other judicial officer

(4) Because of his/her discharging or having discharged his/her duty or

(5) Otherwise influences, obstructs, impedes, or endeavors to so hamper justice.

EFFECTIVE: 02/20/90

72-1.2 Section 1504 (Influencing Juror by Writing)

EFFECTIVE: 02/20/90

72-1.2.1 Elements

(1) An attempt to influence the action of

(2) A juror upon any issue pending before the juror or pertaining to his/her duties

(3) By writing or sending him/her a written communication which

(4) Is in relation to such issue or matter.

EFFECTIVE: 02/20/90

72-1.3 Section 1509 (Obstruction of Court Orders)

EFFECTIVE: 02/20/90

72-1.3.1 Elements

(1) Existence of a Federal court order, judgment, or decree

(2) Knowledge by the subject of the existence of such order

(3) Use of threats or force by the subject

(4) For the purpose of preventing, obstructing, impeding, or interfering with, or willfully attempting to interfere with

(a) The exercise of rights under the court order; or

(b) The performance of duties under the court order.

EFFECTIVE: 02/20/90

72-1.4 Section 1510 (Obstruction of Criminal Investigations)

|"A|(1) Willfully endeavor by means of bribery

"(2) To obstruct, delay, or prevent the communication of information

"(3) Relating to a violation of any criminal statute of the United States

"(4) By any person to a criminal investigator (defined in the statute as any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations of or prosecutions for violations of the criminal laws of the United States).

|"B (1) Being an officer of a financial institution,

"(2) with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records (defined in the statute as a Federal grand jury subpoena for customer records that has been served relating to a violation of, or a conspiracy to violate Title 18, USC, Sections 215, 656, 657, 1005, 1006, 1007, 1014, or 1344; or Sections 1341 or 1343 affecting financial institution) of that financial institution, or information that has been furnished to the grand jury in response to that subpoena,

"(3) shall be fined under this title or imprisoned not more than five years, or both."|

EFFECTIVE: 02/20/90

72-1.5 Section 1512(a) (Killing or Attempts to Kill Another Person)

EFFECTIVE: 02/20/90

72-1.5.1 Elements

Whoever kills or attempts to kill another person, with intent to

(1) prevent the attendance or testimony of any person in an official proceeding;

(2) prevent the production of a record, document, or other object, in an official proceeding; or

(3) prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release, pending judicial proceedings.

EFFECTIVE: 02/20/90

72-1.6 Section 1512(b) (Tampering with a Witness, Victim, or an Informant)

EFFECTIVE: 02/20/90

72-1.6.1 Elements

(1) Knowing use of intimidation or physical force, or threats, or attempts to do so, or engaging in misleading conduct with intent to

(2) Influence, delay or prevent the testimony of any person in an official proceeding; or

(3) Cause or induce any person to withhold testimony or other evidence from an official proceeding; alter, destroy, mutilate or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding; evade legal process summoning that person to appear as a witness or to produce a record, document, or other object in an official proceeding; or be absent from an official proceeding to which such person has been summoned by legal process; or

(4) Hinder, delay or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings.

EFFECTIVE: 02/20/90

72-1.7 Section 1512(c) (Tampering - Lesser Offense)

EFFECTIVE: 02/20/90

72-1.7.1 Elements

(1) Intentionally harassing another and thereby hindering, delaying, preventing, or dissuading any person from

(2) Attending or testifying in an official proceeding; or

(3) Reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings; or

(4) Arresting or seeking the arrest of another in connection with a Federal offense; or

(5) Causing a criminal prosecution or a parole or probation revocation proceeding to be sought or instituted or assisting in such prosecution or proceeding; or

(6) Any attempt to do the above.

EFFECTIVE: 02/20/90

||72-1.7.2| Affirmative Defense

Defendant's conduct consisted solely of lawful activity and defendant's sole intention was to encourage, induce or cause the other person to testify truthfully.

EFFECTIVE: 07/26/89

||72-1.7.3| Elements Which Need Not Be Proved

(1) An official proceeding need not be pending or about to be instituted at the time of the offense; and

(2) The testimony, record, document, or other object need not be admissible in evidence or free of a claim of privilege.

EFFECTIVE: 07/26/89

||72-1.8| Section 1513 (Retaliating Against a Witness, Victim or Informant)

EFFECTIVE: 07/26/89

72-1.8.1 Elements

(1) Engaging in any conduct and thereby causing bodily injury to another or damage to the tangible property of another or | threatening to do so with intent to retaliate against any person;|for|

(2) The attendance of a witness or party at an official proceeding or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(3) Any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer; or

(4) Any attempt to do the above.

EFFECTIVE: 09/13/93

||72-1.9| Section 1514 (Civil Action To Restrain Harassment of a Victim or Witness)

(1) This Section provides for the court's issuing a temporary restraining order prohibiting harassment of a victim or witness in a Federal criminal case if the court finds from the facts shown in an affidavit or "verified complaint" that there are reasonable grounds to believe specific harassment "exists" or that an order is necessary to prevent a Section 1512 or Section 1513 offense other than "misleading conduct."

(2) Section 1514 also provides for the issuance of a long-term protective order valid for such period as the court determines, after a hearing, is necessary to prevent a Section 1512 or Section 1513 offense other than "misleading conduct." Long-term protective orders can be valid for up to three years. Temporary orders may extend only for ten days with one ten-day extension.

EFFECTIVE: 07/26/89

||72-1.10| Section 1515 (Definitions)

(1) Official proceeding means

(a) A proceeding before a judge or court of the United States, a United States Magistrate, a Bankruptcy Judge, or a Federal grand jury

(b) A proceeding before the Congress

(c) A proceeding before a Federal Government agency.

(2) Physical force means physical action against another.

(3) Misleading conduct means

(a) Knowingly making a false statement;

(b) Intentionally omitting information from a

statement, and thereby causing a portion of the statement to be misleading or intentionally concealing a material fact, and thereby creating a false impression

(c) With intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered or otherwise lacking in authenticity;

(d) With intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark or other object that is misleading in a material respect; or

(e) Knowingly using a trick, scheme or device with intent to mislead.

(4) Law enforcement officer includes employees of the Federal Government authorized under law to engage in or supervise the prevention, detection, investigation or prosecution of an offense or serving as a probation or pretrial services officer.

(5) Bodily injury includes cuts, bruises, burns, physical pain, illness, impairment of mental facility, or "any other injury to the body, no matter how temporary."

|(6) Chapter 73, Title 18, USC, Obstruction of Justice does not prohibit or punish the providing of lawful, bona fide, legal representation services in connection with or anticipation of an official proceeding.|

EFFECTIVE: 07/26/89

||72-1.11| Other Related Obstruction Statutes Described in Title 18, USC,

(1) Section 1501 - Assault on process server.

(2) Section 1502 - Resistance to extradition agent.

(3) Section 1505 - Obstruction of proceedings before departments, agencies, and committees. (Specific FBIHQ authority required in all cases.)

(4) Section 1506 - Theft or alteration of record or process; false bail.

(5) Section 1507 - Picketing or parading. (Specific FBIHQ authority required in all cases.)

(6) Section 1508 - Recording, listening to, or observing proceedings of grand or petit juries while deliberating or voting.

EFFECTIVE: 07/26/89

72-2 POLICY

EFFECTIVE: 07/26/89

72-2.1 Handling of Complaints

EFFECTIVE: 07/26/89

72-2.1.1 SAC May Authorize Investigation on Request of USA or Federal Judge in Following Situations:

(1) If obstruction arose from criminal case within the jurisdiction of any Federal agency other than Secret Service, Internal Revenue Service, Immigration and Naturalization Service, U.S. Customs Service, Drug Enforcement Administration, Bureau of Alcohol, Tobacco and Firearms, and U.S. Postal Service. If obstruction arose from case within jurisdiction of seven agencies mentioned, who have their own investigative staffs, it is the position of the FBI and the Department of Justice that obstruction investigation should be conducted by the other agency although coverage of leads in a distant area to assist other agency may be authorized by FBIHQ upon full justification.

(2) If obstruction involves either actual bodily harm or threat thereof to a Federal judge or Federal juror, regardless of case out of which allegation arose.

(3) If obstruction arose from civil case in Federal court in which neither U.S. Government nor any agency thereof is involved.

EFFECTIVE: 07/26/89

72-2.1.2 Prior FBIHQ Authority is Required in Following Situations:

(1) Trial in which original investigation conducted by any of the above mentioned agencies.

(2) Proceedings before departments, agencies, and committees.

(3) Labor controversy or other matter affecting national security.

EFFECTIVE: 07/26/89

72-2.1.3 Trial in Progress

The USA must assure that the judge has been informed of allegation and is agreeable to investigation.

EFFECTIVE: 07/26/89

72-2.1.4 Obstruction of Court Order Complaint

The Department of Justice has instructed USAs not to request FBI investigation or initiate prosecution of obstruction of court orders without departmental authority. Therefore, dependent upon the urgency of the situation, advise FBIHQ by telephone, teletype, airtel or special delivery letter and conduct no investigation without FBIHQ authority.

EFFECTIVE: 07/26/89

72-2.2 Other Policy

(1) Full details of complaints must be furnished FBIHQ expeditiously together with action being taken or recommended. (Statutes affecting the area of obstruction of justice are designed to protect the dignity of the courts, and prosecutions in such cases often result in widespread public notice and editorial comment.)

(2) Although USA ordinarily advised of all complaints, if, in sound judgment of SAC, circumstances of complaint or facts developed through investigation make it inadvisable to consult USA or to follow course desired by him/her, advise FBIHQ and take no further action pending FBIHQ instructions.

(3) The Bureau has no statutory authority to afford "protection" to persons affected by the statutes. When a victim, witness, or informant fears physical harm, notify appropriate law enforcement agencies unless the facts of the case indicate such action is undesirable, and notify the person involved of the services available to him/her as set forth in the Federal Guidelines For Fair Treatment of Crime Victims and Witnesses in the Criminal Justice System, and discuss case with USA to seek his/her opinion concerning restraining orders as are provided for in Section 1514.

EFFECTIVE: 07/26/89

72-3 PENALTIES

(1) Section 1503 - $5,000 fine and/or five years' imprisonment.

(2) Section 1504 - $1,000 fine and/or six months' imprisonment.

(3) Section 1509 - $1,000 fine and/or one year's imprisonment.

(4) Section 1510 - $5,000 fine and/or five years' imprisonment.

(5) Section 1512(a):

(a) in case of a killing:

1. murder in the first degree; shall suffer death unless the jury qualifies its verdict by adding thereto "without capital punishment," in which he/she shall be sentenced to imprisonment for life

2. murder in the second degree; shall be imprisoned for any term of years or for life

3. voluntary manslaughter; shall be imprisoned not more than ten years

4. involuntary manslaughter; shall be fined not more than $1,000 or imprisoned not more than three years, or both

(b) in the case of an attempt; imprisonment for not more than twenty years.|

|(6) Section 1512(b)|- $250,000 fine and/or up to one year's imprisonment.

|(7) Section 1512(c)|- $25,000 fine and/or up to one year's imprisonment.

|(8)| Section 1513 - $250,000 fine and/or ten years' imprisonment.

EFFECTIVE: 07/26/89

72-4 SUGGESTED INVESTIGATIVE PROCEDURES

(1) Status of an individual as a person covered by the statutes may be established through introduction by competent witnesses of letters of appointment, official records of the court, subpoenas, summonses, jury panels, and similar documents. Such records can generally be located in the offices of Government agencies, clerks of court, U.S. Magistrates, and U.S. Marshals. The exact time when a person received appointment or was served with a subpoena or summons should be reported.

(2) If investigations involving witnesses or jurors indicate a possible perjury, necessary elements of perjury and subornation of perjury violations should be fully developed.

(3) Question victims for complete details. Threats or

use of force may have been preceded by other acts by subject, such as conversations, gratuities, and advice extended to victim in a disguised effort to curry his/her favor.

(4) Obtain signed statements where possible from victim and witnesses, and USA should be advised of any reluctance to testify.

(5) In the event a threatening communication is directed to or received by a person other than the intended victim, the relationship of the recipient to the victim should be shown, since under statute a violation may exist even if the victim is not direct recipient of communication.

(6) Determine exact language of a threatening communication and all attending circumstances as it may be necessary to introduce evidence that a communication, although veiled, actually implies a threat. Follow instructions relative to transmittal of extortion letters to FBI Laboratory in the transmittal of letters constituting possible violations of obstruction of justice statutes.

(7) Determine the particular interest of subject in the outcome of a trial or other proceeding. Subject's relationship by blood or marriage to parties to a suit, his/her membership in an interested organization, or monetary considerations may explain his/her actions. Determination of identities of persons who stand to gain from the particular outcome of a proceeding may serve to identify an unknown subject.

EFFECTIVE: 07/26/89

72-5 CHARACTER

If no substantive violations investigated, character will be "Obstruction of Justice, Obstruction of Criminal Investigations, etc." When obstruction allegation generated in connection with substantive violation, add "Obstruction of Justice, Obstruction of Criminal Investigations, etc." to the character and do not open new case.

EFFECTIVE: 07/26/89

SECTION 73. BACKGROUND INVESTIGATION - PARDON ATTORNEY'S OFFICE

73-1 GENERAL INSTRUCTIONS

These instructions are supplemented in part by instructions contained in Part II, Section 17 of this manual. Applicable portions of Part II, Section 17, will be incorporated into this Section as necessary in order to clarify those portions of Part II, Section 17, which pertain to this Section.

EFFECTIVE: 11/24/93

73-2 BASIS FOR INVESTIGATION

(1) The Bureau's authority to conduct Presidential pardon background investigations stems from the Attorney General's responsibility to advise the President in the exercise of his constitutional pardon power.

(a) The Rules Governing Petitions for Executive Clemency (as published in 28 Code of Federal Regulations) provide for the Attorney General to "... cause such investigation (for Executive clemency) to be made of the matter as (he/she) may deem necessary and appropriate, using the services of, or obtaining reports from, appropriate officials and agencies of the Government, including the Federal Bureau of Investigation ..."

(b) Upon receipt of requests from the Pardon Attorney, the Bureau is charged with the responsibility of investigating all petitions for Executive clemency, regardless of whether the conviction involved a violation within the Bureau's investigative jurisdiction.

(2) Petitions for commutation of sentence, including remission of fine, also require background investigations by the Bureau as requested by the Pardon Attorney, pursuant to the Rules Governing Petitions for Executive Clemency. However, such requests are rare and are generally limited in scope.

EFFECTIVE: 11/24/93

73-3 |ELIGIBILITY FOR PARDON/COMMUTATION OF SENTENCE|

(1) |When a person is convicted in Federal court of a felony, he/she generally loses certain civil rights. The rights he/she loses and the procedure whereby he/she may regain them are governed by laws of the state where he/she resides. These lost rights generally are the right to vote, the right to sit as a juror, the right to bear/possess firearms, and the right to hold public office. Generally, an offender who has completed his/her sentence may not petition for a Presidential pardon until the conclusion of a waiting period of five to seven years (depending on the nature of the offense), following the date of his/her release from confinement or, if no confinement was ordered, following the date of conviction.

(a) Occasionally, the Pardon Attorney, for good cause shown, may grant a waiver of all or a portion of the waiting period to permit earlier consideration of a petition.

(b) While there is no appeal from a pardon decision, unsuccessful petitioners may be permitted to reapply for a pardon two years after the date of denial. In such cases, the Bureau may be requested to conduct a supplemental investigation to bring a prior inquiry up to date.|

(2) |No petition for commutation of sentence, including remission of fine, should be filed if other forms of judicial or administrative relief are available, except upon a showing of exceptional circumstances.|

EFFECTIVE: 11/24/93

73-3.1 |Deleted|

EFFECTIVE: 11/24/93

73-4 |OBJECTIVES OF INVESTIGATION

(1) The primary objective of the background investigation is to conduct a thorough, penetrating inquiry which will be useful in an assessment of the petitioner's suitability for a Presidential pardon/commutation of sentence. In general, the investigation should focus on a petitioner's post-conviction adjustment (whether he/she has become and is likely to remain a productive and law-abiding member of society) and acceptance of responsibility for his/her offense.

(2) The Bureau should make every reasonable effort to conduct an inquiry as discreetly as possible to ensure that the specific reason for the investigation is not disclosed to persons interviewed. Persons interviewed should generally be advised that the petitioner has applied for a Government benefit requiring a general background inquiry and that a criminal investigation is not being conducted. (See MIOG, Part I, 73-11.)

(3) Additional objectives are outlined in MIOG, Part II, Section 17-4.|

EFFECTIVE: 11/24/93

73-4.1 |Deleted|

EFFECTIVE: 11/24/93

73-4.2 |Deleted|

EFFECTIVE: 11/24/93

73-5 INITIATION OF INVESTIGATION

Background investigation requests are received at FBIHQ from the Pardon Attorney. Included in these requests are specific instructions from the Pardon Attorney, whether it be a limited inquiry or a full field investigation. The initial lead for the petitioner interview is generally set out in an electronic communication (EC) with a copy of the petition enclosed. All investigative leads as determined through the interview, along with a copy of the petition, should be set out by the interviewing office.

EFFECTIVE: 11/18/96

73-6 SCOPE OF INVESTIGATION

An applicant-type background investigation should be initiated into the petitioner's conduct and reputation upon receipt of the case from FBIHQ. The customary full-field background investigation should cover the entire period following the petitioner's release from prison. If the petitioner was not confined to prison, the investigation should cover the period following the date of conviction. When the petitioner has been the subject of a prior background investigation, the prior investigation will be brought up to date. In some cases, the Pardon Attorney may elect to conduct a limited inquiry (e.g., for a commutation of sentence petition), wherein specific instructions will be set out and forwarded to the appropriate field offices.

EFFECTIVE: 11/24/93

73-7 GENERAL INSTRUCTIONS

Refer to MIOG, Part II, Section 17-5, for general instructions pertaining to background investigations.

EFFECTIVE: 11/24/93

73-8 INVESTIGATIVE GUIDELINES

EFFECTIVE: 11/24/93

73-8.1 Deleted

EFFECTIVE: 11/18/96

73-8.2 Predication (See MIOG, Part I, 73-8.4.)

A predication (basis for investigation) is to be included as the first paragraph of the "Details" section in the investigative report of the submitting office. Set forth the predication as follows:

"This background investigation was predicated upon the receipt of a Petition for Pardon After Completion of Sentence (or Commutation of Sentence), executed by the petitioner on (date of the petition), and subsequently forwarded to the FBI by the Office of the Pardon Attorney."

EFFECTIVE: 11/18/96

| 73-8.3 Interview of Petitioner (See MIOG, Part I, |73-8.4.)|

The interview of the petitioner should be conducted at the inception of the background investigation in order to obtain the required background information, and to develop additional areas for inquiry. The results should be reported on an FD-302. The office covering the petitioner's current residence will normally conduct the interview. The narrative of the FD-302 should be sufficiently detailed to indicate that each of the following items (except in commutation of sentence cases wherein the investigative scopes are generally limited) was completely and thoroughly addressed in the interview:

(1) Details of the petitioner's employment history and military service.

Obtain the details concerning the employment of the petitioner since his/her release from prison or conviction, if the petitioner served no time. Include dates of employment, location(s), position(s), name(s) of supervisor(s), etc. Further, determine whether the petitioner has ever been denied employment, dismissed from employment or resigned in lieu of dismissal.

(2) Places of residence.

Obtain the details concerning his/her residence(s) since release from prison or conviction, if the petitioner served no time. Include the name(s) of former/current neighbor(s) who knew petitioner during the past five years of residence and any of the petitioner's current cohabitant(s).

(3) Petitioner's version of the circumstances under which he/she was convicted.

The petitioner should be asked to describe the circumstances surrounding the commission of the offense in his/her own words. The petitioner should not be encouraged to merely restate the account provided in his/her petition or the account contained in the charges and specifications of the indictment or information. The petitioner may be advised that the Pardon Attorney generally takes into account all statements by a petitioner relating to his/her

acceptance of responsibility, remorse and atonement in evaluating the merits of a pardon petition.

(4) Reason pardon (or commutation of sentence) is desired, including the petitioner's specific need for the same.

Obtain a statement of the specific purpose(s) for which a pardon is sought. If he/she has not already done so, the petitioner should be encouraged to furnish directly to the Pardon Attorney any documentary evidence, such as copies of applicable provisions of state constitutions, statutes or regulations and/or letters from appropriate officials of state administrative agencies, professional associations, licensing authorities or the like, indicating that a pardon will be helpful in accomplishing the purpose for which it is sought.

(5) Petitioner's involvement in community service, charitable or other meritorious activities.

Obtain any information that the petitioner may wish to volunteer regarding these activities. The provision of documentary evidence in this regard is desirable but not necessary.

(6) Information concerning the petitioner's present mode and standard of living.

Obtain information concerning any personal and business credit issues (if any), including but not limited to, repossessions, delinquent student loans, debts placed for collection, etc. Include details concerning any business interests which the petitioner may have.

(7) Any involvement in civil litigation, or in administrative or legislative proceedings of any kind, either as a plaintiff, defendant, respondent, witness, or party in interest.

Include information for the past ten years concerning liens, bankruptcies or lawsuits against the petitioner. Also, include information concerning any delinquent taxes.

(8) Any prior or subsequent criminal record, or any involvement in criminal matters as a suspect.

(9) Obtain specific information (name of school, dates and location) concerning all post-high school education of the petitioner, to include vocational training.

(10) Obtain biographical data, to include the following:

(a) Marital status, to include details (date(s), place(s), name(s), current location(s)) of any divorce(s) whether occurring before or after the date of conviction, and the identity of ex-spouse(s).

(b) Names, complete dates and places of birth of the petitioner's spouse, parents, children, siblings, cohabitants, and other relatives who occupy the same residence as the petitioner. Also, determine if the petitioner is aware of anything in his/her immediate family's background of a criminal nature. If so, obtain details. If the petitioner's parents do not reside with him/her, obtain their names for birth verification purposes.

(c) If the petitioner indicates that he/she is foreign born, obtain details of his/her citizenship or immigration status (date/place naturalized or registered, naturalization certificate number, alien registration number, etc.). It is not necessary to obtain any details concerning the citizenship of petitioner's spouse or immigration status of petitioner's spouse, immediate relatives or any persons residing with the petitioner, unless specifically requested by FBIHQ. (See MIOG, Part I, 73-8.4.)

(11) Determine if the petitioner has possessed or carried a firearm since his/her conviction/release. Further, determine whether the petitioner has filed a federal or state application for restoration of firearms privileges. If so, determine if this request was granted, denied or withdrawn.

(12) Determine whether the petitioner has voted or registered to vote since the date of conviction/release.

(13) Determine whether the petitioner holds or has previously held any business or professional licenses.

(14) Obtain the details of any professional complaints or any nonjudicial disciplinary action against the petitioner since the date of conviction/release.

(15) Determine whether the petitioner has had any contact with representatives of foreign countries.

(16) Obtain the details of any psychiatric or psychological counseling, including the dates of counseling, and the name and address of each counseling facility and/or counselor,

doctor, or other health care provider.

(17) Determine whether the petitioner has ever used, possessed, purchased, sold, or distributed illegal drugs, including marijuana, or abused either prescription drugs or alcohol. If so, obtain complete details, e.g., type and amount of drug or alcohol used, time frame and frequency of use. Also, determine whether or not the petitioner has ever participated in any drug/alcohol counseling or rehabilitation programs. If so, obtain details including the dates of counseling and the name and address of each counseling facility and/or counselor, doctor, or other medical care provider.

(18) Determine whether there are any other current or past circumstances known to the petitioner that could have a bearing on his/her suitability for an Executive clemency.

(19) Deleted

(20) Determine whether the petitioner has ever been the subject of an applicant-type/background investigation.

(21) If specifically requested by FBIHQ, obtain two sets of the petitioner's fingerprints. A field office will be requested to fingerprint the petitioner only when the Criminal Justice Information Services (CJIS) Division record check, which is conducted by FBIHQ, Special Inquiry and General Background Investigations Unit (SIGBIU), fails to locate an FBI number for the petitioner. This request will normally be made of the field office conducting the petitioner interview. After fingerprinting the petitioner, the field office is to promptly forward both sets to the SIGBIU in order that an FD-165 (Flash Notice) may be placed with the CJIS Division (an FD-165 must be placed in every pardon attorney investigation). The fingerprints may be submitted by routing slip. The routing slip must clearly set forth the Office of the Pardon Attorney case title and file number. It, with the fingerprints, are to be transmitted to SIGBIU using an opaque Bumail penalty envelope (imprinted O-7 information). The envelope is to be addressed to the attention of the SIGBIU Personnel Security Specialist (PSS) assigned the BI. The PSS's identity is set forth in all SIGBIU case-generated communications to the field. FBIHQ, SIGBIU, is responsible for the preparation, and submission to the CJIS Division, of the FD-165. Where appropriate (e.g., upon being advised of petitioner's death--by a field office or otherwise--that petitioner's pardon request has been granted or denied, or to discontinue the background investigation), FBIHQ, SIGBIU, is also responsible for having the

FD-165 canceled by the CJIS Division. All FD-165s in pardon attorney cases will be canceled by the CJIS Division either if advised by the SIGBIU or automatically after five years, whichever occurs first. (See MIOG, Part II, 14-12.3.4, 14-15.5.1, and 14-15.5.3.)

(22) Deleted

EFFECTIVE: 11/18/96

73-8.4 Investigation

(1) Investigation is to be reported as noted in MIOG, Part I, 73-8.2, 73-8.3 and 73-8.4 (2) (a)-(s).

(2) The investigation is not limited to, but must include, the following information (if appropriate) which is to be included in the "Details" section of the investigative report under separate and appropriate headings as noted below:

(a) Predication (see MIOG, Part I, 73-8.2)

(b) Interview of Petitioner (see MIOG, Part I, 73-8.3)

(c) Court Records - Review court records concerning each federal conviction of the petitioner and include the following information:

1. Name under which the petitioner was convicted;

2. Date of sentence;

3. Sentence imposed;

4. Indictment or information number (specify which) and the U.S. District Court (specify district and location) in which the conviction was obtained;

5. Describe the nature of the charge and citation of the statute or public law violated (distinguish the charges and citations on which the petitioner was indicted from those

on which he/she was convicted);

6. The nature of the petitioner's plea;

7. Brief summary of the facts surrounding commission of the offense;

8. If fines, restitution, assessments, costs or penalties were imposed, determine whether they were satisfied and the date(s) paid;

9. If community service was ordered, determine whether it was performed and the manner in which the service requirement was discharged.

|(d)| Probation and Supervised Release Records/Interviews - The U.S. Probation Officer should be interviewed to determine the nature of the petitioner's adjustment under supervision, including a record of disciplinary infractions (if any), and the officer's comments and recommendation for or against a Presidential pardon. If access to probation files is denied, immediately notify FBIHQ. |It is not necessary to obtain a copy of petitioner's presentence report, unless specifically requested by FBIHQ.|

|(e)| Birth - Verify the petitioner's date and place of birth through records of the Bureau of Vital Statistics.

|(f)| Naturalization - Verify naturalization, derived citizenship, or immigration status of the petitioner|only. It is not necessary to verify the naturalization, derived citizenship or immigration status of petitioner's spouse, close relatives or any persons residing with the petitioner, unless otherwise advised by FBIHQ. (See MIOG, Part I, 73-8.3 (10)(c).)|

|(g)| Marital Status |(See MIOG, Part II, 17-6.4.)|

1. |Verify all divorce(s) which has/have occurred since the date of the petitioner's conviction. Divorce(s) should be verified through a review of appropriate records, e.g., court records. Identify which party was the plaintiff and defendant as well as the grounds for, and date of, the divorce. All other pertinent information must be obtained, e.g., if the petitioner has complied/is complying with all court-ordered obligations on a timely basis (e.g., child or spousal support). If this information is not available through a review of appropriate records, efforts must be

made to obtain it through an interview of the petitioner's attorney of record in the divorce proceeding or the attorney's representative. If this is unsuccessful, efforts must be made to obtain this information through the petitioner's ex-spouse(s). If the aforementioned efforts fail, then the petitioner is to be recontacted in an effort to obtain/verify the necessary information.

2. The results of each divorce verification, as reported, must clearly indicate whether or not the court imposed any financial obligations on the petitioner, e.g., child or spousal support, etc. If so, identify each and address whether or not the petitioner has complied/is complying with the obligation pursuant to the court's order in a timely manner. If no obligations were/have been imposed, so state.

3. Interview the ex-spouse(s) from petitioner's divorce(s) which occurred during the 15-year period immediately preceding the date of the FBIHQ communication initiating the investigation or since the date of the petitioner's conviction, whichever period of time is less. It is not necessary to interview the ex-spouse(s) of divorce(s) that occurred beyond this period of time, unless requested by FBIHQ or as otherwise deemed appropriate (e.g., see MIOG, Part I, 73-8.4 (g) 1., above).

4. If any question about the petitioner's current or previous marital status develops, attempt to verify through appropriate records. If not available, efforts are to be made to verify through other appropriate sources.

5. All unsuccessful efforts to obtain the necessary information regarding the petitioner's divorce(s) and/or questioned marital status must be clearly reported.

(h) Education - Verify all post-high school education, including vocational training. Interview professors/instructors only if the education has occurred within the past three years.

(i) Neighborhood investigation - Conduct neighborhood inquiries at the petitioner's residences during the five years immediately preceding the date of the background investigation, regardless of the date of conviction/release. Interview at least two neighbors, knowledgeable of the petitioner, for each residence where petitioner has resided for the last five years. If unsuccessful or not possible, a field office's investigative efforts and/or explanation must be set forth in the "Details" section of its

investigative report. If rental property, interview the landlord or manager and review the rental records. Liberally quote remarks which reflect favorably or adversely on the petitioner's conduct and reputation. Singular remarks should contain the interviewee's definition or example(s) for illustration and clarification. A description of the petitioner's mode and standard of living also should be provided. Current cohabitants who are not related to the petitioner must be interviewed.

(j) Employment verification - Verify all employments for the ten-year period preceding the date of the investigation or since the date of petitioner's conviction/release from prison, whichever is less. At a minimum, for each employment determine dates of employment, work record, general character of the petitioner, and reason for termination.

1. A representative (supervisor or manager) of each employment should be interviewed, consistent with the ten-year criterion. Additionally, at least one co-worker, knowledgeable of the petitioner, at each employment within the investigations, must be interviewed. If unsuccessful, a field office's investigative efforts and/or explanation must be set forth in the "Details" section of its investigative report. When not possible, so state and include the reason(s).

2. Personnel records should be reviewed, if available, to determine whether the petitioner has made any false statements in obtaining a particular position, such as any questions concerning a criminal record. If false information is detected, do not under any circumstances advise the employer, but do document the information in the report. If personnel records are not available for review, so state and include the reason(s).

(k) Military records - All military service will be verified, regardless of the dates of service. Include dates of service; type of discharge, including a brief summary of facts surrounding discharge if separation occurred other than at the completion of the term of enlistment; decorations awarded, if any; a brief summary of the facts surrounding court-martial proceedings, if any, to include a brief description of offense, sentence imposed and the dates and actions approving or modifying the sentence by the convening and reviewing authorities.

(l) Reference interviews - Attached to every petition are character affidavits signed by references (sometimes referred to as character affiants). All references must be

interviewed for particulars concerning the petitioner's conduct, character, and associates, and to determine their exact opinions and the opportunities they have had for forming such opinions concerning the petitioner. References also should be asked about the petitioner's community and/or charitable activities.

|(m)| Credit/Tax records - Credit inquiries will be conducted at FBIHQ and leads will be sent to appropriate offices to verify the status of specific accounts or to verify bankruptcies, tax liens or other information disclosed in a credit record.

1. Check for tax liens (state and local) when there is questionable financial status as directed by FBIHQ.

2. |Deleted|

|(n)| Law Enforcement Records - FBI|field offices|and appropriate local|and state|law enforcement agencies|covering|all communities where petitioner has resided, been educated or been employed, since his/her conviction/release|from prison, must|be |checked for any records on the petitioner. Field office indices checks on petitioner's cohabitants and close relatives (18 years or older) must be conducted by the field office covering where the cohabitants or close relatives reside. Local and state law enforcement agency records checks are not to be conducted on petitioner's cohabitants and close relatives, unless specifically requested by FBIHQ.|

1. Obtain a complete account of the petitioner's criminal history record both prior to and subsequent to the federal offense for which an Executive clemency is sought, including traffic offenses that resulted in an arrest or criminal charge, such as driving under the influence.

2. For each violation, obtain the date of the incident; description of the offense charged; name and location of law enforcement authority involved; and the date, location, and sentence or other disposition.

3. |FBIHQ, SIGBIU, will check FBIHQ records, including criminal history records concerning the petitioner (name and fingerprints checks) and all close relatives/cohabitants (name check only) who are at least 18 years of age.|

|(o)| U.S. Attorney's Office - Check records of the U.S. Attorney's Office wherever the petitioner has resided, been

educated or been employed within the scope of the investigation.

1. Determine whether official records reflect any pending/closed criminal or civil proceedings (judicial or administrative) unrelated to the offense for which the Executive clemency is being sought.

2. In the event the petitioner was involved in a federal criminal investigation which did not result in prosecution, or was the subject of a government forfeiture or other proceeding, a report of the details and disposition of the matter should be furnished.

3. If a particular U.S. Attorney's office chooses to report such information directly to the Office of the Pardon Attorney, so state in the report.

|(p)| Licensing agencies - Check appropriate regulatory or licensing agencies where the petitioner has indicated he/she holds or has held a professional license, such as real estate, medical, accounting, etc. Determine the petitioner's current standing.

|(q)| Firearms status -|At the outset of the investigation, FBIHQ, SIGBIU, will request the Bureau of Alcohol, Tobacco and Firearms (BATF) Headquarters to check its records regarding the petitioner. Pursuant to this request, BATF Headquarters will provide FBIHQ, SIGBIU, with all pertinent information concerning the petitioner located in BATF Headquarters, and field office, files.|

1. |Deleted|

2. |Field offices covering petitioner's residences since the date of his/her conviction/release from prison are to conduct a check of the appropriate state agency(s) to determine if the petitioner has applied for state relief from firearms disabilities or has violated state firearms prohibitions. If so, obtain complete details of each application or violation, including the disposition.|

3. |Deleted|

4. |Deleted|

|(r)| Voter registration - Determine the bylaws of the

state election board regarding convicted felons and voting privileges. Check voter registration records to determine whether the petitioner has registered to vote since conviction/release, if applicable.

|(s)| Miscellaneous checks - Refer to MIOG, Part II, Section 17-6 (and all its subtopics), for other record checks which may be applicable to|pardon attorney investigations.|

|(3)| All interviews of individuals knowledgeable of the petitioner|are to|include comments concerning the petitioner's character, associates, reputation, loyalty to the United States, bias, financial solvency, any alcohol abuse, any prescription drug abuse, |and any use, possession, purchase, selling or distribution of illegal drugs, including marijuana,|and a general recommendation statement (do not solicit a statement for a pardon recommendation unless the interviewee has indicated prior knowledge of the petition).

EFFECTIVE: 11/18/96

73-9 |DISCONTINUING INVESTIGATIONS|

(1) |Deleted|

(2) |Deleted|

(3) |Deleted|

(4) |Deleted|

(5) |Discontinuing investigations

(a) Derogatory information - If, during the course of the investigation, a field office develops derogatory information (e.g., the omission or falsification of material facts in the pardon petition or other types of applications, or the arrest of the petitioner subsequent to submission of the petition), the field office is to immediately advise FBIHQ, SIGBIU, by telephone, to be followed within one work day by the facsimiling of FD-302(s), insert(s) and/or other documents containing the information. (See MIOG, Part II, 17-5.1.)

1. Upon receipt of the "facsimiled information"

from the field office, SIGBIU will immediately consult with the Office of the Pardon Attorney and determine whether or not the investigation will be continued.

2. The field office submitting the above information is to hold further investigation in abeyance until otherwise advised by FBIHQ, SIGBIU.

3. SIGBIU will advise all other offices with outstanding investigation to hold their investigation in abeyance pending SIGBIU's receipt of a determination by the Office of the Pardon Attorney whether to continue the investigation.

4. Upon receipt of the Office of the Pardon Attorney's determination, SIGBIU will promptly advise appropriate field offices whether or not to continue the investigation.

a. If the investigation is discontinued, field offices are to promptly submit an investigative report reflecting all investigation conducted. SIGBIU will provide the Office of the Pardon Attorney with the results of all investigation conducted.

b. If the investigation is to be continued, field offices are to complete, and submit to FBIHQ, SIGBIU, their part of the investigation by the established Bureau deadline.

(b) Death of petitioner - If, during the course of the investigation or thereafter, a field office determines that the petitioner has died, the field office is to immediately advise FBIHQ, SIGBIU, by telephone, to be followed within one work day by the facsimiling of FD-302(s), insert(s) and/or other documents (e.g., copy of death certificate and/or obituary) containing the information which verifies the petitioner's death.

1. Upon receipt of the "facsimiled information" from the field office, SIGBIU will immediately advise the Office of the Pardon Attorney.

2. The field office submitting the above information is to promptly submit an investigative report reflecting the results of any investigation conducted, including that concerning petitioner's death.

3. If petitioner's death occurs during the course of an ongoing investigation, SIGBIU will advise all other

field offices with outstanding investigation to discontinue their investigation. Those offices are to promptly submit an investigative report reflecting all investigation conducted.

4. SIGBIU will provide the Office of the Pardon Attorney with the results of all investigation conducted.

(6) |Deleted|

EFFECTIVE: 11/18/96

73-10 DEADLINES

(1) |Each background investigation conducted by the FBI, including those conducted at the request of the Office of the Pardon Attorney, has a deadline known as Bureau deadline or BUDED. The BUDED is the date the complete investigation must be received at FBIHQ (in the applicable FBIHQ unit). The BUDED is established by FBIHQ and cannot be changed without FBIHQ authority. The BUDED is to be set forth in each intra-Bureau communication in accordance with FBI policy, whether generated by FBIHQ or the field.|

|(2)| Refer to MIOG, Part II,|17-3.5, and MAOP, Part II, 10-10.3, for additional information regarding deadlines.|

EFFECTIVE: 11/18/96

73-11 PRIVACY ACT - REQUIREMENTS

When applicable, all individuals from whom information is being sought in pardon background investigations must be apprised, not only of the purpose of the investigation (see 73-4(2)) and the uses to be made of the information, but also the provisions of the Privacy Act regarding access to records and the allowance for confidentiality as described in Part I, Section 190-7 of this manual.|

EFFECTIVE: 11/24/93

||73-12| CHARACTER - BACKGROUND INVESTIGATION - PARDON ATTORNEY'S OFFICE

EFFECTIVE: 11/24/93

SECTION 74. PERJURY

74-1 STATUTES

Title 18, USC, Sections 1621 (perjury generally), 1622 (subornation of perjury), and 1623 (false declaration before grand jury or court).

EFFECTIVE: 01/31/78

74-1.1 Section 1621 (Perjury Generally)

EFFECTIVE: 01/31/78

74-1.1.1 Elements

(1) The accused was under oath before a competent tribunal.

(2) He willfully made a false statement, knowing same to be false.

EFFECTIVE: 01/31/78

74-1.2 Section 1622 (Subornation of Perjury)

EFFECTIVE: 01/31/78

74-1.2.1 Elements

(1) The false witness, or person suborned, committed perjury.

(2) The accused influenced or persuaded the false witness to commit such perjury.

(3) The accused knew such statements to be false.

(4) The accused knew the false witness knew the statements to be false.

EFFECTIVE: 01/31/78

74-1.3 Section 1623 (False Declaration Before Grand Jury or Court)

EFFECTIVE: 01/31/78

74-1.3.1 Elements

(1) The accused was under oath in a proceeding before or ancillary to any court or Grand Jury of the United States.

(2) He knowingly made a false material declaration; or he made or used any other information, including any book, paper, document, record, or recording, or other material, knowing same to contain any false material declaration.

EFFECTIVE: 01/31/78

74-2 POLICY

EFFECTIVE: 01/31/78

74-2.1 Handling of Complaints

EFFECTIVE: 01/31/78

74-2.1.1 SAC may Authorize Investigation on Request of USA or Federal Judge in Following Situations:

(1) If perjury arose from criminal case within jurisdiction of any Federal agency other than Secret Service, Internal Revenue Service, Immigration and Naturalization Service, U.S. Customs Service, Drug Enforcement Administration, Bureau of Alcohol, Tobacco and Firearms, and U.S. Postal Service. If perjury arose from case within jurisdiction of seven agencies mentioned, who have their own investigative staffs, it is the position of the Bureau and the Department of Justice that perjury investigation should be conducted by the other agency although coverage of leads in a distant area to assist other agency may be authorized by FBIHQ upon full justification.

(2) If USA requests investigation of perjury arising from an alleged false statement by a defendant to obtain Government-paid legal representation under Criminal Justice Act of 1964, if such violation is separable from a substantive case handled by another Federal agency.

(3) If perjury arose from civil case in Federal court in which neither U.S. Government nor any agency thereof is involved.

EFFECTIVE: 01/31/78

74-2.1.2 Prior FBIHQ Authority is Required Where Offense Arose From:

(1) Trial in which original investigation conducted by any of above-mentioned agencies.

(2) Proceedings before departments, agencies, and committees.

(3) Proceedings incidental to court action (affidavits, depositions, etc.). This includes all cases not previously mentioned.

(4) Statements by a defendant to the court to obtain Government-paid legal representation under provisions of Criminal Justice Act of 1964, if perjury is not separable from substantive case handled by one of the above-mentioned agencies.

EFFECTIVE: 01/31/78

74-2.1.3 If Trial is in Progress:

The USA must assure that the judge has been informed of allegation and is agreeable to investigation.

EFFECTIVE: 01/31/78

74-2.1.4 Other Policy

(1) Full details of complaints must be furnished FBIHQ expeditiously with action being taken or recommended.

(2) Exact text of perjured statement should be set forth in details of report as well as whether the false statement was given on direct examination or cross-examination.

EFFECTIVE: 01/31/78

74-3 PENALTIES

(1) Section 1621 - $2,000 fine and/or five years' imprisonment.

(2) Section 1622 - $2,000 fine and/or five years' imprisonment.

(3) Section 1623 - $10,000 fine and/or five years' imprisonment.

EFFECTIVE: 01/31/78

74-4 INVESTIGATIVE PROCEDURES

(1) Was accused under oath?

(a) Ascertain identity and official status of person who administered oath.

(b) Determine type of tribunal.

(c) Determine whether oath was authorized by a law of the U.S.

(2) Willfulness of false statement.

(a) Willfully means with design and with some degree of deliberation.

(b) If the statement involved is written, obtain original if possible; if oral, obtain transcript of testimony; or in absence of transcript, interview witnesses who can establish content or exact phraseology of the statement.

(3) Materiality of false statement.

(a) Ascertain nature and purpose of the proceedings and all available facts showing the connection between the false statement and the matter under inquiry.

(b) If the statement has no direct bearing on the proceedings, ascertain all facts which would indicate that the false statement was directly relevant, in that it affected the credibility of witnesses or bolstered or the testimony of the witnesses on any material point.

EFFECTIVE: 01/31/78

74-5 CHARACTER

If no substantive violation investigated, character will be "Perjury." When perjury allegation generated in connection with substantive violation, add "Perjury" to the character and do not open new case.

EFFECTIVE: 01/31/78