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SECTION 159. LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF
1959 (INVESTIGATIVE MATTER)

159-1 STATUTES

Title 29, USC, Sections 501 (c), 503 (b), (c), 504, 522,
and 530.

EFFECTIVE: 05/28/85

159-1.1 Section 501 (c)

EFFECTIVE: 05/28/85

159-1.1.1 Elements

(1) "(c) any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use, or the use of another, any of the moneys, funds, securities, property, or other assets of a labor organization of which he is an officer, or by which he is employed, directly or indirectly, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both."

EFFECTIVE: 05/28/85

159-1.2 Sections 503 (b) & (c)

EFFECTIVE: 05/28/85

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159-1.2.1 Elements

(1) "(b) No...employer shall directly or indirectly pay the fine of any officer or employee convicted of any willful violation of this chapter.

(2) "(c) Any person who willfully violates this section shall be fined not more than \$5,000 or imprisoned for not more than one year, or both."

(3) Section 503(b) also prohibits the payment of a fine by a labor organization of any officer or employee convicted of any willful violation of this chapter. Such violations are investigated by the Department of Labor.

EFFECTIVE: 05/28/85

159-1.3 Section 504

EFFECTIVE: 05/28/85

159-1.3.1 Elements

(1) "(a) No person...who has been convicted of, or served any part of a prison term resulting from his conviction of, robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of subchapter III or IV of this chapter, any felony involving abuse or misuse of such person's position or employment in a labor organization or employee benefit plan to seek or obtain an illegal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve-

"(1) as a consultant or adviser to any labor organization,

"(2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any

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labor organization,

"(3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with and labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce, or

"(4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization, or

"(5) in any capacity, other than in his capacity as a member of such labor organization, that involves decisionmaking authority concerning, or decisionmaking authority over, or custody of, or control of the monies, funds, assets, or property of any labor organization, during or for the period of thirteen years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least three years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this Act. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection."

(2) "(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than five years, or both."

(3) "(c) For the purpose of this section-

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"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) A period of parole shall not be considered as part of a period of imprisonment."

(4) "(d) Whenever any person-

"(1) by operation of this section, has been barred from office or other position in a labor organization as a result of a conviction, and

"(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred."

(5) Subchapter III of this chapter deals with reporting by labor organizations, officers and employees of labor organizations, and employers. Subchapter IV deals with trusteeships. Violations of these chapters are investigated by Department of Labor.

EFFECTIVE: 05/28/85

159-1.4 Section 522

EFFECTIVE: 05/28/85

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159-1.4.1 Elements

(1) "(a) It shall be unlawful to carry on picketing on or about the premises of any employer for the purpose of, or as part of any conspiracy or in furtherance of any plan or purpose for, the personal profit or enrichment of any individual (except bona fide increase in wages or other employee benefits) by taking or obtaining any money or other thing of value from such employer against his will or with his consent."

(2) "(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned not more than twenty years or both."

EFFECTIVE: 05/28/85

159-1.5 Section 530

EFFECTIVE: 05/28/85

159-1.5.1 Elements

(1) "It shall be unlawful for any person through the use of force or violence, or threat of the use of force or violence, to restrain, coerce, or intimidate or attempt to restrain, coerce, or intimidate any member of a labor organization for the purpose of interfering with or preventing the exercise of any right to which he is entitled under the provisions of this chapter. Any person who willfully violates this section shall be fined not more than \$1,000 or imprisoned for not more than one year, or both."

EFFECTIVE: 05/28/85

159-2 BILL OF RIGHTS OF MEMBERS OF LABOR ORGANIZATIONS

The principal rights to which a member of a labor organization is entitled under the provisions of this act are set out in Title 29, USC, Sections 411, 412, 414, and 415.

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EFFECTIVE: 01/31/78

159-2.1 Section 411

EFFECTIVE: 01/31/78

159-2.1.1 Bill of Rights; Constitution and Bylaws of Labor
Organizations

(1) "(a) (1) Equal rights - Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings, and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws.

"(2) Freedom of speech and assembly - Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments, or opinions; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: Provided, that nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations.

"(3) Dues, initiation fees, and assessments - Except in the case of a federation of national or international labor organizations, the rates of dues and initiation fees payable by members of any labor organization in effect on September 14, 1959 shall not be increased, and no general or special assessment shall be levied upon such members, except -

"(A) in the case of a local labor organization, (i) by majority vote by secret ballot of the members in good standing voting at a general or special membership meeting, after reasonable notice of the intention to vote upon such question, or (ii) by

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majority vote of the members in good standing voting in a membership referendum conducted by secret ballot; or

"(B) in the case of a labor organization, other than a local labor organization or a federation of national or international labor organizations, (i) by majority vote of the delegates voting at a regular convention, or at a special convention of such labor organization held upon not less than thirty days' written notice to the principal office of each local or constituent labor organization entitled to such notice, or (ii) by majority vote of the members in good standing of such labor organization voting in a membership referendum conducted by secret ballot, or (iii) by majority vote of the members of the executive board or similar governing body of such labor organization, pursuant to express authority contained in the constitution and bylaws of such labor organization: Provided, that such action on the part of the executive board or similar governing body shall be effective only until the next regular convention of such labor organization.

"(4) Protection of the right to sue - No labor organization shall limit the right of any member thereof to institute an action in any court, or in a proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendants or respondents in such action or proceeding, or the right of any member of a labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: Provided, that any such member may be required to exhaust reasonable hearing procedures (but not to exceed a four-month lapse of time) within such organization, before instituting legal or administrative proceedings against such organizations or any officer thereof: And provided further, that no interested employer or employer association shall directly or indirectly finance, encourage, or participate in, except as a party, any such action, proceeding, appearance, or petition.

"(5) Safeguards against improper disciplinary action - No member of any labor organization may be fined, suspended, expelled, or otherwise disciplined except for nonpayment of dues by such organization or by any officer thereof unless such member has been (A) served with written specific charges; (B) given a reasonable time to prepare his defense; (C) afforded a full and fair hearing.

(2) "(b). Any provision of the constitution and bylaws of any labor organization which is inconsistent with the provisions of this section shall be of no force or effect."

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EFFECTIVE: 01/31/78

159-2.2 Section 412

EFFECTIVE: 01/31/78

159-2.2.1 Civil Action for Infringement of Rights; Jurisdiction

(1) "Any person whose rights secured by the provisions of this subchapter have been infringed by any violation of this subchapter may bring a civil action in a district court of the United States for such relief (including injunctions) as may be appropriate. Any such action against a labor organization shall be brought in the district court of the United States for the district where the alleged violation occurred, or where the principal office of such labor organization is located."

EFFECTIVE: 01/31/78

159-2.3 Section 414

EFFECTIVE: 01/31/78

159-2.3.1 Right to Copies of Collective Bargaining Agreements

(1) "It shall be the duty of the secretary or corresponding principal officer of each labor organization, in the case of a local labor organization, to forward a copy of each collective bargaining agreement made by such labor organization with any employer to any employee who requests such a copy and whose rights as such employee are directly affected by such agreement, and in the case of a labor organization other than a local labor organization, to forward a copy of any such agreement to each constituent unit which has members directly affected by such agreement; and such officer shall maintain at the principal office of the labor organization of which he is an officer copies of any such agreement made or received by such labor organization, which copies shall be available for

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inspection by any member or by any employee whose rights are affected by such agreement. The provisions of Section 440 of this title shall be applicable in the enforcement of this section."

(2) Section 440 of Title 29, USC, deals with the authority of the Secretary of Labor to bring civil actions where appropriate.

EFFECTIVE: 01/31/78

159-2.4 Section 415

EFFECTIVE: 01/31/78

159-2.4.1 Information to Members of Provisions of Chapter

(1) "Every labor organization shall inform its members concerning the provisions of this chapter."

EFFECTIVE: 01/31/78

159-3 OTHER RIGHTS TO WHICH A MEMBER OF A LABOR ORGANIZATION IS ENTITLED UNDER THE PROVISIONS OF THIS ACT

(1) Right to inspect reports - Title 29, USC, Sections 431 (c) and 461 (b)

Every labor organization required to submit a report under subchapters III and IV of this chapter shall make the information contained in such report available to all its members.

(2) Right to inspect books - Title 29, USC, Sections 431 (c) and 461 (b)

Any member may for just cause inspect books, records, and accounts in order to verify reports made under subchapters III and IV of this chapter.

(3) Right to have literature distributed - Title 29, USC, Section 481 (c)

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Every national or international labor organization (except a federation of national or international labor organizations) and every local labor organization shall have the duty to comply with any reasonable request to distribute campaign literature for any bona fide candidate at the candidate's expense, and to refrain from discrimination for or against any candidate with respect to the use of membership lists and with respect to the distribution of campaign literature of candidates.

(4) Right to inspect membership lists - Title 29, USC, Section 481 (c)

Any bona fide candidate may, once within 30 days before the election, inspect a list of members who are subject to union-security agreements, which list must be maintained and kept at principal office of the organization.

(5) Right to have an observer at the polls - Title 29, USC, Section 481 (c)

Any candidate shall have the right to have adequate safeguards to insure a fair election, including the right to have an observer at the polls of an election and at the counting of the ballots.

(6) Right to be a candidate - Title 29, USC, Section 481 (e)

Every member in good standing shall be eligible to be a candidate (subject to Title 29, USC, Section 504, and reasonable qualifications uniformly imposed).

(7) Right to choose candidates - Title 29, USC, Section 481 (e)

A reasonable opportunity shall be given for the nomination of candidates and every member in good standing shall have the right to vote for or otherwise support candidates of his choice and to have the prescribed notice of election.

(8) Right with respect to removal of officers - Title 29, USC, Section 481 (h)

If the Secretary, upon application by any member of a local labor organization, finds the constitution and bylaws do not

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provide an adequate procedure to remove an elected officer guilty of serious misconduct, such officer may be removed by members in good standing voting in secret ballot.

(9) Right to recover damages to the union - Title 29, USC, Section 501 (b)

Any member may sue to recover damages or secure an accounting when an officer has violated his fiduciary duties and responsibilities and the labor organization refuses to bring such an action.

EFFECTIVE: 01/31/78

159-4 DEFINITIONS (TITLE 29, USC, SECTION 402)

"For the purposes of this chapter -

(1) "(a) 'Commerce' means trade, traffic, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(2) "(b) 'State' includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act." (Title 43, USC, Sections 1331-1343.)

(3) "(c) 'Industry affecting commerce' means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry 'affecting commerce' within the meaning of the Labor Management Relations Act, 1947, as amended, or in the Railway Labor Act, as amended.

(4) "(d) 'Person' includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, jointstock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

(5) "(e) 'Employer' means any employer or any group or association of employers engaged in an industry affecting commerce (1) which is, with respect to employees engaged in an industry affecting

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commerce, an employer within the meaning of any law of the United States relating to the employment of any employees or (2) which may deal with any labor organization concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and includes any person acting directly or indirectly as an employer or as an agent of an employer in relation to an employee but does not include the United States or any corporation wholly owned by the Government of the United States or any State or political subdivision thereof.

(6) "(f) 'Employee' means any individual employed by an employer, and includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice or because of exclusion or expulsion from a labor organization in any manner or for any reason inconsistent with the requirements of this chapter.

(7) "(g) 'Labor dispute' includes any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(8) "(h) 'Trusteeship' means any receivership, trusteeship, or other method of supervision or control whereby a labor organization suspends the autonomy otherwise available to a subordinate body under its constitution or bylaws.

(9) "(i) 'Labor organization' means a labor organization engaged in an industry affecting commerce and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, other than a State or local central body.

(10) "(j) A labor organization shall be deemed to be engaged in an industry affecting commerce if it -

"(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended; or

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"(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

"(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

"(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

"(5) is a conference, general committee, joint or system board, or joint council, subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection; other than a State or local central body.

(11) "(k) 'Secret ballot' means the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed.

(12) "(l) 'Trust in which a labor organization is interested' means a trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries.

(13) "(m) 'Labor relations consultant' means any person who, for compensation, advises or represents an employer, employer organization, or labor organization concerning employee organizing, concerted activities, or collective bargaining activities.

(14) "(n) 'Officer' means any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar

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governing body.

(15) "(o) 'Member' or 'member in good standing,' when used in reference to a labor organization, includes any person who has fulfilled the requirements for membership in such organization, and who neither has voluntarily withdrawn from membership nor has been expelled or suspended from membership from appropriate proceedings consistent with lawful provisions of the constitution and bylaws of such organization.

(16) "(p) 'Secretary' means the Secretary of Labor.

(17) "(q) 'Officer, agent, shop steward, or other representative,' when used with respect to a labor organization, includes elected officials and key administrative personnel, whether elected or appointed (such as business agents, heads of departments or major units, and organizers who exercise substantial independent authority), but does not include salaried nonsupervisory professional staff, stenographic, and service personnel.

(18) "(r) 'District court of the United States' means a United States district court and a United States court of any place subject to the jurisdiction of the United States."

EFFECTIVE: 01/31/78

159-5 JURISDICTION

Jurisdiction under the statute is assigned to the Secretary of Labor. On 2-16-60 the Attorney General and the Secretary of Labor signed a Memorandum of Understanding whereby the Secretary delegated jurisdiction with respect to the above-quoted portions of the act to the Department of Justice. Labor Department retained jurisdiction as regards civil enforcement actions and other criminal violations not quoted above. The pertinent portion of the text of the Memorandum of Understanding dealing with the investigation of criminal violations is as follows:

"2. Investigations of Matters made Criminal by the Act

"Subject to specific arrangements agreed upon by the Department of Justice and the Department of Labor on a case-by-case basis, investigation under the Act will be conducted as follows:

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"(a) The Department of Labor will through its own staff investigate those criminal matters arising under:

"1. Title II (Reporting by labor organizations, officers and employees of labor organizations and employers).

"2. Title III (Trusteeship).

"3. Section 502 (Bonding) of Title V.

"4. Section 503(a) (Making of loans by labor organizations to officers and employees of the labor organization) of Title V.

"5. That part of Section 503(b) of Title V which relates to the payment of a fine of a labor official or employee by a labor union.

"(b) The Department of Justice will, under delegation from the Secretary of Labor, investigate those criminal matters arising under:

"1. Section 501(c) (Embezzlement of union funds) of Title V.

"2. That part of Section 503(b) of Title V which refers to a payment of a fine of a labor official or employee by an employer.

"3. Section 504 (Prohibition against certain persons from holding office) of Title V.

"4. Section 505 (Containing an amendment to section 302, Labor Management Relations Act of 1947, as amended) of Title V." (See Part I, Section 122 of this manual.)

"5. Section 602 (extortionate picketing) of Title VI.

"6. Section 610 (deprivation of rights by force and violence) of Title VI."

EFFECTIVE: 05/10/82

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159-6 | SIGNIFICANT EXCLUSIONS IN COVERAGE

(1) Unions comprised solely of employees of the United States, or any corporation wholly owned by the United States.

(a) Exception - unions comprised of employees of the U.S. Postal Service are covered by the Labor-Management Reporting and Disclosure Act (LMRDA) of 1959 by virtue of the Postal Reorganization Act, Title 39, USC, Section 1209.

(b) Violations involving internal union affairs by Federal employee unions are investigated by the Department of Labor (DOL) by virtue of the Civil Service Reform Act, Title 5, USC, Section 1101, and Executive Order 11491, as amended in 1978.

(2) Unions comprised solely of employees of any state or political subdivision thereof.

Exception - DOL holds that a labor organization comprised of state or local government employees is covered by LMRDA if the local admits to membership at least one private-industry employee.

EFFECTIVE: 05/10/82

159-7 | POLICY

(1) Allegations, together with any pertinent information in field office files, should be discussed with USA immediately to determine whether violation is indicated, and if so, specific section involved. If violation is within Labor Department's jurisdiction, furnish USA sufficient information to enable him/her to refer complaint to Labor-Management Services Administration, and submit closing airtel and LHM. If violation is within our jurisdiction, obtain USA's opinion as to whether material furnished contains a sufficient indication of possible violation to justify investigation by the Bureau and prosecution in Federal court or whether he/she desires to refer the matter to local authorities.

(2) If USA requests matter be referred to local authorities, determine if violation is one that if conviction resulted would prohibit a person from holding a union office (Title 29, USC, Section 504). If conviction of the crime would bar subject from holding a union office, advise local authorities upon referral. Also, the name and mailing address of the local prosecutor to which

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the case was referred should be set forth in the closing LHM. When serious matters (i.e., deprivation of union member rights by force or violence) are referred to state or local authorities for prosecution, depending on availability of resources, the status of prosecution should be followed 120 days after referral. If state or local authorities decline prosecution or fail to commence prosecutive action within 120 days, rediscuss with USA and ascertain if investigation is desired. The discussion with USA should be confirmed by letter.

(3) Joint interviews may be conducted with DOL on authority of SAC and decided on a case-by-case basis. However, joint investigations with DOL may only be conducted with FBIHQ authority and will be decided on a case-by-case basis. Requests for joint investigations should be submitted by airtel, unless circumstances dictate otherwise, and the communication should contain sufficient justification for the request, the opinion of the USA, and a statement from the SAC reflecting his concurrence.

(4) FBI reports of LMRDA investigations may be disseminated to DOL subject to the provisions of Rule 6(e), Federal Rules of Criminal Procedure, on the authority of the SAC. However, dissemination should be decided on a case-by-case basis, and should be with the concurrence of the USA. Questions should be resolved by contact with FBIHQ.

EFFECTIVE: 05/10/82

159-8 | INTERVIEW OF UNION OFFICIALS

These interviews may be conducted on the authority of the SAC, provided all the following circumstances exist:

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

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

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

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

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

EXCEPTION: Interviews with officials of national headquarters of a union are to be conducted on a UACB basis. The UACB communication should set forth sufficient identifying data on the union official as well as recommendation as to advisability of and necessity for the interview.

EFFECTIVE: 05/10/82

||159-9| INVESTIGATIVE PROCEDURE

EFFECTIVE: 05/10/82

||159-9.1| Embezzlement of Union Funds (Title 29, U.S. Code, Section 501(c))

(1) Embezzlement investigation should develop in detail shortages in funds of labor organization and independent evidence should be secured to prove the person or persons responsible for shortage. Besides minute examination of accounting or other records of the union, persons who are indicated to have knowledge of shortages and who would be possible witnesses to establish the responsibility of certain persons for the shortages should be interviewed. Consideration should be afforded to checking records, such as bank and other business accounts, into or through which funds or other assets may have passed. Such action will be pertinent in those instances in which records of the union are altered or destroyed or for some other reason are unavailable.

(2) Since funds of health, welfare, or pension plans are separate from funds of labor unions or their locals, alleged embezzlement of such welfare funds is not considered covered by prohibition in this statute which deals solely with funds or other assets of a union. A welfare fund is established in form of a trust, the funds of which are contributed by employers, and such funds are utilized for hospitalization, insurance, and pension benefits payable

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to members or their beneficiaries. As distinguished from funds of a welfare plan, funds of a union are derived from dues, initiation fees, assessments, etc., payable by employees who are union members, and union funds are disbursed to officials of the union, as well as for purchase of any material in connection with the official operation of the union. In complaints received and investigations conducted, be alert to determine facts which specify whether alleged embezzlement pertains to money or other assets considered as property of a labor union or money to be maintained in a welfare plan trust fund. (Possible violations concerning funds of a welfare plan are covered in Part I, Sections 122 and 156, of this manual.)

EFFECTIVE: 05/10/82

159-9.2 | Payment of Union Officer's Fine By Employer (Title
29, |U.S. Code, |Section 503(b))

(1) The investigative jurisdiction of the Department of Justice is confined to that portion of this section dealing with the payment of a fine by an employer imposed on a labor union officer or employee convicted of a willful violation of this Act. It does not prohibit an employer from paying a fine imposed on such person convicted of violating another law.

(2) Investigations concerning indicated violations of this section will closely parallel and generally will involve similar items of proof necessary to establish a criminal violation of the Labor Management Relations Act of 1947. (See Part I, Section 122, of this manual.)

EFFECTIVE: 05/10/82

159-9.3 | Prohibition Against Certain Persons Holding Office (Title
29, |U.S. Code, |Section 504(b))

(1) Verify from examination of court records that subject has been convicted of crime that falls within scope of this section and that conviction is not under consideration by higher court. If under appeal and final judgment not rendered, conduct no further investigation and submit closing airtel and LHM suitable for dissemination to the DOJ.

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(2) If conviction was under state and local statute, determine and report specific penal code citation.

(3) If the subject, prior to conviction, was active in a particular labor organization or one particular local, investigation should not be limited to determining whether he/she has continued his/her activities with respect to this particular organization or local alone; it should be determined whether he/she is active in any capacity prohibited under the Act including other labor organizations or as a labor relations consultant or officer, etc., of a group or association of employers dealing with any labor organization.

(4) Investigation should determine exactly what the subject's occupation has been since the date of his/her conviction.

(5) To determine subject's employment the following sources of information should be considered:

(a) Review the various DOL LM Reports.

(b) Contact subject's co-workers, neighbors, and associates. However, it should be noted that interviews of co-workers are prohibited during a preliminary inquiry.

(c) Contact informants and other reliable sources of information.

(d) Contact business firms from which subject has sought credit recently; however, note that contact with logical credit bureaus is subject to the provisions of the Fair Credit Reporting Act (see Part I, 62-5, of this manual).

(e) Subject to the provisions of the Right to Financial Privacy Act of 1978 (RFPA) (see Part II, 23-6, of this manual), ascertain employment by:

1. Contacting banks, credit unions, and credit card companies.

2. Determining sources of subject's income through examination of deposits to subject's bank accounts.

(6) In each case in which it is indicated the subject is employed other than by a labor organization or as a labor relations consultant, interview his/her employer to verify such employment and

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determine whether the subject has engaged in any prohibited activity during the period of his/her employment.

(7) If the subject is indicated to be employed by a labor organization or as a labor relations consultant, endeavor to verify such employment through independent sources, such as suggested above, rather than by direct contact with employer. This would include examination of bank records pertaining to labor organization or firm of labor relations consultants to show compensation being received by subject for services rendered. It should be noted that while access to bank records of labor organizations is not covered by the RFPA, in certain instances access to records of labor relations consulting firms may be covered by the RFPA (see Part II, 23-6, of this manual).

(8) The Department has advised that when investigation discloses a subject is presently serving a prison sentence it should be determined whether he/she is drawing a salary from a union or is carried on the records of a union as an officer. This should be developed through independent sources, such as mentioned above. In addition, a check should be made with prison officials where the subject is incarcerated to ascertain whether he/she has contacts with labor organizations or management concerning union business or labor matters.

EFFECTIVE: 05/10/82

||159-9.4| Extortionate Picketing (Title 29, U.S. Code, Section 522)

Investigation concerning indicated violations of this section will parallel to some extent and will involve items of proof which are similar to those necessary to establish a criminal violation of the Labor Management Relations Act of 1947 or the Hobbs Act.

EFFECTIVE: 05/10/82

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|159-9.5| Deprivation of Rights by Force or Violence (Title 29, |U.S.
Code, |Section 530)

Complainants alleging violations of this section should be interviewed thoroughly; particular stress should be placed upon having the complainant identify witnesses to the alleged force or violence (or threat thereof) which deprived a union member of rights guaranteed under the Act; in addition, specific information should be obtained from the complainant as to which rights of the individual have been interfered with or denied.

EFFECTIVE: 05/10/82

159-10 REPORTING REQUIREMENTS

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

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

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

(4) |If the investigation involves non-LCN groups (i.e., Asian organized crime, Sicilian Mafia, etc.), advise FBIHQ by airtel with accompanying LHM as described above within 60 days. The results and/or summary should be reported by LHM (original and three copies). |

EFFECTIVE: 10/18/88

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159-11 CHARACTER - LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT
OF 1959 - INVESTIGATIVE MATTER

EFFECTIVE: 10/18/88

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SECTION 160. FEDERAL TRAIN WRECK STATUTE

160-1 STATUTE

Title 18, USC, Section 1992

EFFECTIVE: 11/08/78

160-1.1 Elements

(1) "Whoever willfully derails, disables, or wrecks any train, engine, motor unit, or car used, operated, or employed in interstate or foreign commerce by any railroad; or"

(2) "Whoever willfully sets fire to, or places any explosive substance on or near, or undermines any tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of any such railroad in interstate or foreign commerce, or otherwise makes any such tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance unworkable or unusable or hazardous to work or use, with intent to derail, disable, or wreck a train, engine, motor unit, or car used, operated, or employed in interstate or foreign commerce; or"

(3) "Whoever willfully attempts to do any of the aforesaid acts or things --"

EFFECTIVE: 11/08/78

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160-1.1.1 Other Provisions

(1) False Reports of violations of Title 18, USC, Section 1991 (Entering a Train to Commit Crime) and Section 1992 are covered by Title 18, USC, Section 35. Refer to Section 149 of this manual.

(2) Double Jeopardy - Subject cannot be tried in Federal court under this statute for same acts after being convicted or acquitted on the merits of the case in a state court.

(3) Venue lies in Federal judiciary district in which act was committed.

EFFECTIVE: 11/08/78

160-2 POLICY AND PROCEDURE

(1) Accept for investigation all cases involving violations of this act.

(2) In view of widespread public interest created by major train wreck, immediately advise FBIHQ by teletype of all such incidents.

(3) No teletype necessary regarding minor incidents in absence of some unusual circumstances which would make such action expedient.

(4) Incumbent upon the SAC to make arrangements to insure that information regarding actual or attempted train wrecks will be promptly reported to the field office so that Bureau will have effective coverage over this type of violation.

(5) The Bureau of Alcohol, Tobacco and Firearms (ATF), has jurisdiction over violations of Title 18, USC, Section 844(i), Federal Bombing Statute, which involve the malicious damaging or destruction, by means of an explosive, of property used in interstate or foreign commerce. According to Department of Justice investigative guidelines, ATF jurisdiction does not, however, apply to instances where the FBI had investigative jurisdiction in a separate substantive area prior to the enactment of the Federal Bombing Statute. This is the case insofar as explosives offenses are concerned under the Federal Train Wreck Statute (FTWS). Advise FBIHQ immediately by teletype of any attempts by the ATF to infringe upon FBI jurisdiction

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under FTWS.

(6) As investigations of this act may result in sentences of capital punishment (if the action results in the death of any person), Agents making such investigation should bear in mind that all evidence used in trial will be given strictest interpretation and will be subject to closest scrutiny by trial court. Every means should be taken to obtain and preserve pertinent evidence in such form that it will withstand scrutiny of court.

(7) Immediately following receipt of information regarding violation of this statute, painstaking investigation should be made at scene.

(8) Complete crime scene search should be immediately made in vicinity of wreck in effort to locate any evidence which might be of value to investigation. Search should not be confined to immediate vicinity as tools and other objects used to wreck a train have been located as much as a half mile away from place where wreck occurred.

(9) Photographs should be taken of general scene and of any physical evidence located at scene.

(10) A thorough neighborhood investigation should be conducted in area surrounding scene of wreck.

(11) Officials of railroad police department and other employees, particularly section foremen, should be questioned regarding possibility wreck was brought about by a former or disgruntled employee of railroad company.

(12) The use of facilities of the FBI Laboratory as investigative aid should be kept continuously in mind.

(13) In many instances train wrecks brought about as result of objects placed on railroad tracks by children. Where it is learned that children may have committed act which brought about the train wreck, consideration should be given to securing cooperation of officials of schools in vicinity in order that Agents may interview students for information which might lead to identity of children responsible for wreck.

(14) Time is of essence in initiating investigations. In order that securing of evidence through crime scene search may be enhanced, sufficient number of Agents should immediately be dispatched

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to scene upon receipt of information that wreck was brought about as result of violation of this statute.

EFFECTIVE: 11/08/78

||160-3 REPORT WRITING RULES

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

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

EFFECTIVE: 11/08/78

160-4 PENALTIES

Maximum - \$10,000 or 20 years, or both. When act results in death, the penalty is death or life imprisonment.

EFFECTIVE: 11/07/94

||160-5| CHARACTER - FEDERAL TRAIN WRECK STATUTE

EFFECTIVE: 11/08/78

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SECTION 161. SPECIAL INQUIRIES FOR WHITE HOUSE, CONGRESSIONAL
COMMITTEES, AND OTHER GOVERNMENT AGENCIES

161-1 GENERAL INSTRUCTIONS

These instructions supplement those contained in Part II,
Section 17, of this manual.

EFFECTIVE: 12/10/91

161-2 AUTHORITY

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

EFFECTIVE: 12/10/91

161-3 NATURE OF SPECIAL INQUIRIES

All Special Inquiries are personnel background investigations conducted pursuant to specific written request of the Office of the President or other government agencies for persons under consideration for Presidential appointments requiring Senate confirmation (PAS); other Presidential appointments (PA); staffs of the White House, National Security Council (NSC), and various congressional committees; and persons who require frequent access to the White House complex (telephone repair personnel, for example). Because of the sensitivity and/or the high level of positions involved, the highest priority consistent with the established Bureau deadline (BUDED) and absolute thoroughness are required in these investigations.

EFFECTIVE: 07/21/95

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161-4 TYPES OF SPECIAL INQUIRY CASES

The type of Special Inquiry investigation will be set out by the Special Inquiry Unit (SIU), FBIHQ, in the opening communication by subclassification (161A - 161L.) (MIOG, Part II, Section 17, defines the various 161 subclassifications.) The type of Special Inquiry investigation will fall within one of four different categories, which will also be set out in the opening communication.

Set forth below in (2) are the four categories of Special Inquiry investigations which are conducted based upon the client agency being served, the level of the position for which the candidate is being considered, and other considerations:

(1) Expanded Name Check (ENC) - Consists of a search of the candidate's name through FBIHQ records systems, including the Criminal Justice Information Services Division, National Crime Information Center (NCIC), Criminal Law Enforcement Application (CLEA), Intelligence Information System (IIS) and ELSUR index; checks of the field office general and any other specialized indices (except confidential and ELSUR) in field offices where the candidate works and resides; and checks of the civil and criminal files of the United States Attorneys' (USA) offices at these same locations. ENC's may be conducted in lieu of a full-field investigation or prior to the initiation of a full-field investigation. ENC's should not be confused with "regular name checks" which are handled by the Executive Agencies, Personnel, and Administrative Support Unit, Information Resources Division, for various client agencies. Regular name checks do not include checks of USAs' offices and FBI field office indices.

(2) Full-Field Investigation (FFI) - An FFI encompasses personal interviews and a wide range of record checks and is conducted in accordance with MIOG, Part II, Section 17. The scope of the investigation will depend upon the position involved and whether or not there has been a previous background investigation (BI) concerning the candidate. However, regardless of the scope of the investigation, field offices are expected to conduct whatever additional investigation that may be necessary to thoroughly and completely address any unfavorable information or issues developed. The scope of the various FFIs is set forth below, and will also be designated by the SIU in the opening communication:

Type of FFI Requested

Scope

Level I

Covers the extent of the

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Level II

candidate's adult life. Level I BIs are conducted primarily on all Cabinet-level, Inspector General and senior White House staff appointments.

Covers the past fifteen years of the candidate's life or since age 18, or at least the last two years. Level II BIs are conducted for all other full-time Presidential appointees not covered by Level I and White House, National Security Council and Congressional committee staff/access positions.

Level III

Covers the past ten years of the candidate's life or since age 18, or at least the last two years. Level III BIs are primarily conducted on support, access and maintenance positions at the White House and part-time Presidential appointments.

Update Investigation

Covers the period of the candidate's life since a previous BI conducted by the FBI and when candidate has had continuous employment or access at the White House since the last BI.

(a) If the SIU can determine that another United States government agency previously conducted a BI concerning the candidate, the SIU will attempt to obtain the results of those investigation(s) prior to opening an FBI BI. The entire scope of the candidate's BI will be addressed by the FBI, but the results of the other agencies' BI will be used to supplement the 161 investigation, and duplicative leads will not be set out. The SIU will mark off items indicated on the candidate's personal history statement (Standard Form (SF) 86) that have previously been verified by another

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agency and which do not need to be addressed in the FBI BI. The results of the prior BIs will also be used to identify issues that may have developed which may need to be further addressed by the FBI.

(b) If a field office develops information that a prior BI has been conducted by another agency and it appears that the |SIU| is not aware of this information, the field office is to immediately advise the |SIU| by telephone to determine if this information can be used to supplement the FBI BI.

(3) Limited Update Investigation (LUI) - Conducted at the request of the White House when an FFI has been completed within the last five years. The LUI is limited to an interview of the candidate; interviews of persons who are familiar with the candidate in a professional capacity; and appropriate records checks, i.e., FBI Headquarters and field office indices, law enforcement agencies, United States Attorneys' Offices, and appropriate state and/or federal agencies. Inquiries will also be conducted concerning any issue identified on the SF 86 or developed during the course of the LUI that has not been previously explored.

(4) Limited Inquiry (LI) - Conducted to resolve a particular issue or question usually arising from a regular name check or an ENC or after the completion of an FFI. It is not intended to be an FFI and only addresses the specific issue.

EFFECTIVE: 07/21/95

| 161-5 DEADLINES IN |SPECIAL INQUIRY|MATTERS

| Investigative deadlines set by the |SIU| (BUEDS--the date the completed results of the investigation are expected to be received at FBIHQ) will be set from the date of the opening communication according to the following schedule; however, deadlines may be set at shorter or longer intervals to meet the needs of the client agency. | The |SIU| will allocate as much time to the field to conduct these investigations as possible. In view of the fact that the maximum amount of available time is allotted to the field, field offices must assign sufficient personnel to assure that these cases are fully investigated, completed and reported to the |SIU| by the BUDED.

Subclassification or Category

BUDED Schedule

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of Investigation

161 A, B, C, and L	21 Calendar Days
161 D, E, G, and I	30 Calendar Days
161 F, H, J Five-year Reinvestigations	75 Calendar Days
161K	10 Calendar Days
LUI (Can be any 161 subclassification, except 161K)	Will be set based upon subclassification
LI (Can be any 161 subclassification, except 161K)	Will be set by SIU based upon the nature of the inquiries to be covered

Refer to MIOG, Part II, Section 17-3.5, for specific instructions regarding those situations in which circumstances preclude reporting the complete investigation of a case by the BUDED.

EFFECTIVE: 07/21/95

161-6 INTERVIEWS

(1) A sufficient number of interviews of persons knowledgeable about the candidate must be conducted to cover that portion of the candidate's life falling within the scope of the investigation. In most cases the principal office(s), that is, the office(s) which covers the candidate's past five years of residence and employments, will be expected to obtain the majority of these interviews. The |SIU| will indicate in the opening communication the number of interviews expected of the principal office(s). Various factors are taken into consideration when deciding if a sufficient number of interviews have been conducted during a BI. Some significant factors are the candidate's age, number of employments, length of employments and position(s) held. The following chart sets forth the general standards regarding the total number of interviews which could reasonably be expected to be conducted (including interviews in neighborhoods, at employments, of given references and associates, and of other persons developed in the investigation who

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are knowledgeable of the candidate); however, field offices should ensure that each aspect of the candidate's background is covered by interviewing individuals who would be in a position to comment concerning that person as opposed to merely obtaining "numbers."

(2) Should an office determine that it cannot locate sufficient persons to be interviewed, the SIU should be immediately notified by telephone. Prompt notification is essential so the SIU can provide guidance and coordination to the offices involved in the investigation. However, when conducting interviews, field offices are expected to determine from persons interviewed the names of other knowledgeable individuals and arrange to have those persons contacted, if necessary, to fulfill the interview requirements.

Type of BI	Interview Standards
ENC	None
FFI	
Level I	25 - 30
Level II	15 - 25
Level III	10 - 15
Five-Year Reinvestigation	5 - 7
LUI	5 - 10
LI	Interviews necessary only if specifically requested by the SIU

(3) Also, field offices are expected to conduct whatever investigation is required to thoroughly and completely address any unfavorable information or issues developed during an investigation to satisfy the FBI's obligation to ensure that full and complete information is developed regarding the candidate's suitability for federal office and/or employment.

EFFECTIVE: 07/21/95

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161-7 DESCRIBE NATURE OF EMPLOYING FIRM

Briefly describe the nature of the business of employing firms when reporting employment verifications if the nature of the firm is not readily apparent.

EFFECTIVE: 01/18/91

161-8 AGENCY CHECKS

In Presidential appointment cases, particular attention must be given to conducting logical and appropriate agency checks as set forth in Part II, 17-6.13, of this manual. While FBIHQ will set leads for many of these checks, the field offices are in a position to judge which additional local offices of Federal agencies, state, county or city government agencies or private sources (e.g., Better Business Bureau) also might logically have record of complaints or investigations concerning the candidate or the businesses with which the candidate is associated. Therefore, field offices should carefully analyze the candidate's background and conduct those additional checks which could develop information bearing on a candidate's character and fitness for holding a position with the Federal Government.

EFFECTIVE: 01/18/91

161-9 CHARACTER (See MIOG, Part II, 17-2, for character, classification and alpha designators.)

EFFECTIVE: 07/21/95

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SECTION 162. INTERSTATE GAMBLING ACTIVITIES

162-1 OBJECTIVES

(1) Investigations under the Interstate Gambling Activities (IGA) classification are directed toward ascertaining the nature and scope of gambling activities in each field office, including the amount of illegal participation, the identity and location of layoff and illegal horse race wire facilities, the source of "line" information and manner in which it is disseminated, the type of numbers game which is prevalent in certain areas and the extent of corruption facilitating such illegal activities.

(2) Investigations under this classification are "intelligence-type" inquiries concerning certain phases of gambling activities and for conducting gambling surveys primarily for the purpose of developing all information to be considered for violations of Federal gambling statutes under the FBI's jurisdiction.

EFFECTIVE: 01/31/78

162-2 INVESTIGATIVE PROCEDURES

(1) Use of this classification should be confined to the gathering of intelligence data with respect to gambling activities and should not be used for general criminal intelligence inquiries.

(2) New cases on individual gambling subjects, developed as a result of IGA investigations, should be handled as substantive matters under the appropriate substantive gambling statutes, depending on the nature of the violations.

(3) Leads to initiate investigations may result from information provided by informants, contacts with law enforcement agencies and from public sources.

(4) It is important that each field office develop a well-rounded picture of the integral functions of major gambling operations in their respective territories. This will require that all field offices are fully aware of the make up, operational detail and control of large-scale gambling operations within their areas and

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whether or not they are making use of interstate wire communication facilities for gambling purposes.

(5) [REDACTED]

EFFECTIVE: 01/31/78

162-3 REPORT WRITING PROCEDURES

Copies of these reports are disseminated and it is essential that information included in them as furnished by confidential informants be appropriately paraphrased to protect the identities of these sources. Form FD-302 should be used to record all information of an evidentiary nature including interviews of subjects and potential witnesses whenever deemed appropriate.

EFFECTIVE: 01/31/78

162-4 CHARACTER - INTERSTATE GAMBLING ACTIVITIES

EFFECTIVE: 01/31/78

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SECTION 163. FOREIGN POLICE COOPERATION

163-1 POLICY

As many Bureau cases require the investigative assistance of foreign police and intelligence agencies, the Bureau will reciprocate by conducting investigations for such agencies in the United States. FBIHQ will also arrange for investigations in the foreign countries covered by Legal Attaches on behalf of U.S. agencies and state or local police.

EFFECTIVE: 10/18/88

163-1.1 Investigative Request

Foreign Police Cooperation (FPC) requests are to be accepted in the following categories:

(1) Requests of foreign police and security agencies for coverage of investigative leads in our field offices in the United States arising out of foreign investigations.

(2) Requests for name checks of Bureau files and name or fingerprint searches of the Criminal Justice Information Services Division records.

(3) Requests by U.S. agencies abroad in matters handled by them provided they have no adequate facilities to handle such investigations themselves.

(a) Border offices should advise FBIHQ promptly upon receipt of requests for investigation and of any action taken pursuant thereto. FBIHQ need not be advised of routine requests on which individual cases are not opened.

(b) Requests received at FBIHQ from Legal Attaches and other sources will be referred to the field by FBIHQ. In the absence of additional instructions or information known to the field office which would make it inadvisable, the requested investigation should be conducted. The investigation should be limited to the request and to the coverage of logical leads growing out of the

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information developed. Recommendations for additional investigation outside the scope of the original request should be set forth in the cover letter transmitting the results of the investigation to FBIHQ and should await FBIHQ approval.

EFFECTIVE: 03/05/96

163-2 INVESTIGATIVE INSTRUCTIONS AND PROCEDURES

Since investigative requests are received by Legal Attaches or border offices (FBIHQ in some matters) the following should be secured:

- (1) Brief resume or background of case.
- (2) Descriptive data of subjects or suspects, including photographs, if available.
- (3) Pertinent information that will aid investigation.
- (4) A concise statement of what information or investigation is desired.

EFFECTIVE: 10/18/88

163-2.1 Opening Foreign Police Cooperation (FPC) - General Criminal Matters (GCM)

(1) The following guidelines should be adhered to in all 163A (FPC-GCM) investigations:

(a) When information received by the FBI from a foreign police agency contains no substantive U.S. statutory violation, but the submitting agency requires FBI assistance in investigating a criminal offense which occurred in the host country, the Legat should first assess the nature of the crime and open a 163 case in accordance with existing guidelines, i.e., 163A, 163B, etc.

(b) When a host government police agency has provided details which appear to warrant statutory investigative

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interest by the FBI, but are of no further interest to the host government, Legats should submit same in a detailed communication to the appropriate field office(s). If a field office opens a substantive case and assumes origin, the Legat providing the initial information should be so advised. To facilitate transmission of initial information, Legats should submit an initial communication under the zero (miscellaneous) classification of the alleged violation, e.g., 7-0, 196-0, 281-0, etc.; or if the violation is not well defined, the 163-0 classification.

(c) When a foreign police/security agency provides information requiring investigative lead coverage on their behalf which also discloses a potential/existing violation of U.S. federal statutes or investigative interest within FBI purview, Legats should submit same under the appropriate 163 classification, with the Legat assuming office of origin status to coordinate the FPC aspects of the investigation. This does not preclude a field office from initiating a separate spin-off case under the substantive violation, if circumstances warrant same; however, results of Legat's inquiries should be reported under the appropriate 163 classification.

(d) Noncompulsory Letter Rogatory and Mutual Legal Assistance Treaty requests facilitated through the Office of International Affairs (OIA), DOJ, from a respective Ministry of Justice/Interior in the host country and subsequently furnished to FBIHQ for investigation by the field will be managed by the International Relations Section (IRS), Criminal Investigative Division (CID), according to the above provisions.

EFFECTIVE: 03/08/96

163-2.1.1 Letter Rogatory Process

(1) OIA, DOJ, will send FBI-designated requests of a judicial nature, known as "letters rogatory" or "compulsory investigations/inquiries," directly to the AUSA with instructions for the AUSA to contact the appropriate federal law enforcement agency, which will include the FBI, to assist with the investigation. In the past, these requests were received in the International Relations Section (IRS), Criminal Investigative Division (CID), and sent to each field office with instructions to coordinate the request with the AUSA in the same district.

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(2) Upon receipt of the request from the AUSA, each office is instructed to conduct a global and HQ indices search before opening the case. If the search reveals a no record response, the field office should open the matter as a 163A and assume origin for the investigation. If the indices search reveals an office has already opened the matter, each office will then use the existing universal case file number with the originating office as office of origin. Also, if the indices search reveals an ongoing investigation under a different classification, the office of origin should contact the office where the investigation is being conducted to coordinate with the appropriate desk before opening a 163A case.

(3) Upon completion of the investigation, each field office will report the results to the AUSA in your district which provided the tasking, not the office of origin. The AUSA will be responsible for disseminating your final product, i.e., letterhead memorandum or FD-302 to OIA for the foreign government requesting the Letter Rogatory/Mutual Legal Assistance Treaty (MLAT) request.

(4) To ensure that foreign fugitive cases meet the requirements for issuance of a provisional arrest warrant and subsequent extradition, no field investigation in these matters is to be undertaken prior to receipt of FBIHQ authorization except in most urgent cases. Legats or offices with border liaison may set out such leads with appropriate background and descriptive information but with the caveat that no investigation is to be undertaken until FBIHQ, IRS, authorization is received. FBIHQ will coordinate the request with DOJ, OIA, to ensure that the treaty and other international considerations are met.

Additionally, FBIHQ will check with Interpol Washington to determine if a parallel request for a fugitive investigation had been received by the U.S. National Central Bureau (USNCB) of Interpol and is being handled by another agency. If another agency is already conducting the fugitive investigation, interested Legats and field offices will be advised to discontinue. Any office locating a foreign fugitive is to immediately advise FBIHQ, IRS, and the local USA's Office. The USA's Office should be requested to make immediate contact with DOJ and OIA. (See 163-5, 163-5.2.)

(5) For your information, requests for investigations that do NOT require compulsory process will still be directed to IRS, FBIHQ. IRS, CID, will remain as office of origin in matters which are conducted solely on a reciprocal basis pursuant to a request for assistance by the foreign government via OIA. FBIHQ will coordinate

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responses with the appropriate field office on behalf of OIA, and responses will be directed to IRS and subsequently furnished to OIA.

(6) All recipients are reminded that these changes pertain only to 163A FPC-GCM investigations/inquiries and do not change reporting procedures relevant to 163B (INTERPOL), 163C (DOMESTIC SECURITY/DOMESTIC TERRORISM), or 163E (NAME TRACE) cases.

EFFECTIVE: 03/08/96

163-3 REQUESTS FOR DOMESTIC SECURITY/TERRORISM INVESTIGATIONS

Requests for investigation by agencies of a foreign government concerning domestic security/terrorism matters are to be handled under the caption of "Foreign Police Cooperation." Bureau assistance will be limited to checks of Bureau files as well as records of state, local and Federal law enforcement agencies.

EFFECTIVE: 10/16/90

163-4 REQUESTS FOR NAME AND FINGERPRINT CHECKS

Requests received from a foreign police or intelligence agency for a search of Bureau files and/or a search of Bureau fingerprint records should be designated for the Executive Agencies Subunit, Information Resources Division (IRD). Requests for a search of Bureau fingerprint records should only be designated to the Criminal Justice Information Services Division. Requests for a search of Bureau files and/or a check of fingerprint records, which also includes a request for field office investigation, should be designated to the attention of the International Relations Section, CID.

EFFECTIVE: 03/05/96

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163-5 FOREIGN FUGITIVES

A foreign fugitive cannot be arrested in the United States based on the foreign warrant alone. So-called international arrest warrants are not valid in the United States. Current United States law requires that a foreign government must request the arrest of a fugitive from that country by formal diplomatic note and agree to extradite the fugitive. The fugitive must then be located in a particular Federal judicial district, and, thereafter, a United States provisional arrest warrant must be issued in that district for his/her arrest prior to the actual arrest.

EFFECTIVE: 10/16/90

| 163-5.1 Policy|- Moved to 163-2.1.1|

EFFECTIVE: 03/08/96

| 163-5.2 Case Captions|(See 163-2.1.1.)|

All communications in Foreign Police Cooperation matters involving foreign fugitives will contain the name of the subject and aliases, the character, and the words "Foreign Fugitive," followed by the name of the foreign country concerned. For example:

JOHN DOE, aka
Sam Smith;
FOREIGN POLICE COOPERATION
FOREIGN FUGITIVE - FRANCE
OO: FBIHQ

EFFECTIVE: 03/08/96

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163-6 REPORTING

The reputation of the Bureau within foreign agencies will be directly affected by the manner in which FPC cases are handled. The quality of the investigations, the promptness with which they are conducted, and the accuracy and completeness of the reporting of the results thereof will come directly under the scrutiny of officials of foreign police and security agencies. It is, therefore, incumbent upon each Agent to whom a case of this type is assigned to investigate it promptly and thoroughly and to report the results accurately and completely.

(1) All communications, except LHMs, transmitting a Foreign Police Cooperation matter should include "Foreign Police Cooperation" in the caption, along with the correct investigative program according to the alpha designator, and should be marked for the attention of the particular unit and division that is handling same.

The alpha designators and an explanation of each are as follows: (See MAOP, Part II, 3-1.1, 3-1.2, 10-23; Correspondence Guide-Field, 1-17.1.)

(a) 163A-Foreign Police Cooperation - General Criminal Matters should be marked to the attention of the International Relations Section (IRS), CID.

(b) 163B-Foreign Police Cooperation - International Criminal Police Organization (Interpol) should be marked to the attention of the IRS, CID.

(c) 163C-Foreign Police Cooperation - Terrorism, should be marked to the attention of the Domestic Terrorism Unit, National Security Division.

(d) 163E-Foreign Police Cooperation - Bureau Files and Criminal Justice Information Services Division - Information Requests should be marked to the attention of the Executive Agencies Subunit, Information Resources Division (IRD).

(2) FBIHQ has determined that several foreign police agencies prefer the use of an FD-302 or handwritten statement in lieu of the previously required LHMs when testimony of the investigating Agent/Officer is expected. The FD-302 and handwritten statements have been accepted in foreign courts without further testimony of the investigator, thus, precluding excessive costs associated with travel

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and lodging which must be borne by the FBI. Therefore, use of above communications are approved, noting that use of LHMs are still preferred in noncompulsory cases since they provide a reporting flexibility beyond that of an FD-302. All provisions surrounding the protection of sources and disclosure of third agency information furnished to the foreign governments still apply.

(a) Legats and field offices are advised that lead coverage for federal government executive agencies within the Washington, D.C., metropolitan area should be directed to the Washington Metropolitan Field Office.

(b) Legats should obtain all possible identifying information on subjects and witnesses from the foreign police agencies so that field offices are able to readily identify, locate, and interview same. Legats are to ensure that indexing of pertinent subjects, et al., is entered into FOIMs.

(3) Results of investigation should be submitted via LHM or FD-302 (original and five copies) to the office of origin.

(4) Do not use the character "Foreign Police Cooperation" in LHMs. The caption should be limited only to the subject(s) and aliases and substantive character (i.e., Financial Institution Fraud). (See Correspondence Guide-Field, 2-5.5.6; Correspondence Guide-HQ, 12-7(5).)

(5) Mark nondissemination copies of documents with proper classification level (Top Secret, Secret, Confidential) and authority and OADR or declassification information. Mark dissemination copies with the classification level only and omit authority and OADR or declassification information. (See Correspondence Guide-HQ, 12-1, 12-3, 12-7(7).)

(6) No classified information may be included when the LHM is submitted through Interpol channels. Dissemination of classified information generally is made to foreign governments when information disseminated may serve U.S. national security or policy interests.

(7) The property statement should appear on LHMs being disseminated to a foreign government. (See Correspondence Guide-FBIHQ, 12-2, 12-4; Correspondence Guide-Field, 2-5.3, 2-5.5.2.)

(8) Do not include the names of Agents and law enforcement officers in the LHM. Agents and law enforcement officers

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should be identified in the cover communication.

(9) Information from confidential sources and techniques must be paraphrased in such a way as to fully protect their identities. When reporting information from an informant, do not use "T" symbols or the words "source" or "informant." The phrase "investigation has disclosed" or similar wording should be used.

(10) Personal addresses in the United States and Social Security Numbers are to be omitted on LHMs unless they are pertinent to the inquiry.

(11) If the request concerns information from a local, state, or other federal government agency, include in the LHM only the information which that agency is willing to have furnished to the interested foreign government. A statement should be included in the cover communication indicating authority has been secured and the agency has agreed to such dissemination.

(12) In applicant-type investigations for foreign agencies, no reference should be made to the applicant's loyalty to the United States. In such cases, inquiries should be made as to whether the applicant is loyal to democratic principles.

(13) Signed statements in foreign countries should be taken only when specifically requested or when good judgment dictates. If feasible, secure a foreign police officer to witness the signing of the statement. (See Part II, Section 23-8.2 (8), (9), and (10) of this manual.)

(14) Results of routine investigation conducted by FBI field offices on behalf of a foreign government must reach FBI Headquarters within 60 days from the date of the Bureau communication which forwarded the request, unless a shorter deadline is specified. Legal Attaches are given 90 days to respond.

(15) Avoid using dual characters. If a foreign police cooperation request develops into a substantive Bureau case, the character "Foreign Police Cooperation" should be dropped and the proper character used.

(16) All Bureau instructions concerning investigations and report writing are applicable to this classification, unless specifically modified herein.

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EFFECTIVE: 03/08/96

163-7 RULE 6(E) MATERIAL

Grand Jury material should not be disclosed to representatives of foreign governments. If foreign government representatives cannot conduct the investigation without Grand Jury material disclosure, the field office from which the lead originated should have the attorney for the government in the district where the Grand Jury was convened petition the court for a court order directing disclosure pursuant to Rule 6(e) (3) (C) (i).|

EFFECTIVE: 10/18/88

163-8 PRIVACY ACT

(1) The Privacy Act of 1974 does not preclude dissemination of information to a foreign government. The act's coverage is limited to records in a system of records containing retrievable information about U.S. citizens or aliens lawfully admitted for permanent residence in the United States. The Privacy Act has no application if records sought to be reviewed do not contain personally identifiable and retrievable information. The FBI Central Records System encompasses all centralized records of not only FBI Headquarters, but our field and Legat offices.

(2) Dissemination of information from FBI Central Records Systems to a foreign government is proper when the following conditions have been met:

(a) Information is disclosed to a legitimate agency of a foreign government;

(b) The FBI determines the information is relevant to the agency's responsibilities;

(c) Dissemination serves the best interests of the U.S. Government;

(d) The purpose in making the disclosure is compatible with the purpose for which the information was collected. |

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EFFECTIVE: 10/18/88

163-9 RIGHT TO FINANCIAL PRIVACY ACT

(1) The Right to Financial Privacy Act controls the U.S. government's access to financial information in financial institutions. Foreign governments frequently request access to the financial records of individuals in the United States in connection with criminal inquiries. A request from a foreign government for financial records must emanate from a foreign adjudicative body.

(foreign court) in the form of a letter of request. Upon receipt of such a request from a foreign government, the Department of Justice, Office of International Affairs, seeks a court order under Title 28, USC, Section 1782. The order directs a financial institution to deliver the information to the Department of Justice for transmittal to the foreign government.

(2) Accordingly, requests emanating from foreign governments for financial records maintained in U.S. financial institutions, should be submitted through diplomatic channels directly to the Department of Justice, Office of International Affairs, or may be forwarded to FBIHQ, Criminal Investigative Division, International Relations Section.

EFFECTIVE: 03/05/96

163-10 INTERNATIONAL CRIMINAL POLICE ORGANIZATION (INTERPOL)

EFFECTIVE: 10/18/88

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| 163-10.1 Background | (See Legal Attache Manual, 6-9.) |

(1) Interpol has a membership composed of 147 countries. It exists for the purpose of facilitating international criminal investigations. By providing a communications channel among the member countries, Interpol provides a full range of law enforcement services from records checks to the accomplishing of complex criminal investigations. Interpol will, upon request, transmit a worldwide All Points Bulletin (APB) or issue an international wanted notice to locate and effect the arrest of international fugitives.

(2) Interpol member nations will only cooperate in criminal matters, which include acts of international terrorism. No classified, source sensitive, or foreign counterintelligence information will be accepted for investigation.

(3) The constitution of Interpol strictly prohibits involvement by the organization in political, religious, racial, or military matters.

(4) The U.S. National Central Bureau (USNCB) of Interpol is located within the Department of Justice and is operated jointly by the Departments of Justice and Treasury with a membership composed of representatives of the FBI; Bureau of Alcohol, Tobacco and Firearms (BATF); Drug Enforcement Administration (DEA); Internal Revenue Service (IRS); United States Marshals Service (USMS); Postal Inspection Service; Secret Service; Office of the Inspector General, Department of Agriculture; and the Department of State.

(5) The USNCB of Interpol has access to and is able to check many electronic indices and data bases through in-house terminals. These include: FBI National Crime Information Center (NCIC); FBI Criminal History Records (Interstate Identification Index); Drug Enforcement Administration (DEA) Narcotic and Dangerous Drug Information System (NADDIS); U.S. Treasury Enforcement Computer System (TECS); USNCB Interpol Case Tracking System (ICTS); Immigration and Naturalization Service (INS) records; all drivers' license and vehicle registration records of 50 states.

(6) | The | responsibility for Interpol matters | is handled by the International Relations Section (IRS), CID. The IRS is the Bureau's designated point of contact with the USNCB. |

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163-10.2 Policy (See Legal Attache Manual, 6-9.)

(1) FBI requests for foreign investigation of matters involving substantial FBI interest in all FBI Programs will be handled by our Legal Attaches (Legats) unless there is an excepted concurrence of FBI Headquarters (FBIHQ) and the appropriate Legat. All matters under our National Foreign Intelligence Program; sensitive matters, such as source protection; classified matters; and civil rights matters are to be handled by our Legats.

(2) Where the FBI is not formally accredited and where the FBI does not have formal representation, investigative requests from the FBI to a foreign country will be handled by Bureau representatives at Interpol or the Department of State.

(3) With the concurrence of the appropriate Legat, or at his/her request, simultaneous criminal FBI investigative leads in multiple countries, requiring expeditious handling, will be handled by Interpol.

(4) Foreign criminal record check requests involving auto registration, drivers' licenses, birth records, passports, outstanding warrants (wants), and criminal history (arrest records) in which the request requires no additional investigation will, for the most part, be handled by Bureau representatives at Interpol.

(5) The handling of all requests by foreign countries for criminal investigative assistance to the FBI will be left to the discretion of our Legats.

(6) Legats may wish to handle matters from foreign governments, which are insubstantial, through direct contact with the foreign Interpol channel.

(7) Frequently, situations arise whereby foreign police entities request Legat assistance and/or involvement on their investigations and simultaneously request assistance in the same investigations through Interpol, USNCB, Washington, D.C. In those situations where the Legat suspects that dual requests are likely to occur, Legats are requested to ensure that the foreign police entities indicate on Interpol communications that there has been previous coordination with the Legat and/or investigative action by the FBI in

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the U.S. This will ensure the matter is handled by the FBI representative to Interpol, as opposed to some other agency representative.

(8) FBI field offices on routine investigative matters are to communicate with Interpol, USNCB, via International Relations Section (IRS), Criminal Investigative Division (CID), FBIHQ. No direct communication to the USNCB by the National Law Enforcement Telecommunications Systems (NLETS) or other means is to be undertaken by Bureau field offices, except in urgent matters by telephone to the FBI representative at the USNCB. Telephonic inquiries in such instances must be confirmed by teletype to FBIHQ. State and local law enforcement agencies within the U.S. may contact the USNCB via NLETS or other available systems to request investigative assistance. Legats can directly access USNCB, Washington, D.C., via their Embassy's telecommunications system. The FBI representative at the USNCB will, upon receipt of a request by telex, set forth leads to any foreign NCB on behalf of the Legat. Legats may, at their discretion, utilize the Interpol NCBs in the various countries in their territories to assist them in covering criminal leads.

(9) All communications in reply to Interpol requests or from the FBI requesting Interpol assistance will be by LHM with a cover electronic communication, unless circumstances dictate the use of a teletype. Regardless of character, the titles of all communications concerning Interpol-related matters should contain the additional character "Interpol," and when directed to FBIHQ, should be to the attention of IRS, CID.

(10) Requests from field offices for Interpol record checks may be submitted to FBIHQ to the attention of IRS, CID, by LHM or, in urgent cases, by teletype. All available identifying data regarding the individual should be included in the LHM, along with a statement indicating the type of criminal activity under investigation. Such a statement is required to ensure that the request falls within the Interpol Constitutional guidelines. Such record checks will include Interpol files at USNCB, the General Secretariat in Lyon, France, and, when requested, specific Interpol member countries.

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163-10.3 International Notices

(1) International Notices are published by Interpol to provide the police services of all member countries, via their NCBs, with information about persons and property. The Interpol General Secretariat validates these notices every five years.

(2) The six types of International Notices are described as follows:

(a) RED NOTICE - Red Notices request the arrest of a subject with a view to extradition. These notices provide details of the charge against a subject, along with warrant information and prior criminal record. The USNCB requests the Interpol General Secretariat to issue Red Notices only after review and approval of the Department of Justice, Office of International Affairs.

(b) BLUE NOTICE - Blue Notices request information regarding a person, such as his/her criminal record or verification of his/her identity. They are also used to locate missing persons, locate a criminal who has not been fully identified, or to locate a wanted person whose extradition may be requested.

(c) GREEN NOTICE - Green Notices disseminate information about persons who have or are likely to commit crimes affecting several countries and who may be in those countries. Specific details are given regarding prior arrests and convictions. Green notices are issued concerning only important international criminals.

(d) BLACK NOTICE - Black Notices provide information about unidentified bodies of deceased persons who were probably using false identities. Photographs of the body, description, fingerprints, and dental charts, as well as other identifying information is included.

(e) STOLEN PROPERTY NOTICE - Stolen Property Notices provide information about stolen property or recovered property suspected of being stolen. In the case of works of art or cultural objects, a photograph or detailed description is included along with facts concerning the theft or recovery.

(f) MODUS OPERANDI NOTICE - Modus Operandi Notices provide information concerning the modus operandi, procedures and hiding places used by international criminals. These notices also serve to centralize such information at the Interpol General

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Secretariat to assist in analyzing worldwide criminal activity.

(3) All requests for the issuance of an Interpol International Notice will be forwarded to FBIHQ, Attention: International Relations Section, CID, in LHM form with a cover communication. The cover communication will set forth sufficient background and justification for such a request to permit FBIHQ to make a determination whether the request should be forwarded to Interpol, USNCB. Include in the cover communication the name of the Assistant United States Attorney handling the case and his/her opinion regarding extradition. In UFAP cases, list local warrant information first and list the name, address, and telephone number of the local prosecutor.

(4) LHMs requesting the issuance of a Red Notice will contain the usual case title, a brief summary of the investigation to date, and the following numbered and captioned paragraphs:

1. Present family (last) name
2. Family name at birth or previous family name
3. Forenames
4. Aliases and nicknames
5. Sex
6. Date of birth
7. Place of birth
8. Father's name
9. Mother's maiden name
10. Nationality (indicate confirmed or not confirmed)
11. Identity (indicate verified or not verified)
12. Occupation
13. Areas, places, or countries subject may visit
14. Date of photograph
15. Identity documents (type, number, date and place of issue)
16. Detailed physical description
17. Characteristics (habits, mannerisms, etc.)
18. Languages spoken
19. Warrant information (this information must be provided for each and every warrant outstanding for the subject)
 - a. Warrant number(s)
 - b. Date(s) of issue
 - c. Court(s) of issue
 - d. Federal or state criminal citation(s) (i.e., Title 18, USC, Section 659)
 - e. Type(s) of offense (i.e., Theft from

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Interstate Shipment)

f. Maximum penalty for each charge or sentence,
if already convicted

g. Name of prosecuting attorney familiar with
facts of the case and his/her official address and telephone number

20. Summary of the facts of the case (date, place,
modus operandi)

21. Name(s) of accomplice(s)

22. Previous convictions (date, place, charge,
sentence)

(5) Three clear copies of the subject's photograph must
accompany the LHM. FBIHQ will automatically provide Interpol a copy
of subject's fingerprints from Criminal Justice Information
Services Division records.

(6) LHMs requesting Blue or Green Notices should follow
the same format as for Red Notices with the omission of nonapplicable
information.

(a) Blue or Green Notice requests concerning
criminals who have not been fully identified or who are wanted and
whose extradition may be requested should substitute the following
paragraph information:

1. Family name
2. Forenames
3. Date and place of birth (indicate if
verified)
4. Father's name
5. Mother's maiden name
6. Marital status
7. Spouse's name
8. Identity documents (type, number, date and
place of issue)
9. Occupation
10. Nationality (indicate if verified or not
verified)
11. Identity (indicate exact or uncertain)
12. Aliases and nicknames
13. Previous addresses with dates
14. Types of crimes committed and modus operandi
15. Detailed physical description
16. Languages spoken
17. Reason for and date of last arrest and date

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of release (Blue Notice requests concerning missing persons should contain a detailed account of the disappearance)

18. Previous convictions (date, place, charge, sentence)

19. Address to which subject intended to go after release

(b) Dental charts, if available, should accompany missing person Blue Notice requests in addition to photographs.

(c) Offices contemplating the submission of a request for a Stolen Property Notice involving works of art or cultural property should communicate with the IRS, CID, for details of the descriptive information required for such notices.

(7) The information contained in LHMs requesting the issuance of International Notices will be subjected to close scrutiny and verification at FBIHQ, and LHMs requiring changes will be returned to the field for resubmission.

(8) Upon issuance of an Interpol International Notice, a copy will be provided to the office of origin which will be responsible for the immediate notification of FBIHQ by LHM of any change in the notice information, including the apprehension of a fugitive or the recovery of all or part of any stolen property. All Legats will be provided a copy of Interpol International Notices issued at the request of the Bureau and will be notified by FBIHQ of modifications or cancellations thereto.

EFFECTIVE: 03/05/96

163-11 OFFICE OF ORIGIN (See MAOP, Part II, 10-16.2(7).)

(1) Legal Attaches will be the office of origin (00) in all 163 cases which do NOT require Bureau assistance/input.

(2) International Relations Section (IRS), CID, will continue to function as the originating office on Foreign Police Cooperation requests from the foreign law enforcement representatives based in Washington, D.C. (163A); on requests made by foreign law enforcement through Interpol (163B); and on foreign requests made through the Office of International Affairs (OIA/DOJ). IRS, CID, will continue to assist operational leads through the Interpol channel.

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(a) The Executive Agencies|Subunit|will handle all 163E record check requests to be conducted at FBIHQ. The originator of the request will be the OO.

(b) The Bureau Applicant|Investigations|Unit (BAIU) will handle (163E) applicant/background investigative requests in the United States on behalf of foreign governments. These applicant/background foreign government investigative requests are on United States and non-United States persons who are either themselves or are relatives of persons who are being considered for sensitive positions in the foreign government and require security clearances. The originator of the request will be the OO.

(c) The Domestic Terrorism Unit,|National Security|Division, will retain OO status in all 163C Domestic Security/Terrorism (DS/T) investigations.

EFFECTIVE: 03/05/96

||163-12| CHARACTER - FOREIGN POLICE COOPERATION

EFFECTIVE: 10/18/88

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SECTION 164. CRIME ABOARD AIRCRAFT

164-1 BACKGROUND

(1) As a result of several aggravated incidents aboard commercial aircraft during 1961 which included the first actual hijacking of an aircraft in the United States, Congress on September 5, 1961, passed an amendment (Public Law 87-197) as embodied in the Federal Criminal Statutes as Title 49, USC, Section 1472. This statute specifically designated the FBI to investigate violations of aircraft piracy and related criminal acts as contained in subsections (i) through (n) of this statute. Title 49, U.S. Code, Chapter 465, addresses crimes committed aboard aircraft to include aircraft piracy, interference with flight crews, carrying weapons or explosives aboard aircraft and false information and threats. Chapter 465 replaces subsections (i), (j), (l), (m), and (n) of Title 49, USC, Section 1472 (Public Law 103-272), which also moved the section concerning the FBI's exclusive jurisdiction over those offenses from subsection 1472 (o) to Title 28, USC, Section 538.

(2) As a result of several incidents where accidents involving common carriers resulted from operators being impaired by alcohol or drugs, Title 18, USC, Sections 341, 342, and 343, were enacted to address the obvious concern for public safety.

(3) Executive Order 12564, dated 9/15/86, entitled "Drug Free Federal Workplace," facilitated drug screening of airline pilots.

EFFECTIVE: 12/23/96

164-2 STATUTES

Title 49, USC, Section 46314 or Chapter 465 and Title 28, USC, Section 538; Title 18, USC, Sections 341, 342, 343; and Executive Order 12564.

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EFFECTIVE: 12/23/96

164-2.1 Section 46502. Aircraft Piracy

"(a) IN SPECIAL AIRCRAFT JURISDICTION.--(1) In this subsection--

"(A) 'aircraft piracy' means seizing or exercising control of an aircraft in the special aircraft jurisdiction of the United States by force, violence, threat of force or violence, or any form of intimidation, and with wrongful intent.

"(B) an attempt to commit aircraft piracy is in the special aircraft jurisdiction of the United States although the aircraft is not in flight at the time of the attempt if the aircraft would have been in the special aircraft jurisdiction of the United States had the aircraft piracy been completed.

"(2) An individual committing or attempting to commit aircraft piracy--

"(A) shall be imprisoned for at least 20 years;
or

"(B) notwithstanding section 3559(b) of title 18, if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life."

"(b) OUTSIDE SPECIAL AIRCRAFT JURISDICTION--(1) An individual committing or conspiring to commit an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) on an aircraft in flight outside the special aircraft jurisdiction of the United States--

"(A) shall be imprisoned for at least 20 years;
or

"(B) notwithstanding section 3559(b) of title 18, if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

"(2) There is jurisdiction over the offense in paragraph (1) if--

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"(A) a national of the United States was aboard the aircraft;

"(B) an offender is a national of the United States; or

"(C) an offender is afterwards found in the United States.

"(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in Section 101(a) (22) of the Immigration and Nationality Act (8 U.S.C. 1101(a) (22))."

EFFECTIVE: 12/23/96

164-2.2 Section 46504. Interference With Flight Crew Members and Flight Attendants

"An individual on an aircraft in the special aircraft jurisdiction of the United States who, by assaulting or intimidating a flight crew member or flight attendant of the aircraft, interferes with the performance of the duties of the member or attendant or lessens the ability of the member or attendant to perform those duties, shall be fined under title 18, imprisoned for not more than 20 years, or both. However, if a dangerous weapon is used in assaulting or intimidating the member or attendant, the individual shall be imprisoned for any term of years or for life."

Public Law 101-164, passed 11/21/89, amended Section 404 of the Federal Aviation Act of 1958 by prohibiting smoking on domestic airline flights scheduled for six hours or less. Violations of these restrictions are investigated and reported to the Flight Standards Group of the FAA and not the FBI. However, it is possible that a violation of Section 46504 (formerly 1472(j)) could occur, should an attempt to enforce the "No Smoking" restriction by a flight crew member, or attendant, evolve into an assault, intimidation or threat towards that crew member or attendant. Should such an incident occur, FBI investigation would be warranted.

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EFFECTIVE: 12/23/96

|164-2.3| Section|46505.| Carrying|a Weapon or Explosive on an
Aircraft

"(a) DEFINITION.--In this section, 'loaded firearm' means a starter gun or a weapon designed or converted to expel a projectile through an explosive, that has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip.

"(b) GENERAL CRIMINAL PENALTY.--An individual shall be fined under title 18, imprisoned for not more than ten years, or both, if the individual--

"(1) when on, or attempting to get on, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight;

"(2) has placed, attempted to place, or attempted to have placed a loaded firearm on that aircraft in property not accessible to passengers in flight; or

"(3) has on or about the individual, or has placed, attempted to place, or attempted to have placed on that aircraft, an explosive or incendiary device.

"(c) CRIMINAL PENALTY INVOLVING DISREGARD FOR HUMAN LIFE.
--An individual who willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, violates subsection (b) of this section, shall be fined under title 18, imprisoned for not more than 15 years, or both.

"(d) NONAPPLICATION.--Subsection (b)(1) of this section does not apply to--

"(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the United States Government, authorized to carry arms in an official capacity;

"(2) another individual the Administrator of the

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Federal Aviation Administration by regulation authorizes to carry a dangerous weapon in air transportation or intrastate air transportation; or

"(3) an individual transporting a weapon (except a loaded firearm) in baggage not accessible to a passenger in flight if the air carrier was informed of the presence of the weapon."

EFFECTIVE: 12/23/96

|164-2.4| Section|46506. Application of Certain Criminal Laws to Acts on Aircraft

"An individual on an aircraft in the special aircraft jurisdiction of the United States who commits an act that--

"(1) if committed within the special maritime and territorial jurisdiction of the United States (as defined in Section 7 of Title 18) would violate section 113, 114, 661, 662, 1111, 1112, 1113, or 2111, or Chapter 109A of title 18, shall be fined under title 18, imprisoned under that section or chapter, or both; or

"(2) if committed in the District of Columbia would violate section 9 of the Act of July 29, 1892 (D.C. Code, sec. 22-1112), shall be fined under title 18, imprisoned under section 9 of the Act, or both."

(1) As enumerated in Title 49, USC, |46506, |Title 18, defines the following violations:

Section 113.	Assault
Section 114.	Maiming
Section 661.	Embezzlement and Theft
Section 662.	Receiving Stolen Property
Section 1111.	Murder
Section 1112.	Manslaughter
Section 1113.	Attempt to Commit Murder or Manslaughter
Section 2111.	Robbery
Section 2241.	Aggravated sexual abuse
Section 2242.	Sexual abuse
Section 2243.	Sexual abuse of a minor or ward

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Section 2244. Abusive sexual contact
|Section 2245. Sexual abuse resulting in death
(See MIOG, Part I, 45-2 and 70-2.)|

(2) As referred to in Title 49, USC, Section|46506,|
Section 22-1112, D.C. Code states:

"(a) It shall not be lawful for any person or persons to make any obscene or indecent exposure of his or her person, or to make any lewd, obscene, or indecent sexual proposal, or to commit any other lewd, obscene, or indecent act in the District of Columbia, under penalty of not more than \$300 fine, or imprisonment of not more than ninety days, or both, for each and every such offense.

"(b) Any person or persons who shall commit an offense described in subsection (a), knowing he or she or they are in the presence of a child under the age of sixteen years, shall be punished by imprisonment of not more than one year, or fined in an amount not to exceed \$1,000, or both, for each and every such offense."

EFFECTIVE: 12/23/96

164-2.5 Section|46507. False Information and Threats

"An individual shall be fined under title 18, imprisoned for not more than 5 years, or both, if the individual--

"(1) knowing the information to be false, willfully and maliciously or with reckless disregard for the safety of human life, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title; or

"(2) (A) threatens to violate section 46502(a), 46504, 46505, or 46506 of this title, or causes a threat to violate any of those sections to be made; and

"(B) has the apparent determination and will to carry out the threat."

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EFFECTIVE: 12/23/96

| 164-2.6 | Moved to 164-2.1 |

EFFECTIVE: 12/23/96

| 164-2.7 | Title 28, USC, Section 538. Investigation of Aircraft
Piracy and Related Violations

| "The Federal Bureau of Investigation shall investigate any
violation of Section 46314 or Chapter 465 of Title 49." |

EFFECTIVE: 12/23/96

| 164-2.8 | Venue

| Venue provisions are contained in the Federal Rules of
Criminal Procedure and Chapter 211 of Title 18, U.S. Code. |

EFFECTIVE: 12/23/96

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164-2.9 Title 18, U.S. Code, Sections 341, 342, and 343.
Operation of a Common Carrier Under the Influence of
Alcohol or Drugs

(1) Section 341 - defines a common carrier to include an
air common carrier.

(2) Section 342 - states "whoever operates or directs
operation of a common carrier while under the influence of alcohol or
any controlled substance, as defined in Section 102 of the Controlled
Substances Act (Title 21, U.S. Code, Section 802), shall be:"

(a) imprisoned not more than fifteen years

(b) or fined under this title

(c) or both

(3) Section 343 - states for the purposes of this
statute:

(a) an individual with a blood alcohol content of
.10 percent or more shall be presumed to be under the influence of
alcohol; and

(b) an individual shall be presumed to be under the
influence of drugs if the quantity of the drug in the system of the
individual would be sufficient to impair the perception, mental
processes, or motor functions of the average individual.

EFFECTIVE: 04/19/91

164-2.10 Executive Order 12564 - Drug-Free Workplace

(1) Executive Order 12564 facilitates the random drug
screening of airline pilots.

(2) The Order specifically states "Drug testing shall not
be conducted pursuant to this Order for the purpose of gathering
evidence for use in criminal proceedings."

(3) Prosecution of a pilot or crew member cannot be based
solely on the results of air-carrier drug-screening as mandated under
Executive Order 12564.

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EFFECTIVE: 04/19/91

164-3 DEFINITIONS (Title 49, U.S. Code, Section 46501)

"(1) 'aircraft in flight' means an aircraft from the moment all external doors are closed following boarding--

"(A) through the moment when one external door is opened to allow passengers to leave the aircraft; or

"(B) until, if a forced landing, competent authorities take over responsibility for the aircraft and individuals and property on the aircraft.

"(2) 'special aircraft jurisdiction of the United States' includes any of the following aircraft in flight:

"(A) a civil aircraft of the United States.

"(B) an aircraft of the armed forces of the United States.

"(C) another aircraft in the United States.

"(D) another aircraft outside the United States

--
"(i) that has its next scheduled destination or last place of departure in the United States, if the aircraft next lands in the United States;

"(ii) on which an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) if the aircraft lands in the United States with the individual still on the aircraft; or

"(iii) against which an individual commits an offense (as defined in subsection (d) or (e) of article I, section I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation) if the aircraft lands in the United States with the individual still on the aircraft.

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"(E) any other aircraft leased without crew to a lessee whose principal place of business is in the United States or, if the lessee does not have a principal place of business, whose permanent residence is in the United States.

"(3) an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) when the individual, when on an aircraft in flight--

"(A) by any form of intimidation, unlawfully seizes, exercises control of, or attempts to seize or exercise control of, the aircraft; or

"(B) is an accomplice of an individual referred to in subclause (A) of this clause."

EFFECTIVE: 12/23/96

164-4

STATUTORY INTERPRETATION

(1) As used in the statute, the term "piracy" is to be distinguished from Title 18, USC, Section 1651, where it is referenced to the law of nations. The elements of aircraft piracy are specifically stated within the statute.

(2) Accordingly, acts which would be covered by Title 18, USC, Section 7 (5) (crimes within the special maritime and territorial jurisdiction of the United States) should such acts occur geographically within the special maritime and territorial jurisdiction of the United States, are by the present statute made criminal regardless of their geographical situs. It is conceivable that a single act could be in violation of both sections of the USC.

(3) In connection with the term "within the special aircraft jurisdiction of the United States" as set forth in Title 49, USC, Section 46502, 46504, 46506, and the term "special aircraft jurisdiction of the United States" as defined in Title 49, USC, Section 46501, the FBI has investigative jurisdiction insofar as violations in connection with the following aircraft are concerned:

(a) civil aircraft of the United States no matter where in the world they are in flight;

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- (b) aircraft of the armed forces of the United States no matter where in the world they are in flight;
- (c) foreign aircraft which actually land in the United States.

EFFECTIVE: 12/23/96

164-5 ROLE OF THE FEDERAL AVIATION ADMINISTRATION (FAA)

Title 49, USC, Section 44903 (e) provides that "The Administrator has the exclusive responsibility to direct law enforcement activity related to the safety of passengers on an aircraft involved in an offense under Section 46502 of this title from the moment all external doors of the aircraft are closed following boarding until those doors are opened to allow passengers to leave the aircraft. When requested by the Administrator, other departments, agencies, and instrumentalities of the Government shall provide assistance necessary to carry out this subsection."

EFFECTIVE: 12/23/96

164-6 MEMORANDUM OF UNDERSTANDING BETWEEN THE FEDERAL AVIATION ADMINISTRATION AND THE FEDERAL BUREAU OF INVESTIGATION

(1) Basic policy with regard to the FBI's handling of aircraft hijacking incidents centers on a memorandum of understanding between the FAA and FBI agreed upon officially on 2/26/75. The "Memorandum of Understanding Between the Federal Aviation Administration and the Federal Bureau of Investigation" (MOU) is contained in its entirety in Part II, Section 18, of this manual.

(2) Part II of the MOU, entitled "Designation of Authority" states:

"A. When the aircraft is in flight.

"1. When an aircraft is in flight, that is from the moment when all external doors are closed following embarkation, until the moment when one such door is opened for disembarkation, the

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pilot in command of the aircraft shall have normal operational control of the flight.

"2. The Administrator of the Federal Aviation Administration has exclusive responsibility for direction of any law enforcement activity involving an offense under 902 (i) or 902 (n) of the Federal Aviation Act of 1958, as amended.

"3. As appropriate, in each case involving such an offense, the designated official of the Federal Aviation Administration shall request the assistance of the designated official of the Federal Bureau of Investigation.

"4. After fully considering the expressed wishes of the pilot in command, the responsible official of the airline operating the aircraft and the designated official of the Federal Bureau of Investigation, the designated official of the Federal Aviation Administration shall determine if law enforcement action is appropriate. In those instances in which the designated official of the Federal Aviation Administration determines that law enforcement action is appropriate, he shall request the designated official of the Federal Bureau of Investigation to advise as to the appropriate methods to be used and, after approval of the designated official of the Federal Aviation Administration, take the law enforcement action that is required.

"5. Whenever such a request is made, the designated official of the Federal Bureau of Investigation shall provide such law enforcement assistance as is necessary.

"6. The designated official of the Federal Bureau of Investigation and the designated official of the Federal Aviation Administration shall maintain continuing coordination between their respective offices during the course of such law enforcement activity.

"B. When the aircraft is not in flight.

"1. When an aircraft is not in flight, that is prior to the moment when all external doors are closed after embarkation and after the moment when one such door is opened for disembarkation, the designated official of the Federal Bureau of Investigation shall make the decision to take law enforcement action with respect to a hijacking. The designated official of the Federal Bureau of Investigation shall give full consideration to the expressed wishes of the pilot in command, the responsible official of the airlines

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operating the aircraft, and the designated official of the Federal Aviation Administration prior to initiating action.

"C. The decision of the designated official of the Federal Aviation Administration shall prevail in those instances where a question arises as to whether an aircraft is in flight or is not in flight."

EFFECTIVE: 02/15/82

164-7

DEPARTMENTAL INSTRUCTIONS

(1) The Department of Justice (DOJ) continues to advocate severe penalties for aircraft hijackers as a deterrent to future acts of air piracy. Consequently, authorization from the Criminal Division, DOJ, must be obtained by the U.S. Attorney before he/she enters into any agreement to forego an air piracy prosecution under Title 18, USC, Section 46502, in favor of a guilty plea to a lesser offense or decides otherwise not to prosecute fully an act of air piracy.

(2) The Department of Justice has requested that when USAs decline prosecution in those unaggravated violations of Title 49, USC, Section 46504 and Title 49, USC, Section 46506, where a crew member is a victim, that the FBI, with the approval and recommendation of the USA, then refer the matter to the local FAA representative, together with the results of any investigation for their consideration of proceeding against the offender civilly for violation of Federal Aviation Regulations (FAR) as codified in Title 14, Code of Federal Regulations (CFR), Section 91.8, entitled "Prohibition against interference with crewmembers."

(3) FAA preboard screening procedures periodically result in nonpassengers being found in possession of concealed deadly or dangerous weapons. These individuals have no tickets to board any aircraft but for the most part are discovered to be armed during examination at sterile concourse areas while either meeting or bidding farewell to persons who are ticketed passengers. The Department of Justice has advised that since these weapon-carrying nonpassengers have no apparent intent to board or attempt to board an aircraft, there is no violation of Title 49, USC, Section 46505. In view of this, it is not necessary for the field to respond to these incidents or to submit LHM to FBIHQ. Specifically note that an indication of intent to board or attempt to board an aircraft on the part of these

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weapon-carrying nonpassengers requires the adherence to established investigative and reporting procedures. Each field division should ensure that local airline, airport, FAA and law enforcement officials are aware of these instructions.

(4) In those unaggravated violations of Title 49, USC, Section 46505, i.e., (firearms only) where state or local prosecution is declined upon USA deferral, it is current departmental policy to refer the matter to FAA for their consideration of proceeding against the offender civilly for violation of FAR as codified in Title 14, CFR, Section 107.21, entitled "Carriage of firearms, explosives, or incendiary devices." All offenses involving explosives or incendiary devices will continue to be prosecuted by the Department as criminal violations. (See MIOG, Part I, Section 174.)

(5) Prosecution under the Hobbs Act. Consideration should also be given to use of the Hobbs Act as a vehicle of prosecution where an extortionate demand is made directly or indirectly upon a commercial air carrier which would obstruct, delay, or affect commerce. The Department has instructed all USAs that when such an extortionate situation is encountered where it may be desirable to charge a violation under the Hobbs Act, the Department must be consulted.

EFFECTIVE: 12/23/96

164-8

REPORTING PROCEDURES

(1) Immediately advise FBIHQ by telephone or teletype, depending upon the exigency of the circumstances, of all cases involving aircraft piracy or where there is loss of life, danger to public safety, or widespread public interest. Each complaint should receive prompt and expeditious investigative attention.

(2) In all violations of Title 49, USC, Sections 46502 through 46507, a succinct LHM (original and one copy) should be submitted to FBIHQ by FD-365 within ten working days of receipt of initial complaint. Upon receipt of the LHM, FBIHQ will disseminate a copy to United States Secret Service, Intelligence Division, 1800 G Street, N.W., Washington, D.C. 20223. (See MAOP, Part II, 10-4.3; Correspondence Guide - Field, 2-5.5.11.)

(3) The appropriate regional office of FAA should be

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promptly advised upon receipt of all complaints with close liaison being maintained during the course of each investigation.

(4) In all cases, the field office is to disseminate additional copies of the LHM within ten working days to the nearest Civil Aviation Security Field Office (CASFO), FAA Regional Office, United States Secret Service Field Office, and to the FBI field office which covers the subject's residence. Other interested agencies, such as the National Transportation Safety Board, Office of Special Investigations, etc., should likewise be advised locally when appropriate. Depending upon the exigency of the matter, immediate notification to the above agencies may be necessary.

(5) In those cases wherein the USA's office declines prosecution, defers prosecution to state or local authorities, or refers the matter to FAA for civil enforcement, or wherein it is known that state or local prosecution is declined upon USA deferral, the initial LHM should so indicate. One copy of this LHM should be directed to the USA confirming the USA's opinion in lieu of a separate confirmation letter.

(6) In all cases, dissemination is to be indicated on the FD-365 which transmits the LHM to FBIHQ with the LHM identifying those individuals and agencies already notified of the violation.

(7) When additional investigation is required, record results so they may be later incorporated into the prosecutive report. Two copies of these reports should be submitted to FBIHQ. In each instance, reports should set forth full facts including field office file numbers, complete descriptive and background data concerning each subject (best descriptive information available of an unknown subject should also be set forth), data concerning mental stability, the air carrier, flight number, origin and destination, time and place of offense, number of passengers and crew, weapons used, type of aircraft involved and any injuries. In hijacking situations, indicate where flight diverted to, motive, and terrorist affiliation, if any, and demands made by hijacker or hijackers.

(8) In order that the FBIHQ substantive case file may reflect the final outcome of each violation, the following FBIHQ notification policy should be followed by the office of origin.

(a) In those cases wherein the initial LHM submitted to FBIHQ by FD-365 reflects the final outcome, no further notification is necessary.

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(b) In those cases wherein the Accomplishment Report, FD-515, reflects the final outcome, no further notification is necessary.

(9) Technically, a bomb threat (or actual device) aboard an aircraft is a violation of Title 18, USC, Section 35, Destruction of Aircraft or Motor Vehicles (DAMV), as well as Title 49, USC, Section 46507. However, as a matter of policy, all fake reports (or actual instances) of a bomb aboard an aircraft unrelated to an aircraft hijacking incident should be investigated and reported under the DAMV (149) classification. Any incidents of this nature involving an aircraft hijacking incident should be carried under the Crime Aboard Aircraft (164) classification. The foregoing is to create uniformity in the Time Utilization and Recordkeeping (TURK) records, as well as to maintain program segregation.

(c) In all other cases, including those cases in which a USA declination or deferral was rendered subsequent to the initial LHM/FD-365 submission and those unsolved cases closed under SAC authority, a closing electronic communication should be directed to FBIHQ which clearly sets forth the basis for closing.

EFFECTIVE: 12/23/96

164-9

OBTAINING FEDERAL PROCESS

(1) Federal process should be obtained as soon as possible after the subject is identified and it is determined that the subject will be prosecuted federally.

(2) In those instances wherein an aircraft hijacking occurs, the subject is successful in avoiding apprehension and the subject's identity remains unknown, the field division should discuss with the USA's office the obtaining of a "John Doe" indictment of the unknown subject in order to toll the Statute of Limitations, Title 18, USC, Section 3282, prior to its expiration.

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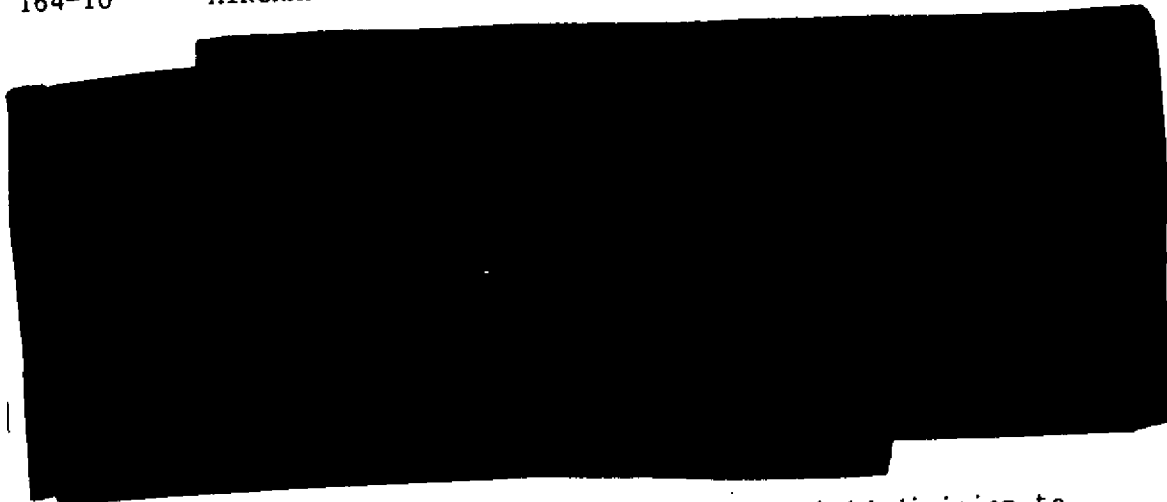
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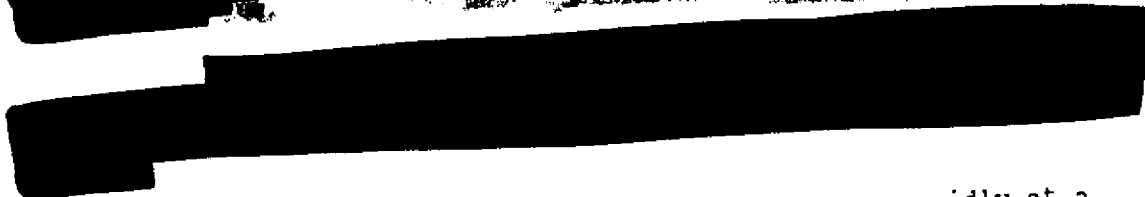
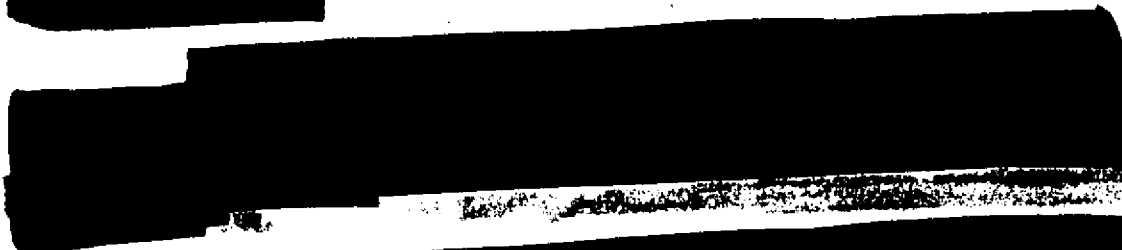
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164-10 AIRCRAFT HIJACKING INCIDENT MANAGEMENT

b2
b7E



(2) It will be incumbent upon each field division to ensure that FBIHQ is advised on a current basis as to on-the-scene developments in each aircraft hijacking incident.



(6) A hijacked aircraft may change course rapidly at a hijacker's request and proceed to a foreign country. Upon receipt of

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such information, FBIHQ should be immediately notified by telephone. FBIHQ will notify the appropriate governmental agencies through established liaison channels.

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[REDACTED]

[REDACTED]

EFFECTIVE: 02/20/90

164-11 CONTINGENCY PLANNING

(1) The FBI's prime concern in all Crime Aboard Aircraft incidents is for the safety of the passengers and crew.

(2) The FBI and FAA have established an effective, coordinated effort on a Headquarters level concerning Crime Aboard Aircraft incident management. Practical incident management requires the continuation of that spirit of cooperation through to the field. Accordingly, each field office should maintain liaison with the appropriate FAA Security Office in order to ensure a mutual effort in the event of an incident where our joint responsibilities must be exercised.

[REDACTED]

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[REDACTED]

(a) Inasmuch as it will be incumbent upon each field office to ensure that FBIHQ is advised on a current basis as to on-the-scene developments in each aircraft hijacking incident, direct and instantaneous communications between Agents in the vicinity of the hijacked aircraft, control tower, field office, and the FBIHQ is absolutely

essential.

b2
b7E
([REDACTED]

(c) It is suggested that sufficient telephone communications within the primary command post would consist, under ideal conditions, of at least five telephone lines available for exclusive FBI utilization. Those lines, as an example, might be utilized for communication with the following:

[REDACTED]

[REDACTED]

[REDACTED]

3. Secondary Command Post, [REDACTED]

4. Field Office

5. Miscellaneous

[REDACTED]

(e) Appropriate facilities should be available for the interviews of the subject(s) and witnesses.

(f) Preplanning for the prompt dispatch of

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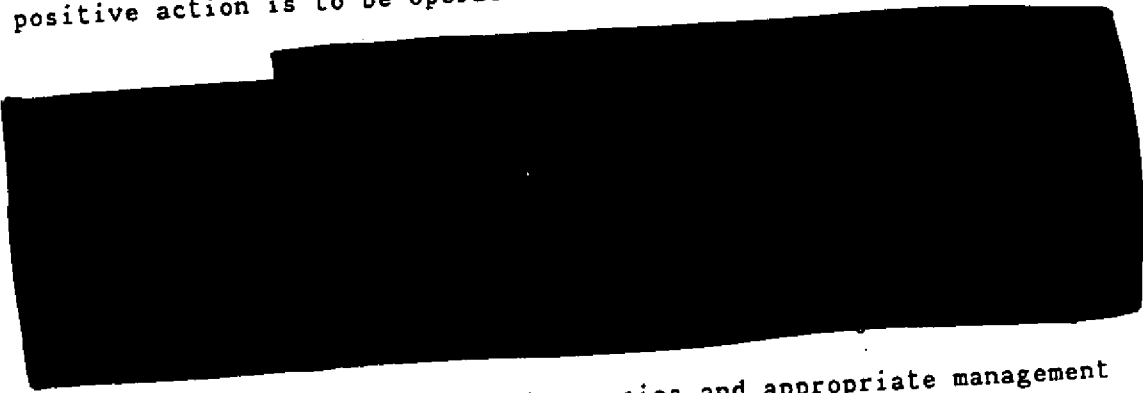
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sufficient personnel and equipment to major air terminals and military airfields within the division is essential.

(g) All equipment necessary for Agents to carry out positive action is to be operative and readily available.

b2
b7E



(4) All enforcement agencies and appropriate management personnel at air terminals should be fully aware of the FBI's responsibilities in aircraft hijackings in order to ensure maximum cooperation in an actual hijacking situation and the continuance of a "common strategy."

(5) Each field division is to remain prepared to conduct thorough crime scene examinations in regard to Crime Aboard Aircraft incidents. Physical evidence collected should be submitted to FBIHQ for examination by the FBI Laboratory and/or Latent Fingerprint Section when it appears that such an examination is desirable. Thorough crime scene examination becomes most critical in those instances wherein a successful aircraft hijacking occurs, the subject(s) avoids apprehension, and the subject's identity remains unknown, e.g., flights diverted to Cuba.

(6) FBIHQ is to be notified by airtel of instances wherein a field division is planning a Command Post Exercise (CPX) or Field Training Exercise (FTX) regarding aircraft hijacking contingency training. The airtel should be directed, Attention: Violent Crimes/Fugitive Unit, Criminal Investigative Division, with an information copy designated for the Critical Incident Response Group's Crisis Management Unit. The caption should indicate the type of exercise, i.e., CPX and/or FTX; the type of training, i.e., aircraft hijacking contingency training; the divisional name; the exercise date and the Crime Aboard Aircraft character, with pertinent details synopsized in the text of the communication.

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XXXXXXFEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

3 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- ☐ Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552Section 552a☐ (b)(1)☐ (b)(7)(A)☐ (d)(5)☒ (b)(2)☐ (b)(7)(B)☐ (j)(2)☐ (b)(3)☐ (b)(7)(C)☐ (k)(1)☐ (b)(7)(D)☐ (k)(2)☒ (b)(7)(E)☐ (k)(3)☐ (b)(7)(F)☐ (k)(4)☐ (b)(4)☐ (b)(8)☐ (k)(5)☐ (b)(5)☐ (b)(9)☐ (k)(6)☐ (b)(6)☐ (k)(7)

- ☐ Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.
- ☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

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11106; pages 164-21 - 164-22, 164-23

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The following is prescribed by ARINC:

b2
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[REDACTED]

(3) [REDACTED]

EFFECTIVE: 02/15/82

164-14 NEWS MEDIA INQUIRIES POLICY

(1) In many cases, violations of this statute generate intense public and media interest. The FBI's news media inquiries policy is in strict compliance with instructions issued by the Department of Justice concerning the release of information in criminal and civil matters. These instructions are contained in Title 28, CFR, Section 50.2.

(2) For complete details regarding this topic, including a restatement of the above CFR instructions, see Manual of Administrative Operations and Procedures, Part II, Section 5-1, entitled "Policy and Guidelines for Relations with News Media," and Section 5-2, entitled "Contacts with News Media."

(3) Utmost discretion should be exercised in releasing to the news media any information concerning a modus operandi utilized by a subject in a violation of this statute.

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164-15 CARRIAGE OF WEAPONS

(1) Title 49, USC, Section 46505, grants the FAA Administrator authority to except other such persons as the Administrator may deem necessary from prohibition of carrying deadly or dangerous weapons in air transportation or intrastate air transportation.

(2) FAR as codified in Title 14, CFR, Section 108.11, addresses the carriage of weapons aboard aircraft and is considerably broader than Title 49, USC, Section 46505, since it covers both concealed and unconcealed weapons. FBI jurisdiction, however, is limited to violations specifically enumerated in Section 46505 of Title 49.

b7
b7E
(3) [REDACTED]

(4) [REDACTED]

EFFECTIVE: 04/07/97

|| 164-16 CHARACTER - CRIME ABOARD AIRCRAFT (CAA) - FOLLOWED BY
DESCRIPTION OF CRIME; E.G., CAA - AIRCRAFT PIRACY |

EFFECTIVE: 02/15/82

|| 164-17 CLASSIFICATION - 164 |

EFFECTIVE: 02/15/82

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| 164-18 SUBCLASSIFICATIONS

For details concerning this topic, see the Manual of Administrative Operations and Procedures, Part II, Section 3-1.1, entitled "FBI Classifications and Subdivided Classifications."

EFFECTIVE: 10/18/95

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SECTION 165. INTERSTATE TRANSMISSION OF WAGERING INFORMATION

165-1 STATUTE

Title 18, USC, Section 1084

"(a) Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

"(b) Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests, or for the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State where betting on that sporting event or contest is legal into a State in which such betting is legal.

"(c) Nothing contained in this section shall create immunity from criminal prosecution under any laws of any State, Commonwealth of Puerto Rico, territory, possession, or the District of Columbia.

"(d) When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used or will be used for the purpose of transmitting or receiving gambling information in interstate or foreign commerce in violation of Federal, State or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State or local

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tribunal or agency, that such facility should not be discontinued or removed, or should be restored."

EFFECTIVE: 01/31/78

165-1.1 Definition of Term "Wire Communication Facility"

Title 18, USC, Section 1081. "The term 'wire communication facility' means any and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission."

EFFECTIVE: 01/31/78

165-2 POLICY

(1) In regard to (d) of section 1084, dissemination of information to the carrier regarding those individuals utilizing their facilities in interstate or foreign commerce will be made by the Department upon receipt of evidence of such utilization.

(2) In those instances in which allegations of violations of this type are received, it is not necessary to show that the operator is engaged in the business of betting, etc., but merely that he is transmitting or receiving wagering information through a wire facility.

(3) Forward such a complaint with corroborative evidence to FBIHQ for dissemination to the Department in the form of letterhead memorandum containing:

(a) The name and address of the telephone company furnishing service.

(b) The name, address, and telephone number, if available, of the subscriber known to be in violation of this section.

(c) A short statement of facts with names of witnesses and a brief summary of their potential testimony.

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(d) A statement as to whether it is known if subscriber moves from place to place or if it is the general practice to operate from a specific location.

(4) Local violations should be disseminated with any evidence available to the appropriate local or state authority in writing after Bureau's interest secured. When disseminating without accompanying evidence, state in letter of dissemination that the information being furnished not substantiated through investigation by this Bureau.

(5) When information is received from local or state authorities that notification has been given by them to a carrier, such information should be forwarded to FBIHQ in the form of a letterhead memorandum.

(6) In connection with investigations of wire services, bear in mind the possibility of prosecution as principals under Title 18, USC, Section 2, the aiding and abetting section.

EFFECTIVE: 01/31/78

165-3 INVESTIGATIVE PROCEDURE

(1) When information developed that an individual engaged in the business of betting or wagering is using a wire communication facility in violation of this law:

(a) Develop information relative to wire communication facility utilized; that is, whether telephone, telegraph, etc.

(b) Identify individuals contacting or contacted by subject.

(c) Determine what service they furnish to or receive from subject.

(d) Interview these individuals and subject when investigation has progressed to point where interview logical.

(e) Obtain all documentary evidence of violation available, such as toll tickets, copies of communications, etc.

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- (f) Utilize informants.
- (g) Consider surveillances when applicable.
- (2) Upon developing information as to the existence of a wire service:
 - (a) Identify the phone utilized by the wire service.
 - (b) Check toll tickets and identify subscribers to the numbers called and calling.
 - (c) Interview a representative number of subscribers receiving the wire service, even though in some instances a subscriber may be a social better inasmuch as the purpose of the interview is to establish the use of the service by the subscriber.
 - (d) Interview owners and employees of wire service, examine bank accounts, and utilize informants.

EFFECTIVE: 01/31/78

165-4 VENUE

In any district from, through, or into which such information transmitted. (Title 18, USC, Section 3237)

EFFECTIVE: 01/31/78

165-5 CHARACTER - INTERSTATE TRANSMISSION OF WAGERING INFORMATION

EFFECTIVE: 01/31/78

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SECTION 166. INTERSTATE TRANSPORTATION IN AID OF RACKETEERING

166-1 STATUTE

Title 18, USC, Sections 1952, 1958, and 1959.

EFFECTIVE: 08/30/93

166-1.1 Section 1952 - Interstate and Foreign Travel or
Transportation in Aid of Racketeering Enterprises (See
MIOG, Part I, 50-4.2.)

"(a) Whoever travels in interstate or foreign
commerce or uses any facility in interstate or foreign commerce,
including the mail, with intent to--

"(1) distribute the proceeds of any unlawful
activity; or

"(2) commit any crime of violence to further
any unlawful activity, or

"(3) otherwise promote, manage, establish,
carry on, or facilitate the promotion, management, establishment, or
carrying on, of any unlawful activity, and thereafter performs or
attempts to perform any of the acts specified in subparagraph (1),
(2), and (3), shall be fined not more than \$10,000 or imprisoned for
not more than five years, or both.

"(b) As used in this section (i), 'unlawful
activity' means, (1) any business enterprise involving gambling,
liquor on which the Federal excise tax has not been paid, narcotics,
or controlled substances (as defined in section 102(6) of the
Controlled Substances Act, or prostitution offenses in violation of
the laws of the State in which they are committed or of the United
States; or, (2) extortion, bribery, or arson in violation of the laws
of the United States, or (3) any act which is indictable under
subchapter II of chapter 53 of title 31, United States Code, or under
section 1956 or 1957 of this title, and (ii) the term 'State' includes

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a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(c) Investigations of violations under this section involving liquor shall be conducted under the supervision of the Secretary of the Treasury."

EFFECTIVE: 08/30/93

166-1.2 Section 1958 - Use of Interstate Commerce Facilities in the Commission of Murder-for-Hire

"(a) Whoever travels in or causes another (including the intended victim) to travel in interstate or foreign commerce, or uses or causes another (including the intended victim) to use the mail or any facility in interstate or foreign commerce, with intent that a murder be committed in violation of laws of any State or the United States as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value, shall be fined not more than \$10,000 or imprisoned for not more than ten years, or both; and if personal injury results, shall be fined not more than \$20,000 and imprisoned for not more than twenty years, or both; and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than \$50,000, or both.

"(b) As used in this section and section 1959 -

"(1) 'anything of pecuniary value' means anything of value in the form of money, a negotiable instrument, a commercial interest, or anything else the primary significance of which is economic advantage;

"(2) 'facility of interstate commerce' includes means of transportation and communication; and

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

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EFFECTIVE: 08/30/93

166-1.3 Section 1959 - Violent Crimes in Aid of Racketeering Activity

"(a) Whoever, as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value from an enterprise engaged in racketeering activity, or for the purpose of gaining entrance to or maintaining or increasing position in an enterprise engaged in racketeering activity, murders, kidnaps, maims, assaults with dangerous weapon, commits assault resulting in serious bodily injury upon, or threatens to commit a crime of violence against any individual in violation of the laws of any State or the United States, or attempts or conspires so to do, shall be punished-

"(1) for murders or kidnaping, by imprisonment for any term of years or for life or a fine of not more than \$50,000, or both;

"(2) for maiming, by imprisonment for not more than thirty years or a fine of not more than \$30,000, or both;

"(3) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than twenty years or a fine of not more than \$20,000, or both;

"(4) for threatening to commit a crime of violence, by imprisonment for not more than five years or a fine of not more than \$5,000, or both;

"(5) for attempting or conspiring to commit murder or kidnaping, by imprisonment for not more than ten years or a fine of not more than \$10,000, or both; and

"(6) for attempting or conspiring to commit a crime involving maiming, assault with a dangerous weapon, or assault resulting in serious bodily injury, by imprisonment for not more than three years or a fine of not more than \$3,000, or both.

"(b) As used in this section-

"(1) 'racketeering activity' has the meaning set

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forth in section 1961 of this title; and

"(2) 'enterprise' includes any partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, which is engaged in, or the activities of which affect, interstate or foreign commerce."

EFFECTIVE: 08/30/93

166-2 POLICY

(1) At the time these cases are presented to the USA for prosecutive opinion, he/she should be advised whether forcible entry is foreseen in the service of arrest or search warrants.

(2) Furnish copies of all reports to the appropriate USA.

(3) Extortion violations which involve threats to injure reputation or to accuse another of a crime through the use of the mails are to be handled by the postal inspectors.

(4) The Department has advised that Title 18, USC, Section 1084(d) (ITWI), is sufficiently broad in scope to cover violations of Title 18, USC, Section 1952, where "facility" is being used for gambling purposes. Appropriate consideration should be given to termination of telephone or telegraph facilities which are utilized for gambling purposes, as provided in Title 18, USC, Section 1084(d).

(See Section 165-2, of this manual concerning submission of notice to the Department.)

(5) The amendment adding arson as a violation to the statute, by its terms, applies to any arson, where facilities of interstate commerce are used; however, the FBI will concentrate its efforts on violations involving organized crime figures, arson-for-profit, arson-for-hire, and/or cases where the complexity of the investigation warrants Federal interest. Investigations should be conducted with organized crime and arson-for-profit as the focus. That is, where property owned by organized crime figures is deliberately set afire, or where property is set afire by a known professional torch, with intent to defraud an insurance company, or where property is destroyed by fire as a strong-arm tactic by

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organized crime, and facilities of interstate commerce are used to effectuate the arson, investigation should be conducted.

(6) ITAR - Arson (non-LCN) - ITAR - Arson investigations in which no known organized crime members or associates are involved should be investigated, when appropriate, within the Interstate Theft Subprogram. All ITAR - Arson investigations involving LCN members or LCN associates are to be referred to the Organized Crime/Drug Operations Section #2, Criminal Investigative Division, at FBIHQ.

(7) The FBI's statutory authority for conducting arson investigations is under the Racketeer Influenced and Corrupt Organizations (RICO) Statute, Interstate Transportation in Aid of Racketeering (ITAR) Statute and Crime on a Government Reservation (CGR) Statute. The RICO and ITAR Statutes are most frequently used. Under the RICO Statute there are several arson-related unlawful acts known as "predicate offenses" (Federal violations covered are Mail Fraud, Fraud by Wire, Obstruction of Justice and Bank Fraud), (violations of state law covered are arson, extortion, murder and bribery), which form a pattern of racketeering.

(8) Inner-city arson is a scheme designed to defraud insurance companies and is frequently investigated under the ITAR Statute. Inner-city arson has a direct impact on the daily lives of citizens, whereby people are killed or injured, property destroyed, insurance premiums raised and the very quality of community life drastically lowered. To assist the investigator in the recognition of inner-city arson, the following are sources of arson information:

- (a) Police/fire department records (obtain a list of arson suspicion fires)
- (b) Local newspapers (look for articles on arson)
- (c) State fire marshals
- (d) Insurance Crime Prevention Institute (ICPI)
- (e) Insurance adjustors
- (f) Informants

(9) The following are clues which indicate positive circumstantial evidence that a fire was set for an insurance fraud:

- (a) Presence of incendiary material

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(b) Multiple origins of fire (arson must be a total loss to be profitable)

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(c) Location of the fire in a building (look for fire started near the roof as many insurance adjustors will declare a fire a total loss once the roof is destroyed)

(d) Suspicious hours (no witnesses)

(e) Holiday fires

(f) Vacant building

(g) Renovation of building

(h) Recent departure of occupants

(i) Removal of objects (woodwork, plumbing, etc.)

(j) Property for sale

(k) Previous fire

(l) Building overinsured

(m) Habitual claimants

(n) Fires occurring shortly before the insurance policy expires

(o) Fires where insurance has recently been obtained

(p) Recent sale of building

(10) Investigative techniques that are most frequently used and have proven to be effective in arson investigations are as follows:

(a) Informants

(b) Surveillance

(c) Reviewing records

(d) Consensual monitoring

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(e) Court-ordered Title III electronic surveillance

(f) Grand Jury and/or grants of immunity

(11) Field offices should not open cases on the mere fact that a fire is of a suspicious origin, rather they should concentrate their efforts on violations involving organized crime figures, arson-for-profit, arson-for-hire, and/or where the complexity of the cases warrants Federal interest. All investigations being conducted under this statute should be closely coordinated with FBIHQ and the appropriate USA.

(12) |Deleted|

(13) |Deleted|

(14) |Deleted|

(15) Violent crime is defined as any crime which has as an element any use, attempted use, or threatened use of physical force against the person or property of another. Violent crime is also defined as any other offense that is a felony and involves a "substantial risk" against the person or property of another.

EFFECTIVE: 08/30/93

166-3 REPORTING PROCEDURES (See MAOP, Part II, 10-9(17).)

(1) ITAR violations in support of or related to organized criminal enterprises are handled by the Organized Crime/Drug Sections and will be reported accordingly.

(2) ITAR - Murder and other ITAR offenses in support of other violent crimes, committed by subjects who are not connected to an organized criminal enterprise, are handled by the Violent Crimes and Major Offenders Section (VCMOS), FBIHQ. All offices should advise FBIHQ, CID, Violent Crimes/Fugitive Unit (VCFU), by teletype whenever an ITAR - Violent Crimes case is initiated. The initial communication should set forth the following:

(a) A characterization of the target investigation;

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(b) A brief summary of the violent crime activity in which the target of the investigation is involved;

(c) Basis for federal jurisdiction; and

(d) Proposed investigative approach.

(3) Deleted

(4) Each FBI office will advise FBIHQ, CID, VCFU, of all pending ITAR - Violent Crimes investigations that involve the purchase of drugs by submitting a quarterly airtel by the fifth of each January, April, July, and October. The airtel should include the case caption, office file number, and a brief summary of all drug transactions that took place during the previous quarter in that investigation.

(5) In the event an ITAR - Violent Crimes investigation, which involves the purchase of drugs, contemplates the use of any of the following sophisticated techniques, prior approval must be obtained and the respective field office must refer to and comply with the Part I, Section 281 of the Manual of Investigative Operations and Guidelines (MIOG).

b2
b7E

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(6) Each field office should advise FBIHQ, VCMOS, VCFU, by teletype whenever an ITAR-Violent Crimes investigation is prosecuted and/or closed.

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EFFECTIVE: 07/20/95

166-4 | THREAT TO LIFE - DISSEMINATION OF INFORMATION (See
MAOP, Part II, 9-7; MIOG, Part I, 89-6, 175-22.1,
and 179-7.)

The following guidelines cover the FBI's responsibility to warn persons of threats to their life or threats that may result in serious bodily injury and policy regarding notification to other law enforcement agencies of such threats. (Extracted from Resolution 20 dated 12/16/96. See footnotes at the end of this citation.) In all instances, manner depending upon exigencies of situation, FBIHQ should be advised of details of such threats together with a notification of action taken or a recommendation as to action to be initiated UACB.

"III. Guidelines

"A. Warning to the Person.

"(1) Expeditious Warnings to Identifiable Persons.
Except as provided below in paragraph IIIA(3), when a Federal Law Enforcement Agency has information that a person who is identified or can be identified through reasonable means is subject to credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to warn that person of the nature and extent of the threat.

"(2) Manner, Means, and Documentation of Warning.

"a. The Agency may determine the means and manner of the warning, using the method most likely to provide direct notice to the intended victim. In some cases, this may require the assistance of a third party. The Agency must document in writing in its files the content of the warning, and when and where, and by whom it was delivered to the intended victim.

"b. An Agency may seek the assistance of another law enforcement agency to provide the warning. If this is done, the Agency must document in writing in its files the notification of the threat, and when, where, and the name of the other agency's representative to whom it was delivered, along with the other agency's agreement to provide a timely warning.

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"(3) Exceptions.

"a. A Federal Law Enforcement Agency need not attempt to warn an intended victim of a threat to his/her life or of serious bodily injury in the following circumstances:

"(i) when providing the warning to the intended victim is likely to cause equal or greater physical harm to one or more persons; 1

"(ii) when the intended victim knows the nature and extent of the specific threat against him/her; or

"(iii) when the intended victim is: (a) a public official who, because of his/her official position, is provided a protective detail; (b) a participant in the Witness Security Program that is administered by the United States Marshals Service; or (c) detained or incarcerated. See paragraph IIIB(1).

"b. Whenever time and circumstances permit, an Agency's decision not to provide a warning in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager. 2 In all cases, the reasons for an Agency's decision not to provide a warning must be documented in writing in the Agency's files.

"NOTE: This paragraph does not apply to the agencies directly responsible for providing the security for the individuals referred to in paragraph IIIA(3)a(iii), above, when the threat is to the referenced individual. In such cases, documentation, if any, should be created in accordance with the agency procedures.

"B. Notification to Law Enforcement Agencies With Protective or Custodial Jurisdiction.

"(1) Expeditious Notification. When a Federal Law Enforcement Agency has information that a person described above in paragraph IIIA(3)a(iii) is subject to any threat to his/her life or of serious bodily injury, the Agency must expeditiously notify other law enforcement agencies that have protective or custodial jurisdiction.

"(2) Means, Manner, and Documentation of Notification. The notifying Agency may determine the means and manner of the notification. When providing notification, the notifying Agency shall

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provide as much information as possible regarding the threat and the credibility of the threat. The notifying Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

"C. Notification to Law Enforcement Agencies That Have Investigative Jurisdiction.

"(1) Expeditious Notification. Except as provided below in paragraph IIIC(4), when a Federal Law Enforcement Agency has information that a person (other than a person described above in paragraph IIIA(3)a(iii)) who is identified or can be identified through reasonable means is subject to a credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to notify other law enforcement agencies that have investigative jurisdiction concerning the threat.

"(2) Threats to Occupied Structures or Conveyances. When a Federal Law Enforcement Agency has information that a structure or conveyance which can be identified through reasonable means is subject to a credible threat which could cause loss of life or serious bodily injury to its occupants, the Agency should provide expeditious notification to other law enforcement agencies that have jurisdiction concerning the threat.

"(3) Means, Manner, and Documentation of Notification. The Agency may determine the means and manner of the notification. The Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

"(4) Exceptions.

"a. A Federal Law Enforcement Agency need not attempt to notify another law enforcement agency that has investigative jurisdiction concerning a threat:

"(i) when providing the notification to the other law enforcement agency is likely to cause equal or greater physical harm to one or more persons; or

"(ii) when the other law enforcement agency knows the nature and extent of the specific threat to the intended victim.

"b. Whenever time and circumstances permit, an Agency's decision not to provide notification to another law

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enforcement agency in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager. In all cases, the reasons for an agency's decision not to provide notification should be documented in writing in the Agency's files.

"IV. Rights of Third Parties.

"Nothing in these guidelines is intended to create, or does create, an enforceable legal right or private right of action.

Footnotes:

"1 If the equal or greater harm would occur to a Government informant or Agent as a result of his/her participation in an investigation, consideration should be given to extricating that individual from the investigation or taking other appropriate measures in order to minimize the risk.

"2 As used in these guidelines, 'Senior Field Manager' refers to a Federal Law Enforcement Agency operational field manager of the GS-15 rank or higher, or the person serving in that capacity in his or her absence."

EFFECTIVE: 03/14/97

||166-5| POSSIBLE APPLICATION OF INVOLUNTARY SERVITUDE AND SLAVERY
STATUTES IN INTERSTATE TRANSPORTATION IN AID OF
RACKETEERING (ITAR)-PROSTITUTION CASES

When conducting ITAR-Prostitution investigations, Agents should be alert to facts which indicate that prostitutes were held or sold into conditions of involuntary servitude or slavery through use of force, threat of force, or coercion. Such situations may constitute violations of the Involuntary Servitude and Slavery and related statutes. Full details of these laws, as well as FBI policy and procedure, are set forth in Part I, Section 50 of this manual.

EFFECTIVE: 03/14/97

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||166-6| VENUE

In any district from, through, or into which travel or transportation in violation of statute has occurred (Title 18, USC, Section 3237).

EFFECTIVE: 03/14/97

||166-7| CHARACTER - INTERSTATE TRANSPORTATION IN AID OF
RACKETEERING - EXTORTION, BRIBERY, GAMBLING, PROSTITUTION,
ARSON, MURDER, AND VIOLENT CRIMES

EFFECTIVE: 03/14/97

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SECTION 167. DESTRUCTION OF INTERSTATE PROPERTY

||167-1| STATUTE

Title 15, USC, Sections 1281 and 1282

This statute prohibits the willful destruction or injury to property moving in interstate or foreign commerce while such property is in the control of common or contract carriers. This law is limited to rail, motor vehicle, and aircraft carriers.

EFFECTIVE: 01/21/86

||167-1.1| Section 1281

Prohibition against destruction of property in possession of carriers; penalty; prima facie evidence of commerce

"(a) It shall be unlawful for any person willfully to destroy or injure any property moving in interstate or foreign commerce in the possession of a common or contract carrier by railroad, motor vehicle or aircraft, or willfully to attempt to destroy or injure any such property.

"(b) Whoever violates subsection (a) of this section shall be fined not more than \$5,000 or imprisoned not more than ten years, or both.

"(c) To establish the interstate or foreign commerce character of any property involved in any prosecution under this section, the waybill or similar shipping document of such property shall be prima facie evidence of the place from which and to which such property was moving."

EFFECTIVE: 01/21/86

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||167-1.2| Section 1282. State Prosecutions

"A judgment of conviction or acquittal on the merits under the laws of any State or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico, shall be a bar to any prosecution under this chapter for the same act or acts."

EFFECTIVE: 01/21/86

||167-1.3| Elements

- (1) Property is moving in interstate or foreign commerce in the possession of a common or contract carrier.
- (2) The property is being shipped by rail, motor vehicle, or aircraft.
- (3) The property is willfully destroyed or injured.
- (4) An attempt is made to willfully destroy or injure such property.

EFFECTIVE: 01/21/86

||167-2| POLICY

- (1) Upon receipt of a complaint indicating a possible violation of this statute, FBIHQ must be advised by the most expeditious means depending upon the exigencies of the case involved setting out briefly the facts and the action being taken.
- (2) If any questionable complaints are received, the facts should be immediately discussed with the appropriate USA for a determination as to whether a violation exists and whether he/she will authorize prosecution in the event the subjects are identified.
- (3) This statute does not limit in scope the type of property covered, mode of carriage (excepting water transport) nor does it distinguish between a common or contract carrier.
- (4) Unintentional acts are excluded. The element of willful intent is specifically required to constitute a violation.

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(5) Those cases wherein the willfulness of the act is not obvious or where circumstances do not strongly indicate concerted efforts should be brought to the attention of the USA before initiating any investigation so that he/she may discuss the matter with state or local law enforcement officials and render a prosecutive opinion.

(6) Once it has been determined either from the facts of a case or upon receipt of the opinion of the USA that there has been a violation of the statute, an immediate, continuous, and exhaustive investigation must be conducted.

EFFECTIVE: 01/21/86

||167-3| INVESTIGATIVE PROCEDURE

(1) Waybill must be obtained to determine the interstate or foreign character of the property involved, together with the identity of the individual competent to introduce it into evidence.

(2) An examination must be made of the damaged goods. Foreign substances, bullets, tool marks, and any other items of evidence located must be submitted to the Laboratory for examination.

(3) Photographs should be taken when the damage is extensive or when deemed warranted.

(4) The location of the violation should be determined in the early stages of the investigation.

(5) A thorough and meticulous crime scene search should be conducted once the place of violation has been established.

(6) Thorough interviews must be conducted of all persons connected with the shipment of the damaged property. Signed statements should be taken from any witnesses furnishing information of value.

EFFECTIVE: 01/21/86

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||167-4| DESTRUCTION OF INTERSTATE PROPERTY IN CONNECTION WITH
UNION ACTIVITY

(1) If information is developed indicating the damage was caused as a result of a strike or union activity, advise FBIHQ immediately.

(2) FBIHQ authority is not needed to interview union members in connection with these investigations; however, FBIHQ should be advised prior to conducting an interview of union officials.

(3) In connection with these interviews, each union member or union official should be specifically and unequivocally advised that this Bureau is not interested in the demands or merits of the strike; that this Bureau is charged with protecting goods moving in interstate and foreign commerce and the investigation is to determine whether there has been a violation of Federal law and, if there has been, to determine the identity of those persons responsible.

(4) All major developments must be furnished to FBIHQ by appropriate communication, and all leads to other offices must be set forth by teletype.

(5) In connection with these investigations the Department has stated:

(a) "Where explosives are used or where an attempt is made to injure the driver of a vehicle moving on the roadways the actor has violated the statute; in the first case because he obviously intends to destroy the entire vehicle and any cargo it may be carrying; in the second instance one who commits such an act so directly dangerous to the life and safety of the driver of a moving vehicle must be presumed to intend all of the natural consequences of his reckless act which would inevitably include the wrecking of the vehicle and the destruction of whatever cargo it may be carrying. Acts short of shooting whose clear intent would also be to force the truck into a wrecked situation would likewise be fit occasions for prosecutions for the same ultimate objective of destruction of truck and cargo is a presumptive conclusion."

(b) "While the cases might be more difficult of proof and less obvious, it cannot be said that damage (not of an explosive nature) to a vehicle at rest is invariably outside the statute. Where damage is done to a vehicle at rest which might reasonably cause harm to that vehicle at a later time and while in

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motion would fall within the same category as previously mentioned e.g., the weakening of an air brake system or of the running gear the intended effect of which is to occur at a later time. These cases would depend upon the specific kind of damage occurring and the probable intended results."

(c) "Attempts at damage to cargoes difficult or incapable of damage are to be considered as covered unless the attempt could not conceivably have been successful."

EFFECTIVE: 01/21/86

||167-5| VENUE

In the district in which the damage or destruction occurred. If the location of the act is unknown, prosecutive jurisdiction will lie either in the district of origin or the district of terminus of the shipment.

EFFECTIVE: 01/21/86

||167-6| DOUBLE JEOPARDY

A judgment of conviction or acquittal on the merits under the laws of any state or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico shall be a bar to any prosecution under this act for the same act or acts.

EFFECTIVE: 01/21/86

||167-7| CHARACTER - DESTRUCTION OF INTERSTATE PROPERTY

EFFECTIVE: 01/21/86

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SECTION 168. INTERSTATE TRANSPORTATION OF WAGERING PARAPHERNALIA

168-1 STATUTE

Title 18, USC, Section 1953

"(a) Whoever, except a common carrier in the usual course of its business, knowingly carries or sends in interstate or foreign commerce any record, paraphernalia, ticket, certificate, bills, slip, token, paper, writing, or other device used, or to be used, or adapted, devised or designed for use in (a) bookmaking; or (b) wagering pools with respect to a sporting event; or (c) in a numbers, policy, bolita, or similar game shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

"(b) This section shall not apply to (1) parimutuel betting equipment, parimutuel tickets where legally acquired, or parimutuel materials used or designed for use at racetracks or other sporting events in connection with which betting is legal under applicable State law, or (2) the transportation of betting materials to be used in the placing of bets or wagers on a sporting event into a State in which such betting is legal under the statutes of that State, or (3) the carriage or transportation in interstate or foreign commerce of any newspaper or similar publication, or (4) equipment, tickets, or materials used or designed for use within a State in a lottery conducted by that State acting under authority of State law.

"(c) Nothing contained in this section shall create immunity from criminal prosecution under any laws of any State, Commonwealth of Puerto Rico, territory, possession, or the District of Columbia."

Note: In regard to the use of the mail as a vehicle of transportation, violations are investigated by the U.S. Postal Service under Title 18, Section 1302.

EFFECTIVE: 01/31/78

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168-2 DEPARTMENTAL POLICY

(1) With respect to bookmaking, Section 1953 would prohibit transportation of items, such as flash paper intended for recording of bets, pads of paper, adding machines, and similar material, where it can be shown that the material used was intended or adapted for such use.

(2) Regarding wagering pools with respect to sporting events, the section would prohibit transportation of sweepstakes tickets, football, basketball, and baseball pool cards, and similar material, as well as any other objects which may be used in carrying on such activities.

(3) Material used in numbers, policy, bolita, and similar games that is prohibited from transportation would include slips on which numbers are recorded, tally slips, adding machine paper, printing plates, presses, and the like. The Department does not construe the language of the law to extend to lotteries of all kinds, but rather it should be confined to the types enumerated and variations thereof. Games, such as bingo or punchboards, are not included in the statute. The Department interprets the work "knowingly" to require a conscious act on the part of the person carrying or sending the material, which act would require a knowledge of the nature of the material and a knowledge and intent that the material be transported. It does not require a knowledge of the specific prohibition of the statute or even of the existence of the statute.

EFFECTIVE: 10/18/88

168-3 INVESTIGATIVE PROCEDURE

(1) The records of the carrier should be examined to determine the name of the shipper, consignee, route, and date of shipment.

(2) Any material used by the carrier or other documentary evidence that would establish the interstate character of the shipment should be obtained.

(3) When transportation is accomplished by means other than the use of a common carrier, consider the advisability of surveillances to establish the interstate transportation of the items.

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(4) The development and utilization of confidential informants, other investigative techniques, and the use of the FBI Laboratory should be considered.

(5) Violations of the Interstate Transmission of Wagering Information and Interstate Transportation in Aid of Racketeering statutes may accompany violations of Interstate Transportation of Wagering Paraphernalia.

EFFECTIVE: 10/18/88

168-4 VENUE

In any district from, through, or into which such paraphernalia transported. (Title 18, USC, Section 3237)

EFFECTIVE: 10/18/88

168-5 REPORTING PROCEDURES

(1) In 168A cases involving LCN members and/or associates or 168B cases involving other organized crime groups (i.e., Asian organized crime, Sicilian Mafia, etc.), submit an airtel to FBIHQ within 60 days of opening the case. This communication should include facts predicated the case and sufficient identification data on the subject(s) for indexing purposes.

(2) A progress letter should be submitted every 180 days restating the predication and a summary of the investigation.

(3) The results and/or summary of investigation should be reported by airtel.

(4) In 168C cases, no reporting to FBIHQ is required.

EFFECTIVE: 10/18/88

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CHARACTER - INTERSTATE TRANSPORTATION OF WAGERING
PARAPHERNALIA

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SECTION 172. SPORTS BRIBERY

172-1 STATUTE

Title 18, USC, Section 224, effective 6-6-64

Section 224. Bribery in Sporting Contests

"(a) Whoever carries into effect, attempts to carry into effect, or conspires with any other person to carry into effect any scheme in commerce to influence, in any way, by bribery any sporting contest, with knowledge that the purpose of such scheme is to influence by bribery that contest, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

"(b) This section shall not be construed as indicating an intent on the part of Congress to occupy the field in which this section operates to the exclusion of a law of any State, territory, Commonwealth, or possession of the United States, which would be valid in the absence of the section shall be declared invalid, and no local authorities shall be deprived of any jurisdiction over any offense over which they would have jurisdiction in the absence of this section.

"(c) As used in this section -

"(1) The term 'scheme in commerce' means any scheme effectuated in whole or in part through the use in interstate or foreign commerce of any facility for transportation or communication;

"(2) The term 'sporting contest' means any contest in any sport, between individual contestants or teams of contestants (without regard to the amateur or professional status of the contestants therein), the occurrence of which is publicly announced before its occurrence;

"(3) The term 'person' means any individual and any partnership, corporation, association, or other entity."

EFFECTIVE: 01/31/78

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172-1.1 Elements

- (1) A "scheme in commerce"
- (2) Designed to influence a sporting contest by bribery
- (3) An attempt to carry into effect the scheme or actual carrying into effect of the scheme (or alternately, a conspiracy to do this, noting that this section contains its own conspiracy provision)
- (4) With knowledge of the purpose of the scheme

EFFECTIVE: 01/31/78

172-1.2 Exceptions

Nothing in this section shall pre-empt the laws of any state, territory, commonwealth, or possession of the U.S. or deprive local authorities of jurisdiction over existing statutes in this field.

EFFECTIVE: 01/31/78

172-1.3 Analysis of Statute

(1) This section makes it a Federal offense to attempt to or to influence, in any way, a sporting contest by bribery. From the legislative history it is clear that Congress intended this statute to cover not only outright "throwing" of contest but also more subtle practices, such as "point-shaving." The section covers both the briber and the recipient, be he participant, coach, trainer, referee, or anyone else who could in fact "influence" the outcome of the contest.

(2) It is also evident from the legislative history of the section that Congress intended to extend Federal jurisdiction only to those schemes which involve interstate use of interstate facilities in carrying the scheme into effect.

(3) "Bribery" is not defined by the statute, and at common law referred only to the misconduct of public officials. The Department has advised, however, that it is apparent the congressional

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intent was to use the word in its generally accepted context, such that it includes the offering of any reward to any one who could influence the contest by acting (or not acting) in a manner other than he would have but for the bribe.

(4) When investigation under this section encompasses a possible violation of the Federal Communications Act, the provisions of Title 47, USC, Section 409 (1) (referred to as the FCC immunity statute), are applicable to the grand jury investigation. Consideration of such action should be suggested to the USA where grand jury presentment is warranted.

EFFECTIVE: 01/31/78

172-2 POLICY

(1) FBIHQ must be immediately informed by expeditious means, depending upon the urgency of circumstances, of all allegations of violations of this statute. Seeking prosecutive opinion of appropriate USAs in the field is authorized. However, FBIHQ, because of expected widespread public interest in cases investigated and prosecuted under this statute, must be kept fully and currently advised of all developments.

(2) Every effort must be made to avoid charges of illegal arrest without a warrant at the scene of a bribery payoff. Where facts of a substantive offense, such as offer or solicitation, are learned prior to actual payoff, consult the USA as to the desirability of obtaining a warrant of arrest, based on such offense already committed, to be served at time of payoff. Opinions of the USA in this regard must be clearly indicated in reports.

(3) The USA must be consulted prior to taking any action with regard to renewal of offer, solicitation, or payoff which might involve entrapment. Any indication of entrapment must be brought immediately to the attention of the USA and FBIHQ.

EFFECTIVE: 01/31/78

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172-3 INVESTIGATIVE PROCEDURE

(1) Information concerning bribery attempts may be received from established sources, such as school officials, coaches, game officials, or the players themselves. When information is received from informants or sources that attempts are being made to rig a contest or large wagers are being made that would indicate a contest has been rigged, appropriate investigation should be conducted.

(2) Identify sports contest involved.

(3) Immediately make discreet efforts through reliable informants and sources to identify the conspirators and their targets, whether they be players or officials.

(4) Identify proposed method of communication or liaison between conspirators and targets.

(5) Attempt to effect coverage when contact is made.

(6) Cover contest and identify subjects as spectators and record their actions by appropriate observations or means.

EFFECTIVE: 10/18/88

172-4 VENUE

In any district from, through, or into which travel, transportation, or communication in violation of statute has occurred (Title 18, USC, Section 3237)

EFFECTIVE: 10/18/88

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172-5 | REPORTING PROCEDURES

(1) Immediately inform FBIHQ of all allegations of violations of this statute.

(2) In 172A cases involving LCN members and/or associates or 172B cases involving other organized crime groups (i.e., Asian organized crime, Sicilian Mafia, etc.), submit an airtel to FBIHQ within 60 days of opening the case. This communication should include facts predicated the case and sufficient identification data on the subject(s) for indexing purposes.

(3) A progress letter should be submitted every 180 days restating the predication and a summary of the investigation.

(4) The results and/or summary of investigation should be reported by airtel.

(5) In 172C cases, no reporting is required, other than the initial advisement to FBIHQ as in (1) above.

EFFECTIVE: 10/18/88

||172-6| CHARACTER - SPORTS BRIBERY

EFFECTIVE: 10/18/88

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SECTION 173. CIVIL RIGHTS ACT OF 1964

173-1 BACKGROUND

The Civil Rights Act of 1964 was enacted into law on 7-2-64 and became effective that date with the exception of the employment provisions which became effective 7-2-65. The principal items which affect the Bureau's work are the titles dealing with public accommodations, public education, public facilities, and employment.

EFFECTIVE: 08/08/78

173-2 STATUTES

Public Law 88-352 - Civil Rights Act of 1964 (Title 42, Section 2000) Title 18, USC, Section 245, Public Law 92-261 - Equal Employment Opportunity Act of 1972, effective 3-24-72.

EFFECTIVE: 08/08/78

173-3 POLICY

(1) Do not advise persons interviewed of their rights except when interference by force or threat of force, interference with witnesses, or other obstruction of justice is present. Be guided by Section 7-3.2, of the Legal Handbook for Special Agents concerning confessions and interrogations.

(2) Interview may be conducted in the presence of attorney if requested by interviewee. Two Agents should be present at all interviews of subjects and witnesses when the presence of an attorney is anticipated. SAC approval should be obtained in such instances. If circumstances indicate that the interview should not be conducted in the presence of the interviewee's attorney, furnish full details to FBIHQ with your recommendations. Any other interviews should be conducted by two Agents where good judgment so dictates.

(3) Do not identify source of complaint to any person

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interviewed or contacted during the course of an investigation. If necessary to effect identification of specific incident involved, it is sufficient to state to the effect that a Civil Rights Act of 1964 investigation is being conducted of allegation that victim (identifying victim by name) has been discriminated against.

(4) Field offices may communicate directly with the Department of Justice (DOJ), Civil Rights Division (CRD) attorney who generates a written or verbal request for investigation, the latter of which will also be documented by DOJ and subsequently transmitted to the field by airtel from FBIHQ. In the event field offices strongly disagree with the requirements of the DOJ investigative requests and/or taskings, and cannot resolve these issues with DOJ, field offices should contact the Civil Rights Unit, FBIHQ.

EFFECTIVE: 08/10/94

173-3.1 Privacy Act - Requirements

(1) When interviewing the subject, agent or representative performing management functions, in order to solicit information about subject or subject's activities, the interviewing Agent must follow the procedure described in Section 190-5, subparagraphs (2) and (3) of this manual. In all civil rights-type (noncriminal) investigations, the interviewee is to be provided with form FD-496. The FD-302 used to report results of these interviews should clearly state that the interviewee was furnished a copy of this statement.

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

EFFECTIVE: 08/08/78

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173-4 PUBLIC ACCOMMODATIONS

Section 201. Provides injunctive relief against discrimination because of race, color, religion, or national origin in places of public accommodations; i.e., establishment offering lodging or food for consumption on the premises, gasoline station, and place of entertainment if its operation affects commerce or if discrimination or segregation by it is supported by state laws.

EFFECTIVE: 12/08/78

173-4.1 Establishments Covered

(1) Inn, hotel, motel, or other establishment which provides lodging to transient guest, other than an establishment within a building which contains not more than five rooms for rent or hire and a portion of such establishment is actually occupied by the proprietor. (Category 1)

(2) Restaurant, cafeteria, lunchroom, lunch counter, soda fountain; or any gasoline station. (Category 2)

(3) Motion-picture house, theater, concert hall, sports arena, stadium, or other places of exhibition or entertainment. (Category 3)

(4) Any establishment which is physically located in any covered establishment; e.g., a barbershop in a motel or hotel. (Category 4)

(5) Private clubs are exempt except to the extent to which they open their facilities to an establishment covered by the act. (See instructions below for "Private Clubs" and "Private Facilities" under Category 4.)

EFFECTIVE: 12/08/78

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173-4.2 Preliminary Investigations

(1) By memorandum dated 10/25/78, the Civil Rights Division (CRD) advised that responsibility for enforcement of Public Accommodations Statutes (Title II, Civil Rights Act of 1964) has been transferred from the Department of Justice to the respective USAs in districts where alleged violations occur. The CRD instructs that all new public accommodation complaints received by the FBI and all LHMs and/or investigative reports be sent directly to the USA in the district where violation occurred. Any request for investigation of alleged Title II violations received from the USA's Office should be conducted without prior approval of the CRD. The CRD will retain review authority over public accommodations matters consistent with its general supervisory responsibility for civil rights matters (USA Manual 8-1.000) and desires copy of LHM or report; submit two copies of reports and three copies of LHM to FBIHQ for dissemination.

(2) The CRD also directed the FBI conduct preliminary investigation of alleged violations upon receipt of a complaint from a citizen. When conducting a preliminary investigation, follow instructions set out below for the particular category of establishment involved. Notify FBIHQ and appropriate USA in writing when instituting investigation in these matters.

(3) A CRD memorandum of 6/22/78, to the Director, FBI set forth guidelines for conducting preliminary investigations relating to public accommodations. The Department notes these instructions will supersede and replace all prior memoranda covering "standard" preliminary investigations under Title II of the Civil Rights Act of 1964. The standard preliminary investigation is normally to be completed in full. Throughout the guidelines below the words "blacks and Hispanics" are used and where appropriate these words should be read to refer to whatever race, color, religion, or national origin is alleged to be the basis of the discrimination.

(4) The Department's instructions for investigation are as follows:

"The ownership of any establishment or facility should always be established although not specifically requested under each category. Where the complaint originates with the FBI, and statements are obtained from the victims of the details of the incident, the victims need not be reinterviewed unless a specific request is made to do so. The following investigation will comprise the standard preliminary investigation applicable to all types of facilities.

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"Section 201(b) of the Act sets forth four categories of establishments which are subject to coverage under Title II. The investigation requested for each category will be listed separately.

"Category (1) Any inn, hotel, motel, or other establishment which provides lodging to transient guests.

"a. If it is initially determined that the establishment has no more than five rooms and a portion of the establishment is actually occupied by the proprietor, it is not covered under the Act. However, prior to terminating the investigation, determine whether Category (4) applies and, if so, follow the instructions listed under that category. Otherwise proceed as follows:

"b. If the complaint alleges a refusal of accommodations because of race, color, religion, or national origin.

- "i) Interview the victim or victims and any witnesses for specific details.
- "ii) Interview the manager or proprietor concerning the present policy of renting rooms to blacks, Hispanics, etc., and ascertain the number and type of accommodations, if any, which were available at the approximate time of the victim's arrival. Note the type of records used to record and retrieve this information and, if permitted, personally check the records for confirmation. (It is a common practice to hold non-guaranteed reservations only until 6:00 p.m. or shortly thereafter. Accordingly, rooms may be available after 6:00 p.m.) Determine if it is a policy to notify prospective guests of this information and whether the victim was so notified.
- "iii) If it is determined that vacancies were available, interview the desk clerk who was on duty at the time and ascertain the reason the victim was not given accommodations.
- "iv) Determine whether the subject establishment

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has ever followed, for any reason, a custom or policy of refusing accommodations to blacks, Hispanics, etc. If so, ascertain the approximate period of such custom or policy and the reasons therefor.

- "v) Interview a representative number of non-management employees, minority and non-minority, preferably away from the establishment as to their knowledge of a practice of refusing accommodations to blacks, Hispanics, etc.
- "vi) Note the presence and location of any discriminatory signs and photograph same.
- "vii) Ascertain the name and address of the owner or owners of establishment. If the owner is a corporation, ascertain the name and registered address of the corporation and the names and addresses of the officers and directors.

"c. If the complainant alleges discriminatory practices by the establishment, such as charging higher rates to blacks, Hispanics or other minorities, setting aside certain rooms or sections for the accommodation of blacks, Hispanics, etc., or discourteous treatment or service by employees,

- "i) Interview the victim and any witnesses for specific details.
- "ii) Interview the employee or employees involved.
- "iii) Interview the proprietor or manager as to his knowledge of the incident of discourteous treatment or service. Also, determine his knowledge of any other discriminatory practices and ascertain who is responsible for the existence of such discriminatory practices.
- "iv) Interview a representative number of employees, particularly room maids and bell hops, preferably away from the

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establishment, as to their knowledge of such discriminatory practices, whether the management is aware of such practices, how long they have been occurring, and whether they occur frequently.

"Category (2) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of a retail establishment. (Upon receipt of complaints regarding gasoline stations, the Department should be solicited, through FBIHQ, for specific guidelines.)

"a. Determination of Discrimination or Segregation

- "i) Interview the victim or victims and any witnesses for specific details.
- "ii) Identify and interview the employee or other person involved in the particular incident as to his or her version of what occurred. Ascertain if the employee is under any instructions as to providing service to blacks, Hispanics, etc., or whether it is a custom or practice of the establishment to refuse service to blacks, Hispanics, etc., or to provide discriminatory service such as maintaining separate areas for blacks, Hispanics, etc., or providing carry out service only.
- "iii) Interview other employees of the establishment as to the custom or practice of providing service to blacks, Hispanics, etc., and what instructions they are under regarding same.
- "iv) Interview the owner, manager or proprietor regarding his or her knowledge of the incident. Ascertain what the present policy of the establishment is with respect to serving blacks, Hispanics, etc. Determine how long the policy has been in effect and the details of any previous policy different from the present.

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- "v) Determine whether the establishment maintains separate serving areas customarily used by minorities. If so, prepare a simple diagram of the establishment showing the location of the separate area with respect to the main area, the location of any separate entrance, separate washroom facilities, and any signs designating the area for use by minorities. Photograph the exterior and interior of both the main and separate area and any signs.
- "vi) Interview a representative number of minority patrons who utilize the separate area and ascertain (a) How long have they patronized the establishment. (b) Have they at any time sought or received service in the main area. (c) Have they ever sought and been refused service in the main area. (d) Have they ever observed or know of other minorities who have either requested or have been denied service in the main area. (e) What is their understanding of the establishment's policy with respect to serving minorities in the main area. (f) What is their reason for utilizing the separate area, i.e., do they feel they would be refused service in the main area, treated discourteously, or charged different prices for the same services and (g) if the utilization of the separate area is a carry over from past segregated laws or customs which existed prior to the passage of the Civil Rights Act of 1964, have they at any time since 1964 been notified by the establishment that they could be served in the main area.
- "vii) Where there are no dual facilities and the only witness is the victim, if the owner or proprietor denies any policy of discrimination, interview a representative number of black residents in the community and other minorities, if appropriate, as to their knowledge of a discriminatory policy

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at the establishment.

"b. Coverage:

- "i) Any establishment under this category located on an Interstate of United States Highway is automatically covered and no further investigation on coverage is required.
- "ii) Any establishment which is adjacent to an airport, bus terminal or train station is automatically covered.
- "iii) Any establishment which is in the immediate vicinity of an airport, bus terminal, or train station is, in most cases, automatically covered. However, it is necessary to show that these establishments serve or offer to serve travelers who use these facilities. Coverage would be established if the establishment acknowledges that they serve or offer to serve travelers using these facilities. The management of such establishment should be questioned concerning their policy. If the response is negative or equivocal, then complete the following investigation on coverage which applies to all establishments in this category not mentioned above.
- "iv) Obtain from the owner or manager, a dollar amount of his expenditures for food and non-alcoholic beverages for each of three months preceding the investigation. From this statement, identify the most costly items purchased, such as meats, poultry, seafoods, dairy products and produce. Obtain the names and addresses of the suppliers of these products and interview them as to the source (in-state or out of state) of these products. In most instances, the immediate supplier will be able to furnish this information. If not it will be necessary to follow through on the immediate suppliers source until it can definitely be

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established whether the goods moved in interstate commerce. Copies of records of purchases from suppliers should be made if it appears that the records will not be maintained for at least six months from the date of the investigation.

- "v) If any facility under this category claims to be a private club, unless otherwise indicated, it will be sufficient to obtain information to show whether membership is open to the general public, except blacks, Hispanics, etc., whether members have any voice in the operation of the facility including passing on new members and whether the facility is actually owned by others than the members. If there is a membership requirement, how are members selected.

"Category (3) Any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment:

"a. Determination of Discrimination or Segregation

- "i) Interview the victim or victims and any witnesses for specific details.
- "ii) Interview the owner, manager, or proprietor regarding his or her knowledge of the incident. Ascertain the facility's present policy with respect to admitting blacks, Hispanics, etc., or permitting blacks, Hispanics, etc., to participate in any functions conducted by or held within the premises of the facility.
- "iii) Identify and interview the employee or other person involved in the incident as to his or her version of what occurred. Ascertain if the employee is under any instructions as to admitting blacks, Hispanics, etc., or permitting blacks, Hispanics, etc., to participate in functions conducted by or held within the premises of the facility, or whether to the knowledge of the employee, it is a policy, practice, or custom to refuse

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equal service to blacks, Hispanics, etc.

- "iv) Interview other employees of the facility as to the practice, policy or custom of admitting blacks, Hispanics, etc., to the facility or permitting blacks, Hispanics, etc., to participate in any functions conducted by or held within the premises of the facility, or to refuse equal service to blacks, Hispanics, etc.

"c. Coverage:

- "i) With respect to theaters which commonly present motion picture films, determine the name of the distributor of the films presented. Interview the distributor and ascertain the out of state source of all films shown within the past six months.
- "ii) With respect to theaters and concert halls which commonly present entertainment other than motion picture films, determine the type of entertainment which is commonly presented. Ascertain the particular event which was being presented at the time of the incident and the name of the person or group who was performing and whether they were from out of state. Also, ascertain a description of all performances which were presented within the past six months, the name of the person or group and whether they were from out of state. As to all performances presented within the past six months, obtain the name and address of the agency which booked the performance.
- "iii) With respect to bars, lounges, or other similar facilities;
 - "1) Ascertain if any live entertainment is presented and, if so, obtain the information requested in ii) above.
 - "2) Identify any mechanical sources of entertainment (e.g., pool tables and

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related equipment, pin ball machines, juke boxes or other devices providing music).

"3) Determine the name and address of the manufacturer and supplier of such sources of entertainment. If readily ascertainable, determine the manufacturer's serial number of any source of entertainment.

"4) If any facility under this category serves food, ascertain the dollar amount of purchases from all sources for the past three months. From this amount, determine the dollar amount which represents food purchases. Obtain the names and addresses of the principle suppliers of food products and interview the suppliers to determine the dollar amount of such purchases which originated from out of state.

"iv) With respect to all other places of exhibition or entertainment, such as athletic fields, parks, playgrounds, swimming pools, beaches or lakes;

"1) Ascertain whether such facilities present events which are engaged in, utilized by, or available to persons from out of state.

"2) Ascertain whether the facility utilizes equipment of any kind, (e.g., golf carts or equipment roller or ice skates, automatic bowling pin setters or bowling pins, boats, ramps, boating equipment, diving boards or other swimming equipment) or any other type of recreational devices or equipment which originated from out of state.

"3) Determine the name and address of the manufacturer and supplier of all such

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entertainment devices or equipment.

"4) Determine what facilities (e.g., benches, seats or other designated areas) exist for patrons either to watch any entertainment presented or to observe any other patrons entertaining themselves by use of such recreational devices or equipment.

"5) If any facility under this category serves food, ascertain the dollar amount of purchases from all sources for the past three months. From this amount, determine the dollar amount which represents food purchases. Obtain the names and addresses of the principle suppliers of food products and interview the suppliers to determine the dollar amount of such purchases which originated from out of state.

"v) In many instances, athletic and sporting events are provided for local groups such as Little League, Babe Ruth and other such groups or teams, youth and adult. In these circumstances, it will be necessary to identify and interview the sponsors of the teams and ascertain their policy with respect to participation by blacks, Hispanics, etc.

"vi) In the event any of the above facilities under this category or groups, teams, etc., utilizing such facilities claim to be private clubs, conduct the additional investigation listed below under "private clubs," unless otherwise requested.

"Category (4) Any establishment which is physically located within the premises of any establishment otherwise covered by this statute or within the premises of which is physically located any such covered establishment and which holds itself out as serving patrons of such covered establishment.

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"a. In most cases, this category will involve covered establishments such as hotels and motels, which have located on or within their premises other establishments which would not otherwise be covered, such as barbershops, beauty parlors, and bars. In such circumstances, the principal establishment is automatically covered. As to the other facilities it is only necessary to show that they serve or offer to serve patrons of the covered establishment. Some facilities such as bars or lounges will maintain that they are private clubs. However, if patrons or guests of the principal establishment are freely offered membership or service in the other establishment, it may be assumed without further investigation, that such facilities are covered.

"b. Private Clubs:

- "i) Obtain, if available, a copy of the club's bylaws or charter;
- "ii) Determine the legal entities involved in the ownership of the property and management of the club (e.g., corporation, partnership, unincorporated association, sole proprietorship) and the names, addresses, and race of persons involved (e.g., partners); determine the present club officers and methods by which they were selected;
- "iii) Determine whether any numerical limit is set upon membership in the club;
- "iv) Determine whether payment of any dues, annual or lifetime, is required in connection with membership in the club, and, if so, in what amount;
- "v) Obtain a copy of any membership list that is maintained;

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- "vi) Ascertain the number of members of the club and whether there are any non-white members; if there are, obtain their names and addresses;
- "vii) Determine all details of the procedures by which a person or family makes application for membership in, and is admitted to, the club;
- "viii) Ascertain what qualifications, if any, a prospective member must meet to be eligible for membership and what items, if any, disqualify him;
- "ix) Determine whether the recommendations of existing members are required from prospective members;
- "x) Determine what control, if any, existing members have over the admission of applicants for membership, (e.g., whether there is a membership committee selected by the members to represent them), if such a membership committee exists, obtain the names and addresses of its members, whether there is a blackball system by which one or more individual members can reject an applicant even though he might have been recommended by another member or members, whether notice of pending applications is given to existing members, whether existing members are notified after an applicant has been admitted;
- "xi) Ascertain whether the members exercise control over the financial operations of the establishment and to what extent (e.g., do they own any of the property, do they determine how the revenues from the establishment's operations are used, are these revenues retained by the establishment's manager);
- "xii) Ascertain whether the club advertises in any

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manner and, if possible, obtain copies of all advertisements. If copies cannot be obtained, please describe the advertisements, including whether such advertising indicates in any way that the subject establishment is a private club not open to the general public;

- "xiii) If the subject establishment is listed in the local telephone directory, determine whether its listing can be distinguished from any other restaurant or other place of public accommodation and whether it is designated as a private club;
- "xiv) Determine the established procedures, if any, for permitting non-members or guests of members to use the subject establishment's facilities (e.g., whether non-members can rent the facilities of the club); and
- "xv) Determine whether the establishment has ever been operated on some basis other than a private club. If so, please obtain all details, including date of, and reasons for, the purported change to a private club.

"b. (1) Private Club Facilities

"This group will involve bona fide private clubs which operate facilities which may be open to the public. Such groups will include organizations which are clearly private, such as fraternal or military organizations (e.g., Elks and Moose Lodges, the VFW and the American Legion). In order to determine whether the facilities they operate are open to the public and therefore within the coverage of Title II, conduct the following investigation:

- "i) Ascertain what precise policy is followed in admitting guests to the facility.
- "ii) May non-members of the club be admitted who are not invited by members.
- "iii) What procedure is followed in determining whether a non-member is authorized to be

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admitted.

- "iv) If any customers are present on the premises, interview a representative number and ascertain if they are members or guests of members. If they are neither, ascertain under what circumstances they were permitted to enter, whether and how often they have patronized the establishment in the past, and whether they were ever asked to show whether they were guests of members. If they claim to be guests of members, determine the procedure they are required to follow in order to be admitted (e.g., required to sign a guest book or required to be accompanied by the member, etc.)."

EFFECTIVE: 12/08/78

173-4.3 Copies of Communications and Deadlines

Submit two copies of a report to FBIHQ within
| 21 | workdays | of receipt of a complaint.

EFFECTIVE: 04/08/80

173-4.4 Repeated Complaints - Same Establishment

Where the same accommodation is involved in numerous refusals of service, one case may be opened and victims and dates added to the title as complaints are received. When logical investigation has been completed, case may be closed, subject to reopening when additional complaints are received.

EFFECTIVE: 04/08/80

173-5 PUBLIC EDUCATION

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EFFECTIVE: 04/08/80

173-5.1 Definition

A place of public education is any education institution operated by a state, any subdivision of a state, any Government agency within a state, or operated wholly or predominantly from or through the use of governmental funds or property derived from a governmental source.

EFFECTIVE: 04/08/80

173-5.2 Basis of Complaint

Take the following action upon receipt of a complaint alleging discrimination because of race, color, sex, religion, or national origin in a place of public education.

(1) Interview complainant and take signed statement to include:

(a) Pertinent personal history and background information.

(b) Full details of the alleged discrimination.

(c) All information the complainant has regarding the operation of the public school or public school system on a discriminatory basis and the identities of any other persons who have sought the use of the school on a nondiscriminatory basis.

(d) Full details of any other efforts made by the complainant or others on complainant's behalf to rectify the alleged discrimination and the ability or inability of the complainant to bring legal action on his/her own behalf or through some interested organization. In this connection the complainant should not be asked whether, in his/her opinion, he/she is able or unable to sue, inasmuch as this would be a legal conclusion. Complainant should, however, be asked for general information regarding his/her employment, whether he/she owns home and automobile; if so, to furnish description of the house and automobile. Also how many dependents the complainant supports and whether he/she is a member of any civil rights

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organization that provides legal counsel in this type of case.

(2) If the complainant refuses to submit a signed statement, take no further action and submit an LHM setting forth facts of complaint and details of the interview.

EFFECTIVE: 04/08/80

173-5.3 Preliminary Investigation

(1) Interview a representative number of other victims named by the complainant.

(2) Interview the superintendent or other appropriate person or persons responsible for operation of the school to determine:

(a) Full details of situation described by complainant.

(b) What policy and practice have been followed with respect to operating in a nondiscriminatory manner.

(c) Whether any change in such policy or practice is contemplated.

EFFECTIVE: 04/08/80

173-5.4 Reporting Deadline

Submit report within 21 workdays of receipt of the complaint.

EFFECTIVE: 04/08/80

173-6 PUBLIC FACILITIES

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EFFECTIVE: 04/08/80

173-6.1 Definition

A public facility is one other than a place of education which is owned, operated or managed by or on behalf of any state or subdivision thereof.

EFFECTIVE: 04/08/80

173-6.2 Basis of Complaint

Take the following action upon receipt of a complaint alleging discrimination because of race, color, religion, or national origin in a place of public facility.

(1) Interview complainant and take signed statement to include:

(a) Pertinent personal history and background information.

(b) Full details of the alleged discrimination.

(c) All information the complainant has regarding the operation of the public facility on a discriminatory basis and the identities of any other persons who have sought the use of the facility on a nondiscriminatory basis.

(d) Full details of any other efforts made by the complainant or other on his/her behalf to rectify the alleged discrimination and the ability or inability of the complainant to bring legal action on his/her own behalf or through some interested organization. In this connection the complainant should not be asked whether, in his/her opinion, he/she is able or unable to sue, inasmuch as this would be a legal conclusion. Complainant should, however, be asked for general information regarding employment, whether he/she owns home and automobile; if so, to furnish description of the house and automobile. Also how many dependents the complainant supports and whether he/she is a member of any civil rights organization that provides legal counsel in this type of case.

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(2) If the complainant refuses to submit a signed statement, take no further action and submit an LHM setting forth facts of complaint and details of the interview.

EFFECTIVE: 04/08/80

173-6.3 Preliminary Investigation

(1) Interview a representative number of other victims named by the complainant.

(2) Interview the manager or other appropriate person or persons responsible for operation of the facility to determine:

(a) Full details of situation described by complainant.

(b) What policy and practice have been followed with respect to operating in a nondiscriminatory manner.

(c) Whether any change in such policy or practice is contemplated.

EFFECTIVE: 04/08/80

173-6.4 Reporting Deadline

Submit report within 21 workdays of receipt of the complaint.

EFFECTIVE: 04/08/80

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173-7 EMPLOYMENT

Section 703. Prohibits discrimination in employment because of race, color, religion, sex, or national origin. Prohibited acts extend to hiring, firing, promotions, wage scales, and all other conditions of employment, including discrimination on the basis of pregnancy, childbirth, and related medical conditions. Exemptions are granted for legitimate occupational qualifications based upon religion, sex, or national origin only. Discrimination is not punishable as a crime but the aggrieved person, Equal Employment Opportunity Commission (EEOC), or under certain conditions, the Attorney General may file civil suit. ~~EEOC was established to receive and adjudicate complaints.~~

EFFECTIVE: 04/08/80

173-7.1 Establishments Covered

- (1) Business establishments affecting commerce and having 15 or more employees
- (2) Employment agencies procuring employees for the above firms
- (3) Labor unions in industries affecting commerce
- (4) State and local governments, agencies, political subdivisions and the District of Columbia departments and agencies which are not subject by law to the Federal Competitive Services.
- (5) Federal Government employment (handled by EEOC)
- (6) Exceptions: The Act does not apply to state or local elected officials, persons chosen by such officials to be on their personal staffs, policy-making level appointees and immediate advisors of such elected officials, or to religious educational institutions. Preferential treatment may be given to Indians on or near an Indian reservation.

EFFECTIVE: 04/08/80

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173-7.2 Investigation - Private Employer or Labor Union

Investigation to be conducted upon receipt of a complaint:

(1) Complaint against private employer or labor union representing employees of private employer or private employment agency

(a) Advise complainant such violations are handled by EEOC

(b) Advise complainant if he/she wishes to pursue matter with EEOC, he/she should do so within 180 days of the alleged discrimination

(c) Furnish complainant with location of nearest EEOC office

(2) Complaint against state or local government and educational institution or unions representing government employees or public employment agencies, such as state employment services. Conduct preliminary investigation under each category as set forth.

EFFECTIVE: 10/09/79

173-7.3 Preliminary Investigation

EFFECTIVE: 10/09/79

173-7.3.1 Employer

Where complaint involves any actions or practices of the employing governmental entity, interview complainant, preferably at some place other than place of employment, and obtain following information:

(1) Full background of complainant for all details that might bear on his/her qualifications or eligibility for employment or promotion by the subject employer, including age, sex, race, education, previous employment experience and length of time, if any, he/she has worked for subject employer.

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(2) Nature of subject employer (e.g., city, county, irrigation district), approximate number of employees, and approximate percentage of female and minority employees employed by the jurisdiction or unit involved. Ascertain whether office or installation where complainant works is located near or in a minority neighborhood.

(3) Full details of complaint.

(4) If complainant is or has been working for subject employer, as would be true if complainant complains of discriminatory promotion or discharge policies:

(a) Complainant's present job category and department and any previous jobs and departments indicating length of time in each.

(b) Complainant's wage category and its position relative to other wage categories of the employer.

(c) Complainant's duties, and whether any white persons, in the case of a race complaint, or males or females as appropriate, in the case of a sex complaint, perform or have performed similar duties.

(d) Number of minority and female employees in complainant's job category or department; and in other job categories and departments of which complainant is aware.

(e) Names of other minority or female employees who work for employer and departments and job categories to which they are assigned, if known.

(f) Complainant's understanding of the operation of the promotion, recall and layoff systems, if any.

(g) Total number of departments, seniority lines, production areas and any other information known about structure of employer or employing agency.

(5) If complainant is not and has never worked for the employer, but instead is alleging discrimination in hiring:

(a) Date on which he or she applied for the job

(b) Method by which he or she found out about

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availability of the job or decided to apply for a job

(c) Whether he or she was required to take any test and, if so, nature of the test

(d) Name of person, if any, who interviewed him or her

(e) Whether he or she submitted written application

(f) Any other steps he or she was required to take to complete employment and application process

(g) When and by what means notification or rejection for employment given

(6) If employing agency is unionized, ascertain name of union, how many members it has, percentage of minority or female members, whether complainant in question was brought to attention of the union and what action, if any, was taken by the union on complaint.

(7) Determine whether similar complaint has been filed with any other Federal or state or local agency and, if so, details including date on which it was filed, and disposition, if any, which that agency has made.

(8) Determine whether complainant knows any other minority group persons or females who have been similarly affected by subject employer, and, if so, their names and dates of alleged discriminatory conduct.

(9) Obtain copies of any pertinent written material or documents that complainant may have in his/her possession, such as copies of applications to employer and correspondence from it.

EFFECTIVE: 06/08/78

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173-7.3.2 Unions

When complainant appears to involve any actions or practices of union which represent or seeks to represent employees of a governmental employer, interview complainant, preferably away from place of employment and obtain following information:

(1) Full background of complainant including all details that might bear on qualifications for membership in subject union or for referrals by subject union, such as age, sex, race, education, previous employment, experience, and any municipal licenses
complainant may possess qualifying him/her to work in the trade.

(2) Nature of subject union, that is whether it is an industrial union representing employees in a plant or craft (or building trade) union. If it is a craft union, ascertain from complainant whether union operates a hiring hall and, if so, details about operation of the hiring hall.

(3) Full details of complaint

(4) If complainant was seeking membership in the union:

(a) Type of membership complainant was seeking, i.e., whether complainant was seeking apprentice status or journeyman status

(b) Whether complainant made any written applications to the union and if so, dates of those applications

(c) How complainant came to make application to the union, i.e., whether referred by friend or relative, interested organization, or employment service

(d) Whether complainant was required to take any examination and nature of examinations

(e) Whether there was an interview and, if so, person who conducted interview

(f) Whether complainant was notified of acceptance and, if so, when and how, and whether complainant has had any further contact with the union

(5) If complainant was claiming discrimination in some practice of subject union other than that relating to admission to

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membership in the union, determine whether it related to operation of grievance procedures, work referral system, a work permit system, or some other union function and ascertain details of alleged discriminatory practice.

(6) If on any previous occasion complainant sought membership, to be referred for work, utilize grievance procedure or other service benefit from subject union, ascertain all dates upon which such occurred and full details about each of these contacts with the union.

(7) Whether there are black or other ethnic minority members, or female members of the union or who are working under auspices of the union. If so, ascertain the names of those persons from interviewee.

(8) Whether similar complaint was filed with any state or local agency or any other Federal agency and, if so, details including date on which it was filed, and disposition made of it, if known.

(9) Obtain copies of any written material or documents that complainant may have in his/her possession pertaining to complaint or to complainant's contact or connection with subject union.

EFFECTIVE: 06/08/78

173-7.3.3 Employment Agencies

When complaint appears to question practices of any public employment agency, such as a state employment service, interview complainant at some place other than place of employment, and obtain following information:

(1) Full background of complainant including all details regarding qualifications for employment, such as age, sex, race, education, previous employment experience.

(2) Nature of employment agency, and types of jobs to which it generally refers persons. Ascertain whether employment agency's office is in minority neighborhood.

(3) Full details of complaint

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(4) Type of job for which complainant sought employment. Ascertain whether complainant had any previous experience in such jobs.

(5) Type of job to which complainant was referred, indicating nature of work and level of pay, whether any other minority or female person held similar jobs.

(6) If complainant was not referred to job, what reasons complainant was given for the failure or inability for referral. Ascertain whether complainant was refused referral on any previous occasion and, if so, details.

(7) Previous experience with employment agency, including whether complainant was ever referred to any other job and, if so, nature of those jobs and dates of referrals.

(8) Full details about contact with employment agency including applications and other forms filled out, the name of person who interviewed complainant, what jobs possibilities were mentioned, and whether complainant was advised formally or informally that certain jobs about which complainant had expressed interest would not be available to complainant.

(9) Whether complainant knows any other minority group persons or females who have been similarly affected by subject employment agency and, if so, their names and dates of alleged discriminatory conduct.

(10) Obtain copies of any written documents that complainant may have in possession relating to contact or dealings with employment agency.

EFFECTIVE: 06/08/78

173-7.4 Advise All Complainants

EFFECTIVE: 04/19/91

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173-7.4.1 Information

Advise complainant that information furnished will be forwarded to the U.S. Department of Justice.

EFFECTIVE: 04/19/91

173-7.4.2 Existence

Advise complainant of existence of any appropriate state law or local ordinance and refer complainant to appropriate state or local agency. Also, that in order to obtain relief on his/her individual grievance, he/she should file complaint with EEOC, and this must be done within 180 days after the alleged discrimination occurs. Include fact that complainant has been so advised in investigative report.

EFFECTIVE: 04/19/91

173-7.5 Copies of Communications and Deadlines

Submit two copies of a report to FBIHQ within 21 days of receipt of complaint.

EFFECTIVE: 04/19/91

173-8 INTERFERENCE WITH FEDERALLY PROTECTED ACTIVITIES RELATING TO PUBLIC ACCOMMODATIONS, PUBLIC FACILITIES, PUBLIC EDUCATION, AND EMPLOYMENT

(1) Where interference consisting of force or threat of force prohibited by Title 18, USC, Section 245, is involved, handle in accordance with provisions of Section 44-4 of this manual using appropriate Civil Rights Act of 1964 character and submitting two copies of report to FBIHQ.

(2) Where other interference is alleged, such as by coercion, intimidation, and economic pressure, submit LHM to FBIHQ and take no further action.

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(3) The employment provisions of this act require a specified minimum number of employees to establish jurisdiction. No such minimum number is required under provisions of Title 18, USC, Section 245, relating to interference with employment.

(4) Title 18, USC, Section 245, covers all public accommodations as defined by Civil Rights Act of 1964 and also covers an establishment which serves the public and which is principally engaged in selling beverages for consumption on the premises, e.g., a bar.

EFFECTIVE: 04/19/91

173-9 ANNOUNCED TESTING OF ACCOMMODATIONS OR FACILITIES

(1) When information is received that persons are planning to test the practices of a facility or accommodation in a community in which the free use of such facilities or accommodations has previously been interfered with by force or threats, submit teletype to FBIHQ. Do not assign personnel to observe such testing and/or photograph acts of interference or obstruction in the absence of specific prior FBIHQ authority.

(2) If there is interference involving personal injury, threat of serious injury, or substantial damage to property, or if a complaint is received concerning refusal of service, initiate a preliminary investigation and submit a report within 21 days.

(3) If there is no interference or refusal of service, submit an LHM (original and two copies) setting forth the details of the testing.

(4) Where your office receives advance notice of testing of public accommodations or public facilities and there is no indication there will be any interference, obtain details concerning the testing and promptly furnish an LHM (original and two copies).

(5) No commitments are to be made to groups which advise your office of plans to test accommodations or facilities that Agents will or will not be present to observe and photograph such demonstrations.

(6) Furnish copy of LHM in both of the above instances to the local office of military intelligence if within scope of present

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requirements to do so, and advise appropriate local authorities orally.

EFFECTIVE: 04/19/91

173-10 PENALTIES

There are no substantive criminal penalties attached to discrimination prohibited by the act. The aggrieved person, or in some instances the Attorney General, may seek relief through civil action. Written complaints with regard to public facilities and public education are subject to the provisions of Title 18, USC, Section 1001. A \$100 fine is provided for failure on the part of an employer, employment agency, or labor union to post notices required by the Equal Employment Opportunity Commission; however, this violation will be handled by the Commission.

EFFECTIVE: 04/19/91

173-11 MISCELLANEOUS

(1) All deadlines are counted by commencing on the first day following receipt of complaint, i.e., complaint received 8-1-82 - Sunday, submit 8-22-82.

(2) The first paragraph of the details of the report should so indicate if the investigation is limited or preliminary. A limited investigation is one other than a preliminary, or mere receipt of a complaint.

(3) Furnish a copy of all reports and LHMs to the USA.

(4) Retain one copy in the field office file.

(5) Note that a business, such as a department store, which would not normally be covered by the act is completely covered if it has a lunch counter or some other subsidiary unit which would be covered by the act. A barbershop is not normally covered, but a barbershop in a hotel or any other place subject to the provisions of the act would likewise be covered.

(6) Discrimination is not limited to refusal to admit or

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serve but includes any indifference in the nature or extent of services or prices charged.

(7) Information concerning discrimination obtained solely from legitimate news media, personal observation by Bureau personnel, or from any other source not known to be unreliable should immediately be submitted to FBIHQ in a form suitable for dissemination. If the information is obtained from published material, it will be sufficient to submit two copies of the clipping by cover airtel. No other action should be taken in the absence of a complaint with the exception of information indicating interference which should be handled in accordance with 173-7.2 above.

(8) Any instance of interference or violence or potential interference or violence in connection with the desegregation of public schools, public accommodations, public facilities, and employment under the provisions of the Civil Rights Act of 1964 is to be brought to the immediate attention of appropriate state and local officials. Also advise military intelligence and Secret Service if within scope of present requirements to do so. The initial communication to FBIHQ should show that this has been done.

(9) Upon receipt of a complaint, a request for investigation by the USA or a request for investigation by the U.S. Department of Justice, the field division must promptly submit Form FD-610 within five (5) workdays of receipt of complaint). All items on the form are to be completed on the initial submission or later by supplemental submission. This action is to be taken prior to the close of each case in all Civil Rights matters. Along these lines, the field division should make an effort to provide the maximum amount of information if all data is not immediately available. Submit a supplemental form when additional information necessary to complete the form is secured. In those instances where FBIHQ is advised by telephone or teletype of a new case, the FD-610 should be submitted at the earliest possible moment. Specific instructions regarding the completion of the FD-610 are set forth in Part I, 282-8.1 of this manual.

EFFECTIVE: 01/31/94

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173-12 CHARACTER

- (1) PUBLIC ACCOMMODATIONS - CIVIL RIGHTS ACT OF 1964
- (2) PUBLIC FACILITIES - CIVIL RIGHTS ACT OF 1964
- (3) PUBLIC EDUCATION - CIVIL RIGHTS ACT OF 1964
- (4) EMPLOYMENT - CIVIL RIGHTS ACT OF 1964

In cases of interference involving attempted or actual use of force or the threat of force, add INTERFERENCE WITH FEDERALLY PROTECTED ACTIVITIES to character.

EFFECTIVE: 04/19/91

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SECTION 174. BOMB THREATS
EXPLOSIVES AND INCENDIARY DEVICES

174-1 STATUTES

Title 18, USC, Section 844(d) - (j), effective 10/15/70,
amended 10/12/82, amended 10/12/84 by Public Law 98-473.

(1) Section 844(d) - Interstate transportation or receipt of explosives or incendiary devices with knowledge or intent to kill, injure or intimidate a person or damage property.

(2) Section 844(e) - Use of telephone, mail, telegraph, or other instrument of commerce to transmit a fire or bomb threat, or maliciously conveys false information knowing the same to be false.

(3) Section 844(f) - Use of explosives, fire or incendiary devices to damage or destroy, or attempt to damage or destroy, any property owned, used by, or leased to, the U.S. Government, or any department or agency thereof, or any institution or organization receiving Federal financial assistance.

(4) Section 844(g) - Unauthorized possession of explosives or incendiary devices in a building owned, used by, or leased to, the U.S. Government or any department or agency thereof.

(5) Section 844(h) - Carrying explosives or incendiary devices during the commission of any Federal felony, or use of fire during the commission of a felony.

(6) Section 844(i) - Use of explosives, fire or incendiary devices to damage, or attempt to damage, any property used in an activity affecting interstate or foreign commerce.

(7) Section 844(j) - For the purposes of subsections (d), (e), (f), (g), (h), and (i) of this section, the term "explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuzes (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, other explosive or incendiary devices within the meaning of paragraph (5) of Section 232 of this title, and any chemical compounds, mechanical mixture, or device that contains any oxidizing and

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combustible units or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion.

EFFECTIVE: 08/21/87

174-2 DEPARTMENTAL GUIDELINES

EFFECTIVE: 08/21/87

174-2.1 Jurisdiction

Statutory jurisdiction concerning above violations lies concurrently with FBI and Secretary of Treasury. Bureau of Alcohol, Tobacco and Firearms (ATF) handles Treasury's investigative responsibilities under above statute. Guidelines issued by Department effective 3/1/73 provide for jurisdiction as follows:

(1) General

(a) Section 844(e), (f), and (g) - FBI.

(b) Section 844(d) and (i) - ATF.

(c) Section 844(h) - Agency having jurisdiction over underlying felony.

(2) Exceptions

(a) Violations directed against diplomatic or quasi-diplomatic functions - FBI.

(b) Violations which appear at outset to have been perpetrated by terrorist or revolutionary groups or individuals - FBI. (For the purpose of this section, the Department of Justice has defined terrorist or revolutionary groups or individuals as "Those groups or individuals whose motivation for violating the explosives statutes is political in nature rather than the desire for personal or organizational gain...")

(c) Violations directed against Treasury Department

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functions - ATF.

(d) Violations directed against Postal Service functions or involving explosives sent through the mail - Postal Inspection Service.

EFFECTIVE: 08/21/87

174-2.2 Other Provisions

(1) Guidelines provide that no investigation is to be conducted unless prior authorization is obtained from the Department except in those instances noted below. In these instances the Guidelines provide authorization for immediate, full investigation by the FBI without prior consultation with the Department.

(a) Any violation which appears at outset to have been perpetrated by terrorist or revolutionary groups or individuals.

(b) Explosive (as distinguished from incendiary) bombing or attempted bombing of college or university facilities.

(c) Bombing or attempted bombing of property owned, possessed, used or leased by Federal Government, or by a Federal function such as National Guard or ROTC.

(d) Any violation of Section 844(g), except those involving Treasury or Postal Service buildings.

(e) Any violation against diplomats or quasi-diplomatic functions.

(2) Regarding 174-2.1 (2) (b) above, guidelines provide that if ATF or Postal Inspection Service has properly initiated investigation and information is subsequently developed indicating apparent involvement of terrorist or revolutionary groups or individuals, jurisdiction shall be relinquished to FBI unless Department determines that such a transfer would unduly impair further investigative efforts.

(3) Guidelines require prompt notification to the Department by the agency having investigative jurisdiction in each instance wherein an investigation is instituted under Section 844. In cases where FBI has investigative jurisdiction notification is also to

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be made to ATF and/or Postal Inspection Service if those agencies have a logical interest. Follow-up liaison and dissemination is to be made as necessary to avoid duplication of investigation. Also to be disseminated, in a manner not to interfere with active investigations, is information regarding types, sources, movement, and storage of explosives involved in such investigations.

EFFECTIVE: 08/21/87

174-3 POLICY

EFFECTIVE: 09/22/87

174-3.1 Bombings and Attempted Bombings

(1) Each office is to arrange, through appropriate liaison, to be advised of all bombing and attempted bombing incidents within its respective territory.

(2) Immediately advise FBIHQ by teletype of all actual and attempted bombing incidents within the investigative jurisdiction of FBI, whether explosive or incendiary. Initial communication should fully describe the nature and function of the target of the bombing and cover the following points:

- (a) Basis for FBI investigative jurisdiction.
- (b) Whether or not investigation instituted.
- (c) If investigation not instituted, identify investigating authorities.
- (d) Specific comment regarding indicated or probable motive. Include occupation and general reputation of victim if bombing directed against an individual.
- (e) Applicability of state and local laws and likelihood of state or local investigative and prosecutive action.
- (f) Whether or not there is any information indicating the bombing is part of a pattern or plan by a particular subject or against a particular victim.

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(g) Specific comment that Secret Service, ATF, USA and appropriate law enforcement and other logical agencies have been advised; also, that ATF advised as to whether or not FBI instituting investigation. Notice to military intelligence agencies is not required unless they have a specific interest in the incident or unless dissemination otherwise required by the "Agreement Governing the Conduct of Defense Department Counterintelligence Activities in Conjunction with Federal Bureau of Investigation" (see Appendix 3 of the FCI Manual) or the Memorandum of Understanding between Justice and Defense Departments.

(3) In those explosive incidents which are likely to receive nationwide publicity and wherein it is not immediately known if an actual bombing has occurred or if the incident is within FBI jurisdiction, furnish FBIHQ with background and details by teletype.

EFFECTIVE: 09/22/87

174-3.2 Bomb Threats

(1) Immediately advise appropriate law enforcement agencies and Secret Service. Refer to 174-3.1 (2) (g) above regarding notice to military intelligence agencies.

(2) If a bomb threat is directed against Bureau facilities or personnel, all logical leads to identify subject are to be covered immediately. Bureau space, if involved, should be searched by Bureau personnel familiar with the specific area. An assessment of any suspicious item should be made by an FBI bomb technician, bomb squad personnel, or military Explosive Ordnance Disposal (EOD) unit. Render safe responsibilities for located bomb devices rest with the bomb squad personnel or military EOD unit. Each field division should have a bomb threat plan.

(3) Notify FBIHQ in the following instances:

(a) By teletype, if threat concerns a diplomatic establishment or a situation which may result in widespread publicity.

(b) By teletype, if threat results in request by local authorities or private citizen for FBI investigation.

(c) By teletype, if threat is directed against

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Bureau facilities or personnel. If Bureau space involved, indicate same searched by Bureau personnel.

(d) By airtel (FD-365) and LHM, to be submitted same day, or following workday if threat received after regular working hours, if: threat concerns a military or U.S. Government installation; identity of subject is known, alleged, or readily available; or threat appears to be part of a pattern or plan by a particular subject or against a particular victim. (See MIOG, Part I, 174-6.)

(4) Notification to Secret Service and other agencies must be confirmed in writing the same day the information regarding the threat is received. If information is received after normal working hours, written confirmation should be made the following workday. Include in confirmation the time and date of oral notifications and identify, by name, persons notified. (See MAOP, Part II, 10-4.3 & Correspondence Guide-Field, 2-5.5.11 & 3-41.)

(5) All written bomb threats are to be submitted to the Laboratory for document examination and for latent fingerprint examination, whether or not active investigation is being conducted by the FBI.

EFFECTIVE: 09/24/93

174-3.3 General Instructions

- (1) Submit 4 copies of reports and 7 copies of LHMs.
- (2) When active investigation is instituted, notify FBIHQ by teletype, submit initial report within 30 days and submit subsequent reports every 30 days thereafter. (See MIOG, Part I, 174-6, and MAOP, Part II, 10-4.3.)
- (3) Disseminate all reports and LHMs to the USA.
- (4) In those instances wherein this section requires submission of LHM to FBIHQ, a copy of the LHM should be disseminated locally to Secret Service by FD-376. Original and one copy of FD-376 should be submitted to FBIHQ with LHM.

- (5) In those instances where notification to FBIHQ by

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teletype is required, submission should not be delayed if all necessary information is not immediately available. Such additional information should be submitted by supplemental teletype as soon as it is available.

(6) Advise the USA telephonically of all incidents or threats reported to FBIHQ, within FBI jurisdiction. Unless circumstances dictate otherwise, such notification should be made during business hours.

(7) Bombings, attempted bombings and bomb threats constituting other substantive violations within FBI jurisdiction, such as Federal Train Wreck Statute, Destruction of Aircraft or Motor Vehicles, Civil Rights, Extortion, etc., should be handled in accordance with existing instructions pertaining to the particular violation involved. FBIHQ should be advised of the incident under appropriate substantive caption. Exceptions: Situations involving bombings or attempted bombings of Government property, and sabotage by use of explosive, are handled as 174 matters.

(8) Advise FBIHQ by teletype or telephone if ATF attempts to exercise any jurisdiction in a matter being investigated by the FBI or if any other problem is encountered with ATF.

(9) All offices should maintain liaison with military Explosive Ordnance Disposal (EOD) units and/or local law enforcement bomb squads in order that assistance can be promptly obtained if bombs or live explosives are encountered in connection with official investigations.

(10) The U.S. Army has EOD units stationed throughout the United States, including Alaska and Hawaii. These units, which have assisted the FBI in the past, have personnel qualified to disarm bombs and handle and dispose of live explosives. Due to emergency conditions, requests for assistance from Army EOD units are usually verbal. All such oral requests are to be confirmed in writing by letter addressed to the Commanding Officer of the EOD unit involved. The Army has no EOD unit in Puerto Rico. Therefore, the San Juan Office should maintain liaison with the appropriate U.S. Navy facility for the purpose of obtaining any necessary assistance.

(11) Bombs are to be rendered safe by qualified bomb disposal personnel. Render safe is the responsibility of public safety bomb squads and military EOD units. Bureau bomb technicians and Laboratory explosives specialists are available at all times for on-site consultation concerning bombs and explosives.

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(12) The cooperative facilities of the FBI which are made available to local authorities in bombing matters are the services of the Laboratory Division.

EFFECTIVE: 09/24/93

174-4 OTHER VIOLATIONS

The following are within the primary jurisdiction of ATF but Agents should be alert for such violations and investigative jurisdiction should be assumed by the FBI if they arise during any substantive FBI investigation.

(1) Title 26, Section 5861(d) - (f) - Unlawful manufacture, possession or transfer of a destructive device.

(2) Title 18, Sections 841-843 - Unlawful importation, manufacture, distribution or storage of explosives.

EFFECTIVE: 09/22/87

174-5 PLAN OF ACTION FOR MAJOR CASES

(1) Each office is to have a proposed plan of action which can become operative automatically whenever there is a bombing or attempted bombing which will be the subject of a major investigation.

(2) These investigations are to receive top priority under the personal supervision of the SAC and should cover all investigative steps to ensure that evidence is preserved and logical investigation instituted immediately.

(3) Immediate consideration should be given to the advisability of requesting Laboratory Division personnel to proceed to the scene.

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EFFECTIVE: 09/24/93

174-6 REPORTING REQUIREMENTS

(1) When active investigation is instituted, notify FBIHQ by teletype; submit initial report within 30 days; and submit subsequent reports every 30 days or as soon thereafter as possible.

(2) Submit four copies of reports to FBIHQ to allow for dissemination at the Headquarters level to U.S. Department of Justice and other appropriate agencies.

(3) Disseminate all reports to the USA.

(4) In those instances wherein this section requires submission of LHM to FBIHQ, submit seven copies of LHMs to allow for dissemination at the Headquarters level to U.S. Department of Justice; U.S. Secret Service; Bureau of Alcohol, Tobacco and Firearms and other appropriate agencies. A copy of the LHM should be disseminated locally to Secret Service by FD-376. Original and one copy of FD-376 should be submitted to FBIHQ with LHM. FD-376 should also be used when disseminating information to Secret Service in other matters concerning individuals involved in illegal bombing or bomb making.

EFFECTIVE: 09/22/87

174-7 STATISTICAL DATA

Form FD-436 is to be submitted for every incident involving the use, attempted use, or recovery of an explosive, incendiary, or "hoax" bomb device, regardless of jurisdiction.

EFFECTIVE: 09/22/87

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174-8 PENALTIES

(1) Section 844(d), (f), and (i).

(a) \$10,000 fine and/or 10 years' imprisonment.

(b) \$20,000 fine and/or 20 years' imprisonment if personal injury results, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection.

(c) ~~Any terms of years or death penalty or life imprisonment if death results.~~

(2) Section 844(e) - \$5,000 fine and/or 5 years' imprisonment.

(3) Section 844(g) - \$1,000 fine and/or 1 year imprisonment.

(4) Section 844(h)

(a) Not less than 1 nor more than 10 years' imprisonment.

(b) For second and subsequent convictions, not less than 5 nor more than 25 years' imprisonment and there shall be no suspended or probationary sentences.

EFFECTIVE: 09/22/87

174-9 CHARACTER - "BOMB THREATS" OR "EXPLOSIVES AND INCENDIARY DEVICES"

EFFECTIVE: 09/22/87