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Man1-ID: MAOPP1 MANUAL OF ADMIN OPERATIONS AND PROCEDURES PART 1

- (b) The initiative displayed by the employee.
- (c) The complexity or difficulty of assignment and if it exceeded the level of work expected of employee's grade and job description.
- (d) Any unique situations or unusual circumstances and how they were handled.
- (e) The specific results achieved.
- (f) The significance of employee's efforts to the results attained.
- (g) Benefits obtained for office, overall Bureau, local community, intelligence community.
- (h) The request of the recommending office (cash award or certificate of commendation, ranking employees as appropriate).
- (i) Any prior award(s) employee has received for same project/case.

(2) Special Agent and support supervisors may submit FD-255s to their SACs or division heads recommending awards for employees under their supervision. The office/division head, or in their absence, the acting office/division head should personally approve the recommendation and then submit the form to the designated point of contact that handles awards matters.

(3) Form FD-255 may also be used to recommend awards under the Principal Relief Supervisors Program. (See MAOP, Part 1, 5-15.5.)

(4) Deleted

**EffDte: 04/25/2001 MCRT#: 1096 Div: D3 Cav: SecCls:

5-15.2 Amount of Awards

Approval by the head of office for award amounts should be determined by using the established criteria for each category as set out in 5-15(4). The PRAU will not direct that a higher or lower award be granted, but will offer guidance regarding the proposed amount in light of the justification an office provides.

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| 5-15.3 | Deleted |

**EffDte: 12/17/1993 MCRT#: 172 Div: D3 Cav: SecCls:

| 5-15.4 Senior Executive Service (SES) Cash Awards |(See 5-15 (4).)|

SES members are ineligible for cash awards throughout the year, and awards will be granted only incident to their annual

performance appraisals. Any exceptions would be based on highly unusual events and would require the approval of the SES Board and the
| |Director.|

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5-15.5 Principal Relief Supervisor Awards (See MAOP, Part 1, 3-2.2 and 5-15.1 (3).)

(1) Criteria for Nomination of Principal Relief Supervisor for an Incentive Award.

(a) The individual must have been officially designated as the principal relief supervisor or the Assistant Supervisory Senior Resident Agent for at least six months.

(b) The recommending official must state in the
| submitting communication that the individual is at|the "Meets
| Expectations" level in all of his/her duties.|

(c) The individual must perform or have performed relief supervisory functions an average of eight hours per pay period for at least the past six months; and

(d) The individual's performance in the principal relief supervisor capacity must be considered superior and documented as such on an FD-255 (Recommendation for Incentive Award). The field division head or acting field division head must personally endorse the recommendation.

(2) A qualified individual may only receive this particular award once in a 12-month period; however, the same individual may be recognized during subsequent 12-month periods if all
| qualifications continue to be met. |Head(s) of offices have been
| authorized to grant principal relief supervisor awards in amounts up
| to \$1,000.| All nominations must be received at FBIHQ within 60 days following the reassignment of the principal relief supervisor.

(3) Nominations for the principal relief supervisor cash award may be submitted at any time. All nominations must state that the recommended individual meets all of the above criteria.

**EffDte: 07/19/2002 MCRT#: 1229 Div: D3 Cav: SecCls:

5-15.6 On-the-Spot (OTS) Cash Awards Program

OTS awards are designed to recognize, through immediate recognition, FBI employees who perform quality service in an exceptional manner while on duty or in the performance of duties related to FBI employment. These awards do not replace any existing awards, and employees who receive them may be considered for other recognition.

(1) Amount of Awards

| \$50 to|\$500|in increments of \$50. The awards will
| be net and will be ordered in amounts to cover withholding to ensure
| actual amounts of \$50, \$100, \$150,|\$200, \$250, \$300, \$350, \$400, \$450,
| and \$500.|

(2) Eligibility

| All FBI employees at the GS-15|level and below|and WG
| employees at the equivalent of the GS-15|level or below|are eligible.
| An employee may receive no more than four (4) OTS|awards, and cannot
| exceed a maximum of \$2,000,|in one|calendar|year.

(3) Qualifying Criteria

Must be for work-related performance while on duty or in the performance of duties related to FBI employment; performance of additional duties while maintaining his/her own workload; accomplishing office goals in meeting short deadlines; solving unusual work-related problems; or single short-term incidences of exceptional work-related performance.

(4) Nomination

(a) A recommending official (supervisor) may nominate any deserving employee by sending an e-mail to the approving official. Nominations should include the recipient's name, the recommended award amount, and a brief explanation of why the employee is being recommended for the award. Nominations should be made no more than two (2) weeks after the occurrence of the achievement being recognized, whenever possible.

(b) OTS awards should be granted individually. Groups cannot share the OTS awards. Withholdings are reflected in the salary records of the award recipient for tax purposes.

(5) Approval

(a) The approving official should reply to the recommending official with either an approval or disapproval after receiving a recommendation from the recommending official. The recommending official then forwards the approval to the awards Point of Contact (POC) so he/she can deduct the money from the office awards budget. The recommending official should print a copy of the e-mail for the employee's drop file.

(b) If an employee is assigned to an office other than the one making the recommendation for recognition, the employee's division head or SAC should be contacted, and the recommendation should state that the recommendation is being made with the concurrence of the employee's division head or SAC. The funds for the OTS award will be deducted from the allotment of the office making the recommendation.

(c) Deleted

(6) Presentation

The employee should be notified of the OTS award in a public forum. The use of a certificate is optional.

(7) Award Allotment

The PRAU will notify each office/division of their one lump sum budget at the beginning of each fiscal year. This budget should be used for all awards.

(8) Office/Division Head Responsibilities

Office/division heads are requested to designate a point of contact to handle all awards matters to ensure that all employees comply with the OTS Awards policy. Also, a log/file should be maintained to track the awards and to account for the budget.

**EffDte: 02/15/2005 MCRT#: 1371 Div: D3 Cav: SecCls:

5-15.7 Time Off From Duty as an Incentive Award

The Time-Off Awards are an enhancement of the Incentive Awards Program (IAP) to expand recognition afforded FBI employees for their excellent efforts and performance which is substantially above normal job requirements and performance standards. This program allows the presentation of time off, without loss of pay or charge to leave, in lieu of monetary recognition as an incentive award. Time-Off Awards are intended to recognize superior accomplishments or other personal efforts that contribute to the quality, efficiency, or economy of government operations and are not intended to be a substitute for monetary recognition through the IAP.

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(1) Criteria

The following are the types of contributions an employee must make in order to be eligible for a Time-Off Award. All contributions must be work-related performance while on duty or performance of duties related to FBI employment.

(a) Making a high-quality contribution involving a difficult or important project or assignment.

(b) Displaying special initiative and skill in completing an assignment or project before a deadline.

(c) Using initiative and creativity in making improvements in a product, activity, program, or service.

(d) Ensuring the mission of the FBI is accomplished during a difficult period by successfully completing additional work or a project assignment while still maintaining one's own workload.

(e) Deleted

(f) Producing additional benefits to the government as the result of especially effective and timely evaluation of an employee suggestion.

(2) Eligibility

(a) All employees are eligible for Time-Off Awards. An employee may be granted a Time-Off Award regardless of his/her length of service, and the receipt of a prior award is not disqualifying. However, the same contributions should NOT be used as the basis for a Time-Off Award and another award unless the Time-Off award or other award is deemed clearly NOT adequate to recognize the value of the employee's contributions.

(b) Time-Off Awards for Senior Executive Service (SES) members will be granted only incident to their annual performance appraisals, and they will be ineligible for Time-Off Awards throughout the year. Any exceptions will be based on highly unusual events and will require the approval of the SES Board and the Director.

(3) Amount of Award and Limitations

(a) The minimum amount of time off that may be given is four hours, and Time-Off Awards can only be used in increments of four hours or more unless an employee has less than four hours remaining of their allotment.

(b) A full-time employee may be granted a maximum of 40 hours of time off from duty as an award for any single contribution that meets the criteria.

(c) Time off granted to an employee must be

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scheduled and used within one year after the award is made, and this one-year period may extend into the next leave year. However, employees should be encouraged to use the award within 120 days. Leave not used within a year of receipt will be forfeited and is not restorable.

(d) The total amount of time off a full-time employee may be granted during any one leave year is 120 hours.

(e) For part-time employees or employees with uncommon tours of duty, the maximum amount of time off that can be

granted during any one leave year is the average number of hours of work in the employee's biweekly scheduled tour of duty, and the maximum amount that can be granted for any single contribution is one-half of the total leave year maximum.

(f) A Time-Off Award cannot be converted to cash under any circumstances. Time off can be transferred between offices within the FBI, but cannot be transferred to another federal agency. Also, time off cannot be recredited to an employee's account if the employee has a break in service from the FBI for more than three calendar days.

(g) There will be no limit on the number of employees who can be recognized with Time-Off Awards in a particular office. Each division/office head will have the authority to grant the amount of time off he/she deems appropriate and which is within the bounds of good management to ensure that the functions of the division/office are not adversely affected by the use of Time-Off Awards. When granting or recommending Time-Off Awards, consideration should also be given to the recipients' leave status, i.e., end-of-the-year "use or lose," when time off could be a burden on the division/office and adversely impact on operational needs.

(h) Employees in leave without pay (LWOP) status cannot use Time-Off Awards. Time-Off Awards cannot be granted to employees in an extended LWOP status.

(i) Use of a Time-Off Award should not affect an employee's Availability Pay.

(j) Time-Off Awards may only be granted for above-average, work-related performance while on duty or in the above average performance of duties related to FBI employment.

(4) Relationship to other Awards and Consideration for Promotion

The receipt of a Time-Off Award is not disqualifying for the subsequent granting of any other cash incentive or honorary award. However, the same contribution should not be used as the basis for a Time-Off Award and another award, unless the time off is deemed clearly not adequate enough to recognize the value of the employee's contribution. In such rare cases, it may be appropriate to couple a Time-Off Award with a cash award.

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(5) Approval Levels

(a) Awards may be approved by the division/office head, and awards in the range of 8 to 16 hours may be approved by first-line supervisors, without higher-level supervisory approval, except for those in the Senior Executive Service, provided he/she is at a level higher than those making the recommendations for the awards. Therefore, a Special Agent in Charge (SAC) may not recommend and approve an award. However, the Assistant Special Agent in Charge may make the recommendation for the SAC's approval.

(b) If an employee is assigned to an office other than the one making the recommendation for recognition, the employee's division head or SAC must be contacted, or first-line supervisor if the award is in the range of 8 to 16 hours, and the recommendation should state that the recommendation is being made with the concurrence of the employee's division head, SAC, or first-line supervisor. The employee's office point of contact will be responsible for entering the Time-Off Award.

(c) All Time-Off Award recommendations for members of the Senior Executive Service (SES) must be submitted to the PRAU where they will be forwarded to the SES Board and to the Director for their approval.

(6) Form FD-812

Form FD-812 should be used to submit recommendations. The form should contain the following information: Name of employee; Social Security Number; Number of hours of leave being granted; and a narrative of the employee's performance which warrants the recognition. When awards are for eight hours or less, the narrative may be a short, informative paragraph or two setting forth the reason(s) for the award.

(7) Time-Off Award Certificate

After the FD-812 has been approved by the division/office head, the Time-Off Award certificate should be prepared for presentation to the employee. The certificate should contain the following information: Name of employee; Number of hours of leave being granted; and the Date presented.

(8) Documentation Requirements

A Time-Off Award must be supported by written justification which indicates that the employee's contribution met one of the criteria for the granting of this award and clearly merits the amount of time off approved.

(9) Time Capture Record

Upon presentation of a Time-Off Award, the award should be recorded in the Bureau Personnel Management System (BPMS) through the screen specifically designed for these awards. The date

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presented is to be entered as the effective date. The leave can then be requested and used by the submission of an FD-282 (Leave Request). A notation should be made on the FD-282 that the request is for a Time-Off Award. The used leave should also be recorded in the BPMS and on the FD-420 (Attendance Register) or the FD-420a (Attendance Register/TURK) as a Time-Off Award.

(10) Deleted

**EffDte: 06/24/2004 MCRT#: 1342 Div: D3

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5-16 CERTIFICATES OF COMMENDATION

(1) A certificate of commendation may be recommended when an employee's contributions do not meet the criteria for a cash award but are of such significance that recognition is warranted.

(a) Recommendation for a certificate of commendation from the Director should be made only when the recommending official is convinced that certain elements of the employee's performance are above normal and reasonable performance expectations sufficient to warrant special recognition but do not meet the standards for a cash award.

(b) Recommendations for certificates of commendation from the Director may be submitted in electronic communication form or on the FD-255 for the attention of the head of office. However, if recommendations are being made for certificates of commendation in addition to recommendations for incentive awards, they may be added to the FD-255, with the appropriate justification.

(2) Letter from the division head or SAC. Division heads and SACs should commend their employees over their own signatures when it is believed an employee's performance warrants recognition but does not meet the requirements for a certificate of commendation from the Director.

(3) If recognition of a particular contract employee is deemed appropriate, a written communication to the Contracting Officer, with a copy to the Contracting Officer's Technical Representative, should be prepared. For recognition under the FBI's Incentive Awards Program, the PRAU no longer prepares letters of commendation for individuals who perform services to the Bureau through a contractual agreement.

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5-17 LETTERS OF APPRECIATION TO NON-BUREAU PERSONNEL

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Letters of appreciation may be recommended to recognize the efforts of individuals other than employees of the FBI who have contributed to the Bureau's mission or who have been cooperative in furthering our mission. Recommendations for such letters should be submitted on Form FD-468 (Correspondence Matters, Recommendation for Letter from Director), not on Form FD-255 (Recommendation for Incentive Award), and forwarded to the Executive, Congressional, and Public Constituent Services Unit (formerly Correspondence Unit), Office of Public and Congressional Affairs, FBIHQ. (See MAOP, Part II, 11-1.2, for details.)

**EffDte: 05/13/1996 MCRT#: 541 Div: PA Cav: SecCls:

5-18 PUBLIC SERVICE AWARDS PROGRAM AND CERTIFICATES OF APPRECIATION

Cooperative relationships between the FBI and the public have many benefits. There are three effective means to appropriately recognize the contributions made to the FBI's mission by private citizens or organizations.

**EffDte: 08/30/1991 MCRT#: 0 Div: PA Cav: SecCls:

5-18.1 Public Service Award Plaques

(1) Division heads and SACs have authority for the awarding of public service plaques in appreciation of highly significant contributions for presentation to private citizens or organizations located within the 50 states. All division heads and SACs must therefore establish proper procedures, including indices checks and a control file, to ensure that all candidates meet the following guidelines.

(2) Division heads and SACs should demonstrate that the individual or organization provided one of the following:

(a) Exemplary service in an advisory capacity to the FBI.

(b) Direct assistance to the FBI through actions or useful ideas which are beneficial in eliminating or minimizing problems or actively contribute to the FBI mission accomplishment.

(c) Assistance to the FBI of a highly significant nature through the cooperative use of facilities, equipment or manpower.

(d) Courageous or heroic action in support of FBI

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activity or mission.

| (3) |The field office can then use their supply account to
| purchase the plaques. The use of appropriation funds to purchase
| plaques for on-board Department of Justice employees is prohibited.|

| (4) |Plaques may be obtained from outside commercial
| sources, including the FBIHQ Recreation Association Store, or a local
| establishment of office's choice.|

**EffDte: 02/27/1995 MCRT#: 370 Div: PA Cav: SecCls:

5-18.2 Certificates of Appreciation

| (1) SACs or division heads may request a Certificate of
| Appreciation for presentation to an individual|who|has rendered
| assistance and/or cooperation to the Bureau, in lieu of letters of
| appreciation. |The certificate should be presented by the SAC,
| division head, or other appropriate FBI representative.|

| (2) The request with supporting justification should be
| directed to the Executive, Congressional, and Public Constituent
| Services Unit (formerly Correspondence Unit), OPCA, Room 6236, using
| Form FD-468. There are|13|different certificates which should be
| identified accordingly when requests are made. |Certificates are
| further identified on Form FD-468.|

| (3) The Certificate of Appreciation is signed by the
| Director and enclosed in a|cardboard|folder or a leatherette diploma
| holder with a gold FBI seal applied on the cover. |(When requests
| exceed 25, cardboard diploma holders with gold FBI seals will be
| used.)|

**EffDte: 04/13/1999 MCRT#: 874 Div: PA Cav: SecCls:

5-18.3 Certificate of Appreciation for Use by the Special Agent in Charge

| (1) Each FBI field office has a supply of Certificates of
| Appreciation enclosed in a blue paper folder designed to be signed and
| presented by the Special Agent in Charge. The criteria of this
| certificate are established by the Special Agent in Charge.

| (2) |The National Press Office, OPCA,|should be contacted
| for additional Certificates of Appreciation for use by the Special
| Agent in Charge.

**EffDte: 02/29/1996 MCRT#: 496 Div: PA Cav: SecCls:

5-19 SUGGESTION PROGRAM

(1) The employee suggestion program can be a useful and important employee-management communication device. It allows the employee to suggest improvements in Bureau operations and enables management to reward those employees who make significant contributions.

(2) Suggestion awards are made to employees in recognition of idea-type contributions which directly contribute to productivity, economy, efficiency, or directly increase effectiveness in carrying out the FBI's programs or mission.

(3) Criteria for Consideration of Suggestion

(a) The suggestion must be outside the employee's responsibility. In rare cases, contributions within the employee's job description may be awarded if they are so superior or meritorious as to warrant this special recognition. The official position description and performance requirements will be used to measure the acceptable level of competence and as the basis for determining what is normally expected of an employee occupying that position.

(b) The benefit to the FBI in terms of direct contributions in efficiency or economy must be equivalent to a savings of \$250 in order to qualify for a cash award. Benefits will usually be based on the first full year of operation following adoption of a suggestion. Benefits may be determined by estimating the net savings over a longer period when there are high first-year costs required to implement the suggestion. In instances where the value cannot be determined by estimated net savings, it will be determined by reference to the intangible awards table (see 5-19(6)(c)).

(c) Suggestions that deal with routine employee services, benefits, working conditions, housekeeping, or maintenance of buildings and grounds should be handled through normal administrative channels and not accepted into the suggestion system. Items of supply which can be procured through simple requisition, or proposals which offer no specific means to improve operations, should not be entered into the program unless the contribution to economy, efficiency or increased effectiveness of operation can be clearly demonstrated. Also, proposals which would obviously cost more to process than the tangible benefit achieved will not be evaluated under this program but will be returned for oral acknowledgment.

(d) Inventions and patent disclosures may serve as the basis for a suggestion award when the idea meets the criteria set forth above. The patent application and an analysis of the estimated direct dollar benefits will meet the minimum documentation requirements.

| (e) Suggestions that are submitted into the program
| will not receive recognition if the idea has previously been submitted
| or is currently under consideration by an FBI entity. |

(4) Documentation Requirements for Suggestion Awards

(a) Form FD-252 should be utilized to submit suggestions (original and three copies). If the suggestion relates to a form, submit four copies of the current form and four copies of the proposed form.

(b) Form FD-252 must be signed by the suggester and forwarded to the Performance, Recognition and Awards Unit, Administrative Services Division for appropriate action.

(c) A brief description of the current practice or procedure, if any, should be noted, as well as any manual citation, if appropriate.

(d) A description of the suggested change to existing practice or procedure, or if it is a suggestion to add a new practice or procedure, a description of what is to be added.

(e) An analysis of the direct estimated net dollar benefit which would result over the first 12-month period after adoption should be set forth. The suggester is to document as fully as possible the actual or anticipated savings which will result from adoption of a suggestion.

(5) Adoption of Suggestion and Group Awards

(a) Suggestions not adopted when made remain active for six months. If adopted within a six-month period, the original suggester will be entitled to consideration of an appropriate award. Suggestion becomes invalid if not evaluated within six months from the date of the suggestion.

(b) When awards are granted in connection with adopted suggestions, the use of the suggestion by the United States shall not form the basis of a further claim.

(c) If two or more employees independently and simultaneously submit identical suggestions, any award will be equally divided.

(6) Amount of Cash Award for Adopted Suggestions

(a) In the interest of uniformity, the amount of an award will be determined by FBIHQ; therefore, the amount of an award will be determined by FBIHQ and approved by the head of office or SAC.

(b) Cash awards resulting in tangible benefits will be determined in accordance with the following scale for such benefits:

TANGIBLE BENEFITS	AWARD
Up to \$100,000	10 percent of benefits

\$100,001 and above in benefits	\$10,000 plus 1 percent of benefits over \$100,000
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(c) Cash awards resulting in intangible benefits will be determined in accordance with the following scale: (See MAOP, Part 1, 5-19(3)(b).)

	VALUE OF BENEFIT		EXTENT OF APPLICATION	
	Limited	Extended	Broad	General
Moderate	\$ 25-125	\$ 125-325	\$ 325-650	\$ 650-1,300
Substantial	\$ 125-325	\$ 325-650	\$ 650-1,300	\$1,300-3,150
High	\$ 325-650	\$ 650-1,300	\$1,300-3,150	\$3,150-6,300
Exceptional	\$ 650-1,300	\$1,300-3,150	\$3,150-6,300	\$6,300-10,000

(d) Cash awards for suggestions will not affect the annual salary of an employee; however, federal withholding tax will be deducted from such award prior to payment.

(7) Streamlining Committee or Suggestion Coordinator (Optional). Each division may designate either a Suggestion Coordinator or Streamlining Committee. Their function is to facilitate suggestions to improve Bureau operations. This decision will be left to the discretion of the division head or SAC who is responsible for lending appropriate support to the Suggestion Program.

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5-20 SERVICE AWARDS

Certificates of service and service award keys are presented to Bureau employees in connection with their 10-, 20-, 25-, and 30-year anniversaries. Bureau employees celebrating their 40-, 45-, 50-, and 55-year anniversaries will receive congratulatory letters in lieu of certificates. Additional service awards follow:

(1) 35-Year Service Award

Scroll Award

(2) 40-Year Service Award

(a) Deleted

(b) Service award key cluster

(c) Engraved watch

- | (d) |Deleted|
- (3) 45-Year Service Award
- | (a) |Deleted|
- (b) Three-dimensional plaque of FBI Seal
- | (c) |Bookends|
- | (d) |Deleted|
- (4) 50-Year Service Award
- | (a) |Deleted|
- (b) Cuff links and tie clasp for men
- (c) Brooch for women
- | (d) |Deleted|
- | (5) 55-Year Service Award
- | (a) Engraved crystal eagle
- | (6) 60-Year Service Award
- | (a) FBI Medal for Meritorious Achievement|

**EffDte: 08/09/2000 MCRT#: 1007 Div: D3 Cav: SecCls:

5-20.1 Computation of FBI Service

- (1) Based on total period(s) of active duty
- (2) Leave without pay in excess of six months is deducted
- (3) In general, any period of separation from the Bureau's rolls is deducted. Military service is credited for those employees who possess mandatory restoration rights to the positions they hold when they enter the military and who fulfill any criteria necessary to protect such rights.

**EffDte: 08/29/1990 MCRT#: 0 Div: D3 Cav: SecCls:

| 5-20.2 Presentation of Service|Awards|

- | (1) Anniversary awards should be presented to employees

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| by the heads of office. At the employee's request, the Director will
| present, as his schedule allows, service awards to those employees
| celebrating 25 years, or longer, of Bureau service who are assigned to
| FBIHQ (excluding the Criminal Justice Information Services Division
| employees assigned to Clarksburg, WV, but including any employees
| assigned to Quantico, Virginia; Washington Field Office; and the
| Critical Incident Response Group (CIRG)). Bureau employees in
| Clarksburg, WV, and all field offices, other than CIRG, celebrating
| 25-year, 30-year, or 35-year anniversaries who wish to meet with the
| Director for presentation of their service awards need to submit their
| request by EC with the understanding that all expenses are to be borne
| by the requesting employee. The EC should be addressed to
| Administrative Services, Attn: Performance, Recognition, and Awards
| Unit (PRAU), Room 6860, at FBIHQ, at least one month prior to the
| employee's anniversary.

| (2) The PRAU, via an EC, will contact all Bureau
| employees assigned to field offices (excluding CIRG) celebrating a 40-
| year anniversary or longer, through the employee's division front
| office, inviting the recipient to travel to FBIHQ to meet with the
| Director for presentation of his/her service award. Travel costs for
| the recipient and one guest will be reimbursed by the Bureau.|

**EffDte: 08/09/2000 MCRT#: 1007 Div: D3 Cav: SecCls:

5-20.3 Loss of Service Award Key

| [A replacement key, at the employee's expense, may be
| requested by submitting a communication to the PRAU, Administrative
| Services Division, Room 6860. In the communication, the employee must
| explain the reason for the request and should also include their
| official Bureau name and entry on duty date, as well as a personal
| check, cashier's check or money order made payable to the FBI. Due to
| the fluctuating prices of gold, an employee must contact the PRAU to
| obtain a current price.]

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5-21 FEDERAL SERVICE EMBLEM

A Federal service emblem, with FBIHQ concurrence, is available at the employee's specific request when an employee does not qualify for a Bureau service award key under the following circumstances:

(1) Employee must have completed at least 10 years of civilian and/or military service, exclusive of FBI service.

(2) Employee must have completed at least one year of FBI

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service.

**EffDte: 08/25/1989 MCRT#: 0 Div: D3 Cav: SecCls:

5-22 RETIREMENT PLAQUE

| [A retirement plaque is authorized for presentation to
| employees who retire, including disability retirements, from the
| Federal Government while employed by the FBI regardless of their years
| of FBI service. These employees may be eligible for retirement under
| the provisions of the Civil Service Retirement System or the Federal
| Employees Retirement System. Special Agent badges and credentials or
| support employee credentials or identification cards may be
| appropriately mounted on the plaque. The employee may request a
| walnut shield-type plaque without badges, credentials or cards. The
| retirement plaque will reflect only the dates of FBI service.]

**EffDte: 08/25/1989 MCRT#: 0 Div: D3 Cav: SecCls:

5-22.1 Request for Retirement Plaque

(1) Type of plaque and employee's desire for such plaque, as well as approval by division head or SAC, should be determined at time of exit interview and appropriately indicated on the exit interview form (FD-193).

(2) FBIHQ division heads and SACs should ensure that credentials and badges or identification cards are submitted by routing slip to FBIHQ in a sealed envelope at least 45 days prior to retirement date. Credentials and badges or identification cards should be submitted to FBIHQ by registered mail, Attention:
| Employee Benefits Unit, |Personnel|Division.

**EffDte: 04/21/1994 MCRT#: 226 Div: D3 Cav: SecCls:

5-22.2 Presentation of Retirement Plaque

(1) The Director will personally present, as his schedule allows, retirement plaques to employees assigned to FBIHQ and to the Washington Metropolitan Field Office, at the employee's written request. These requests should be made at the time of the exit
| interview to Attention: Employee Benefits Unit, |Personnel|Division.

(2) In the Director's absence, retirement plaque will be presented by the FBIHQ division head or SAC.

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(3) In the field, exclusive of Washington Metropolitan Field Office, SACs or, in their absence, ASACs will present retirement plaque to recipient employee.

**EffDte: 04/21/1994 MCRT#: 226 Div: D3 Cav: SecCls:

5-23 MEMORIAL PLAQUE

A memorial plaque is authorized, but only after the specific request of surviving family member(s), for a Bureau employee who dies while on the rolls, without regard to age or length of Bureau service. Requests should be forwarded to FBIHQ, Attention: Employee Benefits Unit, Administrative Services Division.

(1) In each instance, the availability of a plaque should be communicated to the next of kin.

(2) The memorial plaque will be identical to the employee retirement plaque, with the exception of the inscription and the perforation on the credentials.

(3) The inscription plate will read "Presented to the Family of _____, in Memory of his (her) Loyal and Devoted Service to the Federal Bureau of Investigation, 19__ - 19__."

(4) Deleted

**EffDte: 08/26/2002 MCRT#: 1224 Div: D3 Cav: SecCls:

5-23.1 Memorial Plaques for Agents Killed in the Line of Duty but Not Necessarily During an Adversarial Confrontation

(1) The FBI has long honored Agents killed in the line of duty as a result of direct adversarial impetus--that is, at or by the hand of an adversary, or who die as a result of an adversarial confrontation. These Agents' names have been placed on a permanent plaque so that their great sacrifice will always be remembered. The inscription on this plaque reads: "In memory of Special Agents of the Federal Bureau of Investigation who were killed in the line of duty as the direct result of an adversarial action." The criterion for inclusion on this plaque is as follows: "Agent or Agents who are killed in the line of duty as a result of direct adversarial impetus--that is, at or by the hand of an adversary or who die as a result of an adversarial confrontation." The plaque consists of the names of the Agents under the Special Agent badge.

(2) The FBI also honors those Agents who lose their lives

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in the performance of their duty, but not necessarily during an adversarial confrontation. The inscription on this plaque will read: "In memory of Special Agents of the Federal Bureau of Investigation who lost their lives in the performance of a law enforcement duty." This would include situations involving "hot pursuit" of criminals and when death results from the Agent taking immediate action to save the life or lives of others. It would not include deaths caused, in whole or in part by voluntary intoxication of the Agent, internal misconduct of the Agent, the Agent's intention to bring about his/her death (suicide) or gross negligence by the Agent. Specific guidelines for inclusion on this new plaque have been developed. FBIHQ will decide which Agents are to be honored.

(3) Both plaques will be prominently displayed, side by side, in the Hall of Honor at the FBI Academy at Quantico, FBIHQ, and in all field offices.

**EffDte: 08/30/1991 MCRT#: 0 Div: D3 Cav: SecCls:

5-24 HONORARY MEDALS PROGRAM (HMP)

(1) The HMP is an enhancement of the Incentive Awards Program and was created to expand recognition afforded FBI employees by allowing the presentation of honorary medals in acknowledgement of their acts of heroism, valor and meritorious achievements. The medals are: FBI Medal of Valor; FBI Shield of Bravery; FBI Medal for Meritorious Achievement; FBI Star; and FBI Memorial Star. The medals are 14k gold filled and accompanied by replica 14k gold-filled lapel pins. They are engraved on the reverse sides with the names of the honorees and placed in decorative shadow boxes for presentation.

(2) These medals may also be presented to federal, state, and local law enforcement personnel who are detailed to or working with the FBI in an investigative capacity under the Bureau's direction for performance in the direct line of duty, or within the scope of their assigned duties relating to the FBI's mission.

(3) In instances where recognition of a group is warranted, in lieu of individual medals, the approved medal mounted on a plaque and imprinted with the names of the honorees is awarded to the office to which the group is assigned. Each recipient is presented with an individual award device as well as a replica lapel pin.

**EffDte: 04/21/1999 MCRT#: 875 Div: D3 Cav: SecCls:

5-24.1 Qualifying Criteria for FBI Employees

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(1) FBI Medal of Valor

- (a) Exceptional (extreme) act of heroism.
- (b) Voluntary risk of personal safety and life.
- (c) Act occurs in the direct line of duty and/or within scope of FBI employment and in the face of criminal adversary(s).
- (d) Resolution and fortitude are of such a degree as to overcome several obstacles to neutralize a significant life-threatening crisis.

(2) FBI Shield of Bravery

- (a) Brave and courageous acts occurring in the direct line of duty and/or within the scope of FBI employment.
- (b) Voluntary risks in hazardous duties to extend major assistance to, i.e., task force or undercover operations, grave situations and/or crisis confrontations associated with the highest priority cases of the FBI.
- (c) Performance occurs on duty and may include action in connection with a high-priority police cooperation matter or organized crime penetration. (For example, involving lead hostage negotiators or undercover Agents, continuously exposed to hostile, dangerous individuals.)

(3) FBI Medal for Meritorious Achievement

(a) FBI Service

1. Awarded for extraordinary and exceptional meritorious service in a duty of EXTREME challenge and GREAT responsibility; i.e., a sufficient accumulation of DEMONSTRATED DEEDS and ACTS of such magnitude, over a requisite time period, to clearly judge the employee's service to the FBI and Nation to be beyond our highest expectations (beyond performance solely justifying Quality Step/Increases, or/significantly substantial cash awards).

2. Extraordinary and exceptional achievements in connection with criminal or National Security cases, as well as senior executives who have given long and outstanding service upon their retirement, etc.

(b) Exceptional Performance

1. A decisive, exemplary act that results in the protection of life (lives) or the direct saving of life (lives) in severe jeopardy.

2. The recipient need not be in any risk of danger to his/her life or personal safety.

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3. The lifesaving act or deed may occur during, before, or after the employee's official duty hours. For example, ranging from a support employee's cardiopulmonary resuscitation act to a SWAT member's success in properly neutralizing an extremely dangerous subject with hostages.

4. Brave and courageous acts occurring in the direct line of duty and/or within the scope of FBI employment or voluntary risks in hazardous duties which are not at a level to justify the FBI Shield of Bravery, but are of such magnitude that a medal is appropriate recognition.

(4) FBI Star

(a) Serious injury sustained in the direct line of duty from physical confrontation with criminal adversary(s), or by a device for purposes of ambush.

(b) Injury inflicted by weapons to include hands, fists, feet, clubs, (blunt instruments), knives, firearms, and explosives.

(c) The FBI Star is awarded for gunshot wounds of any variety inflicted as a result of an adversarial action when it is determined that the injured employee was acting in accordance with governing policy and exercising reasonable judgment.

(d) Injury in the case of all weapons, with the exception of gunshot wounds, that are so severe as to require substantial emergency room sutures, hospitalization and/or COMPREHENSIVE medical treatment for a SUSTAINED period of time (e.g., severe concussion and broken bones).

(e) Superficial abrasions, skin discolorations, sprains and other minor injuries will be disqualified for consideration in most cases.

(5) FBI Memorial Star - Death when killed in the line of duty as the direct result of an adversarial action; loss of life in the performance of a law enforcement duty; and when actions resulting in death occur in the scope of FBI employment and in the face of criminal adversary(s). Note: Under circumstances wherein an Agent is slain "in the scope of FBI employment," the propriety of the actions must be adjudicated internally prior to the presentation of the FBI Memorial Star.

**EffDte: 04/25/2001 MCRT#: 1096 Div: D3

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5-24.2 Qualifying Criteria for Law Enforcement Personnel

(1) FBI Medal of Valor

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(a) Exceptional (extreme) act of heroism.

(b) Voluntary risk of personal safety and life.

(c) Act occurs in the direct line of duty and/or within scope of employment while detailed to or working with the FBI in an investigative capacity under Bureau direction and in the face of a criminal adversary(ies).

(d) Resolution and fortitude are of such a degree as to overcome several obstacles to neutralize a significant life-threatening crisis.

(2) FBI Shield of Bravery

(a) Brave and courageous acts occurring in the direct line of duty and/or within scope of employment while detailed to or working with the FBI in an investigative capacity under Bureau direction.

(b) Voluntary risks in hazardous duties connected to task force or undercover operations, or grave situations and/or crisis confrontations associated with the highest priority cases of the FBI.

(c) Performance occurs on duty and includes actions in connection with a high-priority police cooperation matter or organized crime penetration. (For example, involving lead hostage negotiators|or|undercover roles, continuously exposed to hostile, dangerous individuals.)

(3) FBI Medal for Meritorious Achievement

(a) Brave and courageous acts occurring in the direct line of duty and/or within the scope of employment while detailed to or working with the FBI in an investigative capacity under Bureau direction or voluntary risks in hazardous duties which are not at a level to justify the FBI Shield of Bravery, but are of such magnitude that a medal is appropriate recognition.

(b) A decisive, exemplary act that results in the protection of life (lives) or the direct saving of life (lives) in severe jeopardy.

(c) The recipient need not be in any risk of danger to his/her life or personal safety.

(4) FBI Star - Serious injury sustained in the direct line of duty from a physical confrontation with a criminal adversary(ies), or by a device for purposes of ambush while detailed to or working on an FBI investigation under Bureau direction.

(5) FBI Memorial Star - Death in the line of duty as the direct result of an adversarial action; loss of life in the performance of a law enforcement duty; and when death occurs in the face of a criminal adversary(ies) while detailed to or working with FBI investigative matters under Bureau direction.

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5-24.3 Nomination Procedures

| (1) |Nominations for honorary medals are to be submitted on
| Form FD-255a within a reasonable time period after the occurrence of
| the act, deed, or service to be honored. If more than one year has
| lapsed since the incident occurred, the field or Headquarters head of
| office must specifically address the reasons why more timely
| recognition was not sought.

| Note: Effective December 31, 1999, medal recommendations based on
| events that occurred prior to 1989 will no longer be accepted. |

| (2) |The FBI Memorial Star is intended to be presented to
| the primary next of kin as soon as possible after the interments of
| Special Agents or federal, state, or local law enforcement personnel
| killed in the line of duty or in the performance of a law enforcement
| duty. |

| (3) |Any individual having personal knowledge of an act,
| deed, or service believed to merit an honorary medal may submit a
| statement of facts to a field or Headquarters head of office. Each
| head of office is required to PERSONALLY screen the nomination and
| include comments concerning the specifics of the event and employees'
| performance in terms of criteria for the medal(s) being recommended,
| and submit it, by Form FD-255a, to the Performance, Recognition and
| Awards Unit (PRAU). A division head should also comment negatively if
| he/she believes the medals' criteria were not met. It is crucial that
| appropriate supporting documents, e.g., administrative inquiry reports
| when an event involved an Agent's use of his/her weapon, newspaper
| clippings regarding the event, and the like are attached to the
| recommendation. |

| (4) | Recommendations of medals for federal, state, and
| local law enforcement personnel should be made by the FBI
| office/division head where the activity warranting the medal took
| place and must also contain the concurrence of the head of the
| employing agency.

| (5) | The FD-255a should be submitted to the PRAU,
| |Administrative Services Division. |

| (6) | In the interest of timeliness when recommendations are
| made for the FBI Memorial Star, immediate|electronic communication
| (EC)|may be submitted to the PRAU. The|EC|should include a succinct
| description of the circumstances wherein an Agent or law enforcement
| employee was killed.

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| 5-24.4 | FBIHQ Approval Process (Moved from 5-24.7)|

| |A panel, chaired by the Assistant Director of the
| Administrative Services Division (ASD) and consisting of two Special

| Agents in Charge and two Special Agents, is convened as often as
| necessary to review medal nominations and make recommendations to the
| Deputy Director. Representatives of the Employee Assistance Unit,
| Shooting Incident Review Group, and the PRAU are also present to
| assist the voting members of the panel. The criteria for the Memorial
| Star, and in some cases, the FBI Star, are sufficiently clear to allow
| for the submission of a recommendation by the ASD without convening a
| panel. |
|

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| 5-24.5 | Presentation of Medals (Moved from 5-24.6)|

| (1) The FBI Memorial Star will be presented by the Director
| or his personally designated representative to the primary next of
| kin. |The order of precedence to establish the primary next of kin as
| surviving spouse, eldest child, father or mother, eldest sibling, or
| eldest grandchild is in accordance with the manner prescribed in the
| Department of Army regulations governing posthumous awards and
| decorations. |

| (2) |The FBI Medal of Valor, Shield of Bravery, Medal for
| Meritorious Achievement, and FBI Star are normally presented by the
| head of the office to which the recipient is assigned in a suitable
| ceremonial setting. |

| (3) |Upon approval of each medal, the submitting office will
| be advised to plan a presentation ceremony and coordinate with the
| PRAU to ensure that the medal is appropriately inscribed and forwarded
| to the office in time for the event. |
|

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| 5-24.6 | Moved to 5-24.5|

**EffDte: 04/21/1999 MCRT#: 875 Div: D3PA Cav: SecCls:

| 5-24.7 |Moved to 5-24.4|

**EffDte: 04/21/1999 MCRT#: 875 Div: D3 Cav: SecCls:

5-25 DIRECTOR'S ANNUAL AWARDS FOR EXCELLENCE

The Director's Annual Awards for Excellence offer the Director and other FBI officials the opportunity to recognize, in a public ceremony, Bureau employees for their outstanding contributions and exceptional service to the FBI and its mission. There are 17 categories of awards, and to the extent the quality of the award nominees warrant, the opportunity exists to present more than one award per category. Also, more than one employee will be eligible for consideration to receive one award, e.g., a group award. A two-tiered system will be used with the first tier consisting of three awards. The second tier will be only slightly lower in significance and will consist of 14 awards.

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5-25.1 First Tier

(1) The Director's Annual Award for Excellence in Management

(a) Description: This award is designed for someone in a supervisory position, not necessarily a Special Agent Supervisor, and is one of the three highest awards the Director can bestow.

(b) Criteria: The nominee must have demonstrated outstanding leadership and have made extraordinary contributions or achievements in the improvement of operational or program effectiveness, efficiency or productivity; have reduced or eliminated costs through innovative or special managerial or administrative efforts and initiatives; or have benefited the FBI through the reduction or elimination of fraud, waste, mismanagement or abuse.

(2) The Director's Annual Award for Excellence in Investigation

(a) Description: This award is designed for someone who has made significant contributions to an investigation and is one of the three highest awards the Director can bestow.

(b) Criteria: The nominee must have achieved major accomplishments in an investigation(s) and demonstrated extraordinary competence in complicated, long-term, and/or sophisticated cases of

major significance.

(3) The Director's Annual Award for Excellence in Investigative Support

(a) Description: This award is designed for someone in a support capacity, with eligibility extended to both support employees and Agents, and is one of the three highest awards the Director can bestow.

(b) Criteria: The nominee must have demonstrated exceptional motivation, initiative, and performance in the support of investigative efforts and/or displayed extraordinary achievements that overcame unusual difficulties or unique situations of great importance to the mission of the FBI.

**EffDte: 02/29/1996 MCRT#: 495 Div: D3 Cav: SecCls:

5-25.2 Second Tier

(1) The Director's Award for Distinguished Service to the Law Enforcement Community

(a) Description: This award is designed for someone who contributed to better relations among law enforcement and/or governmental agencies.

(b) Criteria: The nominee must have demonstrated an exceptional ability to work with outside agencies, resolve difficulties and differences, and achieved significant results through coordinated law enforcement and/or governmental agency efforts.

(2) The Director's Award for Information Management or Technical/Scientific Advancement

(a) Description: This award is designed for someone who develops law enforcement techniques in the area of information management, technical services, or scientific advancement.

(b) Criteria: The nominee must have made outstanding achievements in the area of information management, technical services, or scientific advancement that significantly contributed to the mission of the law enforcement community or resolving a case of major importance.

(3) The Director's Award for Outstanding Criminal Investigation

(a) Description: This award is designed for someone involved in a criminal investigation(s) of a significant nature.

(b) Criteria: The nominee must have demonstrated

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extraordinary ingenuity, initiative, and competence in overcoming serious obstacles and achieved significant results in a complex criminal investigation(s) of major importance.

(4) The Director's Award for Outstanding National Security Investigation

(a) Description: This award is designed for someone who is involved in a National Security investigation of a significant nature.

(b) Criteria: The nominee must have demonstrated extraordinary ingenuity, initiative, and competence in overcoming serious obstacles and achieved significant results in a National Security investigation(s) of major importance.

(5) The Director's Award for Outstanding Counterterrorism Investigation.

(a) Description: This award is designed for someone who is involved in a counterterrorism investigation of a significant nature.

(b) Criteria: The nominee must have demonstrated extraordinary ingenuity, initiative, and competence in overcoming serious obstacles and achieved significant results in a counterterrorism investigation(s) of major importance.

(6) The Director's Award for Distinguished Service by a Support Employee

(a) Description: This award is designed for a support employee who has made exceptional contributions to the FBI.

(b) Criteria: The nominee must have demonstrated outstanding motivation, initiative, and performance in support of the FBI's mission and/or displayed significant achievements that overcame unusual difficulties or unique situations.

(7) The Director's Award for Sustained Distinguished Service

(a) Description: This award is designed for someone who has contributed to the FBI for an extended period of time, an "unsung hero" award.

(b) Criteria: A nominee in this category ideally will have demonstrated significant contributions to the FBI over a period of 20 years or longer. Service of less than 20 years will be considered relative to the candidate's potential length of career service, scope of accomplishment, and eligibility under other award categories. The contributions on a single project or investigation may not be sufficiently significant to justify a Director's award. However, the totality of their service to the FBI warrants special recognition.

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(8) The Director's Award for Distinguished Service by a New Employee

(a) Description: This award is designed for someone who significantly contributes to the FBI with less than five years in the FBI and is to serve as an incentive and role model for all employees, especially new employees. This is a type of "Rookie of the Year" award.

(b) Criteria: The nominee must have demonstrated exceptional ability and resourcefulness to overcome obstacles in light of limited experience that significantly contributed to fulfilling the FBI's goals.

(9) The Director's Award for Exceptional Public Service

(a) Description: This award is designed for an individual or organization outside of the FBI who contributed to the FBI's mission, a "public service" award.

(b) Criteria: The nominee must have demonstrated great unselfishness and public consciousness in assisting the FBI in achieving exceptional results.

(10) The Director's Award for Equal Employment Opportunity

(a) Description: This award is designed to recognize the most significant contribution(s) to the Equal Employment Opportunity (EEO) Program.

(b) Criteria: This award is not restricted to EEO Program officials. A nomination may be for any manager or employee who has made significant contributions to the FBI's EEO Program. These contributions could be in the areas of leadership, training, recruitment, conciliation, or any other activity that enhances employment opportunities for women and minorities including Blacks, Hispanics, Native Americans and Asian Americans within the FBI. Consideration should be given for accomplishment(s) in the following area(s):

1. Performance of a special service beyond the normal job requirements which results in significant improvement and effectiveness of EEO Program operations.

2. Development and implementation of a program or activity which greatly improves public understanding of the FBI's EEO Program and the Agency mission.

3. Development and implementation of a program or activity which greatly improves employees' understanding of the FBI's EEO Program and the Agency mission.

4. Performance of a single or continuing act which clearly strengthens the effectiveness of some aspect of the EEO process.

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5. Performance in the implementation of EEO activities and programs which addresses the career needs and concerns of FBI employees, and contributes to the fostering, understanding, harmony and cohesiveness within the FBI workforce.

6. Other EEO-related accomplishments or activities that enhance the EEO Program.

7. Contributions to the EEO Program that are especially innovative, or that employ a unique approach to EEO concepts (e.g., a new recruitment initiative or EEO planned event).

8. Where an individual creatively defused a potentially volatile EEO situation or through mediation of a particularly egregious EEO issue.

|
| (11) | The Director's Award for Outstanding Service to Disabled Employees or by a Disabled Employee.

(a) Description: This award is intended to be given to the employee who has rendered outstanding service to disabled employees, or a disabled employee whose above-average performance warrants recognition.

(b) Criteria: Recognition may be received for such services as recruitment, employment, providing services, accommodations or equipment for disabled employees; or, a disabled employee may be recognized for his/her exemplary performance in the face of formidable obstacles.

| (12) | The Director's Award for Special Achievement

(a) Description: This award is designed for a Special Agent or support employee who has excelled in a specific area of expertise or in a foreign service assignment, and whose achievements do not fit other categories of the Director's Awards.

(b) Criteria: The nominee must have demonstrated extraordinary initiative, ingenuity, competence and performance in his/her area of expertise or in areas of foreign service or any specialization that enhances the mission of the FBI.

| (13) | The Thomas E. DuHadway Humanitarian Award

(a) Description: This award is designed to recognize Bureau employees that best exemplify former Assistant Director DuHadway's constant, unqualified willingness to help others through personal crises, regardless of their position, age, race, sex or religion, with no expectations of personal gain or recognition.

(b) Criteria:

1. Nominee must be an employee of the FBI.
2. Nominee has responded to the needs of a

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fellow FBI employee or the employee's family with an unqualified willingness to help the employee through a time of personal or family crisis without regard for their position, age, race, sex or religion.

3. The nominee volunteered time to help a member of the FBI family solve a personal problem or unsolicited assistance of a positive nature that aided the employee or their family.

4. The employee's contributions or assistance had a significant, positive effect on the resolution of the personal crisis involved and/or otherwise is clearly recognizable as an action which others should seek to emulate in the spirit demonstrated by former Assistant Director DuHadway.

| (14) | The Manuel J. Gonzalez Ethics Award

(a) Description: This award is designed to recognize Bureau employees who best embody former Assistant Director Gonzalez's example of unwavering ethical standards, professional ideals, and reputation for organizational integrity.

(b) Criteria:

1. Nominee must be an employee of the FBI.

2. Eligibility extends to three qualifying forms of ethical display. One of the following, or combination thereof, will be deemed suitable:

a. Nominee's FBI career has been distinguished by his/her extraordinary commitment to the FBI's code of conduct in both professional and private life.

AND/OR

b. Nominee has demonstrated an extraordinary sense of ethics in overcoming a significant dilemma or withstanding a specific crisis as it relates to his/her official FBI duties or employment with the FBI.

AND/OR

c. Through nominee's display of ethical standards in a specific instance, public trust in the FBI, or law enforcement in general, has been markedly enhanced or fortified.

3. Nominee has significantly improved the FBI's internal ethics or standards of conduct program through exceptional individual effort, contribution, or example.

4. Nominee has substantially enhanced the federal government's Standards of Ethical Conduct program through exceptional individual effort, contribution, or example.

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5. Nominee has personified the FBI's Core Values of rigorous obedience to the Constitution, respect for the dignity of all; compassion; fairness, and uncompromising personal and institutional integrity through either sustained outstanding performance of day-to-day duties or special acts.

6. Nominee has substantially improved the public's perception of the FBI's commitment to individual and institutional integrity through exceptional individual effort or contributions in the community.

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5-25.3 Awards

The first-tier awards will consist of a \$5,000 cash award and a noncash award, i.e., plaque, statue, certificate, etc. The second-tier awards will consist of a \$3,000 cash award and a noncash award. |(NOTE: Nonwork-related performance recognized under the EEO category, e.g., community services, will be recognized with an award device only. Work-related performance in this category will be recognized with a cash award.)| Provided that the size of a group receiving one award, e.g., a group award, is not excessive, each member of the group will receive the full cash amount of the award. If the size of the group is deemed excessive, the selection panel will make a recommendation on the size of the award for each member of the group, based on what is reasonable and the circumstances at hand. A noncash award will be presented for the Thomas E. DuHadway Humanitarian Award and the Manuel J. Gonzalez Ethics Award; however, in keeping with the nature of these awards, there will be no accompanying monetary recognition.

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5-25.4 Nominations

Nominations will be made by the heads of FBI field and FBIHQ divisions/offices. Each nomination must be submitted via a cover page which contains the personal endorsement of the division/office head. Nominations arising from investigative work must also be endorsed by the appropriate United States Attorney or responsible department. Where participation in an investigation is the primary basis for a nomination, the strongest background and support can be derived from cases which have been adjudicated through the initial trial phase. However, in recognition of the delays which are inevitable in bringing some cases to trial, nominators should, at a minimum, carefully consider and include a brief assessment of the expected outcomes for nominations supported by investigations which have yet to be adjudicated.

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(1) When an office nominates an employee from another FBI division or field office, the nominating office must include a brief statement noting concurrence from the nominee's division/office head. Nominators are urged to consider all well-qualified individuals in order to contribute toward a proper representation of employees at all levels in both the support and Agent career paths.

(2) Division/office heads may submit a limit of one nomination for each category. Nominations shall be individually typed on plain bond paper, single-spaced, and must not exceed five pages in length. All pages must be headed with the name of the award, the nominee's official Bureau name and title, Social Security Number, grade, and office of assignment.

(3) A one paragraph synopsis of the achievement(s) upon which the nomination is based must be included. The synopsis should be concise, descriptive, and fully outline the outstanding achievement(s) related to the award for which the employee is nominated. It should be written with the assumption that the nominee will be selected for the award, and the paragraph will appear in briefing material and/or an awards program booklet for public dissemination.

(4) Newspaper articles and/or other forms of supporting material may be submitted; however, the selection panel reserves the right to not review this material in their deliberations dependent upon the overall volume of information received.

(5) Nominees must have received a Meets Expectations rating on their last Performance Appraisal Report. Ordinarily, an employee who is the subject of a pending administrative inquiry which could result in disciplinary action should not be recommended for an award.

(6) Submit all nominations to the Performance, Recognition and Awards Unit (PRAU), Administrative Services Division, FBIHQ, except the following:

(a) Nominations from Legal Attache Offices are to be forwarded to the Office of International Operations for initial screening and approval before submission to the PRAU.

(b) Nominations containing details of national security investigation(s)/matter(s) must be forwarded to the Deputy Assistant Director, Counterintelligence Division, Room 4012, FBIHQ, for preliminary review.

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5-25.5 Selection Process

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An awards selection panel composed of representatives, both Agent and support, of FBI Headquarters and the field will be convened by the Assistant Director of the Administrative Services Division to review the nominations and make final recommendations to the Director. Those nominated for first-tier awards will automatically be considered for second-tier awards should they not be selected for a first-tier award. Likewise, those nominated for second-tier awards will automatically be considered for a first-tier award. Nominees will also be eligible for consideration in other categories within the same tier if they meet the criteria of the respective category. The final decision will be made by the Director based on the recommendations made by the selection panel.

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5-25.6 Ceremony

An annual awards ceremony will be held in the Bonaparte Auditorium in the J. Edgar Hoover F.B.I. Building, followed by a reception in the recipients' honor. The Director will preside over the ceremony which will be attended by representatives of the recipients' office of assignment and FBI executives. Recipients and one immediate family member each will attend the ceremony on reimbursable travel expenses; however, the recipients will be allowed to invite any other family members, guests, and Bureau employees of their choosing.

**EffDte: 02/29/1996 MCRT#: 495 Div: D3 Cav: SecCls:

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

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SECTION 6. TESTS

**EffDte: 02/28/1978 MCRT#: 0 Div: D2 Cav: SecCls:

| 6-1 STENOGRAPHIC, TYPING, AND DICTAPHONE TRANSCRIBER TESTS

(1) Stenographic and typing tests are available on a weekly basis to FBIHQ employees desiring to participate in these examinations. These tests are also afforded to applicants and on-board employees in the field offices. The dictaphone transcriber test is a tape cassette of dictation to be transcribed by the employee using a dictaphone machine, and this test is given only to field office employees. The stenographic test is a cassette tape dictated at 80 wpm. The typing test is a 5-minute timed test.

(2) The 80-wpm stenographic test is the standard requirement for the position of Stenographer, GS-5. The typing test is the standard requirement for the position of Office Automation Clerk/Assistant, GS-3, GS-4, and GS-5. The dictaphone transcriber test is given in conjunction with the typing test to field office applicants or employees who will be utilizing dictaphone equipment.

**EffDte: 09/02/1993 MCRT#: 62 Div: D2 Cav: SecCls:

| 6-2 INSTRUCTIONS FOR AFFORDING STENOGRAPHIC, TYPING, AND DICTAPHONE TRANSCRIBER TESTS

Only current Bureau-approved tests are to be used.

**EffDte: 09/02/1993 MCRT#: 62 Div: D2 Cav: SecCls:

6-2.1 Stenographic Tests

(1) Only official Bureau stenographic tape cassettes are to be used when affording the stenographic test. A standard tape recorder must be used to play the tape cassette (do not use a dictaphone machine). The official test must only be afforded once. If the employee or applicant must be tested more than once, a different test must be used.

(2) Instructions for transcription -

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(a) Place official payroll name of employee, date, EOD, and office of assignment in upper right-hand corner of a single sheet of paper.

(b) If an applicant, applicant's full name and the date should be placed in the upper right-hand corner of the paper.

(c) Set the typewriter for one-inch margins, double spacing, and a ten-space tab indentation. Indent only at the beginning of the transcription.

(d) Employee or applicant cannot retype original transcription.

(e) Verbatim transcription is required. Applicant or employee is responsible for spelling, punctuation, capitalization and proper word division. Dictionaries may be used. In case of error, it is permissible to use an eraser. Self-correcting typewriters, correcting tape or whiteout are not permitted.

(f) Indicate on transcription paper the amount of time required for transcribing.

(g) Staple all stenographic notes to the transcription including warm-up notes.

**EffDte: 08/26/1988 MCRT#: 0 Div: D2 Cav: SecCls:

6-2.2 Typing Tests

(1) Only official Bureau typing tests are to be used when affording the typing test. Do not use correcting tape or whiteout. A practice typing test may be afforded prior to the official test. The official typing test must only be afforded once. If the employee must be tested more than once, a different test must be used.

(2) Instructions for a 5-minute timed typing test -

(a) Place official payroll name, date, EOD, and office of assignment in upper right-hand corner of single sheet of paper.

(b) If an applicant, applicant's full name and the date should be placed in the upper right-hand corner of the paper.

(c) Set machine for a one-inch margin, single spacing, and a ten-space tab indentation. Double space between paragraphs.

(d) Test must be copied precisely line for line.

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| (e) | Time employee for five (5) minutes.

| (f) | If entire test is typed before time is called,
employee should double space and begin typing test again.

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| 6-2.3 |Deleted|

**EffDte: 09/02/1993 MCRT#: 62 Div: D2 Cav: SecCls:

6-2.4 Dictaphone Transcriber Test

(1) Only official Bureau dictaphone transcriber tape cassette is to be used when affording the dictaphone transcriber test. A dictaphone machine must be used (do not use a tape recorder). The tape cassette may be forwarded or reversed if necessary. The official test must only be afforded once. A practice dictaphone transcriber test may be afforded prior to affording the official test. If the employee or applicant must be tested more than once, a different test must be used.

(2) Instructions for transcription -

(a) Place official payroll name of employee, date, EOD, and office of assignment in upper right-hand corner of a single sheet of paper.

(b) If an applicant, applicant's full name and the date should be placed in upper right-hand corner of the paper.

(c) Set the typewriter for one-inch margins, double spacing and a ten-space tab indentation. Indent only at the beginning of the transcription.

(d) Employee or applicant cannot retype original transcription.

(e) Verbatim transcription is required. Applicant or employee is responsible for spelling, punctuation, capitalization and proper word division. Dictionaries may be used. In case of error, it is permissible to use an eraser. Self-correcting
| typewriters, correcting tape or whiteout are|not permitted.

(f) Indicate on transcription paper the amount of time required for transcribing.

**EffDte: 08/26/1988 MCRT#: 0 Div: D2 Cav: SecCls:

6-3 GRADING OF TESTS

(1) For applicants recruited for FBIHQ: All stenographic and typing tests administered to applicants recruited for FBIHQ must be forwarded to the|Bureau|Support Applicant Unit with the appropriate paperwork for regrading. Field offices should never inform an applicant of the results of these tests until notified of the official score from FBIHQ.

(2) For applicants recruited for field offices: Field offices shall officially grade all stenographic and typing tests for applicants recruited for their respective offices and on-board employees being considered for promotion. These tests are not to be sent to FBIHQ for regrading.

**EffDte: 04/07/1997 MCRT#: 651 Div: D2 Cav: SecCls:

6-4 INSTRUCTIONS FOR GRADING BUREAU STENOGRAPHIC TEST

The exercise consists of 240 words and has been dictated at 80 wpm for three (3) minutes. Accuracy in the test will be rated on the entire paper. If the transcription consumes more than twenty (20) minutes, two (2) points will be deducted for every minute thereafter. A grade of 75 percent is passing, below 65 percent constitutes a NO GRADE.

The following deductions will be made for the errors noted:

ERRORS	POINTS
General Rule: Every word omitted, added, inserted, misspelled, transposed or in any manner changed from the dictation tape will be penalized as follows:	
Word omitted	3
Word added	3
Word inserted	3
Misspelled word	3
Transposed word	3
Abbreviation (not dictated or dictated but not standard use of)	3
Punctuation:	
Failure to use punctuation	1
Incorrect punctuation	1
Division of words (each error in)	1
Erasures and strikeouts	1
(Maximum for exercise)	5

Incorrectly compounded word	1
Capitalization	1
Interlineation	1
Plural instead of singular if grammatical connection is affected	3
is not affected	1
Singular instead of plural if grammatical connection is affected	3
is not affected	1
Spacing:	
Following punctuation marks	1
Between words	1
Incorrect tabulation	1
Incorrect margins	1
**EffDte: 12/12/1991 MCRT#: 0 Div: D2 Cav: SecCls:	

6-5 RULES TO BE FOLLOWED IN GRADING BUREAU TYPING TESTS

A score of 40 wpm is required for the GS-4 or GS-5 positions and a score of 30-39 wpm is required for the GS-3 position.

**EffDte: 12/12/1991 MCRT#: 0 Div: D2 Cav: SecCls:

6-5.1 Errors

General Rule: Every word omitted, added, misspelled, transposed or in any manner changed from the printed copy will be penalized as follows:

(1) Omission - Charge one error for each letter, figure, or punctuation mark omitted. If the entire line is omitted or a partial line omitted, charge only one error. Then deduct total strokes of the omitted line or partial line from the total strokes typed for the entire line.

(2) Addition - Charge one error for each letter, figure, or punctuation mark added. Charge one error for each entire line added or retyped and for part of a line added or retyped. Charge one error for each word containing a mistake in added or retyped lines.

(3) Misspelled Words - Charge one error for each misspelled word.

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(4) Transposition - Charge one error for each transposed word, plus an error for each word in the transposed matter containing a mistake.

(5) Faulty shifting and lightly struck characters - Charge one error for each character appearing either above or below the line or lightly struck character if the whole character is discernible.

(6) Capitalization - Charge one error for failure to capitalize as in printed copy. Charge one error for an entire line or part of a line typed in solid capitals plus an error for each word containing a mistake.

| (7) Indention - Charge|only|one error for each failure to
| indent as in copy|since tab indentions are previously set before the
| timing starts; therefore, if the typist indents incorrectly the first
| time, he or she will be indenting incorrectly throughout the entire
| timing.|

(8) Margins - Charge one error for each irregularity in left margin. Charge one error for each deviation from the test in the right margin.

(9) Spacing - Charge one error for incorrect spacing between lines, words, and after punctuation marks that differ from printed copy.

(10) Strikeovers - Charge one error for each strikeover.

(11) Last word - Charge one error for a mistake in the last word typed, whether or not the word is completed.

ONLY ONE ERROR MAY BE CHARGED IN A WORD, INCLUDING ITS FOLLOWING PUNCTUATION AND SPACING.

NOTE: Use a check mark to indicate each error.

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6-5.2 Calculation of Grade

Each character or space in a line counts as one stroke. Determine the number of strokes typed. If a partial line is typed, count the strokes and add to the total strokes in the line above. Do not add strokes in retyped lines. Subtract strokes from the total number of strokes for omitted lines. Divide the number of strokes by (5) five to determine the gross number of words typed. For each error, deduct (10) ten words from the gross number of words. Divide by (5) five to determine net wpm typed. Round off fractions to nearest whole number.

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Example:

A typist typed 1,233 strokes with 2 errors in 5 minutes
1,233 divided by 5 = 247 gross words
2 (errors) x 10 = 20 penalty
247 - 20 = 227 net words
227 divided by 5 (minutes) = 45 net wpm

PASSING GRADE = 40 WPM

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**EffDte: 09/02/1993 MCRT#: 62 Div: D2 Cav: SecCls:

| 6-6.1 |Deleted|

**EffDte: 09/02/1993 MCRT#: 62 Div: D2 Cav: SecCls:

| 6-6.2 |Deleted|

**EffDte: 09/02/1993 MCRT#: 62 Div: D2 Cav: SecCls:

| 6-6.3 |Deleted|

**EffDte: 09/02/1993 MCRT#: 62 Div: D2 Cav: SecCls:

6-7 INSTRUCTIONS FOR GRADING THE BUREAU DICTAPHONE TRANSCRIBER TEST

The exercise consists of 240 words and has been dictated at 80 wpm for three (3) minutes. Accuracy in the test will be rated on the entire paper. If the transcription consumes more than (10) ten minutes, two (2) points will be deducted for every minute thereafter. A grade of 75 percent is passing, below 65 percent constitutes NO GRADE.

The following deductions will be made for the errors noted:

**EffDte: 01/21/1987 MCRT#: 0 Div: D2 Cav: SecCls:

6-7.1 Errors

General Rule: Every word omitted, added, inserted, misspelled, transposed or in any manner changed from the dictation tape will be penalized as follows:

ERRORS	POINTS
Word Omitted	3
Word Added	3
Word inserted	3
Misspelled word	3
Transposed word	3
Abbreviation: (Not dictated or dictated but not standard use of)	3
Punctuation:	
Failure to use punctuation	1
Incorrect punctuation	1
Division of words (each error in)	1
Erasures and strikeouts	1
(Maximum for exercise)	5
Incorrectly compounded word	1
Capitalization	1
Interlineation	1
Plural instead of singular if grammatical connection is affected	3
is not affected	1
Singular instead of plural if grammatical connection is affected	3
is not affected	1
Spacing:	
Following punctuation marks	1
Between words	1
Incorrect tabulation	1
Incorrect margins	1

**EffDte: 01/21/1987 MCRT#: 0 Div: D2 Cav: SecCls:

| 6-8 |DELETED|

**EffDte: 01/21/1987 MCRT#: 0 Div: D2 Cav: SecCls:

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

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SECTION 7. MERIT PROMOTION AND PLACEMENT PLAN (MPPP)

7-1 OBJECTIVE

- (1) The objective of this plan is to provide guidance in assuring that all qualified candidates receive fair and equal consideration for support positions based on merit principles. It is based on the premise that the best predictor of future performance is past performance in similar situations and is designed to ensure that the FBI is staffed by the most qualified candidates available.
- (2) Personnel staffing decisions will be based on valid job-related criteria and, except where otherwise provided by law, without regard to and without discrimination because of color, race, religion, national origin, political affiliation, marital status, mental or physical disability, age, sex, or sexual orientation.
- (3) Personnel staffing decisions will be based on job-related criteria without regard to membership or nonmembership in an employee organization; personal favoritism; or in reprisal for the lawful disclosure of information in "whistleblower" situations.
- (4) The standards outlined address policies and procedures necessary to operate an effective merit system for the staffing of support positions consistent with the requirements of the "Uniform Guidelines on Employee Selection Procedures," Section 50.14, Title 28, United States Code of Federal Regulations.
- (5) This plan is applicable for the staffing of positions in the FBI excluding those classified in occupational series 1811, attorney positions, positions in the Senior Executive Service and positions at the Executive Level.

7-2 DEFINITION OF TERMS

- (1) ABILITY (KSAO): The power to perform an observable activity or behavior which results in an observable product or consequence.
- (2) ALL-SOURCE APPLICANT: Any applicant, usually an individual not employed by the federal government, such as a private sector employee, military member or student.
- (3) ALL-SOURCE CERTIFICATE: A list of all-source candidates who have been rated and ranked and afforded veterans' preference. Referred to as "Certificate of Eligibles" in the competitive service.
- (4) AREA OF CONSIDERATION: An area in which an intensive search for eligible candidates for a specific vacancy is made. The area of consideration is decided by management and human resource personnel based on the needs of the FBI. It must be broad enough to produce a sufficient number of well-qualified candidates and meet EEO objectives.
- (5) BEST-QUALIFIED LIST: A group of federal candidates who, when measured by appropriate procedures, possess the critical knowledge, skills, abilities and other characteristics (KSAOs) to a greater degree than other candidates eligible for the position.

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- (6) **CAREER LADDER:** The grade levels through which an employee may advance to the full level of the position to which appointed or assigned; it provides progressively more responsible experience and noncompetitive promotion potential for incumbents up to the designated full level.
- (7) **CAREER PATH:** Range of career progression opportunities available to a particular occupational group within an organization. Career paths include not only the classified career ladders of individual positions, but other positions for upward, lateral, or downward movement into different positions.
- (8) **CHANGE TO LOWER GRADE:** A change of an employee to a job or grade level with a lower representative rate. An action resulting in a reduction in grade. A change to lower grade can occur as a result of a competitive selection procedure, an adverse action or at the request of an employee. It may or may not result in a decrease in pay.
- (9) **COMPETITIVE SELECTION PROCEDURES:** Procedures that allow for advertisement of a position, evaluation of qualifications and selection of a candidate(s) for a position. A competitive procedure could result in a noncompetitive action (i.e., reassignment, change to lower grade).
- (10) **CONVERTED SCORE:** The rating of an all-source candidate that has been converted to a 100-point scale.
- (11) **CREDITING PLAN:** Education, training and experience examples for each knowledge, skill, ability or other characteristic (KSAO) which serves as a gauge by which a candidate is compared and evaluated.
- (12) **DETAIL:** A temporary assignment of an employee to a different position not to exceed a specific period of time with the employee returning to his/her regular duties at the end of the detail. A position is not filled by a detail, as the employee continues to be the incumbent of the position from which detailed. The employee should be eligible and qualified for any position to which he/she is detailed. Details of more than 120 days to either a higher graded position or a position with greater promotion potential require competitive staffing procedures.
- (13) **ELIGIBLE CANDIDATE:** Applicant who is within the published area of consideration and who meets the established minimum qualification standards for the position and any other applicable legal or regulatory provisions.
- (14) **FEDERAL APPLICANT:** Applicant who is currently an employee of the federal government or who is eligible for reinstatement. (Includes FBI candidates.)
- (15) **FULL PERFORMANCE LEVEL (FPL):** The highest grade/level of regular and recurring work identified and classified in a particular career ladder. In cases where a position is advertised at a grade/level less than the FPL, the employee who is placed in the position will have noncompetitive promotion potential to the FPL.
- (16) **FUNDED STAFFING LEVEL:** The number of work years which a division/office is authorized, as determined by the Resource Management and Allocation Board.
- (17) **GENERAL EXPERIENCE:** Experience that is usually required at grade levels where the knowledge and skills needed to perform the duties of a specific position are not a prerequisite, but where applicants must have demonstrated the ability to acquire the particular knowledge and skills.

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(18) **GRIEVANCE:** A formal protest by an employee, or by a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction relating to the employment of an individual(s) which is subject to control by the FBI. Personal relief is a specific remedy directly benefitting or affecting the grievant(s), but does not include a request for discipline or other action affecting another employee.

(19) **INTERVIEW:** A method of evaluating a candidate to determine if he/she possesses the essential knowledge, skills, abilities or other characteristics needed to perform a job.

(20) **JOB ANALYSIS:** A systematic and documented statement of essential work functions and KSAOs relevant to the position.

(21) **JOB RELATED:** Factors determined through a job analysis to be necessary for acceptable job performance.

(22) **KNOWLEDGE (KSAO):** A body of information, usually of a factual or procedural nature, which, when applied, makes acceptable performance on the job possible.

(23) **KSAO:** Knowledge, skill, ability or other characteristic rated/evaluated after minimum qualifications.

(24) **LOCAL COMMUTING AREA:** The geographic area surrounding a work site that encompasses the localities where people live and reasonably can be expected to travel back and forth daily to work, as established by the FBI based on the generally held expectations of the local community. The area is usually within a 50- mile radius of where a position vacancy exists.

(25) **MERIT SYSTEM:** A system of identification, qualification, evaluation and selection based solely on merit factors (i.e., on the basis of relative ability, knowledge and skills), without regard to political affiliation, race, color, religion, national origin, sex, sexual orientation, marital status, parental status, nondisqualifying disability, reprisal, or age.

(26) **MERIT SYSTEM PRINCIPLES:** Standards by which the federal government operates to ensure that the government has the best possible employees, that they are treated fairly, and that all employees will have the opportunity to go as far as their abilities will take them. This means that whenever anyone is hired, promoted, fired, demoted, or affected by any other type of personnel action, the action in question must be on the basis of the individual's own ability and performance. These principles governing personnel practices were enacted into law: Title 5, United States Code, Section 2301 (b).

(27) **MINIMUM QUALIFICATIONS:** Requirements for a job which the employer deems as so basic and essential that only candidates who meet these requirements are considered for further processing. Minimum qualifications also include any appropriate selective placement factors and positive education requirements.

(28) **NONCOMPETITIVE STAFFING ACTION:** Filling a position without using competitive procedures.

(29) **OTHER CHARACTERISTIC (KSAO):** A personal characteristic, aptitude, physical or mental trait needed to do the work.

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- (30) **PLACEMENT:** The assignment of a new employee to a position or the movement of an employee from one position to another.
- (31) **PROMOTION:** A change of an employee to a job or grade level with a higher representative rate than his/her current grade or retained grade, if applicable.
- (32) **RANKING:** Placing all-source candidates on an All- Source Certificate in order of their veterans' preference category and converted score.
- (33) **RATING:** The evaluation of minimally qualified candidates' experience by use of an approved crediting plan. The score the candidate receives is his/her rating. All-source candidates' ratings are converted to a 100-point scale.
- (34) **RATING FACTORS:** KSAOs that identify the better candidates from a group of individuals determined to be at least minimally qualified for a position.
- (35) **REASONABLE ACCOMMODATION:** Modifications or adjustments to a job, the work environment, or the way things are usually done, that will enable a qualified individual with a disability to attain the same level of performance or to enjoy equal benefits and privileges of employment as are available to a similarly situated employee without a disability.
- (36) **REASSIGNMENT:** A change of an employee from one position to another with no change in grade level. The employee must be eligible and qualified for any position to which he/she is reassigned. A noncompetitive reassignment may not place the employee in a position with greater promotion potential than his/her current position.
- (37) **REEMPLOYMENT RIGHTS:** The statutory, regulatory or administrative obligation (including military restoration rights) that requires the FBI to rehire an individual and place him/her in a position.
- (38) **REINSTATEMENT:** The noncompetitive reemployment of an FBI or other qualified former federal employee into a position at the same or lower grade level and occupational classification as the one the employee previously held.
- (39) **REPRESENTATIVE RATE:** The going rate of pay, i.e., the rate or step keyed to the prevailing rate determination; the fourth step on the General Schedule (GS); or the second rate on a five rate regular wage schedule (Federal Wage Schedule (WG)).
- (40) **RULE OF 3:** Three highest-ranked available candidates on the All-Source Certificate, listed according to veterans' preference category and rating. Selecting Officials are limited to making a selection using the Rule of 3, in accordance with the regulations in Title 5, Code of Federal Regulations (CFR), Part 302.
- (41) **SELECTING OFFICIAL:** A supervisor or manager designated by head of office/division or his/her designee who is responsible for selecting/recommending an individual for a staffing action.
- (42) **SELECTION PROCEDURE:** Any measure, combination of measures or procedures used as a basis for a staffing decision.
- (43) **SELECTIVE PLACEMENT FACTOR:** An element found to be essential to acceptable performance in a job to be filled, which is in addition to or more specific than the minimum

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qualification standard. This element thus becomes a minimum qualification for the position and only candidates who meet this requirement are considered for further processing. For example, a position in a particular location may require knowledge of a language other than English.

(44) SKILL (KSAO): An art, trade or technique, particularly one requiring the use of the hands or body. A skill can be observed, quantified and improved with practice or training.

(45) SPECIALIZED EXPERIENCE: Experience that has equipped the applicant with the particular knowledge, skills and abilities to perform successfully the duties of the position and is typically in or related to the work of the position to be filled. It is usually required for positions above the entry level where applicants must have demonstrated they possess the ability to perform successfully the duties of the position after a normal orientation period.

(46) STAFFING ACTION: A step-by-step procedure conducted in accordance with merit principles through which an individual is identified, considered, selected and assigned to a position.

(47) SUBJECT MATTER EXPERTS (SMEs): A group of persons thoroughly knowledgeable about the duties and responsibilities of a job. Management, with the assistance of human resource personnel, will be responsible for identifying SMEs.

(48) TEMPORARY PROMOTION: A nonpermanent promotion of an employee to a higher grade level for a specified period of time, not less than 60 days nor more than one year in duration. The employee must be eligible and qualified for any position to which he/she is temporarily promoted.

(49) TERM PROMOTION: A nonpermanent promotion of an employee to a higher grade level for a defined period of time, not less than 120 days or more than three years in duration, to handle a specific assignment, project or duties and responsibilities which can be accomplished within that time frame. The employee must be eligible and qualified for any position to which he/she is temporarily promoted.

(50) TEST: Any written, performance or work simulation test or exercise used to measure a job-related knowledge, skill, ability or other characteristic. For placement/selection purposes only those approved in writing by the Personnel Officer may be used. (See MAOP, Part 1, 7-4.3.)

(51) TRAINING AND EXPERIENCE EVALUATION: A method of evaluating candidates based on their past training, education and experience.

(52) VACANCY ANNOUNCEMENT: The written or electronic document used to notify potential applicants of a position to be filled by competitive procedures.

(53) VETERANS' PREFERENCE: A statutory entitlement provided to former members of the Armed Forces who served on active duty during certain specified periods of time, became disabled, or served in military campaigns. Preference eligibles must meet minimum qualifications for the position before they may be afforded the additional points associated with their veterans' preference category. These candidates are entitled to preference over others when a competitive service or excepted service agency in the executive branch is hiring from an All-Source Certificate.

(54) VETERANS' PREFERENCE CATEGORY: There are four categories of preference, designated by the following shorthand letters and points: CPS - 10 points, CP - 10 points, XP - 10

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points, TP - 5 points. Veterans' preference points are added to all-source candidates' converted scores prior to ranking the candidates on the All-Source Certificate. Nonpreference eligibles are designated by the shorthand letters, NV. Nonpreference eligibles do not receive additional points.

7-3 RESPONSIBILITIES

(1) PERSONNEL OFFICER is responsible personally and/or through members of his/her staff for:

(a) designing and developing the policies and procedures for selection, promotion and placement in accordance with merit system principles;

(b) approving/disapproving all support employee selection, promotion and placement actions;

(c) informing employees by means of official communications of the merit promotion and placement policies and procedures;

(d) implementing and enforcing the Merit Promotion and Placement Plan policies and procedures to ensure their full and equitable application to all affected employees and positions;

(e) providing technical assistance, advice, and guidance to management officials, supervisors and operating employees on all selection, promotion and placement matters;

(f) locating and referring eligible and qualified candidates to the Selecting Official on a timely basis;

(g) maintaining records reflecting decisions on selection, promotion and placement actions as detailed in this section;

(h) responding to appropriate grievances, that have not been resolved through informal means, from employees concerning an act or occurrence of a selection, promotion or placement action covered under the Merit Promotion and Placement Plan;

(i) suspending merit procedures to address unusual staffing circumstances when warranted to fulfill FBI mission requirements;

(j) approving use of any tests as a measure for selection.

(2) SELECTING OFFICIAL is responsible for applying merit system principles and equal employment opportunities in filling all positions. He/She is to comply with and ensure that all applicable laws, regulations, and procedures, as outlined in this plan, are followed with regard to the selection, promotion and placement actions he/she recommends.

(3) SUPERVISORS and MANAGERS are required to recuse themselves from advocating a relative for appointment, employment, promotion, or advancement to a position over which they exercise jurisdiction or control, and from participating in the selection process if a relative is under consideration, as specified in Title 5, Code of Federal Regulations (CFR), Part 310, Subpart A.

(a) Relative means father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother or half-sister.

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(b) Supervisors and managers should also recuse themselves from involvement in personnel actions where there may be a perception of favoritism or bias, e.g., adjudicating a grievance or recommending a promotion for a close personal friend, etc.

(4) EQUAL EMPLOYMENT OPPORTUNITY (EEO) OFFICIAL serves as a source of information for all employees, managers, and supervisors. In the event a nonselected candidate perceives that the selection, promotion or placement action was made with regard to race, color, religion, national origin, sex, sexual orientation, age, parental status, disability (mental or physical), or reprisal, the Office of Equal Employment Opportunity Affairs (OEEOA) would pursue his/her concerns. Additionally, in the event the applicant or employee requires a reasonable accommodation for a physical/mental disability, the OEEOA would be responsible for coordinating this process for approval of the Personnel Officer.

(5) EMPLOYEES are responsible for:

(a) demonstrating that they have the knowledge, skills, abilities and other characteristics necessary to qualify for positions for which they desire consideration; and

(b) submitting the required completed forms within the time frames indicated when applying for vacancies.

7-4 FACTORS AFFECTING ALL STAFFING ACTIONS

Certain factors, such as performance, service time, tests and formal recommendations apply to both noncompetitive and competitive staffing actions, except those that are effected as a reasonable accommodation for a person with a disability.

7-4.1 Performance Appraisal (Formerly 7-7.2.3.)

An employee must possess at least a Fully Successful (this rating will, over time, phase out) or Meets Expectations rating in each critical element of his/her most recent Performance Appraisal Report (PAR) in order to be considered for promotion or a change to lower grade/reassignment to a position offering promotion potential. If an employee has had insufficient time on duty to have received an official PAR, the employee's supervisor must certify that the employee's current performance is consistent with the criteria included in performance standards for the Meets Expectations level.

7-4.1.1 Deleted

7-4.2 Service Time Requirement Following Appointment

A newly appointed employee must have 90 calendar days of federal service in order to be eligible for his/her first promotion.

7-4.3 Tests (Formerly 7-7.2.4.) (See also MAOP, Part 1, 7-2 (50) and 7-6.3.1.)

Any written, performance or work simulation test or exercise considered for use in the selection process for either competitive or noncompetitive procedures, including career ladder promotions, must be approved by the Personnel Officer or his/her designee.

7-4.4 Formal Recommendations (Formerly 7-10.)

A personnel action of promotion, reassignment, reappointment, change to lower grade, or position change may be transmitted to the Personnel Officer or his/her designee for review and approval by electronic submission of an SF-52, Request for Personnel Action, form through the Bureau Personnel Management System (BPMS). If the request is a noncompetitive action, the reason(s) for same should be indicated. A personnel action is considered final only upon approval of the SF-52 by the Personnel Officer or his/her designated representative.

7-5 NONCOMPETITIVE STAFFING ACTIONS (Formerly 7-4.2.) (See also MAOP, Part 1, 7-6.)

The actions shown below do not require competitive staffing procedures:

- (1) A promotion resulting from an employee's position being reclassified at a higher grade because of additional duties and responsibilities. (The addition of supervisory duties to a nonsupervisory position may result in the establishment of a different position rather than an upgrading. The filling of that new position would require competitive procedures.)
- (2) A promotion resulting from the upgrading of a position without significant change in duties and responsibilities due to the issuance of a new classification standard or the correction of a classification error.
- (3) A position change permitted by reduction-in-force (RIF) regulations.
- (4) A temporary promotion for 120 days or less.
- (5) A reassignment or position change with no greater career ladder advancement potential.
- (6) A reassignment or promotion to a clerical position (up to and including grade level GS-8), with or without greater promotion potential, following two unsuccessful attempts to fill that position within a six-month period.
- (7) A career ladder promotion where an employee advances to the full level of the position to which he or she is appointed or assigned.
- (8) Placement of individuals having statutory, regulatory, or administrative reemployment rights, or to whom a like employment obligation exists (e.g., return of employees from military service, EEO settlements, etc.).
- (9) A reassignment or position change as a reasonable accommodation to an employee's mental and/or physical disability.
- (10) A promotion, reassignment or position change made as a result of the suspension of merit procedures by the Personnel Officer to address unusual staffing circumstances.
- (11) The noncompetitive appointment of current or former federal employees to a vacant FBI position for which they are qualified, regardless of whether they have served in the same series of the position. The individual eligible for this type of appointment must currently serve in or have served in the grade of the position to be filled and the promotion potential of the vacant FBI position must be no greater than the highest promotion potential ever held.

7-5.1 Career Ladder Promotions (Formerly 7-5.)

(1) A career ladder indicates the grade levels through which an employee may advance to the full level of the position to which he or she is appointed or assigned. Initial assignment to a grade level above entry level is possible based on an individual's qualifications for the particular occupation at the higher grade level.

(2) After having entered a career ladder, an employee may advance to each grade through noncompetitive promotion; however, such promotions are not a right, nor should advancement opportunities through a normal career ladder pattern be construed as a guarantee of promotion. Advancement within a career ladder is dependent upon:

- (a) management recommendation;
- (b) the availability and assignment of progressively more difficult duties and responsibilities;
- (c) demonstrated possession of the essential KSAOs for the higher grade level position;
- (d) any minimum general or specialized experience requirements; and
- (e) any position limitations.

(3) The evaluation of an employee for a career ladder promotion is based on whether the employee has acquired, usually through on-the-job training and/or experience, the essential KSAOs required for the higher grade level position. The supervisor must determine the essential KSAOs for the higher level position and evaluate, through the employee's work performance, whether the employee possesses the required KSAOs. Supervisors should ensure, to the extent possible, that employees are provided with opportunities at the lower grade level to demonstrate their possession of the essential KSAOs required for promotion to the next level.

7-6 COMPETITIVE SELECTION PROCEDURES (Formerly 7-4.1.)

Competitive selection procedures are used when all eligible, qualified and interested employees must be considered for a position. These procedures are required unless specifically excluded under MAOP, Part 1, 7-5, Noncompetitive Staffing Actions. They include but are not limited to:

- (1) promotion, to include term and promotions lasting more than 120 days, change to lower grade or reassignment to an entry-level position of a career ladder;
- (2) reassignment or change to lower grade to a position with greater promotion potential;
- (3) reassignment, or detail to a position, including relief position where performance of the duties and responsibilities would provide the employee with an opportunity to gain KSAOs that would uniquely qualify them for the position if filled on a permanent basis.

7-6.1 Determining Job Requirements

Before any effort is made to fill a position, essential job-related requirements must be identified. These job-related requirements are categorized as minimum qualifications, rating factors and working conditions.

7-6.1.1 Minimum Qualifications (Formerly in 7-6.)

(1) The purpose of minimum qualification standards, usually education and/or general and specialized experience, is to identify and eliminate from the selection process those candidates who are clearly not qualified for a position. Only those candidates who meet the education and experience requirements, as appropriate, will be further considered in the selection process.

(2) The Office of Personnel Management's (OPM) "Qualifications Standards for General Schedule Positions," will be used to determine the minimum qualifications for a position, except when they are determined to be inappropriate. If the position requires similar work behaviors and KSAOs to that described or if the standards are consistent with the backgrounds (at the time of selection) of competent employees currently in the job, it is likely that the OPM standard is appropriate. If it is determined that the OPM standards are inappropriate based on the above conditions, the Selecting Official may request a modification or development of new standards by the Personnel Officer. Modifications may also be made by using selective placement factors, with the approval of the Personnel Officer. For example, a position in a particular location may require knowledge of a language other than English. This requirement may not be covered in the minimum qualifications standard, but may be essential to acceptable performance for a job in a particular location.

7-6.1.2 Identifying Rating Factors

(1) Rating factors are those KSAOs that identify the better candidates from a group of individuals at least minimally qualified for a position. Rating factors are needed to help distinguish the most qualified candidates from among a pool containing people with, frequently, a broad range of experiences, education or training and different levels of expertise of the KSAOs. Appropriate rating factors can be determined by a review of an up-to-date position description; interviews with subject-matter experts, supervisors or clients; and manuals, logs or training materials. KSAOs that can be learned within a reasonable period of time after assuming the duties of the position and those that cannot be effectively measured are not appropriate for use in the selection process and should be eliminated.

(2) Once essential KSAOs are identified, the best method to measure them must be determined. These methods can include a written, performance, or work simulation test or exercise, and/or an evaluation of training and experience and/or a structured interview. If a written, performance or work simulation test or exercise is used to measure essential KSAOs, ensure that approval of the Personnel Officer is received before incorporating it into the selection process. For the majority of competitive selections an evaluation of training and experience and/or a structured interview should be used. These measures are designed to obtain information concerning a candidate's past experiences that indicates whether he/she would be successful at future similar experiences.

(3) If all KSAOs identified for selection cannot be measured by either a written, performance, or work simulation test or exercise and/or an evaluation of training and experience, an interview is necessary. The KSAOs measured in the interview should generally be different from those KSAOs that are being measured by the other procedures. However, it may be desirable to assign greater weight to a particular KSAO for a given position, and to measure the KSAO in multiple ways in order to get a more complete assessment of an individual's skill level. Whatever measures are to be

used must be decided before the vacancy is advertised and those same KSAOs must be used through final selection.

(4) KSAOs selected to be measured for the training and experience procedure should be those that can be demonstrated by specific achievements, experience, or training. For example, "planning" is a KSAO that can be described in terms of a specific accomplishment. "Analytical ability" on the other hand, is very broad and abstract and it may be difficult to describe a specific accomplishment related to this type of KSAO.

(5) KSAOs to be measured by the interview should be those that can elicit specific, detailed, or up-to-date information from the candidate. Also, KSAOs such as oral communication, and verbal comprehension can be best observed and measured during the interview.

7-6.1.3 Working Conditions

Any unusual conditions that are essential for successful performance and are beyond what is normally required of most employees should be identified. Such things as frequent travel, odd working hours, physical demands, hazardous duties or environment are all conditions of employment that should be described in the position description and these conditions should be made known to prospective candidates. Only those candidates willing to work under the identified conditions, with or without reasonable accommodation, will be further considered in the selection process.

7-6.2 Qualified Candidates (Formerly 7-4.1.1.)

(1) A pool of qualified candidates may be composed of:

(a) federal candidates (individuals currently employed by the federal government or who are eligible for reinstatement); and/or

(b) all-source candidates (any individual, usually individuals not employed by the federal government, such as private sector employees and students).

(2) Federal candidates (FBI and other federal employees) are considered for vacant positions under the merit procedures outlined in this plan.

(3) All-source candidates may be evaluated in a similar fashion as federal candidates, with the provision that veterans' preference points must be given to candidates who claim such preference.

7-6.2.1 Area of Consideration (AOC) (Formerly in 7-4.1.1.)

(1) The AOC must provide the Selecting Official with a choice from among a reasonable number of qualified candidates. Since the area of consideration determines who will be considered for competitive selection, it is important that it be broad enough to uphold basic merit principles of open competition, equal opportunity, and identification of the best qualified candidate(s). The area of consideration may not be established in such a way that it gives unwarranted consideration to a particular individual or group, nor may it be expanded solely to recruit members of a particular group. Only applicants within the AOC may be considered for selection.

(2) Limited vs. Expanded AOC: Each division/office, with the concurrence of the Personnel Officer as necessary, will establish the AOC based on its funded staffing level (FSL) and any overhire authority for the vacancy. A separate determination must be made whether or not to pay relocation expenses. This decision will be authorized by the Personnel Officer based on the needs of the FBI, the adequacy of the candidate pool within the local commuting area, and the availability of transfer funds. Selectees who reside within the local commuting area (usually a 50-mile radius) are not eligible for relocation expenses.

(a) Limited AOC: Division Only

The AOC may be limited to the division/office with the vacancy when the division/office is at or above its FSL and does not have overhire authority for the vacancy. Only FBI candidates assigned to the division with the vacancy will be considered. Even when divisions share a local commuting area, such as FBIHQ divisions or Newark/New York divisions, only candidates from the division with the vacancy will be considered. Division management has the option of further limiting the AOC to those division employees who work within the local commuting area of the vacancy. No relocation expenses will be paid by the FBI.

(b) Expanded AOC: FBI, other federal and/or all- source applicants

The AOC may be expanded when division/office is under its FSL or has overhire authority for the vacancy and recruiting within the division/office is unlikely to produce an adequate pool of candidates. The division/office has three options in defining an expanded AOC:

1. FBI employees only. This choice should be made when it is likely that recruiting among on-board FBI employees will produce an adequate pool of qualified candidates.
2. All federal candidates (FBI and other federal employees). This choice should be made when it is likely that recruiting among all federal employees will be necessary to produce an adequate pool of qualified candidates.
3. All sources: all federal (FBI and other federal employees) and nonfederal candidates. This choice should be made only when it is expected that recruiting among the general population will be necessary to produce an adequate pool of qualified candidates. Typically this will occur when the vacancy to be filled is in a highly specialized or competitive field.

The decision whether or not to pay relocation expenses will be authorized by the Personnel Officer based on the needs of the FBI, the adequacy of the candidate pool within the local commuting area, and the availability of transfer funds.

7-6.2.2 Vacancy Announcements (Formerly in 7-4.1.1.)

(1) Vacancy announcements are the means by which potential applicants are notified of the position vacancy and may be in written or electronic format. These announcements must contain title, grade, series, and duties of the position; the location at which the position will serve; working hours; promotional opportunities; area of consideration; minimum qualification standards; written, performance or work simulation test or exercise to be administered; KSAOs that the applicant must respond to in the application; unusual working conditions; application process; including the opening and closing dates of the announcement; and an explicit statement regarding equal

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employment opportunity and that candidate(s) may request a reasonable accommodation due to physical and/or mental disability.

(2) The vacancy announcement must state whether or not relocation expenses will be paid by the FBI and any restrictions on payment (e.g., only those selectees who reside outside the local commuting area will be eligible for relocation expenses).

(3) The vacancy announcement must state if the position is a temporary or term position and, if so, the expected time limit (not-to-exceed date), and the provisions for return of the employee to a permanent position at the end of this assignment. If applicable, the announcement should also state that the position may be made permanent without further competition.

(4) If the AOC is expanded to include applicants outside of the FBI who are current employees of the federal government or former employees of the federal government with reinstatement eligibility, the vacancy announcement must have a statement requiring the applicant to submit a copy of his or her most current Notification of Personnel Action, SF-50, and a copy of his or her most current performance appraisal.

(5) If the AOC is expanded to include all-source applicants, the vacancy announcement must have a statement about veterans' preference. Veterans claiming preference must submit a copy of their Certificate of Release or Discharge from Active Duty, DD-214. Veterans on active duty at the time of application may submit a letter from his/her commanding officer or military personnel office stating his/her dates of service, rank, campaign badges or medals awarded, type of separation he/she will receive, and projected character of service (e.g., honorable, general). Veterans, spouses, widows, widowers, or mothers of veterans claiming 10-point preference must also, in addition to the DD-214, submit an Application for 10-point Veteran Preference, SF-15, and the documentation required by the form.

All-sources announcements must include a statement that current federal employees and former federal employees with reinstatement eligibility who wish to be considered as both federal and all-source applicants must indicate this on their applications.

(6) The standard period of time a vacancy announcement will be posted is ten (10) workdays; the minimum period is five (5) workdays. The appropriate length of time for the announcement to remain open is dependent on the likely size of the applicant pool and the urgency of the need to fill the vacancy. Hard-to-fill positions may be posted indefinitely with pre-established application cut-off periods. Approval of the Chief of the Staffing Unit must be obtained prior to posting a vacancy announcement that deviates from this policy. Closing dates for the submission of applications will be strictly followed.

(7) Vacancy announcements must be uploaded into the division's file in the FBI's Automated Case Support (ACS) system within one day of the opening date of the posting. Vacancy announcements for positions open to applicants outside the FBI (i.e., other federal and/or all-source applicants) must be posted on the OPM's website, USAJobs, by FBIHQ human resources personnel.

(8) To ensure that all applicants for employment and advancement receive fair and equitable consideration, it is important to consistently adhere to published requirements (e.g., minimum qualifications, KSAs, opening and closing dates). Changes made to significant portions of the

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announcement after it has opened must be published in the form of an amended vacancy announcement.

(9) All applicants must meet specialized experience requirements within 30 days of the closing date of the announcement. Copies of relevant documents, such as SF-50s, DD-214s, college transcripts, performance appraisals, and/or any additional required documentation must be received in the Staffing Unit by the closing date of the announcement. (Official college transcripts may be required before final approval of selection.) Applications for which all required documentation is not received by the closing date of the announcement will not receive further consideration, except in unusual circumstances.

7-6.3 Measuring Rating Factors (See MAOP, Part 1, 7-6.4.)

Qualified candidates are to be evaluated in accordance with their relative demonstration of possession of the KSAOs for a position. To determine the extent to which the candidates possess the KSAOs, the selection process uses a combination of a training and experience evaluation, a structured interview, and/or written, performance or work simulation tests or exercises. Unless specific measures have been approved and mandated for use by the Personnel Officer to fill a specific position, it is the responsibility of the Selecting Official to determine which measures will be appropriate for each selection by following the guidance in this plan. When federal and all-source candidates are being considered for a position, care must be taken to ensure that all are evaluated according to the same measures.

7-6.3.1 Tests (Formerly 7-7.2.4.) (See also MAOP, Part 1, 7-4.3.)

Only written, performance or work simulation tests or exercises previously approved by the Personnel Officer may be used as part of the selection procedures for a position. Approved tests include the following:

- (1) The official FBI typing performance test must be used to measure typing speed and accuracy for positions that require a qualified typist, including positions with parenthetical "Typing" or "Data Transcriber" in the official title.
- (2) The Police Officer Selection System must be used to measure specific KSAOs for the Police Officer position. (3) The Clerical Selection Battery (CSB) must be used to measure specific KSAOs of all-source candidates for specific clerical positions.
- (4) Language aptitude and/or ability tests must be used for the Language Specialist position(s).

As positions change in terms of duties and responsibilities or as studies are completed for existing positions, new assessment tools will be approved for use and appropriate publicity afforded. Once approved by the Personnel Officer and disseminated, the use of specific assessment tools is generally mandatory.

7-6.3.2 Training and Experience (Formerly 7-7.2.1.)

(1) The training and experience measure is a self-reported description of accomplishments relevant to KSAOs required for a job. Typically, the information provided by the candidate focuses on training, education and prior work experience.

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(2) To evaluate the information provided on the applications, a crediting plan must be developed before the position is posted. The crediting plan may be generic or job specific. The candidate must meet all the requirements for a level to receive the associated points on the generic crediting plan listed below:

OUTSTANDING - 5 points

Candidate has performed the duties of this position requiring this KSA (e.g., through temporary promotion or detail), or has had advanced education/training directly related to this KSA. Experience, education and training indicate he/she can perform the functions of this position requiring this KSA immediately, with only minimum indoctrination.

ACCEPTABLE - 3 points

Candidate has performed duties related to the duties of this position requiring this KSA or has had education/training in a field generally related to this KSA. Experience, education and training indicate he/she shows potential to perform the functions of this position requiring this KSA after acquiring additional formal education/training or more than six months of on-the-job experience.

LIMITED - 1 point

Candidate has performed duties generally related to the duties of this position requiring this KSA but evidence reflects this performance is at an apprentice/trainee level; education/training reflects the ability to learn aspects of this KSA. Experience, education and training indicate he/she would require extensive formal education/training or on-the-job experience to acquire full possession of this KSA.

UNACCEPTABLE - 0 points

Fails to meet the Limited level.

(3) A job specific crediting plan is accomplished by describing education, training and experience examples for each KSAO at different levels, i.e., Outstanding, Acceptable, Limited, and Unsatisfactory. For example, if a position requires that candidate(s) demonstrate an "ability to use regulatory material," the crediting plan might include general definitions for the levels of performance such as:

Outstanding - 5 points INTERPRETS regulatory material;

Acceptable - 3 points APPLIES regulatory material;

Limited - 1 point COLLECTS regulatory material; and

Unsatisfactory - 0 points DOES NOT USE regulatory material.

Each KSAO in the application is evaluated by comparing the past education, training, and experience of the candidate with the crediting plan and assigning a rating. A crediting plan ensures that each candidate is evaluated consistently against the same education, training and experience examples.

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7-6.3.3 Interview (Formerly 7-7.2.5.)

(1) The interview measure is a structured means of orally collecting information concerning a candidate's possession of knowledge, skills, abilities or other characteristics needed for acceptable job performance. The interview focuses on what the candidate has done in the past that can be used to predict his or her future behavior. There are four general types of interview questions:

(a) TRAINING AND EDUCATION questions assess the KSAOs by probing an individual's training or educational background and are used primarily to solicit information regarding the relevance of the applicant's training or education to the position.

(b) JOB KNOWLEDGE questions focus on an individual's knowledge of one or more job-related areas. This type of question is most useful to assess the specific knowledge level that is required for the job, ensure the applicant understands and is knowledgeable about a specific topic, and to obtain information about an applicant's knowledge of current technology, state-of-the-art methods, etc.

(c) EXPERIENCE questions are asked to solicit KSAO information from the job experiences an individual has had.

(d) PERSONAL CHARACTERISTICS questions assess KSAOs, such as interpersonal skills, that do not fit in other categories such as interpersonal skills. These questions are tailored to solicit performances in work and nonwork situations to demonstrate examples of specific KSAOs.

(2) The interview must be structured in terms of the behaviors and responses to be observed, the evaluation standards to be applied, and the procedures for conducting the interview session. The interview should be structured so that information to be obtained is well defined. Interviewers must take special care to record responses in a consistent manner and not ask questions which violate equal employment opportunity laws or protections offered under the Rehabilitation Act and the Age Discrimination in Employment Act.

(3) Each interview question must be designed to obtain useful information to allow for a measurement of a specific KSAO required for selection. The questions should be geared to obtain the same depth, scope and kinds of information from each candidate. A crediting plan must be established for each interview question at different levels, i.e., Outstanding, Acceptable, and Limited. The crediting plan must be developed at the same time as the questions are developed and in advance of the actual interview and serves as a gauge by which a candidate is compared and evaluated. Each candidate must be evaluated on his/her responses to the interview questions. Additional follow-up questions may be asked until the interviewer(s) has obtained enough information to rate the response to the question.

(4) When an interview is part of the selection procedures, the top scorers from the training and evaluation and/or test measure(s) may be selected for interview. The interviewer, or each career board member, must record the responses to the questions and rate the response by using the standards previously developed for the position. Responses should be rated immediately following each interview. If the interview is conducted by the career board, the responses must be rated independently and then discussed to reach a consensus rating. If a consensus is not possible, the scores may be averaged to determine the candidate's final score for the interview. The career board members are responsible for recording their ratings and the reasons for same.

7-6.4 Selection Process

For some positions, e.g., Police Officer and Language Specialist, set procedures are specifically defined by the Personnel Officer and must be followed as published. For all other positions covered by this policy, the following steps are to be taken. At the first stage, applicants must be screened to determine if they meet minimum qualifications. Next the rating factors are evaluated through the selection tools described in MAOP, Part 1, 7-6.3. Candidates are then grouped according to the scores achieved (and in the case of all-source candidates, by veterans' preference category). A selection is made, and a request for approval of that selection is forwarded to the Personnel Officer. These stages are accomplished by a Career Board, Qualifications Review Board (QRB), or Selecting Official, depending on the position to be filled, as described below.

7-6.4.1 Selecting Official (Formerly 7-7.1.2.)

The Selecting Official is responsible for ensuring that the competitive process is conducted in accordance with merit principles. The Selecting Official is generally encouraged to use a career board and/or Qualifications Review Board to perform a part of the selection process, for the reasons described below, but may choose to complete the rating process personally where the circumstances warrant. However the process is completed, the selection recommendation must be made by the Selecting Official and then be reviewed and approved by the Personnel Officer.

7-6.4.2 Career Boards and Qualifications Review Boards (Formerly in 7-7.1.1 and 7-7.1.3.)

A career board and/or Qualifications Review Board (QRB) is a group of three to five individuals formed to evaluate and rate candidates' KSAOs. For most competitive selections, a career board or QRB provides credibility to the fairness and impartiality of the selection process. A career board provides a panel assessment of the candidates' overall qualifications, offering the Selecting Official the benefit of a group of subject matter experts; a QRB provides in-depth assessment of the technical qualifications of candidates for professional and/or technical positions. The Selecting Official may choose to use either, both, or neither, depending on the nature of the position being filled. Neither a career board nor a QRB is required for competitive actions if the Selecting Official can ensure fair and impartial selection decisions without same.

All career board and QRB deliberations must be recorded and maintained as part of the selection file. Someone trained in staffing procedures may serve as an advisor to the career board or QRB.

(1) CAREER BOARD: The Selecting Official is responsible for convening the members of the career board. This board is composed of experienced support and/or Special Agent personnel who are familiar with the qualifications required for the position. Career board members are to be selected carefully and trained in evaluation procedures. Every career board member and nonvoting observer should be at least one grade higher than the position unless it is documented by a signed statement from the individual that he/she will not be in competition for the position. In this case, the member can be the same grade. The career board should include minority representation, whenever possible, either as a voting member(s) or as a nonvoting observer(s). The Selecting Official must not be a voting member. In offices where circumstances may cause bias to be

introduced or perceived in the process, a career board composed of employees from other offices may be formed.

Prior to any career board deliberations of individual candidates, career board members must be familiar with the merit principles contained in this plan, the KSAOs of the position and how they are being measured, and the crediting plan and how it is to be applied in the specific evaluation. Once evaluations have started, no changes to the membership of the career board can be made, unless an exception is requested from and approved by the Staffing Unit, Administrative Services Division.

(2) **QUALIFICATIONS REVIEW BOARD (QRB):** A QRB evaluates only the technical qualifications of the candidates for professional and/or technical positions. A QRB is composed of individuals who are expert in, or have significant knowledge of, the discipline or occupational category of the position being filled. This is normally used for professional and/or technical positions. QRB members must be familiar with the qualifications required for the vacant position and the provisions of the Merit Promotion and Placement Plan. Members are to be at least one grade higher than the vacant position, unless it is documented that the member will not be in competition for the position, then he/she may be the same grade. QRB members are to be selected carefully and trained in evaluation procedures. The results of the QRB process are forwarded to the Selecting Official who may make a selection decision at that point or may convene a career board to complete the evaluation process if he/she determines that additional assessment is necessary.

7-6.4.3 Selection of Candidate(s) (Formerly in 7-6.4.4, 7-6.4.5, and 7-7)

(1) Following initial screening, all applications and answers to KSAs must be evaluated by using the crediting plan developed for the position. If this responsibility has been delegated to a career board or QRB, evaluations must be made independently by each member and then discussed at the career board/QRB meeting to reach a consensus rating. If a consensus is not possible, the scores may be averaged to determine the candidate's final score for the interview. When the vacant position(s) does not require KSAs, the selection process will be based on testing and interview scores.

(2) For federal candidates, the following procedures should be used to develop a group of best qualified candidates.

(a) When an interview is part of the selection procedures, the top scorers from the above measure(s) may be selected for interview. The interviewer, or each career board member, must record the responses to the questions and rate the response by using the standards previously developed for the position. Responses should be rated immediately following each interview. If the interview is conducted by the career board, the responses must be rated independently and then discussed to reach a consensus rating. If a consensus is not possible, the scores may be averaged to determine the candidate's final score for the interview. The career board members are responsible for recording their ratings and the reasons for same.

(b) A "best qualified" group of federal candidates is reached when all measures have been completed (i.e., training and experience evaluation and/or interview). Scores from each measure should be combined to obtain a final score. The "best qualified" group consists of those candidates

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whose scores are significantly higher than the majority of the candidates, and who are, for all intents and purposes, equally well qualified.

(3) For all-source candidates, an All-Source Certificate is developed rather than a "best qualified" group. There are two options for establishing the Certificate:

(a) Conduct interviews of ALL minimally-qualified candidates so that the combined interview and KSA scores and veterans' preference category will be used to establish the All-Source Certificate;
OR

(b) Select candidates based on KSA scores and veterans' preference category, with no interview (e.g., when the number of candidates makes interviewing all minimally qualified candidates unreasonable). When this option is chosen, the Selecting Official may then interview the three highest-ranked candidates (Rule of 3) to assist in making a selection decision, if desired.

(4) Only certified human resource personnel can adjudicate veterans' preference and construct an All-Source Certificate. The Selecting Official must advise the designated human resource representative of his/her preference from (3)(a) or (3)(b), above. The designated representative will then adjudicate veterans' preference and provide the selecting official with the top three candidates for selection (Rule of 3).

(a) Evaluation scores used to establish an All-Source Certificate (KSA or KSA/interview) must be converted to a 100-point scale.

(b) Candidates are placed on the All-Source Certificate according to their veterans' preference category and final scores, as specified in Title 5, Code of Federal Regulations (CFR), Part 302, Subpart C. Any deviation from the above procedures for all-source candidates must be approved by the Personnel Officer and documented in accordance with Title 5, CFR, Part 302.

(5) The Selecting Official may choose any candidate from the list of best qualified federal candidates, inasmuch as these candidates are determined to be, for all intents and purposes, equally well qualified or the Selecting Official may select from among the Rule of 3 (all-source candidates) in accordance with Title 5, CFR, Part 302.401. Neither the federal list nor the All-Source Certificate has preference; the Selecting Official may choose from either. If there are multiple vacancies, the Selecting Official may select from either or both lists.

7-6.4.4 Revised and Moved to 7-6.4.3 (Formerly 7-8.)

7-6.4.5 Revised and Moved to 7-6.4.3 (Formerly 7-9.)

7-6.5 Notification of Results (Formerly 7-11.)

(1) The Selecting Official has 45 days from the date the list(s) of minimally qualified candidates was issued to make a selection, unless an extension is requested from and approved by the Staffing Unit, Administrative Services Division.

(2) The vacancy announcement may be canceled at any time by the Selecting Official, who is then responsible for submitting appropriate documentation to the Personnel Officer as to the reason(s).

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(3) Additional selections may be made from a properly established best qualified list or All-Source Certificate within 90 days of the date the original minimally qualified list was issued, provided the positions to be filled have the same title, series and grade, are in the same area of consideration as the position announced, and the qualification requirements are the same.

(4) Following selection of a candidate for a position and approval by the Personnel Officer, the results must be communicated by an official communication announcing the selection which is uploaded into the division's file in the FBI's Automated Case Support (ACS) system. A decision not to make a selection must be communicated through the same mechanism. Subject to the direction of the head of office, this information may also be posted on a centrally located office bulletin board.

(5) Any candidate shall, upon specific request, be advised whether he or she met the minimum qualification standards for the position. When not otherwise prohibited, the candidate may be provided with his/her total score on each measure but may not be informed of specific ratings or scores received by other candidates, or permitted to review the crediting plans, interview questions or any testing materials.

7-6.6 Release of Candidates (Formerly 7-12.)

(1) Any FBI candidate selected as a result of a competitive staffing action must be released from his/her current position on a timely basis. Personnel actions will be effective the date the employee reports to his/her new assignment except when the personnel action results in a change of pay, in which case the effective date must coincide with the beginning of a pay period.

(a) If the new assignment is within the selected candidate's local commuting area and includes a promotion, the candidate must report to his/her new assignment within two weeks following the approval of his/her selection by the Personnel Officer (or designee).

(b) If the new assignment is within the selected candidate's local commuting area and does not include a promotion, the candidate must report to his/her new assignment within 30 days following the approval of his/her selection by the Personnel Officer (or designee).

(c) If the new assignment requires that the candidate relocate to a different commuting area, the employee has 90 days in which to report to the new duty station from the date of his/her transfer letter. Where possible, the report date should coincide with the beginning of a pay period.

(d) Employees may be released to perform the duties of the new position prior to receiving official approval by the Personnel Officer; however, the selected individual must be advised that permanent assignment is contingent upon obtaining this final approval.

(e) Selecting Officials may need to coordinate a return of the employee for a minimal period after the action is effective to complete an unfinished project or other critical work.

(2) The official request for the release of an employee selected to fill a vacancy at FBIHQ and/or the selection of a candidate from outside the FBI will be made only by the Personnel Officer or his/her designated representative.

**7-6.7 Maintenance of Records and Privacy Safeguards (Formerly 7-13.1 and 7-13.2)
(See MAOP, Part 1, 22-5.3 (5) and 22-5.6 (15)(d); Part 2, 2-4.5.23 (27).)**

Selection files must be maintained in such a manner that all steps of the staffing action can be reconstructed. Each field office and FBIHQ division will be responsible for the maintenance of its selection files, which must be secured in a location(s) with limited access. The location and eligibility for access is to be determined by the division/office head. Selection records must be safeguarded and released only to authorized persons, such as the head of office/division, EEO investigator, or Inspector. A release form must be completed indicating that the original selection file is being provided and must be returned to that location. The selection file may be destroyed five (5) years after Personnel Officer approval of the final selection by the Selecting Official, or after final adjudication of any litigation, whichever is later. Any electronic copies of the selection documentation that are created on electronic mail and word processing systems, and used solely to generate a recordkeeping copy for the actual selection file, may be destroyed within 60 days after the recordkeeping copy has been produced. All time limits for filing of a grievance, complaint, or appeal must have expired prior to destruction. Any selection file which is the subject of litigation will be retained for the purposes of litigation, regardless of the length of time. Contents of the selection file must include:

- (1) A copy of the vacancy announcement.
- (2) Names of all applicants and the applications received from each.
- (3) Names of candidates who met minimum qualifications.
- (4) Copies of all best-qualified lists and All-Source Certificates generated for the Selecting Official, including which candidates received veterans' preference points.
- (5) Results of any written, performance or work simulation test or exercise.
- (6) Training and experience crediting plan, signed evaluations, and the score given on each rating factor for each candidate.
- (7) If an interview is used, names of candidates who were selected for same.
- (8) Interview questions, crediting plan, notes of Selecting Official or career board members, signed evaluations, and the score given for each candidate.
- (9) Names, titles and grades of all individuals involved in evaluation of candidates' qualifications; information on any non-voting members/observers; and a statement from any member/observer who is the same grade as the vacancy that he/she will not compete for this position in the near future.
- (10) Any document formalizing selection (i.e., copy of SF-52 or other formal memoranda).
- (11) A copy of the communication that was uploaded into ACS announcing the selection results and copies, if any, of communications sent to advise those candidates not selected.
- (12) Recordings of all career board and Qualifications Review Board (QRB) deliberations, clearly labeled with the date, position, and vacancy number.

7-7 GRIEVANCE PROCEDURES (Formerly 7-14.) (See also MAOP, Part 1, 14-7.)

(1) The FBI's policy is to administer a personnel program that promotes good employee/management relationships. The success of any organization depends on the confidence of its employees that their questions, concerns or dissatisfactions will receive a timely and constructive response, as well as fair and equal treatment. This section defines certain responsibilities regarding the grievance process with regard to actions covered by the Merit Promotion and Placement Plan and sets forth employee rights in that process.

(2) An employee who believes that merit principles as set forth in this plan have not been followed has a right to present a grievance to the appropriate management official(s) for prompt and equitable consideration, with freedom from restraint and without fear of reprisal, coercion, or interference. The employee should discuss with the Selecting Official any matter of concern or dissatisfaction regarding a particular selection action and should attempt to resolve the problem(s) prior to filing a grievance. This informal resolution step should be followed prior to submission of a grievance to the Personnel Officer.

(3) The Selecting Officials should ascertain all pertinent information bearing upon each grievance or potential grievance being brought to his/her attention.

(4) There are certain matters which are not appropriate for the grievance procedure. The following matters are EXCLUDED from this procedure:

(a) nonselection for promotion or reassignment from a group of candidates deemed best qualified in accordance with the procedures described within this plan;

(b) failure to receive a noncompetitive promotion;

(c) an action at the expiration of a temporary or time-limited promotion which returns an employee to his/her former position at the former grade, or to a different position of equivalent grade and pay, from which the employee was temporarily promoted; and

(d) an action taken in accordance with the terms of a formal agreement voluntarily entered into by an employee, such as the assignment of an employee from one geographical location to another.

(5) A grievance concerning a particular act or occurrence should be presented in writing not later than 15 calendar days after the date of the act or occurrence, or not later than 15 calendar days after the date on which the employee learned of the act or occurrence. Within the FBI, such grievances are to be submitted only to the Personnel Officer. The Personnel Officer will determine the appropriate organizational level for resolution.

(6) Provisions for redress are also available through the Equal Employment Opportunity (EEO) complaint system for employees who believe they have been discriminated against on the basis of race, color, religion, sex, sexual orientation, parental status, national origin, age, physical or mental disability, or reprisal. However, the employee must contact an EEO Counselor within 45 calendar days of the action in question if he or she believes the action is a result of discrimination on any of the foregoing bases. Failure to contact an EEO Counselor within 45 calendar days of the alleged discriminatory action will result in forfeiture of the complainant's right to pursue a claim of discrimination.

7-7.1 Priority Consideration

(1) Priority consideration will be given to employees who failed to receive proper consideration in a competitive action. If it is determined that an employee was improperly denied inclusion on a referral list of qualified candidates under the Merit Promotion and Placement Plan, or was not selected solely because of nonmerit factors, the employee will be afforded one priority consideration for the next appropriate vacancy. The "next appropriate" vacancy is defined as one which meets all of the following conditions:

- (a) A similar type of position in the same pay system as the position for which the candidate failed to receive proper consideration; and
- (b) A position for which the candidate had indicated interest; and
- (c) A position for which the candidate is highly qualified.

(2) Priority consideration is given in advance of the referral process and the employee is entitled to consideration but there is no "entitlement" to selection. Employees entitled to priority consideration should continue to apply for all positions for which they desire competitive consideration.

(3) Decisions to grant priority consideration must be approved by or originate with the Personnel Officer.

7-7.1.1 Revised & Moved to 7-6.4.2

7-7.1.2 Deleted

7-7.1.3 Revised & Moved to 7-6.4.2

7-7.2 Deleted

7-7.2.1 Revised & Moved to 7-6.3.2

7-7.2.2 Deleted

7-7.2.3 Revised & Moved to 7-4.1

7-7.2.4 Revised - See 7-4.3 & 7-6.3.1

7-7.2.5 Revised & Moved to 7-6.3.3

7-8 REVISED & MOVED TO 7-6.4.4

7-9 REVISED & MOVED TO 7-6.4.5

7-10 REVISED & MOVED TO 7-4.4

7-10.1 Deleted

7-11 REVISED & MOVED TO 7-6.5

7-12 REVISED & MOVED TO 7-6.6

7-13 DELETED

7-13.1 Revised & Moved to 7-6.7

7-13.2 Moved to 7-6.7

7-14 REVISED & MOVED TO 7-7

7-15 DELETED

7-16 DELETED

7-16.1 Deleted

7-16.2 Deleted

7-16.3 Deleted

7-16.4 Deleted**7-17 DELETED****7-18 TERM PROMOTIONS FOR SUPPORT PERSONNEL**

At management discretion a vacant position may be filled by the term or temporary promotion of a qualified and eligible employee. A term promotion is a promotion of an employee to a higher grade level for a defined period of time to handle a specific assignment, project or duties and responsibilities which can be accomplished within that time frame. Competitive selection procedures must be employed to select an individual for a term promotion. When a position is filled by a term promotion, unless otherwise specified in the announcement which advertised the vacant position, the employee will be returned to his/her permanent grade at the conclusion of the term or, where circumstances warrant to a position above his/her permanent grade level for which he/she is qualified. The duration of a term promotion may be set by a division/office head with the concurrence of the Personnel Officer for any period of time not less than 120 days or more than three years' duration. A term promotion may be extended by the Personnel Officer in one-year increments, for a maximum period, to include extension(s), not to exceed five years.

7-19 TEMPORARY PROMOTIONS FOR SUPPORT PERSONNEL

(1) A temporary promotion is a nonpermanent promotion of an employee to a higher grade position for a specified period of time, not less than 60 days nor more than one year in duration. If the assignment and, therefore, the temporary promotion is expected to equal or exceed 120 days' duration, competitive selection procedures, consistent with the Merit Promotion and Placement Plan for Support and Service Personnel, must be employed. Any posting or advertisement of a temporary promotion must include a statement that a temporary promotion assignment may be ended at any time at the discretion of management. Unless otherwise specified in the announcement which advertised the vacant position, at the conclusion of the temporary promotion the employee must be returned to his/her permanent position or, where circumstances warrant, to a position at or above his/her permanent grade level for which he/she is qualified.

(2) The duration of a temporary promotion may be set by a division/office head with the concurrence of the Personnel Officer for a period of not less than 60 days. Temporary promotions may be extended by the Personnel Officer for an additional period(s) of 60- day increments. The maximum period of a temporary promotion, to include any period of extension(s), will not exceed one year.

7-20 SUPPORT PERSONNEL ASSIGNMENTS TO NONFOREIGN DIVISIONS OUTSIDE THE CONTINENTAL UNITED STATES (CONUS)

(1) Support vacancies at nonforeign divisions outside CONUS are filled as permanent assignments. To be eligible for authorized relocation expenses, the individual selected must agree to remain in the service of the government for a specified period of service not more than three (3) years from the effective date of transfer. If the individual fails to complete at least 12 months of the service agreement, he/she must repay the relocation expenses incurred to transfer the individual to the

nonforeign assignment. If the individual fails to complete the entire agreed-upon period of service, the individual is also not eligible for return transfer benefits.

(2) If an employee assigned to a nonforeign division desires to transfer to CONUS, the employee has two options:

(a) compete for a position, or

(b) pursue a transfer utilizing established transfer policy, as found in MAOP, Part 1, 11-17.

Transfers to CONUS will not be approved merely based on a request for transfer. If the employee pursues a no-cost transfer, travel and transportation expenses will be allowed, but may not exceed the amount which would have been allowed to return the employee to the old CONUS duty station.

7-21 SUPPORT PERSONNEL ASSIGNMENTS TO LEGAT OFFICES

(1) Support vacancies in Legat offices are filled as temporary assignments, with no time limitation attached to the position or grade. Legat support employees may progress through the career ladder to the GS 10 level with permanent promotions.

(2) All support employees selected for a Legat position are required to sign a statement specifying their agreement to return to their prior position and grade upon completion of the Legat assignment, unless the employee has competed and been selected for another position. This agreement must be signed prior to reporting to the Legat assignment. Support employees reporting for a Legat position will have their previous position encumbered. The vacated position is obligated until the completion of the Legat assignment. This obligated position can only be filled on a temporary basis while the employee serves in the Legat assignment. Upon completion of a Legat assignment, the employee returns to the position and grade held in his/her previous office of assignment, unless the employee has competed and been selected for another position. If the grade the employee returns to is lower than the grade held in the Legat office, Highest Previous Rate (HPR) will be used to set pay.

Legat support employees are eligible to apply for all field office and FBIHQ vacancies.

7-22 INTELLIGENCE ANALYST INTERNAL VACANCY OFFER AND WITHDRAWAL POLICY

(1) Withdrawing from Vacancies: Once a candidate has placed an application into the hiring pool for a job vacancy or canvass, the candidate has thirty (30) days from the closing date of the vacancy or canvass to withdraw from any job posting without a penalty.

After the 30-day period, if the candidate decides to withdraw, he/she will not be able to apply for future vacancies (www.fbijobs.gov or internal canvasses) for 180 days. If the candidate has applied for more than one job vacancy or canvass at the time of withdrawal, he/she will only be withdrawn from the position specified, and **will not** be required to withdraw from all vacancies or canvasses for which they may be a candidate. If the candidate withdraws from more than one (1) vacancy or canvass after the 30-day period, the 180-day penalty will start from the date of the most recent withdrawal.

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A candidate may withdraw from positions by sending an electronic communication (EC) to the Unit Chief (UC), ICMS/IPRU stating the position name, location, and position number.

(2) Accepting/Declining Offers: If a candidate is selected for a position, the candidate has 48 hours to accept or decline the offer via e-mail format to the Staffing Unit, Division point of contact, and IPRU. If the candidate accepts the position, they will be removed from consideration for all other vacancies (locations). If the candidate declines the position, they are still eligible for any position for which they have previously applied and no selection has been made.

If the acceptance or declination of a position is not made within 48 hours, the offer will be rescinded and the candidate will be removed from consideration in other locations. The candidate will be barred from applying for a new position for 180 days.

If a candidate declines all positions he/she applied for, he/she will not be able to apply for future vacancies for one (1) year.

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| SECTION 8. |COMPENSATION|

**EffDte: 01/27/1988 MCRT#: 0 Div: D3FD Cav: SecCls:

| 8-1 AVAILABILITY PAY FOR CRIMINAL INVESTIGATORS |(See MAOP, Part 1, 20-28.)|

**EffDte: 08/27/2003 MCRT#: 1293 Div: D3 Cav: SecCls:

| 8-1.1 |Authority

| Availability Pay is authorized by Section 5545a of Title
| 5, United States Code and Part 550 of the Code of Federal
| Regulations. |

**EffDte: 04/02/1996 MCRT#: 525 Div: D3 Cav: SecCls:

| 8-1.2 |Basic Requirements

| Each criminal investigator whose average of unscheduled
| work hours is certified to be (or certified as expected to be) at
| least two hours per regular workday is entitled to Availability Pay in
| the amount of 25 percent of basic pay. |

**EffDte: 04/02/1996 MCRT#: 525 Div: D3 Cav: SecCls:

| 8-1.3 |Definitions

| (1) REGULAR WORKDAY is a day during the basic 40-hour
| workweek on which a Special Agent (SA) performs AT LEAST FOUR HOURS of
| work that are not:

- | (a) unscheduled work hours,
- | (b) approved training time,
- | (c) time spent traveling under official travel

| orders, or

| (d) hours of approved leave or excused absence,
| including holidays.

| (2) SA, for the purpose of this instruction, refers to
| any SA or Supervisory SA in Grades GS-10 through GS-15.

| (3) UNSCHEDULED WORK HOURS are hours not part of the 40-
| hour basic workweek during which actual work is performed that has not
| been scheduled in advance of the administrative workweek. To be
| credited as unscheduled work hours, such hours must be in excess of
| the employee's scheduled eight-hour workday or 40-hour administrative
| workweek.|

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| 8-1.3.1 |Deleted|

**EffDte: 04/02/1996 MCRT#: 525 Div: D3 Cav: SecCls:

| 8-1.3.2 |Deleted|

**EffDte: 04/02/1996 MCRT#: 525 Div: D3 Cav: SecCls:

| 8-1.3.3 |Deleted|

**EffDte: 04/02/1996 MCRT#: 525 Div: D3 Cav: SecCls:

| 8-1.4 |Eligibility (See MAOP, Part I, 8-1.6.)

| Within the FBI, Availability Pay applies to all FBI SAs,
| i.e., employees whose positions are classified as Criminal
| Investigator, GS-1811, except:

| (1) Members of the Senior Executive Service;

| (2) Part-time employees; and

| (3) New Agents who have not completed new Agents training
| at the FBI Academy. Availability Pay for new Agents will begin on the
| first day of the first pay period after completion of new Agents
| training.|

**EffDte: 04/02/1996 MCRT#: 525 Div: D3 Cav: SecCls:

8-1.5 Certification

(1) New Agents - Within ten days of reporting to the first duty station, whether from the FBI Academy or upon reinstatement, a new Agent must sign an initial Availability Pay certification. This initial certification will remain in effect until the next annual certification cycle, at which time the new Agent will recertify and thereafter recertify on the annual cycle. The original AVP certification is to be maintained in a central file in the office. Since these certificates do not constitute permanent records, no serialization is necessary. (See MAOP, Part 1, 8-1.6.)

(2) All SAs - Each year, each SA will recertify that he or she has met and will continue to meet the minimum requirement for eligibility. The original certification will be maintained in the office. The Personnel Policy Unit (PPU), Administrative Services Division (ASD), should be notified by an electronic communication when the certification process is completed. Specific procedures for conducting the annual certifications will be distributed by separate instruction.

(3) Every effort should be made to have each employee sign the certification within the specified deadline. However, if an SA is unavailable to sign the required certification in the time specified because of work requirements, extended leave, etc., written notification must be sent by electronic communication to the Assistant Director, Administrative Services Division, Attn: PPU. As soon as the SA becomes available, the form must be signed and dated by the employee and his/her supervisor and PPU must be advised.

(4) Refusal by an SA to certify as to future availability, unless an exception is granted under MAOP, Part 1, 8-1.13, may result in disciplinary action based upon insubordination up to and including removal.

(5) Certifications will be kept on file in the employee's office one month after the next annual certification is completed.

(6) A new certification will NOT be required if an SA transfers to a different office or otherwise changes supervisors in the middle of a certification period. The certification is deemed to be valid for the entire certification period.

**EffDte: 05/31/2002 MCRT#: 1207 Div: D3 Cav: SecCls:

8-1.6 Payment of Availability Pay

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(1) All eligible SAs will receive Availability Pay in the amount of 25 percent of the employee's rate of basic pay (including any applicable special salary rate, locality pay, interim geographic adjustment for law enforcement officers, and retained pay). Availability Pay will be paid only for periods of time during which the SA receives basic pay.

(2) Availability Pay is paid for all unscheduled work in excess of eight hours in a workday.

(3) Availability Pay continues during paid periods of:

(a) excused absence (such as annual, sick, military leave, or court leave, "administrative" leave, and holidays);

(b) officially approved training, except for initial basic training normally given in the first year as an SA (see, Sections 8-1.4 and 8-1.5(1) above); and

(c) officially approved travel (such as travel for purposes of relocation, investigative assignments, and training); and

(d) temporary duty outside of the SA's official position description (such as details and TDY).

(4) Availability Pay is used to compute:

(a) severance pay;

(b) retirement deductions and benefits;

(c) life insurance premiums and benefits;

(d) Thrift Savings Plan contributions;

(e) workers' compensation benefits;

(f) advances in pay; and

(g) lump sum payments for accrued annual leave.

(5) Availability Pay is subject to the biweekly limitation on premium pay (the greater of 150 percent of the minimum rate payable to GS-15 or the rate payable for Level V of the Executive Schedule; Title, 5, USC, Section 5547(c)) and the aggregate limitation on pay -- an employee's annual pay including base pay, availability pay, night differential, overtime, bonuses, and awards -- may not exceed the annual rate of basic pay for Level I of the Executive Schedule; Title 5, USC, Section 5307 (a)(1).

(6) An SA who receives Availability Pay may also receive:

(a) Night differential for night work that is part of the employee's regularly scheduled workweek;

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(b) Sunday pay for nonovertime hours not in excess of eight hours for each regularly scheduled tour of duty which begins or ends on Sunday;

(c) Holiday Pay;

(d) Scheduled overtime pay, once appropriately authorized.

(7) An SA who receives Availability Pay may NOT receive:

(a) overtime pay, night differential pay, compensatory time, or hazardous duty pay under Title 5, United States Code, Sections 5542, 5543, and 5545, for UNSCHEDULED work hours;

(b) overtime pay under the Fair Labor Standards Act (FLSA); or

(c) annual premium pay for administratively uncontrollable overtime (AUO) or regularly scheduled standby duty.

**EffDte: 05/31/2002 MCRT#: 1207 Div: D3 Cav: SecCls:

| 8-1.7 |Hours Creditable Towards the Annual Minimum Requirement

| SAs will receive credit towards meeting the annual minimum
| requirement of two hours per regular workday as follows:

| (1) All unscheduled hours actually worked before the
| beginning or after the end of the regularly scheduled workday
| (normally 8:15 a.m. to 5:00 p.m.).

| (2) All unscheduled hours actually worked on a day that
| is the SA's regular day off (normally Saturday and Sunday);

| (3) Out-of-area travel time that meets the eligibility
| requirements for overtime (or compensatory time) payment under Title
| 5, USC, Section 5542 (b)(2) and Title, 5 C.F.R. 550.112(g) --
| generally travel that results from an event that could not be
| scheduled or controlled administratively by an agency of the Executive
| Branch. Only the time the SA is actually engaged in travel is
| creditable. Once the SA reaches the out-of-area destination
| (including travel from the airport or other mode of public
| transportation to the office, first work site, or hotel), any local
| travel in that area will be credited in the same manner as local
| travel is credited at the permanent duty station. (See 8-1.8.)|

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| 8-1.7.1 | Deleted|

**EffDte: 04/02/1996 MCRT#: 525 Div: D3 Cav: SecCls:

| 8-1.7.2 | Deleted|

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| 8-1.7.4 | Deleted|

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| 8-1.7.6 | Deleted|

**EffDte: 04/02/1996 MCRT#: 525 Div: D3 Cav: SecCls:

| 8-1.8 | Hours Not Creditable Towards the Annual Minimum Requirement

| SAs will NOT receive credit towards meeting the annual
| minimum requirement under the following circumstances:

| (1) Time commuting to and from the place of business,
| even if the SA is driving a government vehicle.

| (2) Travel time that does not meet the eligibility
| requirements for overtime (or compensatory time) payment under
| Title 5, USC Section 5542 (b)(2) and 5 C.F.R. 550.112 (g) (see
| 8-1.7(3) above.)|

**EffDte: 04/02/1996 MCRT#: 525 Div: D3 Cav: SecCls:

| 8-1.9 Computation of Annual Minimum Hours Requirement

| To qualify for Availability Pay, an SA must work an annual
| average of a minimum of two hours of unscheduled work per regular
| workday. The annual average is computed as follows:

|
$$\frac{\text{TOTAL_NUMBER_OF_UNSCHEDULED_WORK_HOURS_}}{\text{Total Number of Regular Workdays}} \quad \begin{array}{l} \text{greater than} \\ \text{or equal to} \end{array} \quad 2.0$$

| For example, an SA performs a total of 620 hours of
| unscheduled work in an annual period. In the same period, the SA
| works a total of 200 regular workdays (i.e., days in which at least
| four hours of regularly scheduled work was performed, excluding leave,
| excused absence, approved training, holidays, and approved travel).
| 620 divided by 200 equals 3.1. The SA performed an annual average of
| 3.1 hours of unscheduled work per day, thus exceeding the minimum
| requirement for the payment of Availability Pay. |

**EffDte: 04/02/1996 MCRT#: 525 Div: D3 Cav: SecCls:

| 8-1.10 Recording Unscheduled Work Hours

| UNSCHEDULED WORK will be recorded on the Attendance
| Register (FD-420 or FD-420a for SAs who TURK) and in the
| Administrative Time Capture System as hours worked, i.e., showing
| sign-in and sign-out times and the number of minutes of
| unscheduled work under the "AVP" column on the FD-420 or FD-420a.
| (This procedure is the same as that formerly used to record AUO.) |

**EffDte: 04/02/1996 MCRT#: 525 Div: D3 Cav: SecCls:

8-1.11 Failure to Meet the Annual Minimum Unscheduled Work Requirement

(1) FBIHQ will periodically review the unscheduled work hours of each SA to determine whether he/she will be able to meet the requirement for an annual average of two hours' unscheduled work per regular workday. If, at the annual certification or at a time between certifications, it becomes evident that an SA will not be able to perform a sufficient number of unscheduled work hours to meet the requisite annual average, immediate action will be taken to decertify the SA and to suspend Availability Pay. In addition to decertification, the supervisor will review the situation to determine whether or not the shortfall has been caused by the SA's misconduct. If the shortfall is the result of the SA's misconduct, such as

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insubordination in refusing to work the previously certified hours, an adverse action may be initiated under Part 1, Section 13 of the Manual of Administrative Operations and Procedures (MAOP).

(a) PREFERENCE ELIGIBLE - Title 5, USC, Section 5545a(e)(20) provides that involuntary reduction in pay resulting from a denial of certification shall be a reduction in pay for purposes of Title 5, USC, Section 7512(4) pertaining to adverse actions. In addition to the procedural protections described for nonpreference eligible employees below, preference eligible employees are entitled to the procedures and Merit System Protection Board (MSPB) appellate rights delineated in Part 1, Section 13-10, of the MAOP with respect to the imposition of adverse actions such as reduction in pay.

(b) NONPREFERENCE ELIGIBLE - An SA who is not preference eligible who is to be decertified for failure to meet eligibility requirements for Availability Pay will receive the procedural protections applicable to a reduction in pay pursuant to Part 1, Sections 13-13 and 14-4.2, of the MAOP. If only decertification is proposed (that is, no additional adverse action is anticipated), the Deputy Assistant Director - Personnel Officer, | Administrative Services|Division, or his or her designee, may determine that decertification is appropriate and may establish the duration of the decertification. If adverse action in addition to decertification is appropriate, the same authority who imposes the adverse action will determine the duration of decertification. Availability Pay will be suspended beginning the first day of the first pay period beginning after the date of decertification. | The|SA may appeal this determination to the Assistant Director, | Administrative Services|Division, within 30 calendar days after the effective date of the decertification. The appeal should include specific information regarding the reasons why the unscheduled work was not performed and should explain how the SA will be able to meet the requirement by the end of the certification period. (See MAOP, Part 1, 8-1.12.1.)

(2) Failure to perform the required hours of unscheduled work may result in decertification and suspension of Availability Pay alone or in decertification plus adverse action based on insubordination, inattention to duty, or other misconduct. The duration of decertification may be from one pay period to one year, depending on the circumstances and degree of the unscheduled work hour deficit. The penalties applicable to misconduct such as insubordination and inattention to duty are prescribed in Part 1, 13-13, of the MAOP.

(3) The length of an employee's suspension from receipt of Availability Pay is an administrative determination at the discretion of FBI management. It will be dependent upon a variety of factors to include: the number of unscheduled work hours the SA failed to perform during his or her period of certification; circumstances contributing to that deficit of unscheduled work; the SA's past record of performing unscheduled work; and other mitigating circumstances that may be present. In situations in which an SA has been previously decertified and/or disciplined for failure to perform unscheduled duty, progressively more stringent disciplinary measures

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may be employed. (NOTE: If an SA is a preference eligible veteran, he or she will be afforded the procedural protections attending that status.)

(4) The Administrative Services Division will issue an SF-50, Notification of Personnel Action, documenting a suspension (involuntary temporary termination based on misconduct) or discontinuance (voluntary temporary termination based on personal or family hardship) of Availability Pay. The SF-50 will include the reason for the suspension or discontinuance, the effective date for cessation of Availability Pay, and the date the suspension or discontinuance ends.

(5) Suspension of Availability Pay does not relieve an SA of the requirement to perform unscheduled work during the period of such suspension.

(6) When Availability Pay is suspended as a result of an SA's failure to perform an annual average of two hours or more of unscheduled work per regular workday, one determinant of the length of the period during which Availability Pay will be suspended is the number of hours of unscheduled duty which the SA failed to perform during the previous period of certification. To achieve eligibility for recertification, an SA will be required to complete his or her period of suspension AND satisfy the requirements set forth in (a) and (b) below--

(a) SATISFACTION OF DEFICIT: A period of suspended Availability Pay must continue until the SA has performed the amount of unscheduled work which he or she failed to perform during the previous certification period. However, the period of suspension may exceed the period required to make up for the deficit.

EXAMPLE 1: An SA worked 200 regular workdays during the previous certification period, but performed only 300 hours of unscheduled work, for an annual average of 1.5 hours of unscheduled duty per regular workday (300 divided by 200 = 1.5). Because the SA had been previously certified as eligible for Availability Pay, he or she received Availability Pay throughout the certification period, despite the fact that he or she failed to satisfy the unscheduled work requirement. The SA would have had to perform an additional 100 hours of unscheduled duty during the certification period to satisfy the requirement to perform an annual average of two hours of unscheduled work per regular workday. (200 regular workdays x two hours of unscheduled duty per regular workday = 400 hours of unscheduled duty; 400 hours of unscheduled work required - 300 hours of unscheduled duty actually worked = a deficit of 100 hours of unscheduled duty.) In this case, the period of suspended Availability Pay MUST continue until the SA has performed at least 100 hours of unscheduled duty during such period.

(b) SATISFACTION OF TWO-HOUR AVERAGE OF UNSCHEDULED DUTY PER REGULAR WORKDAY: An SA who has been suspended from receipt of Availability Pay must perform an average of two hours of unscheduled duty per regular workday during the period of his or her suspension to be recertified as eligible to once again receive such

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pay. ALL UNSCHEDULED WORK performed during the period of suspended Availability Pay will be considered in determining whether the two-hour per-day average has been achieved.

EXAMPLE 2: An SA was suspended from receipt of Availability Pay based upon a deficit of 100 hours during 200 regular workdays, having averaged 1.5 hours of unscheduled work per regular workday. Within 50 regular workdays after the beginning of the suspended Availability Pay, the SA has performed a total of 100 hours of unscheduled work. He or she has thus satisfied the deficit requirement. Once the SA's period of suspended Availability Pay has run and the SA has satisfied the two-hour average requirement, the SA will be eligible for recertification and resumption of Availability Pay.

EXAMPLE 3: An SA with a deficit of 100 hours of unscheduled work during a certification period is suspended from receipt of Availability Pay for a period of 30 days, which includes 22 regular workdays. During the 30-day suspension, the SA performs 75 hours of unscheduled work. Although at the completion of the initial period of suspension the SA has satisfied the requirement to perform an average of two hours of unscheduled duty per regular workday, he or she has not satisfied the requirement to perform an amount of unscheduled duty equal to or greater than his or her prior deficit. Consequently, he or she will not be eligible for recertification and resumption of Availability Pay until he or she satisfies that deficit by performing an additional 25 hours of unscheduled work.

(c) Failure to perform unscheduled work during the period of suspension from receipt of Availability Pay as required above may result in further disciplinary action.

(7) At the completion of the period of suspension, a review will be made to ensure that the SA has met the requirements for recertification and resumption of Availability Pay. When the SA has been determined to be so eligible, the SA and his or her supervisor must again certify that the SA will perform an annual average of two hours of unscheduled work per regular workday in accordance with the certification procedures required by applicable instructions.

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| 8-1.12 Suspension of Availability Pay|

**EffDte: 04/02/1996 MCRT#: 525 Div: D3 Cav: SecCls:

| 8-1.12.1 Suspension for Health or Physical Reasons

| (1) If an SA is unable to perform unscheduled work for an
| extended period of time for physical or health reasons, and he or she
| declines to request voluntary discontinuance of Availability Pay (see

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| MAOP, Part I, 8-1.13), payment may be suspended by the Deputy
| Assistant Director-Personnel Officer, upon written request by the
| division/office head, until the SA's physical or health problems have
| improved to where unscheduled work may be resumed. Such suspensions
| are considered to be involuntary reductions in pay and adverse action
| procedures must be followed. (See MAOP, Part I, 8-1.11, paragraphs
| (1)(a) and (b) above.)

| (2) Workdays in which Availability Pay has been suspended
| under this section will be excluded from the computation of the
| minimum hours requirement.

| (3) The Deputy Assistant Director-Personnel Officer must
| be informed in writing when the SA is again available to perform
| unscheduled work and Availability Pay is to be resumed.|

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| **8-1.12.2 Suspension for Alcohol-Related Misconduct (See MAOP, Part I, 13-13.)**

| (1) Whenever an SA is suspended from operating a
| government motor vehicle as a result of alcohol-related misconduct and
| following a determination of such misconduct by the Bureau, he/she
| will not be considered eligible to earn premium compensation, such as
| Sunday pay, holiday pay, night differential, and Availability Pay.
| Prior to discontinuing eligibility for Availability Pay, the employee
| will be afforded appropriate adverse action proceedings. (See MAOP,
| Part I, 1-3.1 and 1-30.3.)

| (2) As the suspension of an SA's entitlement to earn
| Availability Pay compensation is an adverse personnel action, it is
| dependent upon completion of adverse action procedures set forth in
| MAOP, Part I, 13-14. These procedures are designed to afford
| employees due process as well as procedural entitlements which arise
| from an employee's personnel status. For example, a preference
| eligible veteran has specific procedural entitlements which are set
| forth in MAOP, Part I, 13-10.|

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8-1.13 Discontinuance of Availability Pay (See MAOP, Part 1, 8-1.5 & 8-1.12.1.)

The statute establishing Availability Pay and the
implementing OPM regulations make payment mandatory to all criminal
investigators (i.e., SAs), except under certain limited circumstances.
The rationale for this policy is that the basic nature of a criminal
investigator's work requires considerable amounts of unscheduled work,
often worked at the discretion of the individual without prior
approval of a supervisor. Since payment of Availability Pay is

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mandatory, an SA may not voluntarily decline to perform the required unscheduled work, except as provided below.

(1) If, for a specified period of time, an SA believes he or she will not be able to meet the eligibility requirements for Availability Pay because of PERSONAL OR FAMILY HARDSHIP, he or she may submit a written request to the division/office head requesting temporary discontinuance of Availability Pay, clearly stating the nature of the hardship that prevents him or her from performing the required amount of unscheduled work and the specific period of time the hardship is expected to last. The statement should further note that the SA understands that Availability Pay will be discontinued immediately but that this does not relieve the SA of the obligation to perform unscheduled work as required by the SA's assignment and/or his or her supervisor. Insubordination by refusing to perform necessary unscheduled work may result in appropriate disciplinary action.

(2) The division/office head, or his or her designee, will approve or disapprove the request in writing, to include the reasons for the disapproval, as appropriate. The SA may request reconsideration of a negative determination by the Deputy Assistant Director - Personnel Officer, Administrative Services Division, within 15 calendar days of the date the request was denied.

(3) Upon approval of a request to temporarily discontinue Availability Pay based on hardship, the division/office head must provide written notification to the Assistant Director, Administrative Services Division, Attn: Personnel Policy Unit, including the nature of the hardship, the date the Availability Pay should be terminated (ordinarily at the beginning of a pay period), and the date the hardship is expected to end.

(4) If an SA is granted a discontinuation of Availability Pay based on hardship, he or she and his/her supervisor may at any time thereafter certify his or her availability, at which time Availability Pay will commence. Notification to reinstitute Availability Pay must be sent to the Administrative Services Division immediately. If, at the completion of the approved period of discontinuance, a hardship still exists, the SA may request an extension for another specified period, following the procedures outlined in paragraphs (1) through (3) above.

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8-2 OTHER TYPES OF PREMIUM PAY

Premium compensation on an annual basis for Availability Pay (AVP) is in lieu of all other types of premium pay except for scheduled overtime approved by the Executive Assistant Director for Administration or higher-level FBI official, night and Sunday work, and holiday duty under certain conditions. By law and

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supplemental regulations, Agents receiving premium overtime compensation (AVP) are precluded from being granted compensatory leave.

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8-2.1 Overtime Pay and Compensatory Time: Fair Labor Standards Act (FLSA) or Title 5, Code of Federal Regulations

(1) Authority: This manual citation serves as a guide to employees, managers, and supervisors regarding the approval and earning of overtime and compensatory time within the FBI. Regulatory authority regarding overtime and compensatory time is contained in Title 5, Code of Federal Regulations (5 CFR), Part 550 for FLSA exempt employees and Part 551 for FLSA nonexempt employees. Case law, Comptroller General decisions, and direction provided by the Office of Personnel Management offer supplemental information and interpretation of the overtime and compensatory time provisions contained in 5 CFR.

(2) Determination of Exempt or Nonexempt:

(a) Employees are exempt or nonexempt from coverage under the FLSA based on the primary duties of their positions. FLSA designations of exempt or nonexempt determine the amount and/or type of overtime compensation paid to employees for work in excess of eight hours in a day (with the exception of employees assigned to alternative work schedules who have regularly scheduled shifts in excess of eight (8) hours in a day) or 40 hours in a week.

(b) Exemption Categories: The following four categories define the nature of work considered exempt from the FLSA. The nature of the work then determines the positions and employees exempt from the FLSA.

1. Executive: Positions such as supervisors, foremen, or managers at any organizational level that have authority to recommend or suggest most types of personnel actions such as selections, promotions, and performance ratings; exercise discretion and independent judgment in areas like work planning, organization, and assignment; and devote at least 80 percent of time in a workweek to such functions.

2. Administrative: Positions that affect the formulation or execution of management programs or policies; or involve management or business functions supporting services of substantial importance to the organization. Work is intellectual and varied in nature or of a specialized or technical nature that requires considerable special training, experience, and knowledge. Discretion and independent judgment are exercised in the performance of work and supervision is general in nature. Such work is performed for at least 80 percent of time in a workweek. Administrative positions are generally exempt at grades GS-9 and above.

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3. Professional: Positions that require education and training that meet the requirements for a bachelor's or higher degree with major study in or pertinent to the specialized field of work performed. Work performed is intellectual and varied in nature and performed under general supervision. Professional positions are generally exempt at grades GS-9 and above.

4. Foreign Exemption Criteria: Applies to permanent positions stationed in foreign locations.

(c) Federal Wage System (FWS) employees are generally nonexempt with the exception of those meeting the executive exemption category in (b) 1. above.

(d) Special Agent (SA) employees are exempt from the FLSA. (Also refer to Part 1, 8-2.1.1, of this manual for additional procedures relevant to requesting, approving, scheduling, and paying of overtime for SAs.)

(e) Employees' FLSA status may be determined by referring to the Standard Form 50-B, Notification of Personnel Action, item 35. Employees may also check at the top of their Attendance Registers to determine exempt or nonexempt status.

(3) Payment for Overtime Worked:

(a) FLSA Exempt: Overtime pay for employees whose rate of basic pay exceeds GS-10, step 1, will be the greater of (1) one and one-half (1.5) times the minimum hourly rate of basic pay for grade-10 (i.e., GS-10, step 1), including any applicable special salary rate, locality rate of pay, or special pay adjustment for law enforcement officers, or (2) the employee's own hourly rate of basic pay, including any applicable special salary rate, locality rate of pay, or special pay adjustment for law enforcement officers. Exempt employees will be paid in 15-minute increments. However, exempt employees may at their own volition decide to work additional hours without payment for such overtime.

(b) FLSA Nonexempt: Overtime is paid at one and one-half times employees' hourly regular rates of pay, including locality-based comparability pay. Nonexempt employees must be paid for all time worked whether that work has been approved or "suffered and permitted." Suffered and permitted means work performed by employees for the benefit of the FBI, whether requested or not, provided the employees' supervisors knew or had reason to believe that the work was being performed and had an opportunity to prevent the work from being performed.

(4) Time in a Travel Status: When possible, travel should be scheduled within employees' regularly scheduled administrative workweeks. Otherwise, there are specific criteria governing payment of overtime to employees in travel status.

(a) FLSA Exempt: Only compensated if travel is within employees' regularly scheduled administrative workweeks and working

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hours. Exempt employees may also be compensated for travel if it involves the performance of actual work while traveling (such as accompanying a prisoner), is incident to travel that involves the performance of work while traveling (such as mail couriers driving vehicles), is carried out under such arduous and unusual conditions that the travel is inseparable from work (such as travel by unusual modes of transportation, travel over harsh terrain, or the like), or results from an event which could not be scheduled or controlled administratively by the government (such as training provided by a private vendor for individuals inside and outside the government). These exceptions are very narrowly construed and will rarely apply to FBI employees.

(b) FLSA Nonexempt: In addition to travel provisions for exempt employees, nonexempt employees are compensated if travel falls within their regular working hours (on regular workdays or regular days off), employees are required to drive a vehicle or perform other work while traveling, employees are required to travel as passengers on one-day assignments away from their official duty stations, or employees are required to travel as passengers on an overnight assignment away from their official duty stations during hours on nonworkdays that correspond to their regular working hours.

(c) Home-to-Work Commute: For both exempt and nonexempt employees, normal travel to and from work is not compensable. In addition, when employees travel directly from home to a temporary duty location, the time employees would have spent in normal travel from home to their official duty stations is deducted from any overtime that is paid for travel purposes. Regulations permit establishment of a radius of not greater than 50 miles to determine whether employees' travel is within or outside employees' official duty stations for determining entitlement to overtime pay.

(d) Time Waiting for Common Carriers: Time waiting for transportation with common carriers (such as airlines, trains, and buses) is generally not compensable for either exempt or nonexempt employees unless such time occurs during employees' regular working hours.

(5) Time Spent in Training or Attending a Lecture, Meeting, or Conference:

(a) FLSA Exempt: Overtime compensation for time spent for the above purposes is generally not permissible. Availability Pay for SAs will continue during periods of FBI sanctioned training except for New Agent Training.

(b) FLSA Nonexempt: Overtime compensation for time spent in apprenticeship or other entry level training is not permissible. Other training including attendance at lectures, meetings, or conferences in which employees are directed to participate by the FBI and where the purpose of such training is to improve employees' performance of the duties and responsibilities in their current positions may be compensable as overtime when accomplished outside the employees' regularly scheduled administrative workweeks.

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(c) Scheduling Training: Where feasible, government-sponsored training should be scheduled to allow for travel during employees' regular workweeks. Agencies, however, have discretionary authority to determine when it is impractical to schedule training to meet such requirements and, thus, require travel outside employees' regular workweeks.

(6) Call-back Overtime Work: For both FLSA exempt and nonexempt employees, irregular or occasional overtime work performed by employees on days when work was not scheduled or for which employees are required to return to their place of employment will be compensated for a minimum of two (2) hours of such overtime work. This does not apply to exempt employees who voluntarily decide to work outside their regularly scheduled workweeks.

(7) Compensatory Time Off in Lieu of Overtime Pay:

(a) FLSA Exempt: Employees whose rates of basic pay, including locality-based pay adjustments, exceed GS-10, step 10, may be compensated for overtime work with an equivalent amount of compensatory time off. Otherwise, the FBI may grant compensatory time off in lieu of overtime pay only if requested in writing by exempt employees. If compensatory time off is not used within the time limit fixed by the FBI, the employees' entitlement to the compensatory time off or overtime pay is forfeited unless failure to take the compensatory time off is due to an exigency of the service beyond employees' control and employees' time off was officially cancelled in writing.

(b) FLSA Nonexempt: Nonexempt employees may be paid for overtime work with compensatory time off but only if requested in writing by employees. Supervisors may never directly or indirectly intimidate, threaten, or coerce nonexempt employees to accept compensatory time off in lieu of pay for overtime hours worked. If compensatory time off is not used within the time limit fixed by the FBI, employees must be paid at the overtime rate in effect when the compensatory time was earned.

(c) Form FD-813, Compensatory Time Request: This form may be used for the purposes of requesting and approving the earning of compensatory time.

(d) Other Information on Compensatory Time: The FBI's LEAVE POLICY MANUAL should be consulted for other information relevant to the approval and use of compensatory time including hours, if any, which may be carried over at the end of the leave year. Supplemental information concerning the earning and use of compensatory time may be provided when necessary to cover emergency or other special situations.

(8) Approval to Work Overtime: All overtime work is to be approved and scheduled in writing by supervisors and managers granted such authority. Division and office heads may delegate the authority to approve support employees' overtime work to supervisors and managers, as desired, in consonance with policies of their divisions

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and offices. Overtime for SAs must be approved by the Executive Assistant Director for Administration or higher-level FBI official (refer to Part 1, 8-2.1.1, of this manual).

(9) Responsibilities: Managers and supervisors are expected to judiciously monitor the approval and use of overtime (including compensatory time off) and to be aware of the basic rules governing overtime work and compensation for overtime work within the federal government.

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| 8-2.1.1 Scheduled Overtime (SOT) for Law Enforcement Officers (Special Agents (SAs)) |(See MAOP, Part 1, 8-2.1.)|

(1) SAs qualifying for overtime are compensated at the greater of one and one-half times the basic hourly rate for grade GS-10, Step 1, including any locality-based comparability pay, or the hourly rate of base pay, including any locality-based comparability pay, of the employee. All overtime for the FBI's SAs must be approved in advance, through the appropriate chain of command, by the Executive Assistant Director for Administration or higher-level FBI official, scheduled in writing and communicated to the affected employee(s) in advance of the administrative workweek in which the overtime is to be performed.

(2) Each SOT request must be submitted in writing, through the chain of command, to the Executive Assistant Director for Administration or higher-level FBI official, for approval as follows:

(a) Must be approved by the appropriate ADIC(s), SAC(s), office heads and the cognizant FBIHQ divisions |(Counterintelligence Division, Criminal Investigative Division, Laboratory Division, or other substantive FBIHQ division).|

(b) Must be reviewed by the Finance Division (FD) to determine the financial impact before transmittal to the Executive Assistant Director for Administration or higher-level FBI official for final approval.

(c) Must contain specific circumstances which require performance and payment of SOT.

(d) Must contain an explanation of why the use of unscheduled work compensated by Availability Pay (AVP) and/or increased staffing to cover the required work assignment is insufficient.

(3) Financial Issues

(a) Impact: Sufficient detail must be provided in a request to enable the FD to develop an estimate of the cost of the

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SOT. To develop such an estimate, the FD must have the number of SAs, the grades of the personnel to be assigned, the duty station of record for the personnel to be scheduled/assigned, and the expected duration of the assignment. (Note: Personnel on Temporary Duty are compensated for overtime purposes based upon their duty station of record, not their temporary assignment.)

(b) Biweekly limitation on earnings: SAs approved for receipt of SOT are subject to the biweekly limitation on receipt of premium pay. Earnings which are comprised of basic pay, plus premium pay (AVP, SOT, Night Differential, Sunday Pay, and Holiday Pay) are limited to the biweekly limitation of premium pay. For SAs, the biweekly limitation is the lesser of 150 percent of the rate for GS-15, Step 1 (including locality pay) or the rate of Executive Level V.

(c) Method of computation: The overtime hourly rate for SOT, applicable to SAs, is the greater of one and one-half times the hourly rate for GS-10, Step 1 (including locality pay) or the employee's regular hourly rate (including locality pay).

(d) Role of the FD: FD must provide the financial impact of any proposed use of SOT to the Executive Assistant Director for Administration or higher-level official prior to his/her review of the request.

(4) Factors to be satisfied before approval of SOT:

(a) A substantial number of SAs are to be scheduled.

(b) A written schedule must be formulated and presented to the affected employee(s) in advance of the administrative workweek. An administrative workweek for most SAs begins on Sunday at 12:01 a.m. and runs through midnight on the following Saturday. Thus, the schedule must be established, and communicated in writing to affected SAs, prior to midnight on Saturday, at the beginning of the workweek. OTHERWISE, SA PERSONNEL WOULD NOT BE ELIGIBLE FOR COMPENSATION FOR ANY APPROVED SOT PERFORMED IN THE FOLLOWING SEVEN-DAY PERIOD.

(c) By statute, the first two hours of extra duty performed by an SA on any REGULAR WORKDAY on which he/she has been scheduled for SOT are credited as time which must be compensated by Availability Pay (AVP) rather than SOT.

SAs must be scheduled for more than 10 hours per regular workday (i.e., eight hours regular duty and two hours AVP). SAs routinely work a five-day workweek. Each of the five days is considered a REGULAR workday. The two remaining days of the week are considered REGULAR DAYS OFF (RDOs). SOT worked by an SA on an RDO is treated differently for compensation purposes than SOT performed on a REGULAR workday.

EXAMPLE A: An SA is scheduled on a regular workday from 8:15 a.m. to 5:00 p.m. The SA is also scheduled for four hours of SOT. The SOT was approved by the Executive Assistant

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| Director for Administration or higher-level official, | scheduled
| in writing, and presented to the employee in advance of the
| administrative workweek. Therefore, the SA is scheduled for a total
| of 12 hours (including 45 minutes for a meal break). Since work was
| performed on a regular workday, the SA will be paid for eight hours at
| his/her regular rate of compensation. In addition, the SA will be
| credited for the four hours of SOT as follows: two hours of AVP, to
| fulfill the daily AVP requirement, and two hours of overtime.

EXAMPLE B: An SA is scheduled in advance of the
| administrative workweek to perform a 12-hour shift on Saturday; SOT
| has been approved by the | Executive Assistant Director for
| Administration or higher-level official, | the schedule written, and
| presented to the employee, in advance of the administrative workweek.
| However, Saturday is NOT a regular workday for the SA. The SA
| will then be credited with 12 hours of SOT for the shift worked on
| that Saturday. The first two hours of extra duty on that Saturday
| will NOT be treated as AVP work hours, because the hours do not
| occur on the SA's regular workday.

EXAMPLE C: An SA's administrative workweek begins
| on Sunday and ends the following Saturday. The SA is instructed on
| Monday to perform four hours of additional work on Tuesday of the
| same workweek. Tuesday is one of the SA's regular workdays, and the
| SA works from 7:15 a.m. to 8:00 p.m. to cover the four hours. As the
| SA was not scheduled for the additional hours in advance of the
| administrative workweek, the SA will not receive any SOT compensation.
| Instead, the entire period of extra duty on Tuesday will be credited
| as AVP hours.

(5) SOT may be considered in circumstances in which there
| is an expectation that the emergency requirement can reasonably be
| expected to extend for two weeks or more.

(6) Events in which SOT is authorized should be relatively
| rare and limited to those situations in which:

(a) It is not practicable to use sufficient
| investigative resources to fulfill the requirement without the use of
| SOT.

(b) It is imperative that there is a rapid or
| otherwise positive resolution to the event because of its notoriety or
| impact upon the public.

(c) In most instances, the investigation involves an
| immediate or impending threat to life or property or national security
| (e.g., bombings, hostage or siege situations).

(7) Example: A major case has received approval for SOT
| through the chain of command from the | Executive Assistant Director for
| Administration or higher-level FBI official | on Thursday,
| August | 22, 2002. | The first regular administrative workweek, after
| approval of SOT for which work can be scheduled in advance began on
| Sunday, August | 25, 2002. | In accordance with FBI policy, SA John Doe
| was provided the following written work schedule on Saturday, August

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| 24, 2002.] Note that the schedule includes a 45-minute meal break each day.

DAY	DATE	SCHEDULE
Sunday	August 25, 2002	Off Duty
Monday	August 26, 2002	6 a.m. to 6:45 p.m.
Tuesday	August 27, 2002	8 a.m. to 6:45 p.m.
Wednesday	August 28, 2002	6 a.m. to 8:45 p.m.
Thursday	August 29, 2002	8 a.m. to 6:45 p.m.
Friday	August 30, 2002	6 a.m. to 8:45 p.m.
Saturday	August 31, 2002	6 a.m. to 8:45 p.m.

The actual hours worked by SA John Doe and the accurate recording of AVP and SOT are shown below. Note: Time and attendance personnel entering time capture information must be provided written work schedules by appropriate supervisory personnel for all SAs claiming SOT to ensure that records for these SAs clearly state whether AVP or SOT is claimed.

DAY	DATE	HOURS WORKED	TOTAL HOURS	OVERTIME
Sun.	Aug. 25, 2002	Off Duty	0	0
Mon.	Aug. 26, 2002	6 a.m. to 6:45 p.m.	12 (2 AVP)	2
Tues.	Aug. 27, 2002	7 a.m. to 6:45 p.m.	11 (3 AVP)	0*
Wed.	Aug. 28, 2002	6 a.m. to 8:45 p.m.	14 (2 AVP)	4
Thurs.	Aug. 29, 2002	8 a.m. to 6:45 p.m.	10 (2 AVP)	0
Fri.	Aug. 30, 2002	6 a.m. to 8:45 p.m.	14 (2 AVP)	4
Sat.	Aug. 31, 2002	6 a.m. to 8:45 p.m.	14	14

| *Note: On Tuesday, August 27, 2002, the SA was scheduled to work from 8 a.m. to 6:45 p.m. but reported for duty at 7 a.m. Since the additional one hour was not scheduled in advance, the unscheduled hour cannot be claimed as overtime. The hour may be added to the two hours of AVP for a total of three hours' AVP.

(8) Use and Maintenance of Written Schedules

| After SOT has been approved by the Executive Assistant
| Director for Administration or higher-level official, schedules
| prepared in writing and presented to affected employees, the
| written schedule(s) must also accompany pertinent time-and-attendance
| records so that regular hours, hours credited as AVP and hours
| credited as SOT may be verified and accounted for by appropriate time-
| and-attendance personnel. These written schedules should also be
| maintained by time-and-attendance personnel at the employees'
| permanent duty stations.

(9) Discontinuance of SOT

Overtime pay will cease the day that appropriate Bureau management determine that the circumstances that caused the need for overtime no longer exist or when it becomes practicable to use investigative resources without the use of SOT.

**EffDte: 05/31/2002 MCRT#: 1200 Div: D3

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| 8-2.1.2 Fair Labor Standards Act (FLSA) Claims Procedures

| An employee may file a claim with the FBI or Office of
| Personnel Management (OPM) at any time challenging the correctness of
| his or her FLSA exemption status determination. An employee may also
| file an FLSA claim concerning his or her entitlement to overtime pay
| for work performed under the FLSA; however, time limits apply. All
| FLSA claims filed on or after June 30, 1994, are subject to a two-year
| statute of limitations (three years for willful violations, see
| definition below).

| (1) Definitions:

| (a) Claim: Means a written allegation from a current
| or former employee concerning his or her FLSA exemption status
| determination or entitlement to overtime pay for work performed under
| FLSA.

| (b) Claim period: Means the time during which the
| cause or basis for the claim occurred.

| (c) Claimant: Means a current or former employee who
| files an FLSA claim.

| (d) Preserve the claim period: Means to establish the
| period of possible entitlement to back pay by filing a written claim
| with either the FBI or the OPM.

| (e) Statute of limitations: Means the time frame
| within which an FLSA pay claim must be filed, starting from the date
| the right accrued.

| (f) Willful violation: Means a violation in
| circumstances where the FBI knew that its conduct was prohibited by
| the FLSA or showed reckless disregard of the requirements of the FLSA.

| (2) Preserving the Claim Period

| The claimant or his or her representative may preserve
| the claim by submitting a written claim to the Position Management
| Unit (PMU), Administrative Services Division (ASD), FBIHQ, during the
| claim period. The date the PMU receives the claim is the date that
| determines the period of possible entitlement to back pay. The PMU
| will provide written acknowledgment of receipt of the claim. All
| decisions will be approved by the Personnel Officer, Personnel
| Management Branch, ASD, and sent to the employee or the employee's
| representative.

| (3) Designating a Representative

| A claimant may designate a representative to assist him
| or her in preparing or presenting a claim. The claimant must
| designate the representative in writing. A representative may not
| participate in FBI interviews unless specifically requested to do so
| by the FBI. The FBI may disallow an employee's representative who is
| a federal employee in any of the following circumstances:

| (a) When the individual's activities as a
| representative would cause a conflict of interest or position;

| (b) When the designated representative cannot be
| released from his or her official duties because of the priority needs
| of the FBI; or

| (c) When the release of the designated representative
| would give rise to unreasonable costs to the FBI.

| (4) Information that must be included in a claim

| (a) Employee's representative, if any;

| (b) A description of the nature of the claim and the
| specific issues or incidents giving rise to the claim, including the
| time period covered by the claim;

| (c) Evidence which supports the claim;

| (d) The remedy sought by the employee;

| (e) A statement from the employee that he or she has
| or has not filed an action in an appropriate United States court; and

| (f) Any other information that the employee believes
| the ASD should consider.

| The claimant or the claimant's designated representative must provide
| any additional information requested by the ASD within 15 workdays
| after the request is made. The disclosure of information by an
| employee who files a claim is voluntary. However, the ASD may not be
| able to render a decision without the requested information. In such

| case, the claim will be cancelled without further action being taken
| by the ASD.

| (5) Claim Confidentiality

| If the claimant wishes the claim to be treated
| confidentially, the claim must specifically state that the identity of
| the claimant not be revealed. Witnesses or other sources may also
| request confidentiality. Every effort will be made to maintain
| confidentiality. If the ASD is unable to obtain sufficient
| information to render a decision and preserve the requested
| confidentiality, the ASD will notify the claimant that the claim will
| be cancelled with no further action by the ASD unless the claimant
| voluntarily provides written authorization for his or her name to be
| revealed.

| (6) The Claims Process (Internal FBI)

| The type of claim filed will dictate the decision-
| making process as noted below. See item (7) for information regarding
| filing a claim directly with the OPM.

| (a) If an employee is challenging the correctness of
| his or her exemption status and/or entitlement to overtime pay and the
| employee is currently exempt:

| Step 1: PMU conducts the initial review.

| Step 2: If PMU disagrees with the employee, then a written
| recommendation is forwarded to the Personnel Officer, PMB, ASD, for a
| final decision. Go to step 6.

| Step 3: If PMU agrees with the employee's claim, then a written
| recommendation is forwarded to the Personnel Officer, PMB, ASD, for a
| final decision.

| Step 4: The final decision is forwarded to STAFU for processing of
| the action.

| Step 5: The STAFU will forward a copy of the decision to Finance
| Division for determination of back pay entitlement.

| Step 6: A written decision is forwarded to the employee or his or her
| representative.

| (b) If an employee is challenging the correctness of
| his or her exemption status and/or entitlement to overtime pay and the
| employee is currently nonexempt:

| Step 1: PMU conducts the initial review.

| Step 2: If PMU disagrees with the employee, then a written
| recommendation is forwarded to the Personnel Officer, PMB, ASD, for a
| final decision. Go to step 6.

| Step 3: If PMU agrees with the employee's claim, then a written
| recommendation is forwarded to the Personnel Officer, PMB, ASD, for a
| final decision.

| Step 4: The final decision is forwarded to STAFU for processing of
| the action.

| Step 5: The STAFU will forward a copy of the decision to the Finance
| Division, along with a request for waiver of overpayment.

| Step 6: A written decision is forwarded to the employee or his or her
| representative.

| (7) Filing a Claim Directly with the Office of Personnel
| Management (OPM)

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| An employee may also file a claim with the OPM during the claim
| period. However, an employee cannot file a claim simultaneously with
| the FBI and OPM. An employee also has the right to bring an action in
| an appropriate United States court. Filing a claim with the FBI or
| with OPM does not satisfy the statute of limitations governing FLSA
| claims filed in court. The FBI will not decide an FLSA claim that is
| in litigation.

| It is a matter of personal discretion as to whether an employee files
| a claim with the FBI first and then the OPM. A claimant who receives
| an unfavorable determination from the FBI may still file the claim
| with the OPM. However, a claimant may not file the claim with the FBI
| after an unfavorable decision from the OPM. An OPM decision on a
| claim is final and is not subject to further administrative review.|

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8-2.2 Night Differential Pay

If any of the regularly scheduled basic workweek falls
between 6:00 p.m. and 6:00 a.m., the employee will be eligible for
such hours not in excess of eight hours for night differential pay
which is at the rate of 10 percent of the basic hourly rate, including
any applicable locality-based comparability payment of the individual.
To qualify for night differential pay, the work must be duly
authorized in advance and scheduled to recur on successive days or
after specified intervals such as one designated day over a period of
weeks. Night differential pay may be claimed when an employee is
substituting for another employee on leave who was regularly scheduled
to work during the regularly scheduled night differential period.
(Refer to Part 1, 8-6, of this manual regarding Wage Board employees.

**EffDte: 10/31/2000 MCRT#: 1034 Div: D3 Cav: SecCls:

8-2.3 Sunday Differential Pay

| An employee is eligible for Sunday differential pay if the
| regularly scheduled basic workweek includes Sunday as one of the
| official five workdays. Compensation will be at the rate of 25
| percent of the basic hourly rate, including any locality-based
| comparability payment of the individual, not in excess of eight hours
| for the tour of duty.

**EffDte: 12/04/1997 MCRT#: 785 Div: D3FD Cav: SecCls:

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8-2.4 Holiday Pay

| An|employee|may also receive additional compensation if
| assigned to duty on an official holiday, which falls within the
| |employee's|basic administrative workweek, at the rate of|the basic
| hourly rate, including any applicable locality-based comparability
| payment of the individual. Employees|on call or on standby on a
| holiday would not receive holiday pay unless actually called in to
| work and then only for work performed during their official working
| hours. An|employee|who is assigned or ordered to duty on a holiday is
| entitled to receive at least two hours of holiday pay but not more
| than eight hours of such compensation. No new permanent odd-hour
| shifts which would involve premium compensation should be set up or
| holiday pay claimed without advance FBIHQ approval. Should an
| emergency situation arise requiring prompt assignment of|employees|on
| a holiday, the SAC has the authority to utilize the necessary
| personnel and in these cases, because it is an emergency situation,
| the|employees|working will receive holiday pay up to eight hours even
| if the hours worked fall outside of their normal working hours. (See
| Part II, 1-2.4.4, of this manual, for listing of legal holidays.)

**EffDte: 10/19/1993 MCRT#: 122 Div: D3 Cav: SecCls:

8-3 EMERGENCY DUTY IN EXCESS OF REGULAR WORKDAY

| Where necessary for Agent to work through all or most of
| night because of emergency, division head may administratively change
| Agent's official workday. Division head should judiciously decide
| each case in light of Bureau's interest compared with Agent's physical
| well-being. However, in administering this, each day from 12 midnight
| must be considered as a unit for purposes of computing regular
| eight-hour shift and overtime. Any exceptions must be approved by
| FBIHQ.

| |The following examples illustrate scheduling of SAs for emergency
| duty.

| (1) |An SA whose regular hours are 8:15 a.m. to 5:00 p.m.,
| Monday through Friday, reports for duty at 7:00 a.m. on that day and
| because of emergency duty, works straight through (except for normal
| meal breaks) until 8:00 a.m. the next day. The SA may be considered
| as having worked the regular shift from midnight to 8:00 a.m. on the
| second day and, therefore, will not be required to work regular hours
| (8:15 a.m. to 5:00 p.m.) on the second day. Any additional time
| worked during the course of the two days, may be claimed as
| Availability Pay (AVP). However, the extra duty was not approved as
| scheduled overtime and may not be claimed for overtime pay purposes.|

| (2) |An SA whose regular work hours are 8:15 a.m. to 5:00
| p.m., Monday through Friday, reports for duty at 7:15 a.m. one day;
| quits work at 6:00 p.m. on the same day. The SA then returns to duty

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| at 11:00 p.m. because of emergency duty; works through to 5:00 a.m.
| the next day; takes a break for sleep; returns to work at 1:00 p.m.
| and works through until 6:00 p.m. The first day of work will be
| computed as follows: Regular duty from 8:15 a.m. to 5:00 p.m. and
| three hours of AVP (7:15 to 8:15 a.m., 5:00 to 6:00 p.m. and 11:00 to
| 12:00 p.m.). On the second day, the SA may be credited with five
| hours of regular time from 12:01 a.m. to 5:00 a.m. and three
| additional hours of regular time from 1:00 to 4:00 p.m. for a regular
| shift of eight hours. The additional time on the second day may be
| counted as AVP but not as scheduled overtime as overtime was not
| approved.
|

**EffDte: 01/21/1999 MCRT#: 847 Div: D3 Cav: SecCls:

8-4 WORKLOAD

Division head has continuing responsibility to insure equitable sharing of workload by Agents. FBIHQ insists that all division heads carry out this obligation completely and regularly.

**EffDte: 01/27/1988 MCRT#: 0 Div: D3 Cav: SecCls:

8-5 SPECIAL AGENT WEEKEND DUTY ASSIGNMENTS

SACs have the discretion to utilize Agents or qualified support personnel for duty during regular office hours on nonworkdays. When an Agent comes up for such duty assignment, the workweek is to be administratively changed, to allow the individual to have another day off to replace the normal day off of either Saturday or Sunday, as the case may be. In the case of the Saturday duty assignment, the workweek of the Agent, for that particular week, is to be Tuesday through Saturday with normal days off in that week of Sunday and Monday. In the case of Sunday duty Agents, the workweek for that particular week will be Sunday through Thursday, with normal days off of Friday and Saturday. Should any of these official hours fall between 6:00 p.m. and 6:00 a.m. the individual will be entitled to related night differential pay, and if on Sunday to not over eight hours of Sunday differential pay. No new work shifts involving such additional premium pay are to be established without prior FBIHQ approval. Duty schedules should be established well in advance, in order that individuals concerned may be aware of their responsibilities, and make any necessary adjustments. Such weekend duty assignments are to be rotated among the Agent staff of the office.

**EffDte: 01/27/1988 MCRT#: 0 Div: D3 Cav: SecCls:

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8-6 WAGE BOARD EMPLOYEES (See MAOP, Part 1, 8-2.2, 20-7.1.)

Wage Board employees do not come under the Compensation Act; therefore, the following regulations governing Wage Board employees must be borne in mind:

| (1) |Deleted|

| (2) |Deleted|

(3) All work in excess of eight hours per day or 40 hours per week must be compensated for at one and one-half times the regular rate. An exception is permitted under the Federal Employees Flexible and Compressed Work Schedules Act of 1982. See MAOP, Part 1, 20-7.1 & 20-7.2, Flexible and Alternate Work Schedules (AWS), and Part 2, 1-2.4.2.

(4) An SF-52 should be submitted to FBIHQ whenever an employee changes shifts so that appropriate salary adjustments can be made. The following items should be completed:

(a) Part A Items 1, 3, 5, and 6

(b) Part B Items 1, 2, 4, 14, and 22

(c) Part F advise work hours, days and total hours employee will be working

(5) Wage Board employees are entitled to night differential of 7 1/2 percent for regularly scheduled nonovertime work when the majority of their work hours occurs between 3 p.m. and midnight; or 10 percent if the majority of their work hours occurs between 11 p.m. and 8 a.m. The night differential is paid for the entire shift when the majority of hours, meaning a number of whole hours greater than one-half (including meal breaks), falls within the specified periods.

(6) Deleted

**EffDte: 05/31/2002 MCRT#: 1200 Div: D3

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8-7 HAZARDOUS DUTY PAY (ELECTRONICS TECHNICIAN)

Electronics Technician (ET) employees who are required to perform hazardous duties or duties involving physical hardship as indicated in Title 5, Code of Federal Regulations (CFR), Part 550, Subpart I, Appendix A, and as set forth below, are entitled to additional compensation. Those duties are:

(1) Exposure to Hazardous Weather or Terrain

(a) Work in rough and remote terrain. When working on cliffs, narrow ledges, or near vertical mountainous slopes where a loss of footing would result in serious injury or death, or when working in areas where there is danger of rock falls or avalanches.

(b) Traveling under hazardous conditions.

1. When travel over secondary or unimproved roads to isolated mountaintop installations is required at night, or under adverse weather conditions (such as snow, rain, or fog) which limits visibility to less than 100 feet, when there is danger of rock, mud, or snow slides.

2. When travel in the wintertime, either on foot or by means of vehicle, over secondary or unimproved roads or snow trails, in sparsely settled or isolated areas to isolated installations is required when there is danger of avalanches, or during "whiteout" phenomenon which limits visibility to less than 10 feet.

3. When work or travel in sparsely settled or isolated areas results in exposure to temperatures and/or wind velocity shown to be of considerable danger or very great danger (see Windchill Chart, Title 5, CFR, Part 550, Subpart I, Appendix A-1), and shelter (other than temporary shelter) or assistance is not readily available.

(2) Height Work

Working on any structure of at least 50 feet above the base level, ground, deck, floor, roof, etc., under open conditions, if the structure is unstable or if scaffolding guards or other suitable protective facilities are not used, or if performed under adverse conditions, such as snow, sleet, ice on walking surfaces, darkness, lightning, steady rain, or high wind velocity.

It is generally expected that above duties under (1) and (2) will be performed only by the more experienced ETs and only on an irregular or intermittent basis. The rate of compensation is 25 percent of base pay for all hours in a pay status on the day in which the duties are performed.

| The SAC must notify FBI Headquarters|ET Program Manager's Office|of
| hazardous duties performed, by|electronic communication (EC). EC|is
| to include information relative to: the nature of the work performed
| and how this work meets Title 5, CFR, Part 550, Subpart I, Appendix A
| criteria; reason(s) why work could not be delayed until more favorable
| conditions existed; and the employee's pay and duty status for the day
| in which the work was performed (tour-of-duty, overtime, leave-
| without-pay, hazardous-duty time, etc.). If it is determined that the
| ETs are performing hazardous duties that are not contained in Appendix
| A, efforts should be made to include these activities in the
| Appendix, pursuant to Title 5, CFR, Section 550.903(b).

**EffDte: 12/16/2002 MCRT#: 1249 Div: D3

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8-8 WITHIN-GRADE INCREASES (WIGI)

A WIGI is a one-step increase within a salary grade and is based on length of service and performance at an acceptable level of competence. Within the FBI, the "acceptable level of competence" requires performance rated at the Meets Expectations level as set forth in a performance plan. A Quality Step Increase (QSI) may be considered and awarded in recognition of sustained performance which substantially exceeds normal requirements and gives promise of continuing at that same high level.

**EffDte: 05/31/2002 MCRT#: 1207 Div: D3 Cav: SecCls:

8-8.1 Waiting Period

(1) The waiting period for employees in steps one - three of a grade is 52 calendar weeks; for those in steps four - six, 104 weeks; and for those in steps seven - nine, 156 weeks.

(2) Quality step increases do not change the date for consideration for the next regular WIGI increase except in those cases where the quality increase places the employee in Step 4 (where the waiting period changes to two years) or Step 7 (where the waiting period changes to three years). In these instances, the employee must serve an additional year before becoming eligible to be considered for a WIGI. However, employee must receive an overall rating of Meets Expectations before he/she may be considered for a quality step increase. (See MAOP, Part 1, 5-14 (4).)

**EffDte: 05/31/2002 MCRT#: 1207 Div: D3 Cav: SecCls:

8-8.2 Effect of Leave Without Pay (LWOP)

If more than ten days of LWOP for each year of the waiting period are used, the effective date of the WIGI is delayed for the amount of time which exceeds the ten days. For example, if 15 days of LWOP are taken when the pertinent waiting period is one year, the WIGI would be delayed for one pay period because of the five days taken in excess of the maximum allowable ten days.

**EffDte: 02/28/1991 MCRT#: 0 Div: D3 Cav: SecCls:

8-8.3 Effective Date

WIGIs are effective at the beginning of the next pay period following completion of the required waiting period providing employee's performance is at an acceptable level of competence.

**EffDte: 02/28/1991 MCRT#: 0 Div: D3 Cav: SecCls:

8-8.4 Performance Requirements

(1) To be entitled to a WIGI, an employee's performance must be at an acceptable level of competence (ALOC) and performance appraisal is the basis for determining if an employee is performing at an ALOC. In the absence of unusual circumstances, employees must achieve the Meets Expectations level to be performing at an ALOC.

| (2) |The rating of record used as the basis for an ALOC
| determination for a WIGI must have been assigned no earlier than the
| most recently completed appraisal period.|

(3) An employee whose overall performance during the waiting period is at the Does Not Meet Expectations level is not performing at an ALOC.

(4) If the level of an employee's most recent appraisal does not support the rating official's decision to grant or withhold a WIGI, he/she must submit a current Performance Appraisal Report to justify granting or withholding the WIGI to the Performance, Recognition and Awards Unit, Administrative Services Division.

(5) If at any time during the employee's waiting period it becomes evident that his/her performance is below the Meets Expectations level, the rating official must advise the employee that, in the absence of performance improvement, his/her WIGI may be denied and that he/she may be in jeopardy of reassignment, reduction in grade or removal. (See MAOP, Part 1, 5-4.7 for details regarding consequences of performance rated below the Meets Expectations level.)

**EffDte: 08/01/2003 MCRT#: 1294 Div: D3 Cav: SecCls:

8-8.5 Notice of ALOC Determination

| (1) Approximately|90 days|before the completion of the
| waiting period, the head of the office will receive|a listing of
| employees who are|eligible for WIGI consideration|to be disseminated
| to the appropriate supervisors. If an employee on the list is
| performing at the Meets Expectations level, no action will be

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| necessary on the part of the employee's supervisor. However, if an
| employee is performing at the Does Not Meet Expectations level, the
| Performance, Recognition and Awards Unit should be notified. A
| representative from the Performance, Recognition and Awards Unit will
| offer the supervisor advice and assistance as needed.|

(2) Positive determinations are confirmed in writing when the employee receives his/her Standard Form 50-B, Notification of Personnel Action, regarding the granting of his/her WIGI.

(3) If a negative determination is reached based on failure to meet the performance appraisal criteria, the employee is informed of this by a written communication from the Personnel Officer advising of the denial of the WIGI, the reason for the negative determination and his/her right to request reconsideration of the determination.

**EffDte: 02/14/2003 MCRT#: 1258 Div: D3

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8-8.6 Reconsideration of a Negative Determination (See MAOP, Part 1, 14-6.)

(1) An employee may request reconsideration of the Bureau's action by doing so in writing within 15 calendar days after receiving the denial notification. If the denial is|sustained,| employee may, within|30|calendar days after being so notified, appeal in writing to the Merit Systems Protection Board|(MSPB).| The appropriate address will be furnished to the employee in the letter |sustaining|the denial. |An employee can only appeal to the MSPB if he/she requests internal reconsideration of the WIGI denial first.|

(2) FBIHQ, upon receipt of a reconsideration request, will establish a reconsideration file and proceed with the reconsideration in accordance with 5 CFR 531.410 and Bureau policy.

(3) The division head or SAC may reconsider a WIGI at any time after the denial; however, barring any such recommendation, a new ALOC determination must be made within 52 calendar weeks of the end of the waiting period to which the negative determination applied. |An appraisal at the Meets Expectations level constitutes|demonstrated sustained performance at an|ALOC. The performance appraisal will not automatically generate a WIGI; therefore, the rating official must submit a written recommendation to grant the WIGI based on the appraisal at the Meets Expectations level. However, if the performance is still at the Does Not Meet Expectations level, the rating official must submit a written recommendation to deny the WIGI based on the appraisal at the Does Not Meet Expectations level.|

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8-8.7 Step Increases for Federal Wage System (FWS) Employees

(1) The waiting periods for advancement to the second, third, fourth and fifth rates are 26 calendar weeks for creditable service in rate one, 78 weeks of creditable service in rate two, and 104 weeks of creditable service in each of steps three and four. Lithographic employees have only three steps in each grade with waiting periods as indicated for step two and step three.

(2) If more than five days of LWOP are used in the waiting period for step two, 15 days for step three, or 20 days for steps four or five, the effective date of the increase is delayed for the amount of time which exceeds the specific number of days.

(3) Performance requirements, ALOC determinations and reconsiderations of negative determinations apply to FWS employees as well as GS employees.

(4) FWS employees are not eligible for quality increases regardless of their satisfaction of the performance appraisal requirement.

**EffDte: 08/29/1990 MCRT#: 0 Div: D3 Cav: SecCls:

8-9 APPLICATION OF THE HIGHEST PREVIOUS RATE (HPR) RULE SETTING PAY RATES FOR EMPLOYEES REQUESTING A CHANGE TO A LOWER GRADE (I.E., DEMOTION) FOR PERSONAL BENEFIT OR CONVENIENCE, AND FOR EMPLOYEES BEING PROMOTED, REASSIGNED, OR REEMPLOYED (See MAOP, Part 1, 3-1.1(3).)

HPR is the highest rate of basic pay previously paid to an individual while employed in a position in a branch of the federal government (executive, legislative, or judicial); a government corporation, as defined in Title 5, United States Code, Chapter 1, Section 103; the United States Postal Service or the Postal Rate Commission; or the government of the District of Columbia (if appointed prior to October 1, 1987) without regard to whether the position was subject to the General Schedule.

When an employee is demoted at the employee's request for personal benefit or convenience, promoted, reassigned, reemployed, or transferred (i.e., from agency to agency), federal regulations permit the FBI to fix pay at any rate of the new grade which does not exceed the employee's HPR. The HPR will be applied by the FBI unless an employee is otherwise entitled to a higher rate of pay, such as under the promotion or grade- and pay-retention provisions of Title 5, Code of Federal Regulations (5 CFR). In the context of the HPR, "rate" refers to an employee's highest grade and step and the salary associated with that grade and step at the time it was earned. The following information will be used when establishing the HPR and setting pay.

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(1) VOLUNTARY DEMOTIONS REQUESTED BY CURRENT FBI
EMPLOYEES AND PROVISIONS FOR NEW HIRES WITH PREVIOUS FEDERAL
SERVICE

(a) HPR may be based on a regular tour of duty at any rate of basic pay received by an employee while serving under an appointment not limited to 90 days or less, or for a continuous period of not less than 90 days under one or more appointments without a break in service.

(b) When the HPR falls between two steps of a grade, the salary is set at the higher step.

(c) Pay may be set pursuant to HPR no higher than the maximum step of the grade.

(2) TEMPORARY PROMOTIONS

The HPR may not be based upon a rate of pay received in a position to which the employee was temporarily promoted for less than one year, except upon permanent placement in a position at the same or higher grade. (5 CFR Section 531.203(d)(2)(ii) and Section 532.405(d))

(3) APPLICATION TO SUBSEQUENT PERSONNEL ACTIONS

(a) After the initial pay-setting action, the HPR will continue to be credited on all subsequent personnel actions, such as promotions, until reached or exceeded (up to the maximum step of each new grade). Thereafter, normal procedures for calculating promotions would be followed (i.e., the promotion must be equivalent to at least a two-step increase in pay).

(b) When pay falls between two steps of the new grade, the higher step is used.

(4) DEMOTIONS FOR CAUSE

Demotion for personal cause is defined as a "reduction in grade based on the conduct, character, or unacceptable performance of an employee" (5 CFR Section 536.102).

(a) Initial Pay Setting Action: When an employee is demoted for cause, pay is calculated as though an employee had never been promoted from the grade to which the employee is being demoted. If pay falls between two steps of the new grade, the lower step is used.

(b) Promotions after Demotion for Cause: When and if an employee is again promoted, the employee's HPR is applied until reached or exceeded. When the HPR falls between two steps of the new grade, pay is set at the higher step.

(c) Pay may be set no higher than the maximum step of the new grade.

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(5) OTHER ITEMS

(a) Applicability: The HPR policy applies to movement to or within General Schedule (GS) and Federal Wage System (FWS) positions.

(b) Appointments as Experts or Consultants: Pay earned under an appointment as an expert or consultant may not be credited for purposes of the HPR, in accordance with 5 CFR Section 531.203(d)(2)(i).

(c) Crediting Previous Federal Service: To the extent allowed by 5 CFR Section 531.202, Section 531.203, and Section 532.405.

(d) FBIHQ Supervisory Special Agents (SSAs): An FBIHQ GS-15 SSA who voluntarily requests assignment to a grade GS-14 field SSA position to qualify for further advancement as part of the Executive Development and Selection Program (EDSP) may receive the greater of pay retention or the HPR. If pay retention applies, the SSA will be entitled to one-half of any general increase in the GS until the basic salary established for GS-14, step 10 equals or exceeds the SSA's retained rate of pay, at which time pay retention terminates. If the HPR applies and pay would fall between two steps, pay will be set at the higher step. (See MAOP, Part 1, 3-1.1(3), and MIOG, Part 1, 67-6.8.)

(e) Support Employees Returning from Legal Attache (LEGAT) Assignments: If an employee serves in a LEGAT position for the full term and received a promotion that lasted for one year or longer, then HPR may be used to set pay. If the returning employee takes a position that is in a lower grade than that held before going to the LEGAT position, then either pay retention for the salary of the pre-LEGAT position or HPR from the LEGAT position will be used to set pay--the employee will receive whichever is greater. For example, if the employee leaves a grade GS-7 position to go to a LEGAT, is promoted to grade GS-9 in the LEGAT office, and returns to a grade GS-6 position in a field office, that employee's pay in the grade GS-6 position will be set using either pay retention for the grade GS-7 position or HPR for the grade GS-9 position (if that grade was held for at least one year), depending on which one will result in the higher pay.

(f) Leave Without Pay (LWOP): Time in a LWOP status will be credited as time in the current grade unless the LWOP resulted from one or more suspensions. The amount of time suspended would be added to the eligibility time for consideration of the HPR.

(g) Locality Pay Differentials: HPR determinations are made using base pay only. A locality pay differential may not be used to establish the HPR. Thus, a change in the local pay area does not affect the determination of the HPR.

(h) Other Federal Agency Pay Systems: Salary

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received under other federal pay systems such as broad banding may be credited as the HPR on a case-by-case basis. The Staffing Unit (STAFU), Administrative Services Division (ASD), FBIHQ, will determine whether a pay policy for these other systems provides GS equivalencies for the pay system in question.

(i) Request for Exception to HPR: At the time of selection, salary will be set at the HPR unless the EDSP or STAFU, ASD, FBIHQ, is advised to the contrary by the head of the division/office to which the employee is being assigned. If set at a rate other than the HPR, the salary determination will be made in consultation with the EDSP or STAFU and the head of the division/office where the employee is being assigned; this decision, and the reason for same, will be documented in writing via a communication from the receiving office to the Personnel Officer, Attention: STAFU, ASD, FBIHQ. The STAFU will coordinate processing of these requests with the EDSP when warranted, and the employee will be advised of the reason why a rate less than the HPR is being offered via a formal communication from the STAFU. The salary must be established before the employee's entry on duty or movement to a different position.

(j) Special Rate of Basic Pay: HPR may be based on a special rate of pay under certain conditions cited in 5 CFR (e.g., pursuant to 5 CFR Section 531.203(d)(2)(vii)). HPR may not, however, be based on a special rate unless "(A) The special rate of pay is the employee's current rate of basic pay; and (B) An agency official specifically designated to make such determinations finds that the need for the services of the employee, and his or her contribution to the program of the agency, will be greater in the position to which he or she is being reassigned. Such determinations shall be made on a case-by-case basis, and in each case the agency shall make a written record of its positive determination to use the special rate as an employee's highest previous rate."

Concerning item (B), the FBI official designated to make the determination is the Personnel Officer or his/her designee. A communication requesting this determination must be submitted to the Personnel Officer, Attention: STAFU, ASD, FBIHQ, by the affected employee's office to establish an employee's pay based upon his/her HPR following the termination of a special rate of basic pay.

(k) Title Five Exemption Authority (TFXA): Special procedures may exist where HPR would be credited differently for employees and positions covered by the exemption authority. For an explanation of those special procedures, see TFXA operating guidelines.

(l) Retroactive Application: Because the personnel actions involved are generally discretionary, there is a statutory prohibition on applying this policy retroactively.

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| 8-9.1 | Deleted|

**EffDte: 06/10/1994 MCRT#: 260 Div: D3 Cav: SecCls:

| 8-9.2 | Deleted|

**EffDte: 06/10/1994 MCRT#: 260 Div: D3 Cav: SecCls:

| 8-10 | DELETED|

**EffDte: 05/31/2002 MCRT#: 1207 Div: D3 Cav: SecCls:

8-11 PROMOTIONAL ALLOWANCES

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**EffDte: 10/19/1995 MCRT#: 465 Div: D3 Cav: SecCls:

8-11.1 Pay Computations

(1) When an employee is promoted from one general schedule (GS) grade to another, the pay is set at a rate in the higher grade that will pay at least the equivalent of a two-step increase in the grade from which promoted.

(2) If an employee is promoted from one grade of the merit pay system (MPS) to a higher MPS grade, the employee will receive a rate of pay in the new grade that exceeds his/her salary in the lower grade by 6 percent.

(3) An employee being promoted from one Federal Wage System (FWS) grade to a higher FWS grade will receive a rate of pay in the higher grade that will pay at least the equivalent of a one-step increase in the grade from which promoted.

(4) In general, when FWS employees are moved to jobs in the GS, they may be paid any GS pay step up to the next highest pay step above the rate they were making as an FWS employee.

| (5) When a vacant position is filled by the temporary
| assignment of a qualified employee at the same or higher grade level,
| there will be no effect upon that employee's permanent grade or pay
| status. |

**EffDte: 04/04/1996 MCRT#: 528 Div: D3 Cav: SecCls:

8-12 COST-OF-LIVING ALLOWANCE/POST DIFFERENTIAL

(1) General Schedule employees in Alaska, Hawaii, Puerto Rico, Virgin Islands and Guam can receive a cost-of-living allowance (COLA) at a rate established by the Office of Personnel Management. Rates range from 5 percent to 25 percent and are subject to increase/decrease based on annual comparative surveys between the nonforeign area and Washington, D.C., area. Employees must meet certain eligibility requirements prior to receiving an allowance. For example, in a given allowance area employees having purchasing privileges in commissary and exchange facilities as a result of current federal employment or living in housing rented from a federal agency as a result of current federal employment may not be eligible to receive a COLA or may receive a lower rate. Employees have the option of not using commissary and exchange facilities and/or government housing in order to receive a full COLA.

(2) Post Differential (PD) is authorized to employees assigned to the Island of Saipan (Northern Mariana Islands) and Guam, in consideration of the difference of environment when compared to that of the States. PD is paid only to employees hired off-island as it is specifically designed as an incentive to induce needed categories of employees who would not otherwise be interested in relocating to the differential area.

| (3) | Post Differential pay may also be approved by the
| Department of State for employees serving on temporary duty (TDY)
| assignments which involve major investigations. However, employees
| are not entitled to this post differential until their 43rd day of
| assignment in the TDY location and only after approval is granted by
| the Department of State. |

| (4) | Pay resulting from the payment of a COLA or a PD, or
| both, may not exceed 25 percent of the rate of basic pay. An employee
| eligible for a COLA is entitled to receive the full allowance
| established for the nonforeign area, first. If the COLA does not
| amount to 25 percent the employee may also be paid as much of the PD
| as will not cause the total additional pay to exceed 25 percent of
| basic pay. PD is subject to federal tax, whereas COLA is not.

**EffDte: 01/21/1999 MCRT#: 847 Div: D3 Cav: SecCls:

8-13 DANGER PAY

**EffDte: 08/07/2003 MCRT#: 1292 Div: D3 Cav: SecCls:

| 8-13.1 Authority

| Public Law 107-273 provides that the Secretary of State may
| not deny a request by the FBI to authorize a danger pay allowance
| under Title 5, United States Code, Section 5928 for any FBI employee.|

 **EffDte: 08/07/2003 MCRT#: 1292 Div: D3 Cav: SecCls:

| 8-13.2 Basic Requirements

| (1) Danger pay allowances may be granted because of civil
| insurrection, civil war, terrorism, or wartime conditions which
| threaten physical harm or imminent danger to the health and/or well-
| being of employees.

| (2) They are paid in the amount of 15, 20, or 25 percent of
| basic pay for FBI employees assigned on a temporary or long-term basis
| to certain foreign posts.

| (3) Danger pay may not exceed 25 percent of basic pay
| including post differential pay.|

 **EffDte: 08/07/2003 MCRT#: 1292 Div: D3 Cav: SecCls:

| 8-13.3 Recommendation Process

| (1) Requests for the establishment, adjustment or
| abolishment of danger pay may be submitted, in EC format, by LEGATS or
| FBI components with lead investigative responsibilities to the Office
| of International Operations (OIO) or may originate within that Office.

| (2) Sufficient information regarding the danger posed by
| the assignment to a specific post must be submitted with the request.|

 **EffDte: 08/07/2003 MCRT#: 1292 Div: D3 Cav: SecCls:

| 8-13.4 Composition of the Danger Pay Advisory Board (DPAB)

| (1) When a request is received, the OIO will convene a DPAB
| chaired by the Special Agent in Charge, OIO (nonvoting member).

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| (2) The Assistant Directors (ADs) of the Counterterrorism,
| Counterintelligence, Criminal Investigative, Finance, and
| Administrative Services Divisions will serve as members of this Board,
| with the ADs of Finance and Administrative Services Divisions serving
| as nonvoting members.

| (3) All three voting members must vote on each danger pay
| determination but designees may act on behalf of a voting or nonvoting
| member.

| (4) The ADs of Finance and Administrative Services
| Divisions shall ensure that danger pay allowances recommended by the
| DPAB are consistent with policy.

**EffDte: 08/07/2003 MCRT#: 1292 Div: D3 Cav: SecCls:

| 8-13.5 Deliberations

| (1) Danger pay allowances and rates will be based on the
| level of risk at foreign locations as determined by the DPAB.

| (2) Countries at war will be considered for the highest
| allowances while countries where nonessential personnel and dependents
| are present will be considered for lesser amounts.

**EffDte: 08/07/2003 MCRT#: 1292 Div: D3 Cav: SecCls:

| 8-13.6 Recommendation to the Director

| (1) The DPAB will recommend to the Director, in writing,
| the establishment, modification, or abolishment of danger pay
| allowances for FBI employees assigned to foreign posts (both long-term
| and temporary duty assignments.)

| (2) Estimated costs, developed by the OIO in conjunction
| with Finance Division, will be included with the recommendation to the
| Director.

**EffDte: 08/07/2003 MCRT#: 1292 Div: D3 Cav: SecCls:

| 8-13.7 Effective Date

| New or modified danger pay allowances are effective on the
| date the Director or the Deputy Director approved the request.

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| 8-13.8 Communication of Danger Pay Changes

| (1) The Director will advise the Secretary of State when
| authorizing danger pay in new locations.

| (2) The Human Resources Officer will notify FBI offices of
| new or modified danger pay allowances.|

**EffDte: 08/07/2003 MCRT#: 1292 Div: D3 Cav: SecCls:

| 8-13.9 Procedures to Arrange Payment

| (1) Offices must prepare an EC to Administrative Services
| Division, Attention: Staffing Unit, Room 6094, requesting danger pay
| for an employee.

| (2) In the EC, provide the name of the employee, social
| security number, danger pay location, and dates of service in that
| location.

| (3) Staffing Unit will coordinate payments with the Payroll
| Administration and Processing Unit, Finance Division.|

**EffDte: 08/07/2003 MCRT#: 1292 Div: D3 Cav: SecCls:

| 8-14| INTEREST ON BACK PAY |(FORMERLY 8-13)|

(1) Public Law 100-202 provides for the payment of interest on back pay awards and also applies whenever an unjustified or unwarranted personnel action results in the withdrawal, reduction, or denial of pay, allowances, and differentials. A particular money amount is not withdrawn from an employee until the actual pay date on which the employee would have received it if the unjustified or unwarranted personnel action had not occurred. If the back pay payment is issued within 30 days of the actual pay date, no interest is paid. The term "unjustified or unwarranted personnel action" includes both personnel and pay actions, as well as the omission or failure to take an action or confer a benefit. For example, if through an administrative error, an employee fails to receive a within-grade increase after it has been approved by an authorized official, the employee is entitled to receive back pay and interest. Interest begins to accrue on the effective date of the withdrawal (pay

date of the action) if the back pay is not paid within the allotted 30 days from the appropriate pay date of the action. The back pay due will be paid before the interest is calculated; however, the interest will continue to accrue until the interest accrual ends (within 30 days of the interest payment). The interest paid is based on rates established by the Secretary of the Treasury as the Interest Overpayment Rate and is compounded daily.

(2) The Internal Revenue Service has issued the following opinion on the tax treatment of interest on back pay: Interest payments are not wages for federal income tax or the Federal Insurance Contributions Act (FICA) purposes, nor are they subject to withholding of FICA tax. Therefore, the interest payment will not be included on the Wage and Tax Statement (Form W-2). A Form 1099-INT will be issued to employees receiving interest payments of \$600 or more. A notice will be supplied to each employee receiving interest payments for use in filing the payment on their annual federal income tax return.

**EffDte: 01/21/1999 MCRT#: 847 Div: D3 Cav: SecCls:

8-15 SALARY ADVANCES FOR NEWLY HIRED EMPLOYEES (FORMERLY 8-14)

The Federal Employees Pay Comparability Act of 1990 (FEPCA) established the authority to grant payment of salary advances covering no more than two pay periods to newly hired employees only after specific criteria have been met.

(1) Newly hired support employees GS-10 and above - The agency is required to provide written information concerning the amount of the advance, all repayment options and recovery methods before the salary advance is granted. In addition, the employee must sign an agreement to repay the advance. An advance application will be forwarded to each eligible support employee along with their appointment letter. If a salary advance is desired, the employee will complete the application and return it to the Payroll Administration and Processing Unit (PAPU), Finance Division, for a determination of the maximum amount that can be advanced and the repayment agreement. After receipt of the signed agreement, the salary advance will be issued to the employee after they enter on duty (EOD) but before they receive their first regular salary payment. The salary advance will be repaid through payroll deduction over 13 biweekly pay periods. The employee may repay all or part of the balance at any time.

(2) Newly hired support employees Grades GS-9 and below can be advanced one salary payment in the amount of \$300. The salary advance will be repaid through payroll deduction in the amount of \$25 each pay period until repaid. The first payment will begin with the first full pay period after the employee enters on duty. An employee will not be required to sign a repayment agreement. The salary advance request will be entered into the Bureau Personnel Management System during the first week of employment for newly hired field office support employees. The salary advance request for Headquarters

| divisions will be handled by|PAPU|personnel from the EOD class listings.

(3) The unpaid balance of the salary advance at the time of separation will be recovered by salary offset or become a debt owed to the government.

**EffDte: 11/15/2001 MCRT#: 1155 Div: D3FD Cav: SecCls:

| 8-16 |DELETED|

**EffDte: 11/15/2001 MCRT#: 1155 Div: D3FD Cav: SecCls:

| |8-17 STUDENT LOAN REPAYMENTS FOR RECRUITMENT/RETENTION PURPOSES|

**EffDte: 05/29/2002 MCRT#: 1198 Div: D3 Cav: SecCls:

| |8-17.1 Authority

| Title 5, United States Code (USC), Section 5379, and 5 Code of Federal Regulations, Part 537, authorize repayment of certain federally insured student loans to assist agencies when trying to attract individuals to the federal service or to retain highly qualified employees.|

**EffDte: 05/29/2002 MCRT#: 1198 Div: D3 Cav: SecCls:

8-17.2 Basic Requirements

(1) The FBI may repay all or part of an employee's outstanding student loan (excluding late fees) up to|\$10,000|per calendar year (and a total of|\$60,000|per employee).

(2) This authority applies to all permanent, including part-time, employees; term employees with at least three years left on their appointments; temporary employees serving on appointments leading to conversion to term or permanent appointments; and all applicants for such positions.

(3) Repayments are limited to the indebtedness outstanding at the time the employee enters into the service agreement and may be made only on federally insured student loans that are NOT currently in

default. The level of academic degree earned or even the lack of a degree is not an eligibility factor.

**EffDte: 02/04/2005 MCRT#: 1370 Div: D3 Cav: SecCls:

| 8-17.3 Recommendation Process

| (1) Recommendations to approve repayment of a loan should
| be made at the lowest appropriate supervisory or managerial level, but
| must generally be made by an official who is at a higher level than
| the employee who will receive the repayment benefit. All
| recommendations for payment should be submitted through the
| supervisory chain, including the division or office head, for input
| before submission to the approving official.

| (2) Recommendations for both recruitment and retention
| purposes must include:

| (a) an explanation of the difficulty the Bureau would
| face, in the absence of loan repayment, in filling the position with a
| highly qualified employee or retaining the highly qualified employee;

| (b) the criteria used to determine the amount and
| timing of repayment;

| (c) an explanation of the extent to which other
| available recruitment/retention incentives were considered or offered;
| and

| (d) verification, from the lending institution, of the
| outstanding loan balance; status of the loan, i.e., whether or not the
| loan is in default; and the lending institution's account number.

| (3) Recommendations for retention repayments must
| additionally include:

| (a) a description of the employee's high or unique
| qualifications or the special need for the employee's services;

| (b) the determination that the employee would be
| likely to leave for employment outside the federal service absent the
| loan repayment; and

| (c) a description of the extent to which the
| employee's departure would affect the FBI's ability to carry out an
| activity or perform a function that is deemed essential to its
| mission.|

**EffDte: 05/29/2002 MCRT#: 1198 Div: D3 Cav: SecCls:

| 8-17.4 Approval Process

| (1) Generally, the Personnel Officer, Personnel Management
| Branch, Administrative Services Division (ASD), will approve
| recommendations for repayment of federally insured student loans for
| nonattorney FBI applicants and employees.

| (a) the approving official must be at a higher level
| than both the applicant/employee seeking repayment and the
| recommending official. If either of these are at the Deputy Assistant
| Director level or above, the approving official will be the Assistant
| Director, ASD, or such higher level official as is necessary to
| satisfy this requirement.

| (b) the approval authority for FBI attorney applicants
| and employees will generally be the General Counsel.

| (2) All requests for repayment of student loans will be
| reviewed by the Finance Division (FD), prior to approval, to ensure
| availability of funds.

| (3) The approving official will ensure that the
| applicant/employee selection process for loan repayment benefits is
| consistent with the merit system principles in Title 5, USC, Section
| 2301, and will consider the need to maintain a balanced workforce in
| which women and members of racial and ethnic minority groups are
| appropriately represented.

| (4) A determination made for recruitment purposes must be
| approved before the employee enters on duty in the position.

| (5) When determining whether a student loan should be
| repaid, and the amount and timing of any such repayment, the approving
| official will consider the information submitted by the recommending
| official and the following factors, as applicable:

| (a) the applicant's/employee's qualifications;

| (b) funds available (or expected to be available) for
| repayment;

| (c) the minimum repayment needed to ensure the
| acquisition or retention of the employee's services;

| (d) the success of recent efforts to recruit
| candidates with qualifications similar to those possessed by the
| applicant/employee or for similar positions;

| (e) the availability in the labor market of candidates
| for employment who, with minimal training or disruption of mission
| accomplishment, can perform the full range of duties and
| responsibilities of the position;

| (f) the relative advantages and disadvantages (for
| both the FBI and the applicant/employee) of repaying student loans

| rather than any other recruitment or retention incentive; and

| (g) the applicant's/employee's preferences with
| respect to whether the payments should be spread out over more than
| one tax year.|

**EffDte: 05/29/2002 MCRT#: 1198 Div: D3 Cav: SecCls:

| 8-17.5 Notification Procedures

| (1) The approving official will notify the
| applicant/employee and recommending office in writing whether the
| request for repayment has been approved. If the repayment is
| approved, this written notification will include the service agreement
| for the applicant's/employee's signature.

| (2) If additional loan repayment is recommended, after the
| agreed period of service is completed, the employee and the office
| will be notified whether or not the recommendation is approved, but
| another service agreement is not required.|

**EffDte: 05/29/2002 MCRT#: 1198 Div: D3 Cav: SecCls:

| 8-17.6 Service Agreement

| (1) The applicant/employee and the approving official must
| enter into the service agreement which must, by federal law, provide
| for not less than three years of service.

| (2) The student loan service agreement will run
| concurrently with a service agreement required for other purposes,
| such as for a recruitment or relocation bonus.

| (3) The three-year period of service begins on the date of
| the first payment.|

**EffDte: 05/29/2002 MCRT#: 1198 Div: D3 Cav: SecCls:

| 8-17.7 Payment Procedures

| (1) Upon approval of the request to repay an
| applicant's/employee's student loan, the FD will process the payment
| in a lump-sum amount. The lump-sum payment, after applicable taxes
| are deducted, will be issued to the lending institution through
| electronic funds transfer.

| (2) The FBI is required to apply the following on any loan
| repayment:

| (a) pay the employer's share of social security and
| Medicare taxes;

| (b) withhold and pay appropriate federal, state, and
| local income tax withholding; and

| (c) withhold and pay the employee's share of social
| security and Medicare taxes.|

**EffDte: 05/29/2002 MCRT#: 1198 Div: D3 Cav: SecCls:

| **8-17.8 Repayment Requirements**

| (1) An employee who moves from the FBI to another DOJ
| component during the term of the agreement will cease to be eligible
| for loan repayments but will not be required to reimburse the FBI for
| loan repayments already made. The gaining component may enter into a
| new loan repayment agreement with the employee.

| (2) If an employee voluntarily separates from the DOJ,
| transfers to another federal agency, or is involuntarily separated
| because of performance or misconduct before completing the agreed
| period of service, the employee must reimburse the FBI for all
| repayment benefits received.

| (3) In such a case, the Payroll Administration and
| Processing Unit (PAPU), FD, must be notified immediately that the
| employee is separating. The PAPU, FD, will contact the employee to
| arrange repayment.

| (4) If the employee does not repay these benefits
| voluntarily, the PAPU, FD, will initiate recovery of the student loan
| repayment through administrative offset. If offset is initiated, the
| employee will be entitled to a hearing (this may be a "paper hearing"
| or an oral hearing depending on the circumstances). The right of
| recovery of an employee's debt may be waived in whole or in part if a
| determination is made that recovery would be against equity and good
| conscience or against the public interest.

| (5) Any amount repaid, or recovered, from an employee will
| be credited to the appropriation account from which the loan repayment
| was originally paid. Any amount so credited will be merged with other
| sums in that account and will be available for the same purposes and
| period, and subject to the same limitations (if any), as the sums with
| which merged.|

**EffDte: 05/29/2002 MCRT#: 1198 Div: D3 Cav: SecCls:

| 8-17.9 Documentation Requirement

| Written documentation for each determination to repay a
| student loan will be maintained in the Staffing Unit, ASD. Since the
| completed service agreement will be filed in the employee's Official
| Personnel File, a copy of the completed service agreement will be
| maintained in the Staffing Unit. This documentation will be available
| for review by the DOJ or Office of Personnel Management. |

**EffDte: 05/29/2002 MCRT#: 1198 Div: D3 Cav: SecCls:

| 8-17.10 Annual Report

| (1) The Staffing Unit, ASD, will prepare an annual report
| to the DOJ on the FBI's use of the repayment authority. The reports
| will be submitted to the Director, Personnel Staff, Justice Management
| Division, DOJ, no later than November 15th of each year, covering the
| preceding fiscal year.

| (2) This report must include the following:

| (a) a narrative discussion of the situations for which
| repayments were made;

| (b) the effectiveness of the repayment authority; and

| (c) any recommendations for improving the use of the
| authority in terms of both regulatory change and Department
| requirements and flexibilities.

| (3) The annual report will also include, for each employee
| who received repayment benefits during the preceding fiscal year, the
| following information:

| (a) whether the repayment was for purposes of
| recruitment or retention;

| (b) amount repaid during the fiscal year (before
| withholding);

| (c) amounts to be repaid in future fiscal years
| (before withholding);

| (d) employee's position title, job series, pay plan,
| grade, and geographical area (city and state, or country); and

| (e) length of the service agreement. |

**EffDte: 05/29/2002 MCRT#: 1198 Div: D3 Cav: SecCls:

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

SECTION 9. LEAVE

**EffDte: 02/28/1978 MCRT#: 0 Div: D3 Cav: SecCls:

9-1 LEAVE

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In April, 1987, a new manual, LEAVE/TIME AND ATTENDANCE (T & A) was prepared to incorporate and update the bulk of FBI leave policy contained in this section of MAOP and the Time and Attendance Workguide, as well as other time and attendance instructions.

In October, 1993, the LEAVE/TIME AND ATTENDANCE MANUAL was updated, retitled the LEAVE ADMINISTRATION GUIDE, and distributed. | Subsequent revisions in the guide have occurred with the most current | edition now entitled the LEAVE POLICY MANUAL, with a revision date of | September, 1999. |

Please refer to the index of this manual and the LEAVE | POLICY MANUAL | for information regarding leave matters relating to | military and other types of leave situations. |

**EffDte: 10/31/2000 MCRT#: 1034 Div: D3 Cav: SecCls:

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

SECTION 10. MILITARY AND VETERANS MATTERS

**EffDte: 02/28/1978 MCRT#: 0 Div: D3 Cav: SecCls:

| 10-1 INTRODUCTION |(See MIOG, Part 1, 67-3.9.)|

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Federal law confers certain rights upon ex-military personnel involving preference in appointment and retention, and in regard to adverse personnel actions; as well as reinstatement rights in their jobs following military service. The sources of the rights as to appointment, retention, and adverse actions are the Veterans' Preference Act of 1944, as amended, and the Veterans Readjustment Benefits Act of 1966. The source of the job reinstatement rights is the Military Selective Service Act of 1967. Any question relating to an interpretation of the statutes or to the status or rights of veterans or ex-military personnel should be referred to FBIHQ.

**EffDte: 09/16/1999 MCRT#: 919 Div: D3 Cav: SecCls:

10-2 VETERANS' COUNSELOR

| Bureau's Personnel|Division|has a veterans' counselor's office where ex-military personnel and employees facing military service may receive specialized advice on their problems.

**EffDte: 04/21/1994 MCRT#: 226 Div: D3 Cav: SecCls:

| 10-3 APPOINTMENT |(See MIOG, Part 1, 67-9.7.16.)|

Veterans are entitled to have five points added to their scores in examinations for government jobs, or ten points if they are disabled, provided they first make a passing grade in the examinations. Certain close relatives of veterans sometimes can qualify for the ten-point preference in the veteran's stead. The type of preference that is to be afforded veterans or close relative of veterans is determined by FBIHQ in accordance with federal regulations. In general, veterans' preference entitles an applicant

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to preferential appointive consideration, whether or not a numerical rating is given. For details as to how Bureau applicant registers are maintained so as to assure the granting of appropriate veterans' preference, see MIOG, Part 1, Section 67-2.6.

**EffDte: 09/16/1999 MCRT#: 919 Div: D3 Cav: SecCls:

10-4 RETENTION

A reinstated (ex-military) employee with mandatory restoration rights has an absolute right to retention in employee's job for six months or one year (except in case of a discharge for cause). Whether the period is six months or one year depends on the facts of employee's case. Veterans also have certain special rights in any reduction in force.

**EffDte: 02/28/1978 MCRT#: 0 Div: D3 Cav: SecCls:

10-5 EMPLOYEES ENTERING MILITARY SERVICE

**EffDte: 02/28/1978 MCRT#: 0 Div: D3 Cav: SecCls:

10-5.1 Exit Interview

All employees leaving for military service are to be interviewed by the veterans' counselor or certain other supervisory personnel at FBIHQ or by SAC in field whether or not they possess mandatory military reinstatement rights. Bureau's continuing interest in them is to be pointed out. It is to be made clear to them whether or not they possess reinstatement rights. FD-333 should be executed on those interviewed and forwarded to FBIHQ, along with letter of resignation and exit interview, when latter documents are required.

Whether employees possess reinstatement rights depends on the nature of their appointment in Bureau. If it is a permanent or temporary indefinite appointment, they have such rights and if otherwise they do not. Almost all Bureau employees possess either permanent or temporary indefinite appointments.

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10-5.2 Disposition of Government Property and Personnel File

Field personnel file should be retained in field office. Government property should be collected by the SAC or FBIHQ supervisor at time the separation or furlough commences. For those departing on military furlough, FBIHQ supervisor should see that property is secured and returned to Property Procurement and Management Section of the Finance Division where it will be retained and may be reissued upon employee's return to duty. In field, property should be retained in field office and reissued upon employee's return to duty.

**EffDte: 03/07/1994 MCRT#: 208 Div: FD Cav: SecCls:

10-5.3 Separation

(1) An employee leaving to enter military service for more than three months' military duty submits a resignation. The reinstatement rights for such an employee are the same as those of an employee placed on military furlough. (See 10-5.4.)

(2) Employee should be given a copy of Form FD-183 (Reemployment Rights Following Military Service) during the interview recorded on FD-333. In that interview employee should be advised to forward evidence of employee's entrance into military service. A letter to FBIHQ giving date active military duty began and employee's military address will suffice except in those cases in which an employee, whether permanent or temporary indefinite, is entering on active duty as a result of membership in a reserve component, including National Guard. Employees who qualify are entitled to military leave for active duty or engaging in field or coast defense training. This military leave accrues for an employee in addition to annual leave at time rate of 15 days per fiscal year and, to the extent that it is not used in a fiscal year, accumulates for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year. That is, up to 15 days of accrued, unused military leave may be carried over into the succeeding fiscal year for use during that year. No more than 15 days of accrued, unused military leave may be carried over into any fiscal year. Active reserve duty (including National Guard) must have been ordered prior to employee's ceasing active duty in Bureau for employee to qualify for payment, and must be supported by a copy of orders for such active duty. In addition, FBIHQ must be in receipt of a statement from former employee's military commanding officer certifying to completion of 15 days or less of active duty, depending on amount of military leave to which employee is entitled. As soon as certification is received, payment will be made.

**EffDte: 01/15/1982 MCRT#: 0 Div: Cav: SecCls:

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| 10-5.4 Furlough |(See MAOP, Part 1, 10-5.5.2(5); MIOG, Part 1, 67-3.9.)|

An employee with reinstatement rights leaving for three months or less of service may be placed on military furlough. Material contained in item 10-5.3, above, also applies to employee.

Only difference in this case is that employee does not resign, but instead directs a communication to employee's division head setting out employee's military service plans and requesting military furlough of specific duration.

**EffDte: 09/16/1999 MCRT#: 919 Div: D3 Cav: SecCls:

10-5.5 Reinstatement

**EffDte: 01/15/1982 MCRT#: 0 Div: D3 Cav: SecCls:

10-5.5.1 Requirements for Reinstatement

| (1) |Subject to the conditions as set forth below, if|an employee had a permanent or temporary indefinite appointment and leaves|the|Bureau to enter military service of the United States and so enters without undue delay, remaining in service for a period not exceeding four years (exclusive of any involuntary extension), or in some cases, as long as five years (plus additional service imposed pursuant to law) employee has a right to be restored in the position he/she left or one like it, unless such position is held by an employee with greater rights, or if employee should incur a disabling physical condition during his/her military service, in a position as nearly similar to employee's former one as employee's physical condition permits. Employee is entitled to within-grade raises and to receive consideration for promotion in his/her absence to any vacancies for which qualified. In some cases an employee can serve in the military as much as five years (plus additional service imposed pursuant to law) and still retain his/her reinstatement rights. In each case in which service exceeds four years, circumstances will determine whether employee still possesses such rights.

(2) To be entitled to reemployment rights, an employee

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| must complete his/her military service honorably and receive a
| certificate to that effect, be|qualified|to perform the duties
| of|his/her|former position|(or an equivalent one),|and apply for
| reinstatement within the prescribed period. |If an employee is not
| physically qualified to perform the duties of the former position by
| reason of a disability sustained during military service, that
| employee has a right to be placed in another position for which he/she
| is qualified that will provide the employee with the same seniority,
| status, and pay, or the nearest approximation consistent with the
| circumstances in each case.|

| (3) |To be qualified for employment he/she must have a top
| secret clearance since all positions within the FBI are at the
| special-sensitive level. A security clearance is a necessary
| qualification for reemployment and that it may be necessary to conduct
| an updated background investigation which will serve as a basis for
| determining whether the veteran who is applying for reinstatement
| should be granted a security clearance.|

| (4) | Enlistee must apply for reinstatement rights within
| 90 days after military separation unless he/she is hospitalized at
| separation, in which case reinstatement rights are extended for period
| of hospitalization but not to exceed one year, plus 90 days.

| (5) | An employee who went into service as a reservist or
| National Guardsman for an initial period of three to six months'
| active duty for training must apply within 31 days after separation
| unless hospitalized, in which case employee must apply within 31 days
| after discharge from hospitalization incident to that active duty for
| training or one year after release from that training, whichever is
| earlier. In certain exceptional cases involving initial period of
| active duty for training of less than three months, employee may also
| have 31 days after release from active duty to exercise reinstatement
| rights. Employee will be appropriately notified at time he/she
| leaves. If employee's service as a reservist or National Guardsman is
| for active duty for an indefinite period, exceeding six months,
| employee has a period of 90 days to apply for reinstatement.

**EffDte: 09/26/1994 MCRT#: 307 Div: D3 Cav: SecCls:

10-5.5.2 Procedures for Reinstatement

| (1) A veteran ex-employee with reinstatement rights at
| FBIHQ who calls at a field office to arrange for return to duty should
| be advised that his/her request will be transmitted immediately to
| FBIHQ and FBIHQ will then get in touch with him/her. Office should
| notify FBIHQ of the matter by Form FD-435. Form FD-435 should, if
| possible, include date employee desires to|return; place,|and type of
| separation; rank, social security and/or serial number, and branch of
| service; whether on interview employee admitted incurring disciplinary
| measures or physical disabilities in military service; whether on

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interview employee admitted employee or any relatives have been in difficulty with civil authorities since employee left Bureau. Pertinent details should be included. An executed Form FD-224 and, if available, a copy of the honorable separation should be attached to Form FD-435. If, having no copy of employee's military separation physical examination report, employee requests the office to arrange a reinstatement physical examination, office should make necessary arrangements. A physical examination report must be submitted, but this can follow employee's reinstatement. |(See (4) and (5).)|

(2) Appropriate leads to check his/her military service record should be set out immediately. If employee's discharge was recent, the records are probably at the military installation where

employee was discharged. Otherwise, refer to MIOG, Part II, Section 19, for location of military records. Appropriate intelligence agency should also be requested to check records applicable.

(3) If the veteran ex-employee with reinstatement rights appears at the same field office where he/she formerly served to arrange for restoration to duty there,|office|should send Form FD-435 to FBIHQ containing the same information described in 10-5.5.2 (1), above, indicating what steps are being taken to complete reinstatement procedure, such as arranging for a physical examination, checking military records, etc. Form FD-435 should also state grade and position in which it is recommended employee be reinstated.

If there is any question as to whether employee meets reinstatement requirements, employee should be advised office will resolve it by contacting FBIHQ and employee will be informed of the decision.

(4) If the veteran ex-employee requests reinstatement at a different field office than the one to which employee has reported for information and guidance, FBIHQ should be informed by Form FD-435 containing the same kind of information indicated in 10-5.5.2 (1), above. FBIHQ will take appropriate action. It should be noted Bureau policy is to reinstate employee in the office he/she left to enter military service.

(5) Employees who were placed on military furlough (10-5.4 above) can return to work as soon after their military duty is over as they wish; the normal restoration processing can be completed subsequently. FBIHQ must be advised of results of interview outlined in 10-5.5.2 (1) above. FD-224, a copy of employee's honorable separation, and physical examination report must be forwarded as soon as possible. FBIHQ must be separately advised upon return to duty. Usual entry-on-duty forms are not necessary and Government property should be immediately reissued to employee.

(6) Any veteran ex-employee who resigned from Bureau to enter military service and subsequently returns to duty must execute usual entry-on-duty forms, including statement of Federal Service Form, FD-195. Such forms should be forwarded to FBIHQ immediately to facilitate placing employee on payroll. As explained above, they are not necessary in military furlough cases, as furloughed employees were never removed from our rolls.

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(7) If any veteran ex-employee orally advises that he/she does not desire to exercise reinstatement rights or does not desire to return to duty from military furlough, this waiver should be secured from employee in writing.

**EffDte: 09/26/1994 MCRT#: 307 Div: D3 Cav: SecCls:

10-5.5.3 Rejectees

In order for an employee to exercise reinstatement rights who has such rights and is rejected for military service, employee must, according to law, report back for work at beginning of his/her next regularly scheduled working period after expiration of last calendar day necessary to travel from place of rejection to place of employment following employee's rejection or within a reasonable time thereafter if delayed return is due to factors beyond employee's control. Failure to so report shall make employee subject to administrative action as an unauthorized absentee. Rejectees reporting back for work should be interviewed and reason for rejection determined. Advise FBIHQ and check appropriate military service installation where rejected to confirm reason for rejection and advise FBIHQ of results. Should any employee delay his/her return so that employee would be considered an unauthorized absentee, submit employee's explanation for delay, along with your recommendation as to any administrative action.

**EffDte: 01/22/1991 MCRT#: 0 Div: D3 Cav: SecCls:

| 10-6 ADVERSE PERSONNEL ACTIONS|(See MAOP, Part I, 10-7.)|

| In general, no veteran who|is "preference eligible"
| and|who has|completed one year of current continuous service in the
| same or similar positions within an agency|may be discharged,
| suspended for more than 14 days, or involuntarily reduced in|grade or
| pay|without being given 30|days' advance|written notice
| stating|specific reasons for the proposed action. A|further
| discussion of this matter,|including the meaning of the term
| "preference eligible,"|is found in|MAOP,|Part I,|13-10.|

**EffDte: 12/01/1994 MCRT#: 353 Div: D3OP Cav: SecCls:

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| 10-7 EXCEPTIONS TO ELIGIBILITY FOR PREFERENCE RIGHTS

| If|a preference-eligible employee|has not completed one
| year|of current continuous service in the same or similar positions
| within the agency, the employee|does not possess rights mentioned in
| 10-6 above. None of|the|benefits of|the|Veterans Readjustment
| Benefits Act of 1966, Cold War GI Bill, accrue to employees who served
| under Title 10, United States Code (USC), Section 511(d), in the
| National Guard or Reserve (so called six-monthers). Preference
| claimed on the basis of a service connected disability requires
| appropriate official proof. |(See MAOP, Part I, 13-10.)|

**EffDte: 12/01/1994 MCRT#: 353 Div: D3OP Cav: SecCls:

10-8 ADVANCEMENT

As already mentioned above, a permanent or temporary indefinite employee must be considered for promotion during employee's absence in military service. It is not mandatory that employee be promoted but only that employee be considered. If employee is not promoted, Bureau's policy is to accelerate employee's progress as much as possible, consistent with its vacancies and employee's qualifications, upon employee's return.

**EffDte: 11/25/1987 MCRT#: 0 Div: D3 Cav: SecCls:

10-9 MILITARY LEAVE

(1) A support employee, veteran or not, who is a member of a reserve component of Armed Forces (including National Guard) is entitled to military leave for active duty or engaging in field or coast defense training. This military leave accrues for an employee in addition to annual leave at the rate of 15 days per fiscal year and, to the extent that it is not used in a fiscal year, accumulates for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year. That is, up to 15 days of accrued, unused military leave may be carried over into any fiscal year. Employee can also be granted up to 22 workdays of military leave per calendar year for Federal or state duty performed to provide military aid for enforcement of the law; the coverage of this provision includes the District of Columbia National Guard. Military pay received for this kind of duty is deducted from federal civilian salary for same period. Therefore, upon return to work employee must submit a certified

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statement showing amount (other than a travel, transportation, or per diem allowance) employee received for military service so that employee's salary may be reduced accordingly. District of Columbia National Guardsmen may be granted additional military leave with pay for parades, encampments, and certain other duty ordered by commanding general.

(2) Part-time career employees may be granted military leave.

(3) Members of Reserve Officers Training Corps (ROTC) are not eligible for military leave with pay for training purposes but may be granted annual leave or leave without pay. (See the LEAVE | POLICY MANUAL.)

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10-10 OTHER RIGHTS

(1) There are certain other rights employees may have based upon their military service. Examples are home loan guaranty provisions of Servicemen's Readjustment Act of 1944 (GI Bill) and under Korea GI Bill. Under Veterans Readjustment Benefits Act of 1966, Cold War GI Bill, term "veteran" is not always defined same way for each benefit, but generally means an individual with more than 180 days of active military duty, any part of which occurred after 1-31-55. Definition excludes those whose service was in National Guard or military reserve programs under Title 10, USC, Section 511 (d), entailing six months or less of active duty for training within a total six-year reserve commitment. The 1966 act provides such benefits as education aid, home loan guaranty, medical care, and veterans' preference.

(2) Above rights are type administered primarily by Department of Veterans Affairs which has local offices throughout Nation.

**EffDte: 09/26/1989 MCRT#: 0 Div: D3 Cav: SecCls:

10-11 MILITARY RESERVE MATTERS (See MAOP, Part 1, 1-17.)

(1) The Bureau maintains records on employees who are members of military reserve (including National Guard) units. Information as to any change in reserve status of an employee must be promptly forwarded to FBIHQ. A change in reserve status includes such matters as being discharged from a reserve unit, being promoted, or

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being transferred from the Ready Reserve to the Standby Reserve. Form FD-295 is to be used for this purpose and should be sent to FBIHQ by routing slip. In addition, routing slips should be used to keep FBIHQ advised of any pending action, such as intended contacts with reserve units for information. Routing slips should be marked for attention of the Administrative Services Division. Whenever a member of the Standby Reserve is to be ordered involuntarily to active duty in time of war or national emergency declared by the Congress or whenever otherwise authorized by law, the reservist would be ordered by his/her branch of the Armed Forces to report to his/her unit for duty. Should any Agent or key support personnel be so ordered as a member of the Standby Reserve, FBIHQ is to be immediately advised so appropriate employment data may be furnished.

(2) Special Agents occupy Key Federal Employee positions and may not belong to the Ready Reserve. However, Agents are permitted to belong to the Standby Reserve. As a condition of employment, new Agents who are members of the Ready Reserve must either transfer to the Standby Reserve or separate entirely from military reserve. Thereafter, Agents may not rejoin Ready Reserve units. Agents should also keep in mind that Individual Mobilization Augmentee (IMA) billets and all National Guard billets (including inactive National Guard billets) are Ready Reserve positions for which Agents are ineligible.

(a) Agents who are members of the Standby Reserve may volunteer for active duty for training (ADT) and be granted Military Leave. Any Agent in the Standby Reserve who seeks to volunteer for ADT during duty time or inactive duty training (i.e., weekend drills) during off-duty time must submit a request for approval to his/her SAC or division head at least 30 days in advance. Such a request may be disapproved if, in the view of the SAC or division head, granting the request would unreasonably and adversely affect Bureau operations. A denial of a request for reserve training participation may be appealed to the Deputy Director.

(b) Employees approved for ADT are entitled to up to 15 calendar days of Military Leave per year (but no more than 30 days of accrued Military Leave) while continuously receiving FBI pay. All documentation of Military Leave, including copies of orders and certification showing dates of duty actually performed, must be completed and submitted to the Payroll Administration and Processing Unit, Finance Division. Failure to submit proper documentation will result in all absences from work for ADT being charged to Annual Leave or Leave Without Pay.

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SECTION 11. TRANSFERS

11-1 GENERAL INSTRUCTIONS (See Legal Attache Manual, Section 3.)

- (1) All personnel should be cautioned that they are not, under any circumstances, to discuss transfers of other employees with unauthorized individuals, such as realtors or employees of moving companies. To do so will subject employees to severe administrative action and possible criminal liability under the Privacy Act of 1974.
- (2) Agents under transfer are to be relieved of assignments so that the transfer may be expedited.
- (3) All Agents must report to their new office of assignment within 90 days of the date of the official letter of transfer.
- (4) Effective date of employee's assignment at new duty station is the date of arrival at the new office.
- (5) Requests for delays in reporting to a new office of assignment must be submitted to the Bureau with full justification and may be submitted on a UACB basis. These requests are reviewed individually and coordinated with the pertinent field offices and/or FBIHQ divisions.
- (6) Do not incur transfer-related expenses prior to receipt of the letter of transfer.
- (7) Employees being transferred to any point within the United States should advise the Postal Service that change of residence is the result of an official Government transfer. All classes of mail for employee and immediate family residing with employee will be forwarded free of charge.
- (8) Those offices receiving cost-of-living (COL) allowances must immediately advise the date the employee departs since the COL is removed upon departure. Failure to advise FBIHQ on a timely basis will result in an overpayment that the employee must refund.
- (9) For policy concerning Agents who have completed a language school or who have passed a Bureau language examination, refer to Part I, Section 22, and Part II, Section 1-1.9, of this manual for additional instructions.

11-1.1 Use of SF-52 (Request for Personnel Action)

- (1) The field office the employee is transferring into must submit an SF-52 to the Bureau showing the arrival date of employee.
- (2) The following items must be executed on the SF-52 for Arrival Notices.
 - (a) Part A, Item 1 (Relocation)
 - (b) Part A, Items 3, 5, and 6
 - (c) Part B, Items 1, 2, 4, 14, 15, 16, 18, and 22

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(3) Deleted

(4) Deleted

11-1.2 Use of FD-655 (Routing of Earnings and Leave Record)

(1) The four-part FD-655 should be completed by each employee receiving a permanent transfer and any employee assigned to an extended temporary duty when special handling of his/her Earnings and Leave Record is required.

(2) The original of the FD-655 should be submitted to FBIHQ, Attention: Accounting Section, Payroll Administration and Processing Unit, to arrive no later than the Thursday prior to the date of the first Earnings and Leave Record to be sent to the employee's new office of assignment or temporary duty point. Part two should be retained by the submitting office; part three should be forwarded to the new office of assignment; and part four should be retained by the employee for his/her personal records.

(3) Should the information on the initial FD-655 change, a new FD-655 should be executed, the AMENDED block checked, and forwarded immediately to FBIHQ.

11-1.3 Personnel File and Bureau Property (See Legal Attache Manual, Part 1, 4-3.)

(1) The following items should be sent to the new office by the SAC or division head of the old office: An employee's previously submitted Confidential Financial Disclosure Reports (OGE-450) and/or Conflict of Interest Certifications, personnel file,

Employee Medical File System (EMFS) subfile, Employee Security subfile, field firearms training record (FD-40), health report card, if any, electrocardiogram tracings, and report of medical history (SF- 93). Medical documents generated prior to the establishment of the EMFS subfile should be contained in the personnel file. (See MAOP, Part 1, 24-11.) Cover letter, Records Transferred of Personnel Transferred Form (FD-109), should be used to forward files. Send Form FD-475 (Physical Examination Card) if used for record purposes. Files are to be forwarded by the first workday following employee's departure on transfer. (See MAOP, Part 1, 20-4.1 (1).)

(2) Prior to departure date, employee's property must be inventoried by item and serial number to ensure property charged to an employee on the Bureau Personnel Management System, Issued Personal Property System, coincides with property in employee's possession. FBIHQ employees under transfer should contact the Property Management Unit, Property Procurement and Management Section, Finance Division.

11-1.4 Travel Time and Annual Leave

(1) Employees under official transfer at the government's convenience are allowed travel time required for direct distance travel between transfer points based on mode of travel.

(2) Annual leave to be taken in addition to travel time may be approved by the SAC or division head of the former office. (See MAOP, Part 2, 6-2.4.3.)

11-2 SPECIAL AGENT TRANSFER POLICY

(1) The Director of the FBI maintains the authority to transfer any FBI employee when it is in the best interest of the United States government. All Special Agents (SAs) are subject to transfer at any time to meet the organizational and program needs of the FBI. FBI SAs accept the possibility of transfer as a condition of their employment. SAs may be transferred where and when the needs of

the FBI may dictate. In this regard the overall needs of the Bureau, to include the assurance that investigatory experience levels are appropriately represented in all field offices, along with budgetary considerations, take precedence. The personal needs and preferences of the Agents are considered wherever possible in carrying out the transfer policy.

(2) In general, transfers will be made to field offices that are below their authorized Funded Staffing Level (FSL) or have a critical specialty need. The Administrative Services Division will determine whether vacancies in field offices will be filled through first office, rotationals, or Personnel Resource List (PRL) transfers to maintain an adequate combination of various investigative experience levels in a particular field office.

11-2.1 First Office Transfers

When an Agent successfully completes new Agents' training at the FBI Academy, Quantico, Virginia, he/she will be assigned to one of the Bureau's field offices based on the current staffing and/or critical specialty needs. New Agents will be permitted to make known their preference for assignment and consideration will be given to their desires; however, assignment will be based upon the staffing needs of the Bureau. An Agent can generally expect to remain in his/her first office of assignment for a minimum of four years.

11-2.2 Rotational Transfers

Effective July 1, 1996, the policy governing routine rotational transfers (including the provision for requesting accelerated rotational transfers) was eliminated. In its place, nonvoluntary rotational transfers (NVRT) and voluntary rotational transfers (VRT) were implemented. The policy governing NVRTs and VRTs is set forth below in 11-2.3 and 11-2.4.

11-2.3 Nonvoluntary Rotational Transfers (NVRT) (See 11-2.2.)

(1) New Agent assignments and Personnel Resource List (PRL) transfers remain the primary means of addressing the FBI's staffing needs. NVRTs will be considered only when a determination is made that all other transfer options have been explored unsuccessfully. Agents will be subject to NVRTs once they have completed four years in the field as Agents. Agents will be chosen for NVRTs by examining the pool of eligible Agents and selecting the most junior Agent, based on the date the individual entered on duty as an Agent.

(2) Deleted

(3) An Agent whose current assignment is the result of the Agent's one PRL transfer will generally not be subject to an NVRT.

11-2.4 Voluntary Rotational Transfers (VRT) (See 11-2.2.)

(1) The Administrative Services Division (ASD) will designate a hard-to-staff office with an exigent need for Agent personnel as a recipient of VRTs. This designation will typically be made for offices with a limited number of Agents listed on their PRLs. ASD will periodically issue a fieldwide communication seeking volunteers for assignment to the designated office. Agents may also volunteer independent of the canvass at any time. A list of Agents volunteering for assignment will be maintained and utilized by ASD. The continued use of a particular VRT list will be determined by ASD based upon existing staffing needs and budgetary considerations. The VRT will not be utilized until all qualified Agents on the standing PRL for that office have been canvassed.

(2) An Agent will generally be eligible for a VRT after completing four years in the Agent's current office of assignment. An Agent will be ineligible for a VRT if the Agent has consummated a cost transfer within the past year.

(3) Agents who have previously received a PRL are eligible for a VRT transfer provided they meet the basic qualifications.

(4) All Agents must achieve a rating of "Meets Expectations" on their most recent performance appraisal to be considered for a VRT.

(5) If an Agent is censured and currently on probation, that Agent will not be eligible for VRT consideration. In situations involving any disciplinary matter where administrative action may be warranted, an evaluation will be made on a case-by-case basis to determine if the circumstances warrant exclusion from consideration for a transfer.

11-2.5 Direct Placements

Direct placement is the nonvoluntary transfer or relocation of a Special Agent from one division/office to another to meet the needs of the Bureau, including, but not limited to, transfers to address administrative, inspection, or conduct issues. On April 16, 2002, Director Mueller approved a decision memorandum titled "DELEGATIONS OF AUTHORITY IN THE FBI." At the time the memorandum was approved, the FBI was in transition, and the Deputy Director position was vacant. The delegation of authority for direct placements was given to the Executive Assistant Director (EAD) - Administration, in consultation with the EAD or SAC/ADIC of the affected parties. With the Deputy Director position occupied, the delegated authority for direct placements will once again rest with the Deputy Director.

In some instances, the direct placement transfer involves the promotion of an Agent to a higher grade position. While competing for a position through established EDSP protocol is preferred, there will be limited instances whereby the Director must direct place an Agent into a position for operational necessity.

Per the approval of Deputy Director Bruce J. Gebhardt, the Deputy Director will have the authority and responsibility for making the final determination on direct placement transfers resulting from administrative, inspection, or conduct issues. The Director will authorize all direct placement transfers involving the promotion of Special Agents.

11-2.6 Lateral Transfers

Lateral transfers between FBIHQ divisions will be allowed with appropriate justification and the consent of both division heads when the transfer is based on operational necessity, as opposed to personal convenience. All lateral transfers between FBIHQ divisions will be considered no-cost transfers, and Supervisory Special Agents transferred as a result of lateral transfers will be expected to remain in those positions for nine months before applying for other positions.

11-3 SPECIAL AGENT PERSONNEL RESOURCE LIST TRANSFERS (PRL)

(1) The PRL system was established to provide a means for Agents to document a preferred office of assignment. Agents may also designate their Resident Agency(s) (RA) of preference when designating their PRL.

(2) Preferred locations an Agent indicates on the PRL should not be confused with locations indicated on the intraoffice RA PRL. See MAOP, Part 1, 11-3.9, for more information on the intraoffice RA PRL.

(3) A PRL transfer is NOT a system of reward nor is it a guarantee. It is, however, a means by which the personnel resource needs of the Bureau may be effectively addressed while satisfying the preferences of employees. This system is based generally upon seniority, consistent with the needs of the Bureau and budgetary considerations. Agents will be limited to one PRL transfer during their career (with limited exceptions such as those Agents who received a PRL transfer from a then-Top-12 office to another Top-12 office prior to June 9, 1987; and Agents receiving PRL transfers to Anchorage, Honolulu, New York, or San Juan, all of whom may be eligible for a second PRL transfer, see MAOP, Part 1, 11-3.6 and 11-3.8).

(4) The published PRL will be made available to each Special Agent in Charge (SAC) and Assistant Director at the conclusion of the open seasons in January and July of each year for inspection by all employees. During the open season the existing PRL printout will be utilized until the revised list is published. The PRL will include the specific RAs of preference, if any; the certified specialties which qualify the Agent for transfer consideration; and identify those Agents who qualify for an EOD enhancement based on service in Los Angeles or New York. These printouts should be reviewed by Agent personnel for accuracy.

(5) In designating a PRL preference, it is suggested that Agents consult with their family members and others who will be affected by the transfer. Only those Agents who are considered ranked and appear on the current PRL at the time of the PRL selection process will be considered for PRL transfer. PRLs will include Agent managers, who although not ranked, prefer to maintain their name on the list for possible future PRL consideration. As in the past, Agent managers will not be considered for a PRL transfer unless they have removed themselves from the EDSP by EC, as outlined in the MAOP, Part 1, 11-7.

(6) All employees must achieve a rating of "Meets Expectations" on their most recent performance appraisal to be considered for a PRL transfer.

(7) If an Agent is censured and placed on probation, that Agent will not be eligible for a PRL transfer as long as that Agent is on probation. In aggravated situations involving any disciplinary matter where administrative action is warranted, an evaluation will be made on a case-by-case basis

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to determine if the circumstances warrant exclusion from consideration for a PRL transfer. (See MAOP, Part 1, 13-14.3.)

(8) Agents passed over for a PRL transfer due to a documented need, such as involvement in an undercover operation or other specialized needs requiring that the Agent remain in a current assignment, will be afforded the first PRL transfer into that office following completion of that assignment regardless of standing on the PRL.

(9) An Agent will generally be eligible for a PRL transfer after completing four years in the Agent's current office of assignment. An Agent will be ineligible for a PRL transfer if the Agent has consummated a cost transfer within the past year.

(10) Agents eligible for retirement and considered for a PRL transfer must have the capability of performing at least one year of service in the requested office before being mandatorily obliged to retire, or to complete any contractual agreement signed in connection with the transfer.

(11) Agents who have consummated a cost transfer must remain in the service of the government for one year following the effective date of the transfer. Agents who terminate their government employment prior to the expiration of the one-year period are obligated to refund to the government all costs incurred in connection with the transfer.

(12) Agents who are incapacitated and/or are classified under the Medical Profile System, are evaluated on an individual basis to determine the feasibility of receiving a PRL transfer.

(13) Bureau staffing needs remain the paramount consideration for transfers. Specialized requirements, unique Agent skills and/or qualifications, which are not readily available elsewhere in the Bureau, are also recognized as matters which must take precedence when such needs exist. PRL transfers made out of order and other deviations from regular rotational programs resulting from these unique requirements are recorded in the appropriate FBIHQ files, approved by the Personnel Officer, Administrative Services Division, and, when necessary, by the Assistant Director(s) of the appropriate FBIHQ division(s).

(14) Deleted

11-3.1 Requesting a PRL Transfer

(1) All Agents are required to maintain a preference on the PRL and may change their preference during the open season months of January and July. Prior to the printing of the PRL, following open season, the Transfer Unit will examine the PRL to ensure all Agents have a preference listed. Those Agents not specifying a preference on the PRL will have their current location entered as their preference.

(2) The FD-314 form will be used for designating or modifying a PRL preference. All PRL changes will be effected electronically by designated FBIHQ or field division front office personnel with access to the Bureau Personnel Management System (BPMS).

(3) An Agent must designate one field division of preference on the PRL by submission of an FD-314. The Agent may elect to indicate the Agent's own field division. The preferred location(s) within that division may be specified by the Agent, who may choose any combination of headquarters city (HQC) and/or resident agencies (RAs). The Agent may elect to specify RAs only,

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excluding HQC. If qualified for transfer, the Agent will be considered for transfer to the division designated by the Agent and, in no priority order, the locations within that division which have been specified.

(4) The locations specified by the Agent will appear next to the Agent's name on the printed PRL. If specifying HQC, the letters "HQC" will appear. A three-letter abbreviation will appear for each RA selected and if all RAs were selected, "ALL" will appear. The FD-314 MUST BE SIGNED by the Agent before entry in BPMS by designated FBIHQ or field division front office personnel. The original form should be placed in the Agent's personnel file.

11-3.2 Identifying an Experienced Agent for Transfer (See MAOP, Part 1, 11-11.)

(1) When an experienced Agent is required to fill a vacancy in a particular location (HQC or RA), the Transfer Unit will first examine the PRL and offer the transfer to the most senior eligible Agent specifying the location of the vacancy.

(2) If the Agent declines the transfer, the Transfer Unit will not consider the Agent for another PRL transfer for two years. (See paragraph (7) below.) The Transfer Unit will then repeat the above procedure, advancing down the PRL to the next most senior eligible Agent specifying the location, until an Agent accepts the transfer or the Transfer Unit reaches the end of the PRL.

(3) If the Transfer Unit reaches the end of the PRL and all eligible Agents who indicated the location decline the transfer, or if there are no eligible Agents specifying the location, the Transfer Unit will prepare a Bureauwide canvass seeking volunteers. Of the Agents responding to the canvass, the most senior eligible Agent will be transferred, providing there are no specialty back-fill issues.

(4) If no Agents respond to the canvass, the Transfer Unit will offer the transfer to all remaining eligible Agents on the PRL who listed the division with the vacancy, but did not list the specific location of the vacancy, with the understanding that the Agent would not be considered to have used the Agent's one PRL transfer. There will be no penalty for declining the transfer. The most senior Agent who accepts the offer will be transferred, providing there are no specialty back-fill issues. After five years in the assignment, upon request, the Agent will be offered an intraoffice transfer to a location the Agent has specified on the PRL, contingent on a staffing need and available funding. This second transfer will be considered the Agent's one PRL transfer.

(5) If an Agent still has not been identified for voluntary transfer, the Transfer Unit will examine all eligible Agents on the PRL who listed the division with the vacancy and the most junior eligible Agent will receive a nonvoluntary rotational transfer (NVRT) to the location of the vacancy. The Agent transferred would not be considered to have used the Agent's one PRL transfer. After five years in the assignment, upon request, the Agent will be offered an intraoffice transfer to a location the Agent has specified on the PRL, contingent on a staffing need and available funding. This second transfer will be considered the Agent's one PRL transfer.

(6) If an Agent still has not been identified for transfer, the Transfer Unit will examine all Agents on the PRL who listed another location as close as possible to the location of the vacancy and the most junior eligible Agent will receive a NVRT to the location of the vacancy. The Agent transferred would not be considered to have used the Agent's one PRL transfer. After five years in

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the assignment, upon request, the Agent will be offered a transfer to a location the Agent has specified on the PRL, contingent on a staffing need and available funding. This second transfer will be considered the Agent's one PRL transfer.

(7) The two-year penalty for declining a PRL transfer will be effective the date the Agent declines the transfer. The date the penalty expires will be printed on subsequent PRLs under the column, "PRL PENALTY."

11-3.3 24-Hour Requirement

(1) Agents will generally receive notification of an offer for a PRL from the Transfer Unit through their designated front office representative. Agents must affirmatively respond within 24 hours, excluding weekends and holidays, of receiving an offer for a PRL to remain eligible for the transfer and avoid a two-year penalty.

(2) It is incumbent upon each front office to maintain a record to verify the time and date of notice to the Agent and the time and date of response to the Transfer Unit. The Transfer Unit will maintain a similar record.

(3) Deleted

11-3.4 Withdrawal of an Agent's Name From the PRL

(1) Withdrawal of an Agent's name from the PRL will not be allowed, as all Agents are required to maintain a preference on the PRL. Agents may, however, specify their own field division as their preference.

(2) Deleted

(3) Deleted

(4) Deleted

11-3.5 PRL Transfer Cancellation

(1) If, at any time after the Transfer Unit is verbally notified of an Agent accepting a PRL transfer, the Agent changes their decision to accept the transfer, the Agent will not be obligated to transfer. The Agent will then be ineligible for another PRL transfer for four years and responsible for any expenses associated with the transfer. The four-year penalty for declining a PRL transfer, after it was accepted, will be effective the date the Agent declines the transfer. The date the penalty expires will be printed on subsequent PRLs under the column, "PRL PENALTY."

(2) Deleted

11-3.6 PRL Transfer Policy - New York, Los Angeles and San Francisco Divisions (Formerly 11-3.1) (See 11-3.)

(1) Agents assigned to the New York, Los Angeles, or San Francisco Division are eligible to receive an "add-on" to their EOD when determining standing on the PRL. The add-on is not a formal EOD adjustment. The Agents will receive a three-year add-on after serving five continuous years in their division and an additional two-year add-on, resulting in a total five-year add-on, after

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serving ten continuous years in their division. For example, after serving five continuous years in the New York Division (NY), an Agent who entered on duty in 1996 will be considered as having entered on duty in 1993 when determining standing on the PRL. An Agent who has earned the add-on and transfers from the division loses the add-on, with the exception of an Agent who receives a nonvoluntary rotational transfer (NVRT) from the division; that Agent retains the add-on until the Agent transfers once more.

(2) An Agent qualified for the three- or five-year add-on will have the number 3 or 5 appear next to the Agent's name on the published PRL.

(3) Agents who receive an Office of Preference (OP) or Personnel Resource List (PRL) transfer to NY are eligible for a second PRL transfer subsequent to serving five continuous years in NY. This policy applies only to those Agents who received OP/PRL transfers to NY before January 1, 1994, and those Agents who received PRL transfer orders to NY dated between April 15, 1997, and April 15, 2002. Eligibility for a second PRL transfer will only be extended to qualified Agents while they are assigned to NY. An Agent who accrues eligibility for a second PRL transfer and is thereafter transferred from NY loses their eligibility for a second PRL transfer upon leaving NY.

11-3.7 Hardship Resident Agencies (RAs)

(1) San Antonio Division - Rio Grande Valley Resident Agencies (RGVRAs)

(a) After serving five continuous years in the Brownsville, Del Rio, Laredo or McAllen RAs, Agents will be considered for an intraoffice cost transfer within the San Antonio Division based upon existing staffing needs, available transfer funding, and the concurrence of the SAC, San Antonio. This will be accomplished by submitting an EC from the SAC, San Antonio to the Administrative Services Division no sooner than 90 days prior to the Agent's five-year anniversary date or at any time thereafter. Transfer orders will be issued no sooner than 60 days prior to the Agent's five-year anniversary.

(b) After serving five continuous years in one of the above RAs, Agents not choosing to transfer to San Antonio Headquarters City or another RA within the division, will be afforded a ONE-TIME opportunity, either on this anniversary date or at any time thereafter, for transfer to one of three offices selected by the Administrative Services Division based upon existing staffing needs and available transfer funding. Every effort will be made to provide a choice of offices located within the region of the Agent's PRL; however, selections will be based strictly on FBI staffing needs. This will be accomplished by submitting an EC from the SAC, San Antonio to the Administrative Services Division no sooner than 90 days prior to their five-year anniversary date or at any time thereafter. The EC should contain a statement regarding the Agent's investigative background and specialties. At that time, the Agent will be provided a list by the Transfer Unit of available offices from which to make a selection for transfer. Transfer orders will be issued no sooner than 60 days prior to the Agent's five-year anniversary. Agents will not be permitted to officially depart San Antonio under transfer until having reached their five-year anniversary.

(c) This policy does not preclude an Agent from being granted an EDSP, PRL or rotational transfer, if eligible, in conformance with existing policy.

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(d) Agents who were assigned to the Laredo and Del Rio RAs prior to April 22, 1997, are eligible for transfer consideration upon completion of their three-year commitment pursuant to previous policy governing assignments to these hardship RAs. In those instances, Agents interested in a transfer to San Antonio Headquarters City or another San Antonio RA will be transferred pursuant to existing staffing needs, available transfer funding, and the concurrence of SAC, San Antonio.

(e) Agents who were assigned to one of the four RGVRAAs prior to April 22, 1997, may take advantage of this new policy upon the anticipated completion of five continuous years in one of these RAs. An EC should be prepared as outlined in paragraphs (a) or (b) above.

(f) The benefits referred to in (a) and (b) above do not apply to RGVRA Agents whose transfer orders were dated after August 6, 2001.

(2) San Diego Division - El Centro Resident Agency (RA)

At anytime after serving three continuous years in the El Centro RA, Agents will be considered for an intraoffice cost transfer to San Diego Headquarters City based upon existing staffing needs, available transfer funding, and the concurrence of the SAC, San Diego. This will be accomplished by submitting an EC from the SAC, San Diego to the Administrative Services Division no sooner than 90 days prior to the Agent's three-year anniversary date. Transfer orders will be issued no sooner than 60 days prior to the Agent's three-year anniversary or at any time thereafter. This benefit does not apply to El Centro RA Agents whose transfer orders were dated after August 6, 2001.

(3) Albuquerque and Phoenix Divisions - Gallup Resident Agency (RA)

At anytime after serving three continuous years in the Gallup RA (GRA), Agents will be considered for an intraoffice cost transfer WITHIN THEIR RESPECTIVE DIVISION based upon existing staffing needs, available transfer funding, and the concurrence of the SAC, Albuquerque (AQ) and Phoenix (PX). This will be accomplished by submitting an EC from the SAC to the Administrative Services Division (ASD) no sooner than 90 days prior to the Agent's three-year anniversary date. Transfer orders will be issued no sooner than 60 days prior to the Agent's three-year anniversary. This benefit does not apply to GRA Agents whose transfer orders were dated after August 6, 2001.

SAs assigned to the GRA after August 6, 2001, will be required to serve a minimum of three continuous years and will thereafter qualify for a rotational or Personnel Resource List (PRL) transfer under the following policy:

(a) THREE-YEAR POLICY: An Agent electing to serve only three continuous years in the GRA will be able to select his/her next office of assignment from five offices identified by ASD. These offices will be identified based upon field office staffing needs. If one of the identified offices is the Agent's designated PRL, the Agent will be charged their one-time PRL.

(b) FOUR-YEAR POLICY: Agents electing to serve four continuous years in the GRA will have the opportunity to select from one of the two following transfer options: (1) select an office of assignment from seven offices identified by ASD based upon field office staffing needs, OR (2) request an intradivisional transfer. If one of the identified offices is the Agent's designated PRL, the

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Agent will be charged their one-time PRL. The intradivisional transfer will be dependent on the SAC's concurrence and field office staffing needs.

(c) FIVE-YEAR POLICY: Upon completion of five continuous years in the GRA, Agents will receive a transfer to their listed PRL regardless of prior assignment or field office staffing levels. The Agent's RAs of preference, if any, will also be considered with the concurrence of the affected SAC and based upon existing staffing needs.

Alternatively, Agents who have served at least five continuous years in the GRA and have not previously received a PRL, will be afforded, upon their request, a one-time opportunity to select from one of the two following transfer options: (1) select an office of assignment from seven offices identified by ASD based upon field office staffing needs OR (2) request an intradivisional transfer. If one of the identified offices is the Agent's designated PRL, the Agent will be charged their one-time PRL. The intradivisional transfer will be dependent on the SAC's concurrence and field office staffing needs. In the event an Agent declines a transfer offer pursuant to this aspect of the five-year policy, he/she remains eligible for a PRL transfer as set forth in this section.

It is incumbent upon the SACs in AQ and PX to advise ASD, FBIHQ, by official communication approximately 90 days prior to the completion of an Agent's current tour in the GRA if an Agent does not wish to renew his/her assignment. At that time, ASD will provide the Agent with a list of available offices from which to make a selection for transfer. Upon selection of an office under the three- or four-year policy, or a PRL under the five-year policy, transfer orders will be issued and received by the AQ and/or PX Division 60 days prior to the Agent's anniversary date in the GRA. Agents accepting a transfer under the three-, four-, or five-year policy will not be permitted to depart the GRA until the required term of assignment is completed.

In addition, Agents who receive a transfer from the GRA will generally be required to remain in their new assignment for a minimum of four years before being considered eligible for another cost transfer.

The above transfer policy for Agents assigned to the GRA will be retroactive to August 1, 2001. This date represents the date when the "hardship" office designation was eliminated, pursuant to the following reference electronic communications (66-HQ-A1240026-TF, serial number 1358, and 66-HQ-A1240026-TF, serial number 1367). Agents currently assigned to the GRA, who arrived in the GRA prior to this date, will be subject to the GRA transfer policy effective at the time of their assignment.

(4) Minneapolis Division - Minot, Pierre and Aberdeen Resident Agencies (RAs)

(a) After serving five continuous years in the Minot, Pierre, or Aberdeen RAs, Agents will be considered for an intraoffice cost transfer within the Minneapolis Division based upon existing staffing needs, available transfer funding, and the concurrence of the SAC, Minneapolis. This will be accomplished by submitting an EC from the SAC, Minneapolis to the Administrative Services Division no sooner than 90 days prior to the Agent's five-year anniversary date or at any time thereafter. Transfer orders will be issued no sooner than 60 days prior to the Agent's five-year anniversary.

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(b) After serving five continuous years in one of the above RAs, Agents not choosing to transfer to Minneapolis Headquarters or another RA within the division, will be afforded a ONE-TIME opportunity, either on this anniversary date or at any time thereafter, for transfer to one of three offices selected by the Administrative Services Division based upon existing staffing needs and available transfer funding. Every effort will be made to provide a choice of offices located within the region of the Agent's PRL; however, selections will be based strictly on FBI staffing needs. This will be accomplished by submitting an EC from the SAC, Minneapolis to the Administrative Services Division no sooner than 90 days prior to their five-year anniversary date or at any time thereafter. The EC should contain a statement regarding the Agent's investigative background and specialties. At that time, the Agent will be provided a list by the Transfer Unit of available offices from which to make a selection for transfer. Transfer orders will be issued no sooner than 60 days prior to the Agent's five-year anniversary. Agents will not be permitted to officially depart Minneapolis under transfer until having reached their five-year anniversary.

(c) This policy does not preclude an Agent from being granted an Executive Development and Selection Program (EDSP), Personnel Resource List (PRL) or rotational transfer, if eligible, in conformance with existing policy.

(d) Agents who were assigned to one of these RAs prior to the implementation of this policy may nevertheless take advantage of this new policy upon the anticipated completion of five continuous years in one of these RAs. An EC should be prepared as outlined above in paragraphs (a) or (b).

(e) The benefits referred to in (a) and (b) above do not apply to Minneapolis Agents whose transfer orders were dated after August 6, 2001.

11-3.8 Transfer Policy - Nonconus Offices (Formerly 11-3.2.) (See 11-3.)

(1) SAN JUAN OFFICE (See MAOP, Part 1, 3-2.19.)

(a) SA staffing and specialty needs of the San Juan Office will be addressed by rotational and PRL transfers, as well as fieldwide canvasses for volunteers (generally, first office Agents will not be assigned to the San Juan Office).

(b) SAs assigned to San Juan will be required to serve a minimum of three continuous years and will thereafter qualify for rotational or PRL transfer under the following policy. Agents who elect to remain in San Juan must extend for one-year increments and advise FBIHQ, through the SAC, three months prior to their anniversary date.

1. THREE-YEAR POLICY: An Agent electing to serve only three continuous years in San Juan will be able to select his/her next office of assignment from five offices identified by the Administrative Services Division (ASD). These offices will be identified based upon field office staffing needs.

2. FOUR-YEAR POLICY: Agents electing to serve four continuous years in San Juan will be able to select from seven offices identified by ASD.

3. FIVE-YEAR POLICY: Upon completion of five continuous years in San Juan, and achieving a rating of "Meets Expectations" on the most recent performance appraisal, Agents will receive a transfer to their LISTED PRL irrespective of prior assignment or field office staffing levels. The

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Agent's RAs of preference, if any, will also be considered with the concurrence of the affected SAC, based upon existing staffing needs.

Alternatively, Agents who have served at least five continuous years in San Juan and who have not previously received a PRL transfer, will be afforded upon their request a ONE-TIME opportunity for a transfer to one of seven offices selected by ASD. In the event an Agent declines a transfer offer pursuant to this aspect of the Five-Year Policy, he/she remains eligible for a PRL transfer as set forth in this section.

(c) Notwithstanding San Juan policy set forth above, any Agent who accrues SUFFICIENT SENIORITY for a PRL transfer to his/her office of choice while assigned to San Juan will be considered eligible for same, provided the Agent has been assigned to San Juan for a minimum of ONE year and was transferred to San Juan on or BEFORE December 4, 1996. Agents transferred to San Juan AFTER December 4, 1996, who accrue sufficient seniority for a PRL transfer to their office of choice while assigned to San Juan will be considered eligible for same, provided the Agent has been assigned to San Juan for a minimum of THREE years. This conforms with the standing requirement that all Agents transferred to San Juan must agree to serve a minimum of three years. Orders will be issued as soon as possible by ASD for Agents in San Juan who qualify for a PRL transfer under this provision.

(d) It is incumbent upon the SAC, San Juan, to advise ASD, FBIHQ, by official communication approximately 90 days prior to the completion of an Agent's current tour if an Agent does not wish to renew his/her assignment. At that time, ASD will provide the Agent a list of available offices from which to make a selection for transfer. Upon selection of an office under the three- or four-year policy, or a PRL under the five-year policy, transfer orders will be issued and received by San Juan 60 days prior to the Agent's San Juan anniversary date. Agents accepting a transfer under the three-, four-, or five-year policy will not be permitted to depart San Juan until the required term of assignment is completed.

(e) Agents who receive a PRL transfer to San Juan Headquarters City will be required to remain in this assignment for a minimum of five years prior to being considered for a second PRL transfer.

(f) Once official transfer orders are issued, there will be no cancellations or attempts to enhance selection of assignment.

(g) Agents assigned to San Juan, who were transferred under the previous policy may elect to remain within the guidelines of that transfer policy.

(2) ANCHORAGE AND HONOLULU OFFICES

(a) After serving five continuous years in the Anchorage or Honolulu Divisions, Agents who received a PRL transfer are eligible for a second PRL transfer, consistent with their seniority ranking and existing staffing needs.

(b) After serving five continuous years in the Anchorage or Honolulu Divisions, first office Agents will be afforded a ONE-TIME opportunity, either on this anniversary date or at any time thereafter, for transfer to one of three offices selected by ASD based upon existing staffing needs and available transfer funding. Every effort will be made to provide a choice of offices located within the region of the Agent's PRL; however, selections will be based strictly on FBI staffing needs.

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This will be accomplished by submitting an EC from the SAC, Anchorage or Honolulu to ASD no sooner than 90 days prior to their five-year anniversary date or at any time thereafter. The EC should contain a statement regarding the Agent's investigative background and specialties. At that time, the Agent will be provided a list by the Transfer Unit of available offices from which to make a selection for transfer. Transfer orders will be issued no sooner than 60 days prior to the Agent's five-year anniversary. Agents will not be permitted to officially depart either division under transfer until having reached their five-year anniversary.

(c) This policy does not preclude an Agent from being granted an EDSP, PRL or rotational transfer, if eligible, in conformance with existing policy.

(3) SAIPAN AND GUAM RESIDENT AGENCIES - HONOLULU DIVISION

(a) After serving three continuous years in the Saipan or Guam Resident Agencies (RAs), first office Agents will be considered, either on this anniversary date or at any time thereafter, for an intraoffice cost transfer to Honolulu Headquarters City based upon existing staffing needs, available transfer funding, and the concurrence of the SAC, Honolulu. This will be accomplished by submitting an EC from the SAC, Honolulu to ASD no sooner than 90 days prior to the Agent's three-year anniversary date or at any time thereafter. Transfer orders will be issued no sooner than 60 days prior to the Agent's three-year anniversary. First office Agents who choose to transfer to Honolulu Headquarters City pursuant to this policy will be required to remain in that assignment for five years.

(b) After serving three continuous years in one of the above RAs, first office Agents not choosing to transfer to Honolulu Headquarters City, will be afforded a ONE-TIME opportunity, either on this anniversary date or at any time thereafter, for transfer to one of three offices selected by ASD based upon existing staffing needs and available transfer funding. Every effort will be made to provide a choice of offices located within the region of the Agent's PRL; however, selections will be based strictly on FBI staffing needs. This will be accomplished by submitting an EC from the SAC, Honolulu to ASD no sooner than 90 days prior to their three- year anniversary date or at any time thereafter. The EC should contain a statement regarding the Agent's investigative background and specialties. At that time, the Agent will be provided a list by the Transfer Unit of available offices from which to make a selection for transfer. Transfer orders will be issued no sooner than 60 days prior to the Agent's three-year anniversary. Agents will not be permitted to officially depart these RAs under transfer until having reached their three-year anniversary.

(c) After serving five continuous years in one of the above RAs, first office Agents will be afforded a ONE-TIME opportunity, either on this anniversary date or at any time thereafter, for transfer to one of five offices selected by the ASD based upon existing staffing needs and available transfer funding. Every effort will be made to provide a choice of offices located within the region of the Agent's PRL; however, selections will be based strictly on FBI staffing needs. This will be accomplished as set forth above in subsection (b).

(d) None of the transfer options set forth in subsections (a), (b), or (c) above, will be considered PRL transfers.

(e) After serving three continuous years in one of the above RAs pursuant to a PRL transfer, Agents will be afforded a ONE- TIME opportunity, either on this anniversary date or at any time thereafter,

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for transfer to one of three offices selected by ASD based upon existing staffing needs and available transfer funding. Every effort will be made to provide a choice of offices located within the region of the country selected by the Agent; however, selections will be based strictly on FBI staffing needs. This will be accomplished as set forth above in subsection (b).

(f) After serving three continuous years in one of the above RAs pursuant to a specialty transfer, Agents will be afforded a ONE-TIME opportunity, either on this anniversary date or at any time thereafter, for transfer to Honolulu Headquarters City OR to one of five offices selected by ASD based upon existing staffing needs and available transfer funding. Agents opting to transfer to Honolulu Headquarters City will be expected to remain in that assignment for five years prior to partaking in incentives received by Honolulu Headquarters City personnel. If the latter option is elected, every effort will be made to provide a choice of offices located within the region of the country selected by the Agent; however, selections will be based strictly on FBI staffing needs. This will be accomplished as set forth above in subsection (a) or (b) dependent upon which option is elected.

11-3.9 Transfer Policy - Resident Agency Staffing (See 11-3.)

(1) The intraoffice RA PRL was established, separate from the PRL, as a means for Agents to express a desire to transfer to another location within their own field division. The preferred location on the intraoffice RA PRL may be submitted, in writing, to the division head three times per year, during the months of February, June, and October. The designated front office personnel will then enter the preferences into the Bureau Personnel Management System. Selection for transfer will be based on a field division career board recommendation to the division head, who will make the final decision. See MAOP, Part 1, 11-3 (2), for more information.

(2) Division heads may staff RAs located less than 50 miles from the division's Headquarters City with on-board Headquarters City SAs at their discretion. The selection of SAs for intraoffice transfers to these RAs must be based upon a field office career board recommendation to the division head, who will make the final selection (see MAOP, Part 1, 3-3.1). Selections must be made in accordance with the division's computerized intraoffice RA PRL unless the reasons for a deviation are documented and consistent with business necessity. Such transfers will ordinarily be no-cost and the affected SA will NOT be paid travel and transportation expenses and applicable allowances. The Transfer Unit, Administrative Services Division, must be advised of these transfers through the submission of an FD-407 at least 30 days in advance of the effective date of the transfer so that transfer orders may be prepared.

(3) As an alternative, division heads may request staffing for RAs located less than 50 miles from the division's Headquarters City through a PRL, first office Agent or specialty (see MAOP, Part 1, 11-11) transfer. Such requests should be made pursuant to the division's "Annual Field Office Report." In the event a critical staffing need develops at other times during the year, a request for staffing may be made through the submission of an interim EC directed to the Transfer Unit, Administrative Services Division, Room 6313, FBIHQ.

(4) Division heads must request approval from the Administrative Services Division in staffing RAs located 50 miles or more from the division's Headquarters City. Such requests should be made pursuant to the division's "Annual Field Office Report" or through the submission of an interim EC

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directed to the Transfer Unit in the event of a critical staffing need. Requests for staffing of RAs located 50 miles or more from the division's Headquarters City should include the division head's analysis and recommendation regarding whether such a position would be best staffed by a PRL, first office Agent or specialty transfer.

(a) In instances where a division believes that specific circumstances and/or needs within that division necessitate the intraoffice transfer of an SA to an RA located 50 miles or more from the division's Headquarters City, the division head must receive authorization from the Administrative Services Division prior to conducting a career board. Such authority should be requested by EC to the Transfer Unit setting forth the specific basis for the request. Additionally, the EC should indicate the number of SAs qualified for and interested in the RA assignment based upon the division's intraoffice RA PRL and the circumstances and/or needs within the division. In such cases, the Administrative Services Division will make the final decision regarding how the RA will be staffed based upon input from the division head, input from the appropriate substantive FBIHQ division (if necessary), and the needs of the Bureau. In the event the Administrative Services Division approves an intraoffice transfer under these circumstances, the selection must be made in the same manner as described in (2) above.

(5) Division heads must request approval from the Administrative Services Division before effecting the intraoffice transfer of an SA from an RA to the division's Headquarters City in all instances when the RA is located 50 miles or more from the Headquarters City. Similarly, transfers of Agents between RAs located 50 miles or more from one another must be approved by the Transfer Unit, Administrative Services Division. Such requests should be submitted by EC to the Transfer Unit, Administrative Services Division, setting forth the basis for the proposed transfer.

(6) As necessary, the Transfer Unit, Administrative Services Division, will determine whether a particular intraoffice transfer should be effected on a cost or no-cost basis pursuant to MAOP, Part 1, 11-10.

11-4 PERMANENT HARDSHIP TRANSFER REQUESTS AND PROCEDURES (See MAOP, Part I, 11-16.5)

Requests for transfer based on a hardship must be forwarded to FBIHQ through the employee's SAC or division head. Documentation supporting the hardship and the recommendation of the SAC or division head must accompany the request.

11-4.1 Medical Hardship (See MAOP, Part I, 11-16.5.)

(1) A request for transfer based on a medical hardship must be forwarded to FBIHQ through the employee's SAC or division head. Medical hardship transfer requests must be accompanied by supporting medical documentation (conditions existing prior to an employee's entry on duty will generally not be considered of a hardship nature). Hardship transfers may be granted, consistent with staffing needs, for articulated medical reasons such as the need to be in a specific geographic area or near a specific medical facility to address the health needs of the employee, spouse, child, or legal dependent. Medical hardship requests are reviewed by the Chief Medical Officer (CMO), FBIHQ, and in some instances by other specialists. Alternatives to a permanent transfer must first

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be examined, such as requesting a temporary hardship assignment. A permanent hardship transfer request should not be the first course of action.

(2) The SAC or division head must interview the employee concerning the circumstances of the hardship. Results of the interview with specific recommendation for action must accompany the request.

(3) Medical hardship transfers are preferential in nature in that an Agent receiving same may be transferred into a field office ahead of a more senior Agent who stands higher on the PRL. In light of the preceding, a permanent hardship transfer will be designated as a PRL transfer and the Agent will be ineligible for further PRL consideration.

The employee will be ineligible for a specialty or EDSP transfer if he/she is in receipt of a permanent medical hardship transfer. If the employee requests removal of permanent hardship status (for medical reasons) a medical report and/or tests must accompany the request for evaluation by the CMO, FBIHQ, if appropriate. Upon confirmation by the CMO for removal of the hardship the employee can be considered for EDSP or a specialty transfer.

11-4.2 General Hardship (See MAOP, Part 1, 11-16.5.)

(1) PARENTAL HARDSHIPS: Dealing with the infirmities attendant with the aging process is a common experience to all employees with living parents and in-laws. As such, employees cannot expect hardship transfers. The Administrative Services Division will, however, consider, with concurrent SAC approval, on a case-by-case basis, consistent with staffing needs, affording permanent hardship transfers due to parental illness, when the illness is of a life threatening nature and creates an extraordinary medical hardship. In making a transfer determination the Administrative Services Division will examine a number of factors to include, but not limited to: whether a TDY hardship assignment will alleviate the hardship; the parent(s)/in-law(s) ability to move to the location of the Agent; medical facilities available at the Agent's location; availability of other family member(s) to assist parent(s)/in-law(s); availability of home care services and assistance of long-distance care organizations.

(2) CHILD CUSTODY HARDSHIPS: In situations where FBI personnel, who are parents of minor children, are divorced, subsequent to their entry on duty with the FBI, consideration will be given to the issuance of child custody hardship transfers on a case-by-case basis. In instances wherein an employee has court-ordered custody of, or visitation rights to, his/her children, limited to a specific locale, the Transfer Unit will make every effort to approve a transfer, subject to staffing requirements and the availability of funds. In all other instances, requests for transfers will be adjudicated based upon the totality of the circumstances. If appropriate, the Transfer Unit may consider a regional transfer as a means of addressing a child custody hardship transfer request.

The Transfer Unit will consider all pertinent facts in making transfer determinations, to include, but not limited to: (1) the well-being of the minor children; (2) the employee's legal rights/obligations to the children pursuant to a court order(s) or a court-authorized custody agreement; and (3) if appropriate, the extent to which the employee contested the order granting custody. All requests for transfers must be supported by appropriate documentation, such as pleadings, court orders, and/or medical/psychological reports.

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(3) **FINANCIAL HARDSHIP:** Financial problems generally will not substantiate a hardship request, particularly when the basis is the inability to sell a residence in light of the transfer relocation benefits.

11-4.3 Hardship Transfer Review Board (See MAOP, Part 1, 11-16.5.)

A Hardship Transfer Review Board (HTRB) has been established at FBIHQ, and is chaired by the Deputy Assistant Director of the Administrative Services Division. The Board is comprised of ASACs and representatives selected at random on a rotational basis from FBIHQ divisions. When a permanent hardship transfer request is denied, this decision may be appealed by submitting a letter to the Administrative Services Division, FBIHQ, requesting that the transfer denial be reviewed by the HTRB. The Board will review each case and submit a recommendation to the Assistant Director, Administrative Services Division, for final adjudication.

11-4.4 Deleted

11-4.5 Deleted

11-4.6 Deleted

11-5 TEMPORARY HARDSHIP TRANSFER REQUESTS AND PROCEDURES (See MAOP, Part 1, 11-16.5 and 11-17.)

(1) In instances where a temporary hardship assignment would address the employee's needs to alleviate a personal hardship, a request can be made to the Transfer Unit, Administrative Services Division. The request must contain the recommendation of the employee's SAC or division head and the concurrence of the SAC at the office of temporary assignment. Requests for temporary hardship can only be made for a period of 30 days with limited 30-day extensions granted on a case-by-case basis. Documentation in support of the temporary hardship must be reviewed by the SAC or division head with an explanation of the basis for hardship in the request submitted to FBIHQ.

(2) Temporary hardship transfers must be authorized by FBIHQ to ensure that appropriate changes are made for the employee's cost code and time and attendance accountability.

(3) In the event that a temporary hardship assignment is granted, all expenses of same must be borne by the employee inasmuch as no per diem or transportation expenses are authorized.

11-6 TRANSFER POLICY FOR MARRIED SPECIAL AGENT COUPLES AND FOR SPECIAL AGENTS WITH NON-BUREAU SPOUSES

(1) All SAs, including married SA couples, must be available for general and special assignment.

(2) In assignments of Agent married couples, the Bureau will make every effort to preserve a common household. Refer to Section 11-10.

(3) In assignments of Agents with non-Agent FBI employee spouses, every effort will be made to provide the non-Agent FBI employee spouse with FBI employment opportunity in the new office if

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such is requested; however, no guarantee as to employment, grade level, and positions available can be made.

(4) Married Agent couples will not be considered for a PRL transfer to the same office, utilizing either joint eligibility or separate eligibility methods, unless both Agents list that division on the PRL. If the Agent indicates a desire to be transferred using the joint eligibility method, he/she will be passed over on the PRL until both Agents' names appear on the same PRL. In determining seniority for PRL transfer purposes for married Agent couples, the couple may choose joint PRL eligibility by EOD averaging. This method guarantees a "common household" PRL transfer - both would be transferred together.

(5) In the case of a preference for a particular RA vacancy, both Agents must have listed that RA to be considered in the initial canvass of the PRL by the Transfer Unit. Staffing of an RA with a married Agent couple will be contingent upon the staffing needs of the RA and the authorized complement as determined by the SAC/ADIC and the Administrative Services Division.

(6) Married Agent couples may choose separate PRL eligibility based on their own EODs. Under this method, each Agent must qualify for a PRL transfer based solely upon his/her own seniority. Subsequently, if the Agent accepts a PRL transfer utilizing this separate PRL eligibility method, any resulting separation will not be the basis for "common household" or hardship transfer consideration.

(7) Married Agent couples need not preselect one eligibility method. Rather, they may choose either the joint or the separate method at the actual time they qualify for PRL selection. In the event that one of the Agents has received a PRL transfer during his or her career, the married Agent couple MUST select the separate PRL eligibility based solely on the EOD of the Agent who has not received a PRL. The spouse will be accommodated through a no-cost common household transfer.

(8) Due to the large number of employees with working spouses, requests for transfer or for transfer cancellation based upon the outside employment of an Agent's non-Bureau spouse are considered preferential in nature and will not be approved regardless of the spouse's income, career advancement, or restricted geographic employment of the spouse.

An exception to this policy will be considered only if the spouse is employed by another DOJ law enforcement agency. In these instances the transfers will be at no-cost to the Bureau, as described below in connection with no-cost transfers. (See 11-10.)

11-7 REMOVAL FROM EXECUTIVE DEVELOPMENT AND SELECTION PROGRAM (EDSP) (See MAOP, Part I, 3-6.1, 3-7.1 and 11-3.)

(1) All Supervisory Special Agents (SSAs) who request removal in writing from the EDSP will be afforded a PRL transfer only if that Agent is eligible for a PRL transfer, is number one on the PRL for the desired office, has not received a cost transfer within the past year, and a staffing need exists.

(2) An SSA assigned to FBIHQ who requests removal in writing from the EDSP and does not qualify for a PRL transfer as set forth in (1) above, will be reverted to a GS-13 and transferred, at no cost to the government, to Washington Field Office or Baltimore (unless staffing needs dictate otherwise) and, thereafter, be afforded the same PRL considerations as any other Agent.

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(3) An SSA assigned to a field division who requests removal in writing from the EDSP and does not qualify for a PRL transfer as set forth in (1) above, will remain assigned, in an investigative capacity, in that same division with the same PRL eligibility as any other Agent and revert to a GS-13.

(4) Under exceptional circumstances and where critical operational/administrative needs dictate, an SSA assigned to FBIHQ who requests removal in writing from the EDSP but does not stand number one on the PRL for the desired office, or that office does not have a current staffing need, may request removal from the EDSP and remain in his/her current assignment until attaining number one standing on the PRL and a staffing need exists in the respective office; otherwise, he/she will be transferred in accordance with (2) above. This is contingent upon the approval of the division head and concurrence of the Special Agent Mid-Level Management Selection Board. The Agent will not be considered for further administrative advancement and will not be allowed to apply for positions in the EDSP while awaiting movement into the desired office.

(5) Requests by SSAs for removal from the EDSP should be forwarded through the employee's SAC or division head to the Administrator, EDSP, with a copy to the Transfer Unit. The request must contain the statement that the SSA is willing to accept a reduction in grade in connection with the request, if appropriate. An SSA requesting removal from the EDSP resulting from the directed transfer of his/her Bureau-employed spouse must also be willing to accept a reduction in grade, however, may remain in the EDSP as a relief supervisor.

11-8 UNDERCOVER TRANSFER POLICY

(1) Selection of Undercover Agents (UCA) will continue to be made by the Criminal Investigative Division (CID) and the National Security Division (NSD). Upon identification of candidates for a particular assignment, the Administrative Services Division will review the selections for transfer eligibility. After the Administrative Services Division's review, CID or NSD will select the UCA for the assignment and, thereafter, make recommendations to the Administrative Services Division regarding transfer of that individual depending on the particular operation and duration of the assignment. After [REDACTED] undercover operation, [REDACTED]

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[REDACTED] is authorized, consideration will be given to permanently transfer the UCA to that office taking into account staffing and budgetary considerations. In intelligence undercover operations, [REDACTED]
[REDACTED]

(2) Upon completion of an undercover assignment or termination of an operation, CID or NSD may make recommendations for transfer of the UCA:

(a) [REDACTED]
[REDACTED]

(b) [REDACTED]

(c) [REDACTED]

(3) If transfer is deemed appropriate, the Agent will be afforded a PRL transfer provided he/she is net #1 on the PRL and a staffing need exists. If the Agent does not qualify for a PRL transfer, the

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Administrative Services Division will make a selection for transfer assignment based on staffing requirements.

(4) A PRL transfer will not be used as a reward in connection with undercover assignments.

(5) An Agent will generally be eligible for transfer into an undercover role after completing four years in the Agent's current office of assignment. An Agent will be ineligible for transfer into an undercover role if the Agent has consummated a cost transfer within the past year.

11-9 AMENDED TRANSFERS (See MAOP, Part II, 1-3.3.)

An amended transfer from Headquarters City to an RA does not constitute a second full-cost transfer, but is rather a continuation of the original transfer. Therefore, it is necessary that the SAC endeavor to make a decision to amend the pending transfer of an Agent directly to an RA before the Agent reports to the division or, in the case of a new Agent, before the Agent graduates from new Agents' training. In the event further evaluation is believed necessary, this decision may be deferred but should be submitted no later than 30 days following the Agent's arrival in the division. The Agent should be advised that his/her transfer may be amended, and this notification documented, so that appropriate arrangements may be made. It is also necessary to ensure that an Agent does not incur unnecessary and possible nonreimbursable expenses in connection with his/her relocation.

11-10 COST/NO-COST TRANSFER DETERMINATIONS (See MAOP, Part 1, 11-3.9 and 11-6.)

(1) Ordinarily, upon being transferred from one official duty station to another for permanent duty, SAs shall be paid travel and transportation expenses and applicable allowances only if: (a) the distance between the location of the old official duty station and the new official duty station is at least 50 miles AND, in the case of an intraoffice transfer, (b) the one-way commuting distance from the old residence to the new official duty station is at least 10 miles greater than the one-way commuting distance from the old residence to the old official duty station OR the one-way commuting time from the old residence to the new official duty station is at least 45 minutes greater than the one-way commuting time from the old residence to the old official duty station. Official mileage determinations will be made by the Transfer Unit, Administrative Services Division, based upon a computer database utilized by both the Administrative Services Division and the Finance Division. In instances wherein an SA's commute will be increased by more than 45 minutes, it is incumbent upon the division head to provide verification of the impact of the transfer on the SA.

(2) No-cost transfers generally will not be approved because of their adverse impact upon other transfer policies. Exempt from this policy are "Permanent Common Household" SA Couples. FBI Agents who are partners in a "permanent common household" may request a no-cost transfer to one of the Divisions where the agents are assigned. Upon certification of such a relationship, a no-cost common household transfer will be afforded. The office to which the agents are ultimately assigned will be determined by the ASD based upon the existing staffing needs of those offices, current transfer policy and any other factors deemed pertinent by the ASD.

"Permanent common household" means:

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- A. A marriage supported by a license which evidences same; or
- B. An exclusive, interdependent relationship of partnership between the employees, in which the employees intend to maintain and, to the extent practicable, cohabit a common household until the death of one of the parties.

For purposes of this section, the following definitions are applicable:

"Exclusive" means that the relationship is limited to the two employees involved and that neither is involved in a similar relationship with another.

"Interdependent" means that each partner has committed to providing lifelong care and support to the other partner without compensation.

Specifically excluded from these definitions are familial relationships wherein the parties are related by blood and/or a degree of closeness that would prohibit legal marriage in the state(s) in which the parties legally reside and/or where the parties may be transferred.

Proof of relationships as defined in item B above must also include statements notarized and made under penalty of perjury, that establish the requirements above and that establish specific, objective facts showing the existence and duration of that relationship. Such facts must be corroborated by copies of relevant documents. Objective facts showing such relationships must include matters such as the following:

- (1) A bona fide marriage engagement supported by sworn statements from both partners; or,
- (2) A civil union establishing rights, obligations, and protections equivalent to marriage under the laws of a state, supported by a license or state issued certificate which evidences the civil union; or
- (3) Joint ownership of the residence of at least one of the employees; or,
- (4) Intermingling or co-ownership of other substantial property, such as joint bank accounts or investments in which substantial amounts of money are deposited; or,
- (5) Cohabitation for an extended period of time consistent with item B; or,
- (6) Designation of the partners as primary beneficiaries or representatives in wills, durable powers of attorney, life insurance, and similar documents.

The facts establishing a relationship as defined above must have substantially pre-dated any recent notice of transfer and the request for the CHT, and must not be for the purpose of obtaining a common household transfer. Employees are also reminded that false statements made and/or submitted in conjunction with this policy will be sufficient predication for appropriate administrative action.

Unmarried partners should be aware that they are not considered "spouses" or "family members" for purposes of transfer benefits as discussed in (REF MAOP PROVISIONS).

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(3) Agents married to employees of other DOJ law enforcement agencies may, at their request, receive a no-cost common household transfer to a field office where their spouse is assigned, consistent with staffing needs. The other DOJ law enforcement agency's ability to transfer the spouse will also be considered in these situations.

(4) If an FBI Agent receives a directed transfer, his/her Agent spouse may, at their request, receive a no-cost common household transfer to accompany their spouse.

(5) FBI SAs married to employees of other DOJ law enforcement agencies may, at their request, receive a no-cost common household transfer, consistent with staffing needs, to accompany their spouse who has received a directed transfer.

11-11 SPECIALTY TRANSFERS (See MAOP, Part 1, 11-3.9.)

(1) Specialty needs of the field offices are generally identified by the ADIC/SAC through the Annual Field Office Report. For essential skills that arise through personnel transfer, retirement, or other circumstances, the division head may make a separate specialty request to the Transfer Unit. An employee who receives a specialty transfer will be expected to serve in that capacity for at least three years at the discretion of the division head.

(2) The following categories will be considered for specialty transfers:

- (a) Bureau Pilot-In-Command (PIC);
- (b) Technically Trained Agent (TTA);
- (c) Special Agent Linguists;
- (d) Special Agent Accountant (SAA)

Effective July 1, 1996, the category of Principal Legal Advisor (PLA) was eliminated from the list of certified specialties. Now considered the Chief Division Counsel (CDC), these GS-14 positions all come under the purview of the EDSP and the Office of the General Counsel (OGC). As such, these transfers will no longer be considered as specialties under this category.

(3) An Agent will generally be eligible for a specialty transfer after completing four years in the Agent's current office of assignment. An Agent will be ineligible for a specialty transfer if the Agent has consummated a cost transfer within the past year. Specialty transfer needs will generally be filled by the same method described in MAOP, Part 1, 11-3.2.

(4) It is the responsibility of the individual Agent and appropriate program managers to ensure that Agents who qualify for the above specialties have the appropriate information included under "skills" in their current information in BPMS. Failure to maintain the necessary accreditation or failing to update the information maintained in BPMS will result in a specialty designation not appearing on the published PRL.

(5) Deleted

11-11.1 Special Agent Linguists

(1) In considering Special Agent Linguists for transfer, eligibility will be based on the Agent's valid oral language proficiency of 2+ or higher and the concurrence of the appropriate FBIHQ program

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managers and the Language Training and Assessment Unit (LTAU), FBIHQ, concerning the office's need for a specific language skill.

(2) To qualify for a PRL specialty transfer, Special Agent Linguists with an oral proficiency of 2+ must be tested by the LTAU once a year. Oral proficiencies of 3 or 3+ require testing every three years. Oral proficiencies of 4, 4+, and 5 require testing every five years.

(3) To be considered for a PRL transfer as a Special Agent Linguist, and to have the designation appear next to an Agent's name, the Agent must meet the minimum oral proficiency requirement and the required testing criteria established by the LTAU. It is the responsibility of the Agent to ensure that his/her appropriate test scores have been entered and that he/she has been tested as required by the LTAU.

(4) In the event of a critical staffing need for Special Agent Linguists which necessitates the use of an NVRT, an oral language proficiency of 2 or higher (recorded at any time during an Agent's career) will qualify the Agent for consideration.

11-11.2 Technically Trained Agent (TTA) Program (See MIOG, Part 2, 16-7.2.3.)

The selection of candidates to fill TTA vacancies will be accomplished through fieldwide advertisements of the vacancy. Transfer Unit will furnish the Operational Technology Division, Technical Operations Section, a list of candidates who have expressed an interest in the TTA vacancy. The Operational Technology Division, Technical Operations Section, will, thereafter, evaluate each candidate and make its recommendation to Transfer Unit for the best qualified TTA to fill the vacancy.

11-11.3 Moved to 11-14.3

11-11.4 Moved to 11-14.4

11-11.5 Moved to 11-14.5

11-11.6 Moved to 11-14.6

11-11.7 Moved to 11-14.7

11-11.8 Moved to 11-14.8

11-12 HOSTAGE RESCUE TEAM (HRT) TRANSFER POLICY (See MIOG, Part 1, 244-7.)

The following procedures for transfer are available to HRT members designated as Operators.

(1) Agents who are selected for HRT and have completed the four-year commitment, as an Operator, have the following transfer options:

(a) To report to WFO as part of the Agent work complement.

(b) If number one on the PRL, will be afforded a PRL transfer to that office consistent with staffing needs and budgetary restraints.

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(c) Accepting a specialty transfer other than an HRT specialty transfer consistent with fieldwide operational needs (such as undercover assignments), or promotional opportunities available to SAs of the FBI.

(d) After completion of four years as an HRT Operator, SAs will be afforded the opportunity to accept the HRT specialty transfer to any field office, based on the operational/specialty needs of that office. Agents eligible for an HRT specialty transfer based on the operational needs of a field office will be selected from qualified team members on the PRL, based on the recommendation of the HRT management, consistent with the staffing needs of the HRT. In the event a qualified and recommended HRT team member cannot be found on the requesting office's PRL, the HRT specialty transfer will be offered to other HRT members under the same criteria. The HRT member transferred under these terms will not be considered as having received a PRL transfer, and the Agent will maintain his/her PRL eligibility. Prior to the issuance of such a transfer, a field office must have a documented critical need for an HRT-trained Agent.

(e) In the event no current HRT member is available for a specialty transfer, the requesting field office will be offered assistance by the HRT in training available field office personnel in needed HRT proficiency. This will be accomplished consistent with HRT availability.

(2) Agents who have successfully completed a five-year assignment as an HRT Operator will have the following options in addition to those set above:

(a) At the conclusion of an Agent's fifth year of service on the HRT, consistent with budgetary considerations, Agents who desire to do so will be transferred back to their previous office of assignment, irrespective of staffing vacancies in that particular division. This option will not be considered a PRL transfer.

(b) At the conclusion of an Agent's fifth year of service on the HRT, consistent with budgetary considerations, he/she will be given a list of seven offices that have a need for an Agent. The Agent will be afforded the opportunity to receive a transfer to one of the seven offices he/she selects. The offer will not be considered a PRL unless so designated by the Agent transferred.

(3) Agents who have successfully completed a six-year assignment as an Operator on HRT, consistent with budgetary considerations, will be eligible to receive a transfer to the office listed as their PRL, irrespective of staffing vacancies in that particular division. The Agent's Resident Agency of preference, if any, will also be considered, with the concurrence of the affected SAC, based upon existing staffing needs.

(4) An Agent will generally be eligible for a transfer to HRT, as an Operator, after completing four years in the Agent's current office of assignment. This requirement may be waived, on a case-by-case basis, by the Transfer Unit.

11-12.1 Moved to 11-15.1

11-13 SPECIAL AGENT REINSTATEMENT ASSIGNMENT POLICY (See MIOG, Part 1, 67-6.8 (5).)

Assignment of SAs who have been reinstated will be determined by the Transfer Unit based strictly on the needs of the Bureau. The Agent will be given the opportunity to indicate geographic

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preferences; however, ultimate assignment will be determined by the staffing needs of the field offices as well as the need for any skills the Agent may possess. First consideration will be given to assign the Agent to his/her last office of assignment. Unique and unusual situations will continue to be addressed separately and evaluated on a case-by-case basis; for example, reinstating an Agent who qualifies for a PRL or who is married to an on-board Agent.

11-13.1 Moved to 11-16.1

11-13.2 Moved to 11-16.2

11-13.3 Moved to 11-16.6

11-13.3.1 Moved to 11-16.3.1.

11-13.4 Moved to 11-16.5

11-13.5 Moved to 11-16.5

11-13.6 Moved to 11-16

11-13.7 Moved to 11-16.7

11-13.8 Moved to 11-16.8

11-14 TRANSFER TO FOREIGN OFFICES, ANCHORAGE, HONOLULU AND SAN JUAN - SPECIAL AGENT AND SUPPORT

11-14.1 Service Agreement (FD-382) (See Legal Attache Manual, 2-6.1 and 4-4.1.)

Employees selected for assignment in the offices set out below must execute a service agreement to serve tours of duty as specified:

(1) Anchorage and Honolulu - Agents must serve two years with subsequent tours of one, two, or three years at the employee's option.

(2) Legal Attache Offices - Agent and support personnel must serve an initial three-year tour of duty with subsequent tours of one or two years at the employee's option. Assignment to high-threat and/or hardship post so designated by the Department of State will be for a two-year period, and the employee may request an additional tour of one, two, or three years.

FBIHQ must be informed of Legat employee's intention to request, or not request, an additional tour of duty or extension of current tour at least one year prior to the date the employee completes current tour of duty. FBIHQ must be informed of the employee's home leave and/or leave plans for purpose of travel at least three months prior to employee's completion of a tour of duty.

(3) San Juan - Agents - three years for initial contract, renewable annually thereafter. Agents are entitled to receive home leave at the conclusion of their first two years and after their third year.

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Agents who sign an agreement to remain a fifth year will also be entitled to home leave after their fourth year.

(4) Anchorage, Honolulu, and San Juan - Support Personnel - These transfers are permanent assignments. Employees must agree to remain in the service of the government for a specified period not more than three years from the effective date of the transfer.

11-14.2 Execution of Service Agreement

(1) An original and two copies of the Service Agreement will be attached to the letter of transfer to Anchorage, San Juan, Honolulu, and foreign offices. All must be executed and the original and one copy should be returned to FBIHQ. The second copy should be retained in the field file.

(2) The Service Agreement must be executed by employee before the Bureau can pay any transfer-related expenses, including travel and transportation of employee, employee's family, and household goods. The terms of the Service Agreement must be fulfilled before the Government will pay return expenses. If the terms of the Service Agreement are not completed because of separation from service, the reasons for separation must be beyond the control of the employee and agreeable to FBIHQ before return expenses are paid by the Government.

11-14.3 Annual Leave, Home Leave, and Tour Renewal Travel (See Legal Attache Manual, Part 1, 2-6.1 and 4-4.2.)

(1) A new Service Agreement must be executed by overseas personnel seeking an additional tour of duty. The new agreement must be completed prior to the termination of the existing tour of duty. Advise FBIHQ at least three months prior to completion of existing tour of employee's intention to seek an additional tour and employee's plans concerning annual leave, home leave, and/or tour renewal travel.

(2) Employees and dependents are eligible for travel and transportation expenses to their actual place of residence in the U.S. after completion of the agreed tour of duty and execution of an additional Service Agreement for a subsequent tour. For detailed information concerning travel and transportation allowances, see Chapter 302, Federal Travel Regulations.

(3) Employees assigned to foreign offices, who have completed 24 months of continuous service, are entitled to additional leave, termed home leave. An employee who is eligible to take home leave receives only the opportunity to take paid time away from the office, similar to annual leave. The home leave benefit does not include paid transportation. Employees earn home leave for each 12 months of service abroad. For details concerning home leave see the LEAVE POLICY MANUAL.

(4) In the event of any change of legal residence in the United States, employee must execute a new Service Agreement showing that change which must be approved by the Bureau.

(5) Home leave is not required to be used strictly to return to an employee's actual place of residence in the U.S. Home leave is granted for use in the United States, the Commonwealth of Puerto Rico, or a territory or possession of the United States, and during an employee's period of service abroad, or within a reasonable period after a return from service abroad when it is contemplated that the employee will return to service abroad immediately or on completion of an assignment in the United States.

11-14.4 Physical Examinations

Support personnel transferred to San Juan and foreign offices must be afforded a physical examination. Results of the examination and any special tests required by FBIHQ must reach the Bureau prior to departure of employee to new office of assignment.

11-14.5 Cost of Living Allowance

Employees assigned to Anchorage, Honolulu, and San Juan are entitled to a cost of living allowance not subject to federal income tax. The amount of allowance fluctuates based on periodic studies made by the U.S. Department of Labor. Employees should contact FBIHQ, Payroll Administration and Processing Unit, Finance Division, to determine the current allowance.

11-14.6 Transportation of Household Goods

Relocation Management Office, Fleet Management and Transportation Services Unit, Finance Division, will handle necessary arrangements for transportation of household goods of employees. For details, see Part II, 6-2.2.1 through 6-2.2.3, of this manual.

11-14.7 Checks and Bonds

In the event employee does not want checks and/or bonds forwarded to their home address, FBIHQ, Payroll Administration and Processing Unit, Finance Division, should be given instructions as to their handling.

11-14.8 Income Taxes

Employee should be aware of regulations concerning payment of Federal and local income taxes. Residence in a foreign country may not excuse employee from being taxed by authority covering previous office of assignment. Immediately advise FBIHQ should a controversy arise with any taxing authority.

11-15 TRAINING OF EMPLOYEES FOR FOREIGN ASSIGNMENT (See MAOP, Part II, 8-2.3.)

Material on living conditions in Honolulu, Anchorage, San Juan, and our foreign installations will be furnished to the employee upon transfer. SAC should arrange for an employee under foreign transfer to utilize local library facilities for appropriate books concerning the culture and background of the country of assignment.

11-15.1 Training of Support Employees for Foreign Assignment

(1) Field Support Functions - Support employees selected for foreign assignment must, before their departure, receive two full weeks' training in field support functions. SACs should ensure that the training afforded them is type they would need if they were assuming duties of Administrative Officer in small- to medium-sized office and should encompass the following:

- (a) Handling of mail (including stamping, searching, matching, indexing, serializing, etc.)
- (b) Opening and closing cases
- (c) File reviews

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- (d) Preparation of administrative report
- (e) Preparation of expense accounts
- (f) Handling and filing of SAC letters and SAC Memoranda
- (g) Preparation of 1-A serials and bulky exhibits
- (h) Tickler systems
- (i) Maintenance, consolidation, and destruction of file
- (j) Deleted
- (k) Operation of duplication machine
- (l) Preparation of vouchers connected with operation of official cars and maintenance of office fund records
- (2) Cryptographic systems - Employees under transfer to foreign offices will be given three to five days' training at FBIHQ in the operations and security of cryptographic systems.
- (3) Briefing by SAC or division head at FBIHQ - For various reasons, it is not always possible to bring field support personnel selected for foreign assignment to FBIHQ for briefing before their departure. SACs should call employees' attention to fact that while in foreign office of assignment they will be known as an employee of the American Embassy, insofar as general public is concerned, although official contacts of the office know of relations between Bureau and Legal Attache's office.
- (4) Conduct - It should be stressed that conduct abroad must be maintained at all times in accordance with Bureau standards. In matters of conduct and dress, employees must adhere to good taste within the standards of the country to which they are assigned. Inform employee that if employee plans to take his/her personally owned automobile, uniform regulations maintained by the U.S. Posts require that only inconspicuous automobiles should be imported.
- (5) Instructions by Legal Attache - Legal Attaches are responsible to ensure new employees are instructed in maintenance of teletype records, listing and preparation of pouches, security of information pertaining to pouch preparation, maintenance of pouch records and use of courier service. Legal Attache must also ensure new employee is afforded cryptographic systems training and in the preparation, handling, and dissemination of classified documents. Legal Attache should also instruct new employees in maintenance of security peculiar to the Attache operations, including the use of the telephone, personal contact, disposal of trash, and social gatherings.

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11-15.2 Moved to 11-18.2

11-15.3 Moved to 11-18.3

11-15.4 Moved to 11-18.4

11-15.4.1 Moved to 11-18.4.1

11-15.4.2 Moved to 11-18.4.2

11-15.4.3 Moved to 11-18.4.3

11-15.4.4 Moved to 11-18.4.4

11-16 SUPPORT PERSONNEL TRANSFER POLICY

11-16.1 General Policy

(1) FBI support employees may be noncompetitively transferred to other field offices or FBIHQ through the following methods:

- (a) Support Employee Transfer Availability List (SETAL) transfers.
- (b) Bureau Spousal Transfers
- (c) Non-Bureau Spousal Transfers
- (d) Hardship Transfers
- (e) Special Position Personnel Resource List (PRL) Transfers.

Policies concerning competitively posted positions are contained in the MAOP, Part 1, Section 7, captioned "Merit Promotion and Placement Plan."

(2) Under normal circumstances, entry-level general clerical vacancies are filled by local recruitment and/or through the use of the SETAL. The use of the SETAL to fill vacant clerical positions is not mandatory, but is highly recommended.

11-16.2 Support Employee Transfer Availability List (SETAL) Transfers

(1) The SETAL is a list of support employees interested in being afforded a no-cost transfer, for their personal convenience, between field offices or between a field office and FBIHQ. The SETAL may not be used for transfers between FBIHQ divisions, organizational components within a field office, or organizational components within an FBIHQ division or office. In the interest of simplicity and equity, positions filled through the use of the SETAL are entry-level, general clerical positions only.

(2) Eligibility - In order to be eligible for a SETAL transfer, a support employee must satisfy the following criteria:

- (a) One year's continuous service with the FBI.

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(b) A rating of "Meet Expectations" on his/her most recent performance appraisal.

(c) Agree to accept a demotion to an entry-level, general clerical position.

(d) Agree to bear all costs associated with the transfer.

(e) Agree to work whatever shift is required by the receiving office.

(f) Be able to report for duty within 90 days of the issuance of transfer orders.

(3) A support employee is ineligible for a SETAL transfer if:

(a) He/She has consummated a SETAL transfer within the past one-year period.

(b) If the employee is censured and placed on probation, that employee will not be eligible for a SETAL transfer as long as he/she is on probation. In aggravated situations involving any disciplinary matter where administrative action is warranted, an evaluation will be made on a case-by-case basis to determine if the circumstances warrant exclusion from consideration for a SETAL transfer.

Additionally, prior to effecting a SETAL transfer, the concurrence of the employee's division head must be obtained. Exigent operational necessity may, at times, provide a temporary basis to forestall the transfer or relocation of employees who possess critical skills. Release may also be temporarily denied when granting the request would have a significant negative impact on organizational efficiency or effectiveness. If an employee is denied release from his/her current office for more than 30 days, pursuant to a SETAL transfer, the concurrence of the Transfer Unit must be obtained.

(4) Requesting a SETAL Transfer

(a) Support employees are obligated to keep their SETAL preferences current and are only allowed to designate, or change, their preferences during January and July. Only one office of preference may be selected by each employee. Employees may also designate resident agencies (RAs) of preference, within their office of preference, or may designate RAs only, within their office of preference.

(b) The designation of an office of preference and/or RA(s) of preference on the SETAL must be accomplished through the submission of an FD-817 to the Transfer Unit (TU), Operational Support Section (OSS), Administrative Services Division (ASD).

(c) Support employees may remove their name from the SETAL at any time by submitting an FD-817 to the TU, requesting that their name be deleted from the SETAL. In order to avoid a one-year SETAL penalty, the request to remove a name from the SETAL must be received by the TU prior to a transfer offer.

(5) SETAL Transfer Procedures

(a) Identification of Vacancies - Each field office or FBIHQ division which is below its authorized support Funded Staffing Level (FSL) may request the transfer of general clerical personnel to their office by the submission of an EC to the TU, OSS, ASD. Offices may consider employees on the SETAL together with those listed on their Bureau Applicant Availability List.

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(b) Upon the concurrence of the Resource Management and Allocation Board (RMAB), the SETAL list for the requesting office will be reviewed and the most senior (based upon Bureau EOD) qualified employee on the SETAL will be offered a transfer. In instances where an office has requested a particular entry-level skill, such as a Bureau-approved typist, the most senior qualified employee on the SETAL with that skill will be offered a transfer. The employee must affirmatively respond within three days, excluding weekends and holidays, of receiving an offer for a SETAL transfer to remain eligible for transfer and avoid a one-year penalty.

(c) Upon receipt of SETAL transfer orders, the transferred employee may immediately compete or otherwise be selected for other positions in his/her new office. Employees who take a demotion in connection with their transfer are eligible to compete for positions at the highest grade level for which they satisfy all minimum qualifications (e.g., an employee with one year at grade GS-8 who demotes to a grade GS-4 position may be eligible to compete for grade GS-9 positions upon transfer to the new office, if they possess the requisite knowledge, skills and abilities and specialized experience).

(d) If a support employee declines a SETAL transfer offer, he/she will receive a one-year penalty from SETAL consideration, effective the date of the transfer offer declination. The receipt of the one-year penalty will be confirmed in writing by the TU and include the date the one-year penalty begins and expires. Support employees receiving a SETAL penalty may remain on the list, but will not be considered for a SETAL transfer until the expiration of the one-year penalty.

11-16.3 Bureau Spousal Transfers

(1) A Bureau spousal transfer is the transfer of an FBI support employee in order to allow that employee to maintain a common household with his/her FBI-employed spouse, who has been transferred to a different commuting area. Additionally, Bureau spousal transfers may be requested in order to allow two FBI employees to establish a common household upon their marriage or commitment to marriage. Without exception, approvable Bureau spousal transfers will be effected regardless of an office's FSL.

(2) Requesting a Bureau Spousal Transfer

(a) In the case of a request for a Bureau spousal transfer in order to accompany a spouse who has been transferred to a different commuting area, the affected employee should submit an electronic communication (EC) to the TU, OSS, ASD, requesting such a transfer. The EC should reference the spouse's transfer by name, destination, and Transfer Cost Number. It should also state the employee's willingness to accept a demotion to an entry-level position, if necessary, to bear all costs associated with the transfer and to be available for assignment to any shift.

(b) In the case of a request for a Bureau spousal transfer in order to allow two FBI employees to establish a common household upon their marriage or commitment to marriage, the employee interested in a transfer to his/her spouse's or intended spouse's location should submit an EC to the TU, OSS, ASD, requesting such a transfer. Proof of marriage or commitment to marriage (and the anticipated date of the marriage) should be provided with the EC. The EC should also state the employee's willingness to accept a demotion to an entry-level position, if necessary, to bear all costs associated with the transfer and to be available for assignment to any shift. The ASD will

determine which office the employees will be assigned to, consistent with staffing needs of those offices and the needs of the FBI. Transfers requested upon commitment to marriage will not be granted more than 30 days prior to the scheduled wedding date. In the event that a proposed marriage does not take place, the transferred employee will be required to return to his/her previous office of assignment.

(3) Placement in other than entry-level positions will be at the discretion of the receiving office based upon current vacancies. Additionally, upon receipt of Bureau spousal transfer orders, employees may immediately compete for other positions in their new office.

11-16.3.1 Deleted

11-16.3.2 Deleted

11-16.4 Non-Bureau Spousal Transfers

(1) A Non-Bureau spousal transfer is the transfer of an FBI support employee in order to allow that employee to maintain a common household with his/her non-FBI employed spouse. Non-Bureau spousal transfer requests will be accommodated when possible. Non-Bureau spousal transfers are contingent upon the approval of the RMAB. Non-Bureau spousal transfers will only be granted based upon proof of marriage.

(2) Requesting a Non-Bureau Spousal Transfer

(a) Support employees may request a Non-Bureau spousal transfer through the submission of an EC to the TU, OSS, ASD. The EC should state the employee's willingness to accept a demotion to an entry-level position, if necessary, to bear all costs associated with the transfer and to be available for assignment to any shift. Non-Bureau spousal transfer requests should not be submitted to the TU more than 90 days in advance of the desired transfer date.

(3) Placement in other than entry-level positions will be at the discretion of the receiving office based upon current vacancies. Additionally, upon receipt of Non-Bureau spousal transfer orders, employees may immediately compete for other positions in their new office.

11-16.5 Hardship Transfers (See MAOP, Part 1, 11-4, 11-4.1, 11-4.2, 11-4.3, 11-5, & 22-7.)

(1) Requests for hardship transfers must be forwarded to the TU, OSS, ASD, through the employee's division head. Documentation supporting the hardship and the recommendation of the division head must accompany the request. Additionally, all requests must contain a statement by the support employee that he/she is willing to accept a demotion to an entry-level position, if necessary, to bear all costs associated with the transfer and to be available for assignment to any shift (unless shift availability is precluded by the nature of the hardship).

(a) Medical Hardships - Generally, conditions existing prior to an employee's EOD will not form the basis for a medical hardship transfer. Medical hardship transfers may be granted, consistent with staffing needs, for articulated medical reasons, such as the need to be in a specific geographic area or near a specific medical facility to address the health needs of the employee, spouse, child, or legal dependent. All medical hardship transfer requests must be accompanied by detailed

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supporting medical documentation provided by the employee. Such documentation must include a diagnosis and prognosis for all medical conditions. Medical hardship transfer requests are reviewed by the Chief Medical Officer (CMO) at FBIHQ and in some instances by other specialists. Alternatives to a permanent transfer must first be examined, such as requesting a TDY hardship assignment. A medical hardship transfer request should not be the first course of action.

(b) Parental Hardships - Dealing with infirmities attendant with the aging process is a common experience to all employees with living parents and in-laws. As such, employees cannot expect hardship transfers for these circumstances. The ASD will, however, consider, with concurrent SAC approval, on a case-by-case basis, consistent with staffing needs, affording parental hardship transfers based on parental illness, when the illness creates a significant medical hardship. In making a transfer determination, the ASD will examine a number of factors to include, but not limited to: whether a TDY hardship assignment would alleviate the hardship; the parent(s)/in-law(s) ability to move to the location of the employee; medical facilities available at the employee's location; availability of other family members to assist parent(s)/in-law(s); availability of home care services and assistance of long-distance care organizations.

(c) Financial Hardships - Financial problems generally will not substantiate a hardship transfer. However, requests will be reviewed on a case-by-case basis, with concurrent SAC approval, to determine whether a transfer would help to alleviate the employee's financial problems. Financial hardship transfer requests must be accompanied by a professional written assessment of the employee's financial situation. The assessment must demonstrate the employee's inability to function at his/her current location and provide a functional plan to aid the employee in attaining financial stability. Such an assessment may be obtained through a private financial counseling entity, a public financial counseling entity or through the Employee Assistance Unit (EAU), ASD. The financial assessment should specifically address how a requested transfer would help to alleviate the employee's financial problems. Consideration should also be given to what effect the cost of the transfer and a potential demotion would have on the employee. Financial assessments made by other entities will be reviewed by the EAU and in some instances by other specialists.

(d) Child Custody Hardships: In situations where FBI personnel, who are parents of minor children, are divorced, subsequent to their entry on duty with the FBI, consideration will be given to the issuance of child custody hardship transfers on a case-by-case basis. In instances wherein an employee has court-ordered custody of, or visitation rights to, his/her children, limited to a specific locale, the Transfer Unit will make every effort to approve a transfer, subject to staffing requirements and the availability of funds. In all other instances, requests for transfers will be adjudicated based upon the totality of the circumstances. If appropriate, the Transfer Unit may consider a regional transfer as a means of addressing a child custody hardship transfer request.

The Transfer Unit will consider all pertinent facts in making transfer determinations, to include, but not limited to: (1) the well-being of the minor children; (2) the employee's legal rights/obligations to the children pursuant to a court order(s) or a court-authorized custody agreement; and (3) if appropriate, the extent to which the employee contested the order granting custody. All requests for transfers must be supported by appropriate documentation, such as pleadings, court orders, and/or medical/psychological reports.

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(2) Hardship Transfer Review Board - When a hardship transfer request is denied, the decision may be appealed by submitting a letter, within 15 days of the denial, to the ASD, FBIHQ, requesting that the transfer denial be reviewed by the support employee Hardship Transfer Review Board (HTRB). The HTRB has been established at FBIHQ, and is chaired by the Deputy Assistant Director, Personnel Assistance and Facilities Management Branch, ASD. The HTRB is comprised of Administrative Officers (AOs) from local field offices and representatives selected at random on a rotational basis from FBIHQ divisions. The HTRB will review each case and submit a recommendation to the Assistant Director, ASD, for final adjudication.

11-16.6 Special Position Personnel Resource List (PRL) Transfers (See MAOP, Part 1, 22-5.4, 22-7.) (Formerly 11-13.3)

Due to the unique nature of their positions, incumbents in the Special Surveillance Group (SSG) Program and the Language Specialist (LS) Program are eligible for consideration for personal convenience, no-cost, special position PRL transfers to offices of their preference. Special position PRL transfers for the SSG and LS programs are administered by the respective Program Managers, consistent with the following guidelines:

- (1) A position in the desired office must be available.
- (2) The Program Manager must reasonably expect to backfill the vacancy created by the employee's transfer, if necessary, with a newly hired employee or through another no-cost transfer.
- (3) Special position PRL transfers must be effected on a seniority basis pursuant to employees' length of service in the SSG or LS program. Once the employee has received a special position PRL transfer, his/her seniority level in the program for future special position PRL transfer consideration will be calculated from the effective date of his/her last special position PRL transfer, rather than his/her overall time in the program.
- (4) The Program Manager must maintain a formal list of personnel interested in special position PRL transfers. The list must be updated at regular intervals, pursuant to procedures which must be made known to all employees within the program.
- (5) Eligibility - In order to be eligible for a special position PRL transfer, the support employee must satisfy the following criteria:
 - (a) One year's continuous service with the FBI.
 - (b) A rating of "Meet Expectations" on his/her most recent performance appraisal.
 - (c) Agree to bear all costs associated with the transfer.
 - (d) Agree to work whatever shift is required by the receiving office.
 - (e) Be able to report for duty within 90 days of the issuance of transfer orders.
- (6) A support employee is ineligible for a special position PRL transfer if:
 - (a) He/She has consummated a transfer within the past three-year period.
 - (b) If an employee is censured and placed on probation, that employee will not be eligible for a special position PRL transfer while on probation. In aggravated situations involving any

disciplinary matter where administrative action is warranted, an evaluation will be made on a case-by-case basis to determine if the circumstances warrant exclusion from consideration for a special position PRL transfer.

(7) Exigent operational necessity may at times provide a temporary basis to forestall the special position PRL transfer or relocation of SSG or LS employees who possess critical skills. Release may also be temporarily denied when granting the request would have a significant negative impact on organizational efficiency or effectiveness. If an employee is denied release from his/her current office for more than 30 days, pursuant to a special position PRL transfer, the concurrence of the Transfer Unit must be obtained.

11-16.7 Bureauwide Posted Positions (Formerly 11-13.7)

(1) Some key positions, such as Administrative Officer and Telecommunications Manager, are required to be posted Bureauwide to ensure identifying an adequate pool of qualified candidates. In the event a field office is unable to identify an adequate pool of qualified candidates for other critical positions, in the commuting area where the vacancy is located, through internal posting and/or external recruitment, FBIHQ will consider a request to announce the vacancy to all offices in order to assist in filling such a position. Offices should submit such requests to the Staffing Unit (STAFU), Human Resource Management Section (HRMS), ASD, FBIHQ. Any transfer resulting from filling such vacancies will be considered in the best interest of, and for the convenience of, the Bureau. See Part 1, Section 7, of this manual or the Merit Promotion and Placement Plan User's Guide for guidance in determining the appropriate area of consideration for any support vacancy.

(2) In instances where the STAFU determines that there is inadequate justification to support a Bureauwide posting, vacancies may be filled through internal no-cost postings or through external recruitment. In such cases, the internal posting must specifically state that any resultant transfers will be at no cost to the Bureau.

11-16.8 Payment of Transfer Expenses

Costs incurred in connection with transfers made for the convenience of the Bureau will be borne by the government, consistent with the Bureau's policy for cost/no-cost transfer determinations, as set forth in MAOP, Part 1, Section 11-10. The vacancy announcement for a position filled through a competitive action should indicate under what circumstances the selectee will be eligible for reimbursement of relocation expenses. Costs incurred in connection with transfers made for the convenience of the employee will be borne by the employee (e.g., SETAL transfers, Bureau spousal transfers, Non-Bureau spousal transfers, hardship transfers, special position PRL transfers).

11-17 TEMPORARY DUTY ASSIGNMENTS (Formerly 11-14) (See MAOP, Part 1, 7-20.)

(1) Circumstances under which temporary duty (TDY) assignments for Special Agent (SA) and/or support personnel can be requested:

- (a) Unique specialties which the requesting division is unable to address from within its existing complement, such as language ability.
- (b) An investigation of such magnitude that the requesting division can justify additional personnel.

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(2) Requirements that must be met before requesting a TDY assignment. The only requirement necessary in TDY requests for unique specialties is a demonstrated deficiency in that speciality. Otherwise, the following requirements apply to TDY requests for additional investigative/support personnel in cases of such magnitude wherein such assistance is deemed necessary. The requesting division is to:

- (a) Cancel all extended annual leave.
- (b) Curtail in-service training during the pertinent period of time.
- (c) Curtail the physical training program during the pertinent period of time consistent with workload demands.
- (d) Ensure all available personnel from the existing on-board complement are fully occupied on priority work.

(3) Procedures for requesting TDY assignments. All requests must be supported by specific documentation which should be communicated to FBIHQ at the earliest possible time. Whenever there is an initial request for five or more TDY personnel in support of the same investigative matter, approval must be obtained from the Executive Assistant Director with program responsibility over the investigative matter in coordination with the Administrative Services Division (Transfer Unit). Such authority must also be sought each time a request for less than five TDY personnel increases the cumulative number of TDY personnel dedicated to an investigative matter to more than five.

(a) The Transfer Unit (TU), Administrative Services Division (ASD), is to be advised of all Agents designated for any operational TDY assignment in excess of seven calendar days. This will also include TDY assignments to contiguous divisions and intradivisional TDY assignments on SAC authority. This requirement is not applicable to travel outside of the division that is related to Special Operations Group (SOG) assignments, training, court appearances, or administrative duties.

(b) Requests for TDY assistance from SA or support personnel are to be supported by specific documentation and communicated to FBIHQ at the earliest possible date.

1. The communication is to be directed to the appropriate investigative division with a copy to TU, ASD.

2. Deleted

3. Request for SAs with foreign language abilities are to be directed to the Language Services Section, Office of International Operations (OIO), with a copy each to the appropriate investigative division and TU, ASD.

(c) Special Support Personnel:

Requests (with appropriate documentation) are to be directed to the Program Manager in the appropriate division, with a copy to the TU, ASD. Divisional responsibility is as follows:

Accounting Technicians - (See Financial Assistants) Auto Maintenance Technicians - Fleet Management and Transportation Services Unit, Finance Division Electronics Technicians - Investigative Technology Division Financial Assistants/Financial Analysts - Financial Crimes

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Section, Criminal Investigative Division (CID) Intelligence Information System Analysts - Counterintelligence Division Intelligence Analysts for drug or organized crime cases - CID Investigative Assistants (IA) - CID Language Specialists - Language Services Section, OIO Legat Personnel - OIO Pilots - Aviation and Special Operations Section, Critical Incident Response Group (CIRG) Special Surveillance Group (SSG), Special Operations Assistants (SOA) - Counterintelligence Division

(d) General Support Personnel:

Requests (with appropriate documentation) are to be directed to the TU, ASD, and the proper FBIHQ division with investigative and/or administrative oversight for the matter creating the need for assistance. Documentation should include steps taken by the division in an attempt to address the work situation which has created the need for assistance. Once approved, the TU will coordinate a canvass of pertinent divisions for available qualified personnel based on the expressed needs of the requesting division. General support includes office automation clerks/assistants, confidential clerks (OA), file clerks, Information Management Assistants, secretaries, data loaders, etc.

(4) To ensure necessary administrative steps are taken within the automated Bureau Personnel Management System, field offices and FBIHQ divisions requesting TDY general or special support assistance should ensure that the TU, ASD, is properly notified of the dates the assignment begins and ends. Requests for extensions for both SA and support TDY assignments should be submitted as soon as possible, preferably 30 days in advance, to allow for appropriate notification of all entities involved in administration of TDY assignments, e.g., Budget, Payroll, etc.

(5) Time and attendance responsibilities for TDY personnel should be assumed by the requesting office upon arrival of TDY personnel and continue through the entire TDY assignment. Time and attendance responsibilities will be reassumed by the home office on the first day following the conclusion of the TDY assignment. It is the responsibility of the requesting office to notify the TU and the home office prior to or immediately following the conclusion of a support TDY assignment to ensure administrative pay procedures are redesignated to the employee's official office of assignment. However, if the TDY assignment is to FBIHQ/Legat for a field Agent (GS-10 through GS-13 or GS-14 Chief/Associate Division Counsel) or an investigative support employee who TURKs, then the home office is responsible for the entry of the time and attendance and TURK data.

(6) Overtime for special and general support personnel must be requested and approved in advance. In the field these requests should be coordinated through the Administrative Officer's administrative staff, who should direct requests to FBIHQ, Attention: Budget Execution Unit, Finance Division.

(7) Travel costs and per diem will be at the expense of the requesting office in cases where requested assistance is for the purpose of maintaining normal field office operations. In the event of a Major Case, Special Event or other significant investigative and/or administrative matter where the appropriate FBIHQ division has made arrangements for appropriations, travel expenses may be covered by the Special Travel Reserve. In these instances, travel expenses will be charged to a specific account number which will be provided by TU at the time all TDY arrangements are made.

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Failure to use this account number will result in all expenses being absorbed by the employee's official office's existing travel budget. There will be no recourse.

(8) Employees who will be on TDY in excess of 14 days, who do not have automatic deposit and who desire their Earnings and Leave Record to be forwarded to their TDY office of assignment, should execute Form FD-655 and submit to the Accounting Section, Payroll Administration and Processing Unit, FBIHQ, as soon as possible. In those cases where time does not permit routine submission of the FD-655, the employee must contact the Payroll Administration and Processing Unit as soon as possible.

(9) All correspondence captions should include the phrase "Temporary Assistance (TDY)," with reference to pertinent case title(s), field office file number(s) or Universal Case File Number and/or FBIHQ file number, if known. SSG/SOA correspondence must include the case title.

Correspondence in response to a canvass or ongoing TDY assignment should include the employee's official Bureau name, specialty, title, and social security number. In all cases, the designation of copies should include the Administrative Officer.

It is recommended that divisions establish administrative control files to track all TDY requests for assistance as well as assistance provided to other divisions of special and/or general support personnel.

(10) Personal convenience/hardship TDY assignments for SUPPORT PERSONNEL will continue to be considered on a case-by-case basis and should be coordinated with TU, ASD. All travel and per diem costs associated with this type of assignment are at the expense of the requesting employee. Such assignments are normally arranged for an initial period of up to 30 days, but can be for a shorter period. Extensions of up to 30 additional days will be considered based on the individual's situation and the needs of both offices. (See MAOP, Part 1, 11-5.)

11-17.1 Procedures for Recording Interest in TDY Assignments to Legat Attache (Legat) Offices (Formerly 11-14.1)

SA and/or support personnel who are interested in TDY assignment to a Legat office should prepare a Form FD-826 to their immediate supervisor expressing their interest. The FD-826 should include specific skills, language ability, etc., that the employee possesses which would be beneficial in a Legat office and should also specify which area of the world the employee is interested in serving (i.e., Far East, Europe, or the Americas). It will be left to the discretion of each supervisor which FD-826's are forwarded to the SAC or Assistant Director for review and final approval. Once approved by the SAC or Assistant Director, the employee's name should be forwarded to the Division's Administrative Office for entry into the Bureau Personnel Management System (BPMS). The Liaison and International Affairs Section (LIAS), Criminal Investigative Division, which manages Legat operations, will run periodic reports of employees expressing interest in foreign TDY assignment and, when a Legat requires TDY assistance, will contact the appropriate SAC or Assistant Director to determine the availability of qualified employees who have expressed an interest in that particular Legat office.

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11-18 DETAIL ASSIGNMENTS OF EMPLOYEES OUTSIDE THE FBI (Formerly 11-15)

The Office of Personnel Management (OPM) and Department of Justice (DOJ) require prior approval before an employee may be detailed to another position, particularly if the employee is being detailed from an excepted service position to a competitive service position. This approval requirement is mandated by Civil Service Rule 6.5 which stated that "No person who is serving under an excepted appointment shall be assigned to the work of a position in the competitive service without prior approval of OPM." (See MAOP, Part I, 1-28, for conduct of employees on detail.)

11-18.1 Details Within the DOJ (Formerly 11-15.1)

(1) If the position to which the FBI employee is to be detailed is another excepted service position, details can be made in 120-day increments up to a maximum total detail of one year. Extensions beyond one year will then require prior OPM approval.

(2) If the position to which the FBI employee is to be detailed is a competitive service position, prior OPM approval of the proposed detail is required.

11-18.2 Details Outside the DOJ (Formerly 11-15.2)

Any proposed detail (or extension of same) of an FBI employee to an organization outside the DOJ for 30 days or more must be submitted for approval of the Deputy Attorney General (DAG) through the Justice Management Division, DOJ.

(1) If the position to which the FBI employee is to be detailed is another excepted service position, only the DAG approval is necessary.

(2) If the position to which the FBI employee is to be detailed is a competitive service position, prior OPM approval of the proposed detail is also required.

11-18.3 Procedures for Approval (Formerly 11-15.3)

(1) In order to determine what approval is required, it will be necessary to obtain an official position description from the agency to which the employee is being detailed. This position description must be reflective of the duties the employee will be performing with the other agency and should indicate whether the position is in the excepted or competitive service.

(2) Requests for approval must be submitted to the Staffing Unit, Human Resource Management Section, Administrative Services Division, with sufficient time to seek the appropriate approval from either DOJ or OPM. DOJ approvals average three weeks. OPM approvals usually take longer.

(3) To alleviate problems concerning the information needed to detail an employee, the following must be provided to Staffing Unit, Administrative Services Division:

- (a) The employee's official Bureau name, title, and grade.
- (b) The name of the organization to which the detail is proposed.
- (c) The proposed beginning and ending dates of the detail.

(d) An official position description from the agency to which the employee is being detailed. This position description must be reflective of the duties the employee will be performing with the other agency and should indicate whether the position is in the excepted or competitive service.

(e) Reimbursable or nonreimbursable arrangement. A memorandum of understanding/reimbursable agreement must be submitted to Administrative Services Division from the requesting agency advising of all items being reimbursed with a contact (name, address, and telephone number) in order for the FBI to bill the requesting agency.

(f) The purpose of the detail and individual organizational benefits.

(4) Upon arrival in the other agency, a Notification of Personnel Action (SF-50) will be prepared which will include the time limitations of the detail. Although the employee's cost center will change to reflect assignment to another agency, the employee will be headquartered to the division that is requesting the detail. This division will be responsible for continuing any administrative matters (i.e., time and attendance records, Bureau correspondence, etc.) for the employee.

The determination as to whether detailed Special Agents will be counted as part of a division's Funded Staffing Level will be made by the Resource Management and Allocation Board.

11-18.4 House Appropriations Committee - Surveys and Investigations Staff (See MAOP, Part I, 3-8.) (Formerly 11-15.4)

11-18.4.1 Introduction (Formerly 11-15.4.1)

(1) Many of the programs handled by the House Appropriations Committee - Surveys and Investigations Staff (hereinafter referred to as Staff) have national or worldwide significance and can include such studies as national energy problems, military readiness and deployment and worldwide intelligence activities. The responsibilities inherent in this highly visible, complex and important assignment require individuals who have strong potential to develop executive ability in order to accomplish the desired ends of the committee. Individuals considered for selection must exhibit personal responsibility; have initiative, resourcefulness and versatility; and possess outstanding qualities of logic, perception and organizational and literary ability. Special Agents assigned to the Staff will be dealing with persons representing the highest level of Government and, therefore, it is imperative that they be capable of representing the FBI in an outstanding manner.

(2) The Surveys and Investigations Staff is directed by an Executive Staff composed of a permanent Chief, a Director and two Assistant Directors. The Director and two Assistant Directors are selected from the ranks of the FBI and GAO.

11-18.4.2 Selection Process (See MAOP, Part 1, 3-8 (5).) (Formerly 11-15.4.2)

(1) Requests for Staff personnel will be made known to the Assistant Director, Administrative Services Division, who will cause to be posted a "Notice of Vacancy" communication to appropriate field divisions. Applicants should submit completed FD-638 to FBIHQ, Attention: Transfer Unit. The Staff's senior FBI representative will then advise the Assistant Director, Administrative Services Division, of his/her preference of the respondents to the posting. Upon approval from FBIHQ, Agents selected will be detailed for an initial mutual evaluation period of up to 90 days. The decision to transfer an individual in the event his/her office is not contiguous to

Washington, D.C., will be a negotiable point between FBIHQ, the Chief of the Staff and the individual involved through discussion with him/her.

(2) Agents considered for a Staff assignment will be selected from those nonsupervisory Special Agents with an experience level of GS-12 or above. It would be beneficial if candidates possessed prior commissioned military officer experience, auditing/accounting, or a procurement background. Preference would be given to relief supervisors who are currently in the EDSP. Agents selected for this assignment will be retained on the rolls of the FBI and will continue to be eligible for AVP compensation.

11-18.4.3 Promotion (See MAOP, Part I, 3-8(3).) (Formerly 11-15.4.3)

(1) Individuals selected for assignment to the Staff as team members may be considered for a "term promotion" to the position of Supervisory Team Leader (GS-14); however, it is to be clearly understood that only a limited number of these positions are available. Therefore, promotional opportunities are limited. The term promotion is for the duration of the Staff assignment. Candidates must compete for such term promotions by submitting an FD-954 to the Special Agent Mid-Level Management Unit, EDSP, in response to the advertised vacancy announcement. Recommendations for promotion to the position of Supervisory Team Leader will be furnished to the chairperson of the SAMMS Board, FBIHQ, for their approval. An FBI employee who completes his/her Staff time and has advanced to the GS-14 term promotion status will return to the FBI at the same grade that they would have been if they had not left the agency and had continued in the normal "in-house" career path. However, these individuals will be given every consideration for promotion upon their completion of the Staff assignment if positions are available and they possess the necessary qualifications.

(2) Individuals selected for assignment to the Executive Staff (Director and Assistant Directors) are reviewed by the SAMMS Board. The Assistant Director on the Surveys and Investigations Staff will be selected from the ranks of Supervisory Special Agents currently in the EDSP. The individual selected will be initially placed in a Team Coordinator role for a period not to exceed 120 days. Upon mutual agreement to remain in the position, his/her name will be forwarded to the SAMMS Board as the designated Assistant Director, Surveys and Investigations Staff, GS-15. At the SAMMS Board's discretion, the promotion to GS-15 would be temporary for the duration of the assignment with reversion to GS-14 upon return to the FBI or a permanent promotion to GS-15 as long as FBIHQ agrees to place the employee in a GS-15 position upon his/her return. Upon approval for this position, he/she will be removed from the rolls of the FBI for the three-year assignment. Upon completion of their assignment, FBI members of the Executive Staff will be returned to FBIHQ and assigned as determined by the SAMMS Board.

11-18.4.4 Length of Assignment (Formerly 11-15.4.4)

All individuals, following the initial 90-day evaluation period, will be detailed to the Staff for assignment of up to four years. Only under special circumstances will any team member's assignment be extended beyond the four-year limit. Staff members who advance to the Team Leader level will be allowed a one-year extension or a maximum of five years' total assignment.

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Also see "House Appropriations Committee - Surveys and Investigations Staff," Part I, Section 3-8, "Career Development Matters," of this manual.

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SECTION 12. MOTOR VEHICLE OPERATION AND ACCIDENTS

**EffDte: 02/28/1978 MCRT#: 0 Div: D3D9FD Cav: SecCls:

12-1 OPERATION OF MOTOR VEHICLE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-21-2007 BY 60324 AUC BAW/CPB/STP

**EffDte: 06/09/1986 MCRT#: 0 Div: D3 Cav: SecCls:

| 12-1.1 |Motor Vehicle Operators

| Special Agent and Non-Agent personnel must possess an FBI
| Identification Card or Credential and meet the certification
| requirements listed below in Sections 12-1.2 through 12-1.2.5. |

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| 12-1.1.1 |Deleted|

**EffDte: 06/05/1996 MCRT#: 554 Div: D3 Cav: SecCls:

| |12-1.1.2 Summer Employees and Honor Interns

| A summer employee is not to be authorized to operate
| government-owned/leased motor vehicles under any circumstances. An
| Honors Intern employee can be authorized to operate government-
| owned/leased motor vehicles provided he/she meets the certification
| requirements listed in MAOP, Part I, 12-1.2 through 12-1.2.5. |

**EffDte: 05/22/1996 MCRT#: 549 Div: D3 Cav: SecCls:

| 12-1.2 Requirements for|Operators to Drive Government-Owned/Leased Motor Vehicle (See MAOP, Part I, 12-1.1, 12-1.1.2 and 12-1.5.)|

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| 12-1.2.1 Valid State or Local Operator's License |(See MAOP, Part I, 12-1.1, 12-1.1.2, and 12-1.5.)|

(1) Each employee must have a valid operator's permit issued by state or local authorities where the employee is domiciled, or principally employed, before he/she can obtain authorization to operate a government-owned/leased motor vehicle.

(2) |Deleted|

**EffDte: 06/05/1996 MCRT#: 554 Div: D3 Cav: SecCls:

| 12-1.2.2 Physical Fitness Report (Optional Form (OF) 345, formerly Standard Form (SF) 47) (See MAOP, Part I, |12-1.1, 12-1.1.2, 12-1.4, and 12-1.5.)|

All employees driving government-owned/leased motor vehicles must be certified as physically fit. The OF-345, formerly SF-47 (Physical Fitness Inquiry For Motor Vehicle Operators), must be submitted by all non-Agent employees requesting authorization to operate a government-owned/leased motor vehicle.

(1) Non-Agent personnel should fill out this form and it should be placed in the employee's personnel file. The OF-345, formerly SF-47, for field personnel will be initiated by their respective field offices and maintained in the employee's field personnel file. Since Special Agent personnel receive either an annual or triennial physical examination, Special Agents are not required to execute the OF-345, formerly SF-47. Special Agent personnel need only to execute the FD-288 for certification to operate a government-owned/leased motor vehicle.

(2) Division heads or SACs are responsible for ensuring that only employees physically fit are permitted to operate a government-owned/leased motor vehicle. An affirmative answer to any question on the OF-345, formerly SF-47, will require the reviewing official to determine whether a physical examination is necessary. Where doubt exists concerning the operator's physical fitness, the case should be resolved in favor of a physical examination.

(3) FBIHQ must be promptly advised of any employee who has been restricted from driving for any physical reason. Each case is then to be followed closely and when the restriction has been removed, by proper medical certification, FBIHQ is to be advised.

(4) Any employee whose vision is corrected by glasses to meet the required standards must be specifically instructed he/she may operate a government-owned/leased motor vehicle only when wearing corrective lenses. Such restrictions should also be noted on the employee's FD-288.

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12-1.2.3 Driving Certification (FD-288) (See MAOP, Part 1, 12-1.1, 12-1.1.2, 12-1.4, and 12-1.5.)

Form FD-288 (Driving Certification) is to be filled out upon request by any employee requesting authorization to operate a

government-owned/leased motor vehicle or requesting recertification every four years thereafter to operate a government-owned/leased motor vehicle. FBIHQ will advise the field by SAC Memorandum when FD-288 (Driving Certification) completion is necessary for recertification of Agent personnel. Non-Agent personnel will be recertified in the four-year anniversary month to the employee's original certification to operate a government owned/leased motor vehicle.

(1) Agent and non-Agent personnel should fill out this form and it should be placed in the employee's field personnel file. | Field offices shall not send their FD-288s to FBIHQ, | Facilities Management Section. | At FBIHQ, each division head or office head is to ensure that executed FD-288s for non-Agent personnel are forwarded to | the | Facilities Management Section | for review, approval, and | processing. New | Agent trainees assigned to the Training Division are not required to complete an FD-288 since the certifying information has been previously obtained through the applicant investigation and selection process.

(2) If at any time a question arises concerning the past safe-driving record of an employee, the division head or SAC must carefully review all aspects of the case and determine whether or not this employee must take a road test before he/she may be authorized to operate a government-owned/leased motor vehicle incidental to his/her official duties.

(3) Any restrictions on an employee's state, District of Columbia, or a territory of the United States driving permit, i.e., "valid only when wearing glasses," etc., must be noted on the FD-288 and on the government driving permit.

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| 12-1.2.4 Road Test (FD-288) - Requirement and Administration |(See MAOP, Part I, 12-1.1, 12-1.1.2, and 12-1.5.)|

Certification may also be made by official FBI road test. | | Division heads or SACs, except at FBIHQ, may waive the road test | requirement for operators of vehicles of one-ton capacity or less and

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| for incidental operators of any class vehicle, who possess a current
| driver's license from one of the 50 states, District of Columbia, or
| Puerto Rico, where the employee is domiciled or principally employed.
| Division heads or SACs may not waive the road test requirement for any
| category of operators cited in 12-1.2.4 (2).| If the employee
qualifies through the road test, notation to this effect should be
made on Form FD-288.

(1) The following road test regulations are to be followed unless they conflict with state laws or regulations of local authorities in the state where employee is principally employed.

(a) The official FBI road test procedures are contained in Form FD-288, operator's road test.

(b) The form provides a systematic method of determining employee proficiency in operating a motor vehicle properly and safely under both adverse and normal conditions.

(2) The test will be used to determine the driving ability of employees in the following categories:

(a) Those employees charged with moving violations involving driver performance or who become involved in an accident in which they are found to be at fault while operating any motor vehicle on personal or government business. Those employees are to be road tested only when it is considered necessary to redetermine their driving competency before they are allowed to continue driving motor vehicles in the performance of official duties.

(b) Employees undergoing training in New Agent's class. Those employees are to be tested by the Training Division to evaluate basic driving fitness.

| (c) Employees who are to drive|any buses, panel
| vans, passenger vans, law enforcement vehicles, emergency vehicles,
| any vehicles of more than one-ton capacity, and any vehicles used for
| the transportation of hazardous materials|are to be road tested as
required with the type of vehicle to be operated by them.

(3) Administration of road test to Agent and non-Agent personnel.

(a) Tests shall be administered to investigative personnel by Special Agent examiners.

(b) Tests administered to noninvestigative employees may be given by support personnel assigned to automotive inspection duties, provided the division head or SAC indicates such employees are fully qualified to perform this work.

(c) An employee is considered competent as an examiner if: he/she has operated a motor vehicle of the type to be used in the test for a distance of at least 3,000 miles during the previous three-year period; he/she is considered to be an above-average driver; and he/she has passed the FBI road test

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satisfactorily.

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12-1.2.5 Road Test - Failure

Employees failing the test should be so advised by the division head or his/her assistant (SAC or ASAC) who should point out the deficiencies of their driving and advise them that the deficiencies must be corrected within a reasonable time by instruction and practice obtained on their own time, using a non-Government-owned vehicle.

(1) Employees may not operate any motor vehicle on official business during this interim period.

(2) Employees should advise the division head or SAC within a two-week period that remedial action has been completed so that a second test may be scheduled.

(3) Support personnel failing a second test will be eliminated for a period of thirty days from being considered for further opportunities to qualify to drive Government-owned/leased vehicles.

If the support person occupies a position which requires driving a vehicle, FBIHQ should be advised of the employee's failure to pass the FBI road test, setting forth UACB recommendation as to further action to be taken. FBIHQ should be advised of what duties are being assigned to the employee while he/she is in a nonqualified status as a driver of Government-owned/leased vehicles.

(4) The second road test should not be given to an employee by the same examiner.

**EffDte: 06/09/1986 MCRT#: 0 Div: D3 Cav: SecCls:

12-1.3 Procedures to Identify Employees Authorized to Operate Government-Owned/Leased Motor Vehicle

At FBIHQ, each division head or office head is to ensure that executed FD-288 and OF-345, formerly SF-47, are forwarded to the Facilities Management Section for final review, approval, and processing. Each field office will prepare the appropriate forms (OF-345, formerly SF-47, and FD-288) for their respective employees. Each field office is responsible for the certification and periodic review of the competence and physical qualifications of their respective employees. After certification, each field division is to file the

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FD-288 and the OF-345 in the employee's personnel file in their field office. Do not send the original or a copy to FBIHQ, Facilities Management Section.

**EffDte: 11/07/2002 MCRT#: 1243 Div: D3 Cav: SecCls:

| 12-1.4 |Recertification|of|Authorization to Operate a Government-Owned/Leased Motor Vehicle|

| Recertification of authorization to operate a government-owned/leased motor vehicle must occur at least once|every four (4) years.

(1) Forms OF-345 (formerly SF-47) and FD-288 should be filled out in accordance with 12-1.2.2 and 12-1.2.3 by employees who drive government-owned/leased motor vehicles.

(2) These forms are to be reviewed by the division head or SAC to ensure that employees still meet the necessary requirements to operate a|government-owned/leased|motor vehicle.

(3) A road test is not mandatory for renewing an employee's authorization to operate a vehicle on official business when he/she has a safe driving record.

If there is a question or doubt about the employee's safe driving record the division head or SAC should adhere to 12-1.2.3, subparagraph (2).

**EffDte: 06/05/1996 MCRT#: 554 Div: D3 Cav: SecCls:

12-1.5 Suspension of Driving Privileges

In any case where a question arises concerning an employee's fitness to drive, the division head or SAC must carefully review all aspects of the case and make a final determination. In all cases, a recommendation should be submitted to FBIHQ UACB as to whether the employee is to be allowed to operate a motor vehicle incidental to his/her official duties on the strength of his/her record or whether he/she must be given a road test to do so. This communication must also contain any recommendation for other disciplinary action FBIHQ should take with respect to the employee involved.

(1) The AUTHORIZATION of any Bureau employee to operate a motor vehicle incidental to his/her official duties shall be immediately suspended and FBIHQ advised, when:

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(a) The examining medical officer finds that the employee fails to meet the required physical standards and the disqualifying defect is of a permanent nature.

(b) The employee's state or local license is suspended or revoked.

(c) The employee is convicted of operating a motor vehicle under the influence of narcotics.

(d) The employee is convicted of leaving the scene of an accident.

(e) Any arrest for violations described in subparagraphs (c) and (d) must be reported immediately to FBIHQ as set out in this manual, Part I, Section 13, entitled "Disciplinary Matters."

(f) Immediately following an employee's arrest or administrative finding of driving while under the influence (DUI) or while intoxicated (DWI). (See MAOP, Part I, 1-30.3.)

(g) In alcohol-related misconduct cases involving the use of a motor vehicle, a presumption will exist that there is a necessity to suspend the employee's privilege to operate a government-owned/leased motor vehicle for a period of not less than ONE YEAR following such offense. This suspension will occur regardless whether the nature of the employee's motor vehicle offense has been reduced as a result of judicial review, plea bargaining, or the employee's entry into a diversion or substance abuse program. (See MAOP, Part I, 1-3.1 and 1-30.3.)

(2) CONSIDERATION for suspension of any Bureau employee from operating a motor vehicle incidental to employee's official duties when any one of the following conditions applies:

(a) It is determined by medical examination that the employee fails to meet physical standards, but the defect is considered to be of a temporary or correctable nature.

(b) While operating a motor vehicle on official or personal business, the employee is involved in a traffic violation other than a parking violation, or is involved in an accident in which employee is found to be at fault.

(c) The employee improperly operates the motor vehicle assigned to him/her.

(3) An employee whose driving privilege is suspended shall not be reauthorized to drive a government vehicle without FBIHQ approval. This authority will be granted only after all FBI, state and local requirements, as outlined under 12-1.2 have been met.

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12-1.7 Traffic Violations

(1) Division heads and SACs must advise FBI Headquarters of the issuance of traffic tickets, subpoenas or warrants to FBI employees while driving in the following situations:

(a) Only aggravated traffic violations incurred while driving a privately owned automobile, which have resulted in the employee's being arrested by local authorities and all instances involving the issuance of a traffic citation wherein the use of alcoholic beverages is cited as part of or being a contributing factor in the offense, i.e., Driving While Intoxicated (DWI), Driving Under the Influence (DUI).

(b) Any traffic violation, no matter how minor in nature, received while operating a Bureau vehicle or while performing in a duty status.

(2) An employee who receives a traffic citation in one of the above-mentioned situations must advise his/her immediate supervisor of any violations promptly. Any situation in which the employee is in doubt as to the reporting requirement is to be resolved in favor of reporting the incident for a supervisory determination.

(3) Any employee who takes any action to have a citation for a traffic violation canceled or adjusted will be subject to severe administrative action.

**EffDte: 06/09/1986 MCRT#: 0 Div: D3OP Cav: SecCls:

12-2 ACCIDENTS

**EffDte: 08/25/1989 MCRT#: 0 Div: FD Cav: SecCls:

12-2.1 Reporting Requirements

**EffDte: 08/25/1989 MCRT#: 0 Div: FD Cav: SecCls:

12-2.1.1 Employees to Division Head or SAC

Each division head or SAC must be promptly notified of all accidents involving Bureau employees while driving either Government or personally owned motor vehicles.

**EffDte: 08/25/1989 MCRT#: 0 Div: FD Cav: SecCls:

12-2.1.2 To FBIHQ

FBIHQ must be promptly advised of all accidents involving vehicles engaged in official business except in cases in which no personal injury is involved, no damage to third party property and property damage to Bureau vehicle(s) does not exceed \$500. In these excepted cases in which an employee is considered at fault, appropriate notation concerning accident must be placed in employee's field personnel file and FBIHQ advised so copy may be placed in employee's FBIHQ personnel file.

**EffDte: 08/25/1989 MCRT#: 0 Div: FD Cav: SecCls:

12-2.2 Investigations and the Reports

**EffDte: 08/25/1989 MCRT#: 0 Div: FD Cav: SecCls:

12-2.2.1 Need for Investigation

(1) Accidents involving motor vehicles engaged in official business in which no personal injury is involved, no damage to third party property and property damage, if any, to Bureau vehicle does not exceed \$500 need not be investigated unless circumstances indicate desirability of investigation, which determination is SAC's personal responsibility. In those cases where there is no damage to the Bureau vehicle but liability is placed on the U.S. government, an accident report must be done. Any question of liability should be reviewed by the Chief Division Counsel (CDC).

(2) Anytime an accident occurs while utilizing a Bureau vehicle, it will be incumbent upon each office to determine the state law for that particular state regarding the reporting of accidents and ensure the submission of any required forms to local and/or state authorities.

(3) Any accidents involving injury to or damage to property of third party must be promptly and thoroughly investigated. Particular care should be exercised to ensure extent of property damage is properly estimated.

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(4) All other accidents involving FBI personnel while on official business must be completely investigated by an Agent who was not the driver, an occupant, or witness. However, driver of Bureau vehicle involved in accident, or other employees present, should always be alert to possibility of procuring statements from driver of other vehicle and witnesses immediately after accident.

(5) An accident control file should be established in each field office for those accidents which are not reportable to FBIHQ or do not require a detailed investigation for damages over \$500:

(a) A nonreportable accident is an incident where damages to the Bureau vehicle are under \$500 and there is no government liability. For this type of accident, there is no requirement that FBIHQ be advised. This includes those accidents where the damage to the Bureau vehicle is under \$500 and liability rests with the other party involved. Collection procedures involving these accidents will be handled at the discretion of the CDC. An electronic communication (EC) summarizing the accident and Standard Form (SF) 91, Operator's Report of a Motor Vehicle Accident, should be recorded in the control file.

(b) For those accidents over \$500 where the Bureau vehicle is the only identified vehicle, and there is no possibility of a Federal Torts claim being filed by another party, an EC with appropriate enclosures should be forwarded to FBIHQ. Appropriate enclosures should include SF-91 of the Bureau driver, police report (if one exists), and estimates for repair of the Bureau vehicle. This EC should be filed in the accident control file. This would include those accidents involving animals; hit-and-run accidents where the other party is not identified; other FBI vehicles; or those instances where medians, curbs, poles, road debris, and building structures are struck by the Bureau vehicle. If there exists a possibility that a Federal Torts claim will be filed, a detailed investigative report (FD-204 and FD-263) must be forwarded to FBIHQ.

**EffDte: 02/14/2000 MCRT#: 952 Div: FDD9 Cav: SecCls:

12-2.2.2 Assignment of Investigations

Investigations must be assigned to experienced Agents who must be entirely familiar with all Bureau requirements relating to these matters.

(1) Agents investigating these matters must always bear in mind possibility of suits being brought against Government as a result of accident.

(2) Investigations and reports must be completely objective.

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(3) Investigations must be vigorously, speedily, and thoroughly conducted and FBIHQ kept advised of all developments.

**EffDte: 08/25/1989 MCRT#: 0 Div: FDD9 Cav: SecCls:

12-2.2.3 Deadline for Submission of Reports and Copy Count

Reports of complete investigation must be submitted to FBIHQ within ten working days after the accident. If impossible to complete investigation within that period, FBIHQ must be promptly notified, giving reason for delay. Reports should be submitted in triplicate to FBIHQ, Attention: Automotive Management Unit, Room 6863. When applicable, the following enclosures should also be submitted in triplicate: SF-91, Operator's Report of Motor Vehicle Accident; SF-94, Statement of Witness; and all repair estimates. Photographs of damaged vehicles and/or other damaged property should be submitted in duplicate.

**EffDte: 08/25/1989 MCRT#: 0 Div: FD Cav: SecCls:

12-2.2.4 Need for Accident Report

Reports must be submitted in all accident matters which require investigations, especially for those cases where liability rests with the U.S. Government.

**EffDte: 08/25/1989 MCRT#: 0 Div: FDD9 Cav: SecCls:

12-2.2.5 Cover Page for Report

In every instance it is mandatory that following information be set forth in cover page(s) accompanying initial report:

(1) Exact nature of assignment of Bureau employee(s) in Bureau vehicle at time of accident, including title of case to which assigned.

(2) Origin and destination of Bureau vehicle at time of accident, including justification for route being taken.

(3) Full identification of and accounting for presence of each person in Bureau vehicle.

(4) If Bureau vehicle on surveillance, exact location of subject at time of accident. If surveillance or any other

circumstances, such as weather or surface conditions, in any way contributed to accident, furnish details.

| (5) The title for the case must show the Bureau car
| number, year, make and model of the Bureau vehicle, official Bureau
| payroll name of the Government driver(s), and date of the accident.
| The field office car number assigned to the Bureau vehicle should not
| be included in the title nor should any information regarding the
| other party(s) involved in the accident unless there are other Bureau
| vehicles involved.

| (6) Driver training information should be included in the
| cover pages of the report. List date for all training received at the
| Emergency Vehicle Operations Center (EVOC) whether it be through in-
| service or New Agents basic training.

| (7) If the Bureau vehicle is a rental or leased vehicle,
| then the substantive case title and file number under which rental
| authority was approved should be included on the cover page. If
| vehicle is rented under SAC authority (i.e., under 30 days), then this
| should be noted. Any vehicle which has been rented for more than 30
| days should have a Bureau car number assigned to it and FBIHQ
| approval. (See Part II, Section 6-8.10 of this manual.)|

**EffDte: 09/21/1993 MCRT#: 87 Div: FDD9 Cav: SecCls:

12-2.2.6 Reports Must Show

(1) Year, make, model, and motor number of vehicles
involved

(2) Date, time, and place of accident

(3) Description of accident scene. Photographs submitted
in duplicate and/or diagrams are highly desirable. Such photographs
or diagrams should be properly identified to clearly indicate
directions vehicles traveling, point of impact, and any other
pertinent information. Avoid administrative data which should be set
out only on cover pages of report.

(4) Visibility, weather, road conditions, and type of
road surface

(5) Pertinent distance and speeds of vehicles

(6) Whether vehicle equipped with chains or snow tires,
if pertinent. It is SAC's responsibility to establish office policy
regarding use of chains or snow tires.

(7) Complete details as to how accident occurred,
including statements of drivers, passengers, and all witnesses.
Interview results of employee-driver must be specific and in-depth
with regard to the circumstances of the accident. Signed statements,

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witnessed by Agent, should be obtained where possible from drivers of other vehicles involved, passengers, and witnesses. When signed statement not obtained, report should state specific efforts made to procure same, as well as identity of negative witnesses. Since this would at most result in civil proceedings, interviews need not include warnings as required in criminal cases.

(8) Existing traffic controls and pertinent local traffic regulations governing the actions of the drivers involved.

(9) Traffic violations of either party or anyone else. Set out whether third party vehicle is equipped with seat belts, and if operator and/or passengers in third party vehicle were wearing seat belts, if available, at time of accident. Also state whether operator (and passenger, if one) of Bureau vehicle was/were utilizing seat belt at time of accident. Set out if operator of third party vehicle has any restrictions on motor vehicle operator's license, such as requirement that operator must wear glasses when driving, and whether operator was abiding by such restrictions at time of accident. If vehicle defect may have been cause, promptly have impartial tests made.

(10) Summary of the results of any police investigation conducted and, in addition, copies of police reports should be submitted as enclosures.

(11) Extent and amount of property damage and personal injury. Photographs of damaged vehicles or other damaged property should be taken, particularly in cases in which there is a possibility of a claim or suit being filed by or against the Government.

(12) Insurance status and financial ability of parties involved. Enclose copy of employee's liability insurance policy if personally owned vehicle has been used on official business. If Bureau vehicle is used, include information concerning coverage for damage to Bureau vehicle. All employees authorized to operate Bureau vehicles should be informed Government does not provide insurance coverage for damage to its vehicles.

(13) Items (1) through (12) above are not all-inclusive and any other information pertinent to a particular accident should be submitted.

**EffDte: 08/25/1989 MCRT#: 0 Div: FDD9 Cav: SecCls:

12-2.2.7 Obtaining Information for Possible Court Action

Information furnished by any individual who may be called upon to testify at any time in the future should be reported in accordance with instructions, regarding "Reporting Information that May Become Testimony," set out in this manual. Refer to Part II, Section 10.

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**EffDte: 03/30/1984 MCRT#: 0 Div: FDD9 Cav: SecCls:

12-2.2.8 Office of Origin

Office of origin is to be shown in title of all communications, except reports.

**EffDte: 03/30/1984 MCRT#: 0 Div: FDD9 Cav: SecCls:

12-2.2.9 Cover Memorandum Forwarding Report

A cover memorandum transmitting the investigative report of the accident should only be submitted when facts of the case indicate gross or extreme negligence on the part of the employee or when the employee sustains damage to the Bureau vehicle if utilizing it on other than official business or if other violations of Bureau rules are involved. In these instances, cover memorandum must include SAC's recommendation for administrative action with a concise analysis of pertinent facts involved.

**EffDte: 08/25/1989 MCRT#: 0 Div: FDD9OP Cav: SecCls:

12-2.3 Forms

Standard Government forms are to be executed by the several parties involved when applicable.

**EffDte: 08/25/1989 MCRT#: 0 Div: FDD9 Cav: SecCls:

12-2.3.1 SF-91 - Operator's Report of Motor-Vehicle Accident

| |SF-91 must|be executed by the Bureau|driver|in
| all|accidents, must be carried in Bureau vehicle at all times, and
| must be included as enclosure to investigative report when sent to
| FBIHQ. For those instances where more than one Bureau vehicle is
| involved in an accident, each Bureau driver must complete an SF-91.|

**EffDte: 09/21/1993 MCRT#: 87 Div: FDD9 Cav: SecCls:

12-2.3.2 SF-94 - Statement of Witness

| |May|be executed by all available witnesses who are willing. Where it appears that claim for personal injury might result, it is imperative that signed statements be promptly procured from all witnesses if willing.

**EffDte: 08/25/1989 MCRT#: 0 Div: FDD9 Cav: SecCls:

12-2.3.3 SF-95 - Claim for Damage, Injury or Death

Refer to MIOG, Part I, 197-8.

**EffDte: 08/25/1989 MCRT#: 0 Div: FDD9 Cav: SecCls:

12-2.4 Claims and Suits

**EffDte: 08/25/1989 MCRT#: 0 Div: FDD9 Cav: SecCls:

12-2.4.1 Public Law 89-508 (Federal Claims Collection Act of 1966)

Public Law 89-508, effective 1-15-67, requires aggressive action with effective follow-up through written demands upon debtor in terms which inform of consequences of failure to cooperate.

(1) When the Bureau automobile is determined to be totaled as result of an accident, you should collect the difference between the retail value and amount received from salvage.

(2) State in general terms such as "failure to cooperate will necessitate collection through available legal remedies." Advise the debtor the amount owed with documentation. Three written demands should be made at 30-day intervals unless response to the first or second indicates further demand would be futile. Furnish FBIHQ three copies of such correspondence fully identifying it. Written demands should be prepared by the Principal Legal Advisor.

(3) When a private party damages a Bureau vehicle and is found at fault, the party responsible for the loss, either individually or through an insuring agent, may replace the vehicle in kind or have it repaired to the satisfaction of the Bureau. The check or monies paid for repairs must be made directly to the individual or company making the repairs and not to the FBI. Any payment made payable to the U.S. Government, FBI, or Bureau employee cannot be

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endorsed over to a repair facility for repair of a Bureau vehicle. These checks must be forwarded to the Automotive Management Unit (AMU), FBIHQ, for eventual deposit in the Miscellaneous Receipts Account at the U.S. Treasury.

(4) If principal amount does not exceed \$20,000, collection action may be terminated if no indication of fraud, misrepresentation or violation of antitrust laws and it appears no person liable on the claim has present or prospective financial ability to pay any significant amount of the claim, or when collection costs will likely exceed recovery amount. If termination, suspension, or compromise of claim seems expedient, do not so inform debtor without prior FBIHQ authority but forward to FBIHQ debtor's current address (or person upon whom service may be made), current credit data, summary of actions previously taken to collect or compromise claim, and any records and exhibits on the claim not previously forwarded. Regulations implementing the act provide that claims under \$600 exclusive of interest should not be referred for litigation unless important to a significant enforcement policy, or the debtor is able to pay and Government can effectively enforce payment.

(5) Initial demand should not be made without prior FBIHQ instruction. Finance Division will consult with Office of the General Counsel prior to issuing instructions.

(6) If demands are denied or ignored, ascertain if financial responsibility laws have been complied with and, if not, arrangements should be made toward revocation of operator's permit or other legal penalties. Appropriate opinion of the U.S. Attorney's Office should also be obtained.

**EffDte: 09/09/1994 MCRT#: 281 Div: FDD9 Cav: SecCls:

12-2.4.2 Public Law 89-506 - Action Instituted Against the United States

Refer to MIOG, Part I, 197-8.

**EffDte: 08/25/1989 MCRT#: 0 Div: D9 Cav: SecCls:

12-2.4.3 Motor Vehicle Accident Results in a Suit for or Against the Government or Bureau Employees

Refer to MIOG, Part I, Section 197.

**EffDte: 08/25/1989 MCRT#: 0 Div: D9 Cav: SecCls:

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12-2.4.4 Contacting United States Attorney

Refer to MIOG, Part I, Section 197.

**EffDte: 08/25/1989 MCRT#: 0 Div: D9 Cav: SecCls:

12-2.4.5 Third Party's Claim Rights

Refer to MIOG, Part I, Section 197.

**EffDte: 08/25/1989 MCRT#: 0 Div: D9 Cav: SecCls:

12-2.4.6 Forwarding Administrative Claims

Refer to MIOG, Part I, 197-8.

**EffDte: 08/25/1989 MCRT#: 0 Div: D9 Cav: SecCls:

12-2.4.7 Compromise of Suits Against the United States

Refer to MIOG, Part I, Section 197.

**EffDte: 08/25/1989 MCRT#: 0 Div: D9 Cav: SecCls:

12-2.4.8 Notification of Suits Against United States

Refer to MIOG, Part I, Section 197.

**EffDte: 08/25/1989 MCRT#: 0 Div: D9 Cav: SecCls:

12-2.5 Responsibility of Employee

**EffDte: 05/15/1980 MCRT#: 0 Div: FDD9 Cav: SecCls:

12-2.5.1 Financially Responsible (See LHBSA, Part 0, 9-2.1.1.)

A Bureau employee will not be held financially responsible for damage to a Bureau vehicle resulting from an accident caused by employee's negligence while on official business. However, should an employee be considered grossly negligent, that is, display wanton disregard in causing damage to the Bureau vehicle, or should employee sustain damage to the Bureau vehicle if utilizing it on other than official business, employee will be held accountable for costs of repairing the Bureau vehicle. Division head or SAC should inform all employees who operate Bureau vehicles it is their responsibility to provide insurance coverage for damage to Bureau vehicle unless they elect to personally pay for such damages in the event they are held financially responsible for the accident. (See MAOP, Part I, 1-3.1.2 regarding the employee's personal liability for damage to a rental car that is being driven outside the scope of the employee's official duties.) Also, see MAOP, Part I, 1-3.1 and Part II, 6-1.2.3.

**EffDte: 05/15/1997 MCRT#: 671 Div: FDD9 Cav: SecCls:

12-2.5.2 Administrative Action

Division head or SAC must make recommendation regarding administrative action where facts of case indicate gross or extreme negligence on the part of the employee or when the employee sustains damage to the Bureau vehicle if utilizing it on other than official business or if other violations of Bureau rules are involved. Instances of unauthorized use of a Bureau vehicle, misconduct involving a Bureau vehicle, or arrests (i.e., Driving While Intoxicated, willful reckless driving, resisting arrest, leaving the scene of an accident, etc.) must be immediately brought to the attention of FBIHQ as set forth in this manual, Part I, Section 13, entitled "Disciplinary Matters."

**EffDte: 05/15/1980 MCRT#: 0 Div: FDOP Cav: SecCls:

12-2.5.3 Employee's Claim for Injuries

Refer to Part I, Section 15, Subsection on "Employee Compensation Matters," concerning action to be instituted by an employee against a responsible third party for recovery of medical expenses because of injuries sustained by a Bureau employee while on official business.

**EffDte: 08/30/1991 MCRT#: 0 Div: FDD3 Cav: SecCls:

12-3 USE OF PERSONALLY OWNED VEHICLES FOR OFFICIAL BUSINESS AFTER REGULAR DUTY TOURS

**EffDte: 08/30/1991 MCRT#: 0 Div: FD Cav: SecCls:

12-3.1 Injuries Incurred

Full facts concerning circumstances of assignment should be furnished to FBIHQ for presentation to Office of Workers' Compensation Programs (OWCP). OWCP will decide if circumstances warrant compensation benefit coverage for personal injuries.

**EffDte: 08/30/1991 MCRT#: 0 Div: FDD3 Cav: SecCls:

| 12-3.2 Authorization |(See MAOP, Part 2, Section 6-1.2.2.)|

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**EffDte: 11/15/2001 MCRT#: 1155 Div: FD Cav: SecCls:

| 12-3.3 |Deleted|

**EffDte: 11/15/2001 MCRT#: 1155 Div: FD Cav: SecCls:

| 12-4 OPERATING BUREAU VEHICLES IN FOREIGN COUNTRIES - INSURANCE MATTERS |(See MAOP, Part 2, Section 6-8.2.1(1).)|

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**EffDte: 11/15/2001 MCRT#: 1155 Div: FD Cav: SecCls:

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

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SECTION 13. DISCIPLINARY MATTERS

13-1 INTRODUCTION (See MAOP, Part 1, 1-4 (5), 1-15.2, 1-23, 5-4.6, 10-6, 12-1.5 (1) (e), 12-2.5.2, 15-3.2 (4), 21-2 (4); MIOG, Part 1, 62-1.1 (6), 62-1.3.1 (2).)

(1) As the government's primary investigative service with a wide range of jurisdictional responsibilities for which we are accountable to the public, it is imperative that a policy of tight discipline be applied in the FBI. It is the responsibility of Bureau supervisory personnel to make clear to employees under their supervision that the Bureau's disciplinary program is firm but fair.

(2) It is imperative that any information pertaining to allegations of misconduct or improper performance of duty coming to the attention of any Bureau employee be promptly and fully reported to FBIHQ, and it is the continuing responsibility of Bureau officials to see to it that the employees under their supervision are properly indoctrinated regarding this requirement so that they not only will fully understand it but will comply with it.

(3) The appropriate Assistant Director, SAC or Legal Attache is authorized to temporarily assign personnel to other duties during an administrative inquiry if the circumstances surrounding the allegation indicate that such action is warranted. Such a reassignment should not be made automatically. Rather, each case must be judged on the individual factors involved, including the credibility of the allegation and the sensitivity of the employee's current assignment. Temporary reassignments may be justified in order to enhance the security and/or protect the integrity of FBI investigations and files; to preserve order; for the safety of persons and property; or for other appropriate reasons. Any such action must be coordinated with the Office of Professional Responsibility; Administrative Services Division; and the appropriate substantive FBIHQ division and be fully supported by the facts. If an employee is temporarily reassigned during an administrative inquiry, Assistant Directors, SACs and Legal Attaches must continually monitor developments in the administrative inquiry in order to assess the employee's position. If, for example, facts are later developed which alter the basis for the employee's original reassignment, then he/she may be returned to previous duties, even prior to a final adjudication of the matter. Allegations regarding unauthorized access or attempted unauthorized access to national security information should continue to be promptly reported to the Security Programs Manager, FBIHQ (see MIOG, Part 2, 26-4).

(4) See Part 1, Section 1, of this manual regarding Activities and Standards of Conduct of employees.

(5) No statements in this section are to be construed so as to indicate that nonpreference eligible FBI employees in the excepted service have a property interest in their employment such as in the form of an expectation of continued employment with the FBI. (See MAOP, Part 1, 14-4.2(4) & 21-1.)

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13-2 NOTIFICATION OF FBIHQ UPON RECEIPT OF ALLEGATIONS OF MISCONDUCT OR IMPROPER PERFORMANCE OF DUTY (See MAOP, Part 1, 13-13 (1) & (3) & 14-4.2; MIOG, Part 1, 263-2 (1).)

(1) All allegations of employee misconduct must be reported to the Adjudication Unit, Office of Professional Responsibility (OPR). Allegations of criminality or serious misconduct must be reported simultaneously to the OPR. OPR supervises and/or investigates all allegations of criminality or serious misconduct on the part of FBI employees. Judicial criticism of an Agent's conduct in findings of fact, opinions, or court orders, whether oral or written, is to be considered an allegation of serious misconduct and reported to OPR as set forth below. (See MAOP, Part 1, 1-23(2).)

(2) When an allegation is received concerning criminality or serious misconduct, the appropriate Assistant Director, SAC or Legal Attache will advise OPR of the allegation by telephone or teletype. OPR will, in turn, advise Adjudication Unit, OPR. A confirming electronic communication (EC), with a copy designated for the Adjudication Unit, OPR, should be directed, in a sealed envelope, to FBIHQ, Attention: OPR. OPR will then determine and advise who will conduct the investigation. In most instances, the Assistant Directors, SACs, or Legal Attaches will personally supervise and promptly investigate the vast majority of these matters. OPR normally investigates only those allegations involving FBIHQ officials, SACs, ASACs, and Legal Attaches and sometimes Headquarters and field supervisors or when circumstances dictate.

(3) If an allegation of misconduct within the responsibility of OPR arises out of a substantive case (pending or closed), the responsible FBIHQ Division will, more than likely, continue to supervise that investigation including the new allegation. However, FBIHQ divisions will immediately inform OPR of the alleged improprieties and forward that portion of the investigation to OPR, for further processing. These allegations should be carried under the "Office of Professional Responsibility (OPR) Matter" caption and handled as a separate "263" classification investigation so that the substantive investigation and/or prosecution is not hindered.

(4) Other infractions, such as those involving minor personal misconduct are well defined and will continue to be handled by OPR except for the following offenses which have been delegated to SACs and Assistant Directors for handling: Absent Without Leave (AWOL); Violations of Availability Regulations; Sleeping on Duty; Loss of Government Property; Miscellaneous Traffic Violations; Disruption of Office; Abusive/Offensive Language/Behavior in Workplace; and Verbal Altercations. SACs and Assistant Directors are authorized to orally reprimand or censure employees under their supervision below the GS-14 level for the above-listed offenses. Recommendations for more severe disciplinary action must be submitted to the OPR for resolution. (See SAC Memorandum 11-90 dated April 20, 1990, for additional information regarding the handling of above-mentioned offenses.) Any question as to whether a matter is or is not within the responsibility of OPR must be referred to OPR for a determination in this regard. (See MAOP, Part 1, 13-13(1) & (3).)

13-3 INVESTIGATION (See MIOG, Part I, 263-3.)

(1) When investigation necessary to develop complete essential facts regarding any allegation against Bureau employees must be instituted promptly, and every logical lead which will establish

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the true facts should be completely run out unless such action might prejudice pending investigations or prosecutions in which event FBIHQ will weigh the facts, along with the recommendation of the division head.

(2) The record of the inquiry shall include the initial allegation; the investigative results; aggravating or mitigating circumstances; statement of specific charge(s) and the employee's answer(s) including defenses to the specific charge(s), if any.

(3) Requests to conduct audits of the computer systems activities of employees who are suspected of misconduct or improper performance of duty will be handled only with prior notification to FBIHQ. The term audit refers both to review and/or evaluation of prior transactions or activities of a user and procedures designed to monitor the ongoing activities of a user. The proper form for such a request is a formal written communication to FBIHQ with a request directed to the Information Resources Division's (IRD) Investigative Automation Support Section (IASS), to conduct the audit. In exigent circumstances, which dictate the need for immediate institution of an audit, requests may be made telephonically to ASU and/or OPR and subsequently confirmed in writing. In instances where telephonic requests are authorized, the level of authority is at the ASAC level or above in the field offices and at the Section Chief level or above at FBIHQ, with the exception of requests emanating from ASU or OPR. Telephonic requests for user activities audits made by ASU or OPR will be authorized at the Supervisory Special Agent level. (See MIOG, Part I, 263-3 (4).)

(4) Approval to conduct the audits will be made at the Section Chief level in IASS, based on the technical feasibility and resource constraints. If the audit cannot be conducted or if additional information is needed to formulate the audit, IASS will contact the requestor. The results of each audit conducted will be reported on an FD-302 and disseminated to ASU or OPR and the requestor, should it be different from ASU or OPR. The original FD- 302 will be forwarded to the office of origin. In those instances where exigent circumstances dictate that the results of the audit be telephonically disseminated, the results will be disseminated by IRD to ASU or OPR and to the requestor, should it be different from ASU or OPR, and the telephonic response subsequently confirmed in writing to ASU or OPR and the requestor. (See MIOG, Part I, 263-3 (5).)

13-4 INTERVIEWS OF EMPLOYEES INVOLVED

(1) Interviews of employees involved in allegations of criminality or serious misconduct should be conducted at the earliest logical time and in a forthright manner. There should be no evasiveness on the part of the Bureau official conducting the interview.

(2) The employee should be fully and specifically advised of the allegations which have been made against him/her in order that he/she may have an opportunity to fully answer and respond to them. The employee must be entirely frank and cooperative in answering inquiries of an administrative nature. If allegations are possibly criminal in nature, the employee has the right to seek counsel in the same vein as any other individual (see 13-6).

(3) Such interviews must be complete and thorough with all pertinent information obtained and recorded so that all phases of the allegations may be resolved. The interviews must not be unduly

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protracted and should be held to a reasonable length by proper preparation and recognition of the purpose of the interviews.

(4) The inquiry shall not be complete until the specific allegations that may justify disciplinary action are made known to the employee who may be disciplined and the employee is afforded reasonable time to answer the specific allegations. The employee's answers, explanations, defenses, etc., should be recorded in the form of a signed, sworn statement which should specifically include the allegations made against the employee in an introductory paragraph. The statement is to be prepared following an in-depth interview of the employee by the division head or designated supervisory representative. The employee is not merely to be asked to give a written response to the allegations, but is to be interviewed in an interrogatory fashion, and a signed, sworn statement prepared from the results by the interviewing official. Since the statement represents that which the employee is willing to sign and swear to, he/she retains the right to make corrections or changes before doing so. If those changes or corrections differ materially from what the employee stated during interview, that fact and the nature of the statements should be separately recorded. Should there be any question on the part of the interviewing official as to whether a particular allegation (set of facts) might justify disciplinary action, he/she should contact OPR, Inspection Division, in order to resolve this prior to the interview so the employee will be ensured of an opportunity to appropriately respond.

(5) When interviewing employees during administrative inquiries to solicit information about themselves or about their own activities, the employee should be provided the Privacy Act notice described in MIOG, Part I, 190-5(2), explaining the purpose of the inquiry and how the information will be used.

(6) When interviewing employees, or others, to solicit information about the subject of an administrative inquiry, the person interviewed as a source should be provided, if appropriate, the opportunity to request an express promise of confidentiality, as described in MIOG, Part I, 190-7, and SAC Memorandum 51-77(C), dated 11/15/77, in order to protect the source's identity should the subject of the inquiry submit a Privacy Act request for access to records of the inquiry. The source should be cautioned that if a formal adverse personnel action is taken against the subject of the inquiry pursuant to Chapter 75 of the Civil Service Reform Act, the information furnished, along with the source's identity must, by law, be provided to the subject, if any information provided in that statement is used in whole or in part to support that personnel action. In addition, pursuant to certain administrative inquiries and possible judicial proceedings, it may be necessary to furnish the source's identity if any information provided in the source's statement is used in whole or in part to support a personnel action. The principles discussed in 13-6, *infra*, are also applicable to an interview of an employee regarding the actions of others, to the extent such answers might reveal criminal misconduct on the part of the employee being interviewed.

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13-4.1 Deleted (See *Security Policy Manual* at http://rmd.fbinet.fbi/ppu/manuals-desk/manuals_published_in_new_format.htm)

13-5 SIGNED SWORN STATEMENTS

Whenever there are circumstances in connection with investigations or inquiries indicating misconduct of personnel, harassment or intimidation of subjects, other individuals or groups, or derelictions of any kind by the Bureau, all Agents engaged in such investigations or inquiries must:

(1) Immediately prepare signed sworn statements of fact so that a clear record will be available should a question arise at a later date. These statements should:

- (a) Cover facts bearing directly upon charges made.
- (b) Be specific as to each allegation, if allegations are specific.
- (c) Be general in nature, if allegations are general in nature.

In matters relating to a pending investigation, no interviews should be conducted until it is determined by the USA's office, the Department of Justice and/or FBI Headquarters, that such action will not hinder the investigation and/or prosecution. The SAC or any Special Agent designated by SAC may administer the oath in these statements since, under existing regulations, Agents are authorized to administer oaths in cases involving irregularities or misconduct in office of a Government employee. This statement is comparable to an affidavit, but does not necessitate notarization.

(2) Forward the original and one copy of these statements to FBIHQ under the appropriate case caption and retain a copy in the field office or Headquarters file. If the allegations relate to a matter currently being investigated, prosecuted or on appeal, the USA's office (or in aggravated instances, Office of Professional Responsibility-Department of Justice) should be made aware and an opinion sought as to whether or not immediate preparation of the employee's statement would have a detrimental effect on the substantive investigation. Thereafter, if appropriate, a signed copy of any statement obtained can also be furnished to the appropriate USA so that the court records will clearly show the true facts and any false allegations made will not stand undisputed in the court record.

(3) If the matter, whether criminal or administrative in nature, is considered sufficiently serious, an attempt should be made to obtain the complainant's allegation in the form of an affidavit or sworn signed statement also.

13-6 ADMINISTRATIVE OR CRIMINAL PROCEEDINGS - USE OF INTERVIEW FORMS (See MAOP, Part I, 13-4; MIOG, Part I, 263-5.)

(1) Prior to the interview of an employee against whom allegations of criminal misconduct have been leveled a decision should be made as to whether the goal of the interview is to obtain a statement admissible in subsequent criminal proceedings or whether the goal is to compel the employee to make a full statement of the facts in order to ascertain what administrative action, if any, is appropriate. This decision is to be made by OPR, FBIHQ.

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(2) To ensure that employees being interviewed are fully and consistently made aware of their rights and obligations, two forms have been adopted for use in such interviews. The Office of Professional Responsibility, DOJ, has fully endorsed the use of these forms. These forms are only to be utilized during OFFICIAL administrative inquiries and only when authorized by FBIHQ (primarily those supervised by OPR).

(3) Neither of these two forms (FD-644 nor FD-645) which are described below are to be routinely used during the investigation of a shooting incident. They will be used only in those shooting inquiries when instructed to do so by FBIHQ as set forth in MIOG, Part II, Section 12-11.7.

The decision as to which form will be used in a particular inquiry will be made by OPR, FBIHQ, on a case-by-case basis, in accordance with the principles set forth below.

13-6.1 Criminal Proceeding Contemplated or Possible

(1) Form A (FD-644) captioned "Warning and Assurance to Employee Requested to Provide Information on a Voluntary Basis," is to be utilized in situations where an employee is provided an opportunity to voluntarily respond to questions concerning allegations of job-related misconduct which have the potential for criminal prosecution, but wherein the employee is not being compelled to answer questions or provide a statement. Use of this form should assure that any statements obtained will be freely and voluntarily given and, hence, admissible in any future criminal proceeding.

(2) Full Miranda warnings will be given to employees only in situations where the employee to be interviewed is in custody or is significantly deprived of his/her freedom of action, an arrest is clearly intended at the conclusion of the interview, or whether in custody or not, the employee being interviewed has previously been arrested or formally charged and prosecution is pending on a Federal offense and the questioning concerns that offense or a related Federal offense.

(3) Whenever Form FD-644 is utilized, an interview log should be prepared in accordance with the Legal Handbook for Special Agents, Section 7-9.

13-6.2 Inquiry Solely for Administrative Purposes

(1) In a situation where the allegation, if true, has the potential for criminal prosecution, but a decision has been made not to seek an admissible statement, (but rather, to compel the employee to fully and candidly answer all questions concerning the alleged incident), Form B (FD-645), captioned "Warning and Assurance to Employee Required to Provide Information," should be used.

However, prior to the use of this form in any instance where the allegation, if true, would have potential for Federal criminal prosecution of the employee to be interviewed, OPR-Inspection Division must present the facts of the case to OPR-DOJ and obtain an initial opinion that the matter in question should be handled administratively rather than criminally. This is necessary because any incriminating statement obtained after use of Form FD-645 will not be admissible in a criminal prosecution of the employee.

(2) In a situation where the allegation, if true, has potential for non-Federal prosecution, and a decision has been made by FBIHQ to compel full answers from the employee regarding the matter under investigation, Form FD-645 should be used.

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(3) In all other instances where an employee is being interviewed in connection with an official administrative inquiry, Form FD-645 should be used.

(4) There is no Sixth Amendment right to counsel in purely administrative interviews. Therefore, even if the employee specifically requests to have an attorney present during the course of the interview, the Bureau is not legally obliged to agree to this condition. Any administrative decision to allow the presence of counsel during an administrative interview is to be made by OPR, FBIHQ.

(5) An interview log is not required when Form FD-645 is utilized. Those conducting such administrative interviews of employees should be alert, however, to circumstances where good judgment might warrant preparation of an interview log; for example, in those interviews of a particularly sensitive nature or in those concerning serious misconduct involving veterans which may ultimately be heard before a Merit Systems Protection Board.

13-7 REPORTING

(1) In most instances, after FBIHQ has been initially notified of the allegation, it will be satisfactory for the responsible official to report the facts pertaining to the misconduct or improper performance of duty, by letter setting forth a concise statement of the situation together with supporting documentation and statements. In all cases, whether or not it is felt administrative action is necessary, a statement that administrative action is, or is not, recommended must be made. There can be no deviation from this procedure.

(2) To prevent unauthorized disclosure of these allegations and the subsequent inquiry, a separate field office file should be opened and indexed under a "263" classification for each investigation and be maintained in the SAC's safe. This file number will be included on all communications between field divisions and FBIHQ; communication being directed to the personal attention of the SAC and/or enclosed in a sealed envelope to FBIHQ, Attention: OPR-Inspection Division.

(3) Copies of the allegations and subsequent investigation should not be placed in the accused's field office or FBIHQ personnel file. Only if some form of administrative action is taken will there be any need to address the allegation in one's personnel file. This is satisfactorily handled by a designated copy of the approved justification memorandum and/or addendum(s) being placed in the personnel file at FBIHQ as well as copies of the outgoing communication to the employee being placed in both the field office and FBIHQ personnel files.

13-7.1 Format

Certain factual situations may require the letters in which they are reported to exceed one page in length. In these instances, such letters should conform to the following format:

(1) Title--This should, when possible, relate only to the substance of the allegation regardless whether or not it originated out of a substantive investigation or is work related. The title should include the employee(s) name; general allegation (i.e., alleged professional misconduct, etc.); complainant, if appropriate; division and classification, i.e., OPR Matter.

(2) Synopsis--Here should be stated briefly, but clearly the pertinent facts relating to the situation. While brief, the synopsis should contain sufficient facts to give any reviewing official a clear picture of each allegation and whether they are true or false.

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(3) Action taken--Here should be clearly enumerated the action taken by the Bureau official pertaining to the employee in connection with the misconduct or improper performance of duty. For example, a statement as to the time and date an employee was suspended from active duty, or an explanation as to any investigation or information sought from other field offices in running out the allegation, or the like, should be set forth under this heading.

(4) Work record and any aggravating or mitigating factors--Under this heading should be reported pertinent comments regarding the general work performance record of the employee. In addition, any other factors of an aggravating nature or which might have a mitigating or balancing effect upon the dereliction should be set forth. For example, if an employee put a great deal of hard work and effort into a matter and was also responsible for certain shortcomings, the administrative action finally decided upon would be dependent upon a balancing and weighing of the good and bad aspects. However, any mitigating facts should not be restricted to the particular case or incident from which the dereliction arises. An employee may have performed creditably in other cases recently, on other occasions or displayed a commendable attitude which factors should be brought to FBIHQ's attention.

(5) Comments and conclusions--Under this heading should be set forth the observations of the Bureau official and the conclusions upon which the recommendations for administrative action are based.

(6) Recommendations--Under this heading should be set forth the recommendations as to what, if any, administrative action is necessary.

(7) Enclosures--Attach statements of the complainant, witnesses and employee(s), as well as any documentation relevant to the inquiry.

13-7.2 Investigative Reports (See MIOG, Part 1, 263-7.1.)

(1) Matters involving criminality or serious misconduct supervised/investigated by OPR should, for the most part, be submitted to FBIHQ by Investigative Report which should be thorough, precise and to the point. There may be instances where the extent of the inquiry is so minimal that an Investigative Report would not seem necessary. Any question concerning whether or not to submit an Investigative Report should be resolved by consulting with OPR.

(2) Synopses of OPR Matter Investigative Reports should be extremely complete to include all allegations, the results of investigation and the subject employee's responses to these allegations. Consideration should be given to including a table of contents in these Investigative Reports.

(3) Three copies of the Investigative Report (four copies if the matter involves a substantive case) should be submitted by cover electronic communication (EC), in a sealed envelope, to FBIHQ, Attention: OPR. The cover EC should contain the SAC's observations, comments, mitigating or aggravating circumstances, as well as SAC's recommendations for administrative action.

(4) FBIHQ is to be the office of origin in OPR Matter investigations.

13-8 ALLEGATIONS MADE BY INDIVIDUALS OUTSIDE THE BUREAU

(1) In instances in which allegations are made by persons outside the Bureau against Bureau personnel or the Bureau itself and such charges are disproven, prompt action should be taken to

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refute such claims both with the source of the erroneous complaints and others having knowledge of the allegations, including news media carrying stories on the matter. Where possible, every effort should be made to have the refutation appear in the same article with the charges. Whenever the advisability of taking this action appears questionable, FBIHQ should be advised and a recommendation made on this point setting out clearly the reasons on which the conclusion is based.

(2) If allegations are made against Bureau personnel by subjects of Bureau cases during a court trial, it is the responsibility of the SAC with the concurrence of the USA and/or DOJ, to see that proper refutation is made and that such refutation appears in court records in accordance with the Manual of Investigative Operations and Guidelines, Part II, Section 6. The purpose of this is to insure that in case of an appeal the Bureau's refutation is in the court's record. FBIHQ is to be advised promptly of all pertinent facts and circumstances relating to such allegations and refutations.

13-9 SUSPENSION WITHOUT PAY (See MAOP, Part I, 13-12 (2).)

(1) No Bureau employees are to be suspended without pay without prior FBIHQ approval. Where the seriousness of the situation warrants, the Assistant Director of the Personnel Division may be contacted telephonically. His instructions regarding suspension without pay or other immediate action to be taken pending a final determination of the matter may be secured.

(2) In cases involving disciplinary suspension without pay for seven or more consecutive calendar days, SF-8 will be sent to the employee by Personnel Management Section, FBIHQ, as an enclosure with the letter addressed to employee containing suspension notification. However, when telephonic or teletype instructions are issued by FBIHQ suspending the employee for seven or more consecutive calendar days, instructions will be issued and recorded that SF-8 be furnished.

(3) Employees who are under suspension without pay cannot legally be permitted to work during the period of suspension. If employees offer to work while under suspension, they should be informed it is illegal. FBIHQ decision in such instances is unnecessary, although FBIHQ should be informed of the employee's attitude in making the offer.

(4) Upon return to duty from suspension an SF-52 must be submitted to FBIHQ. The following items must be completed:

- (a) Part A, Items 1, 3, 5, and 6
- (b) Part B, Items 1, 2, 3, and 22

13-10 PROCEDURAL RIGHTS OF PREFERENCE ELIGIBLE EMPLOYEES REGARDING ADVERSE ACTIONS (See MAOP, Part 1, 1-29, 1-30.3, 3-6.1, 8-1.11, 8-1.12.2, 10-6, 10-7, 13-11(2), 13-13, 14-4.1 & 14-4.2.)

(1) A "preference eligible" employee who has completed one year of current continuous service in the same or similar positions within an agency may have certain rights when an adverse action is proposed or taken against the employee. For the purposes of this manual, an "adverse action" involves removal, suspension for more than 14 days, reduction in grade or pay, or a furlough of 30 days or less. Such an action may only be taken for such cause as will promote the efficiency of the service. (See Title 5, United States Code (USC), Sections 7511-7513.) (See MAOP, Part 1, 21-1.)

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(2) As a general matter, a preference eligible employee includes an honorably discharged veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized; during the period beginning on April 28, 1952 and ending on July 1, 1955; or for at least 180 days during a period occurring after January 31, 1955 and before October 15, 1976 (with exceptions applying to the National Guard and the Reserves). The term also includes certain disabled veterans. In addition, under certain limited circumstances "preference eligible" can include an unmarried widow/widower of a veteran, the spouse of a disabled veteran, or the mother of a deceased or disabled veteran. It does not include members of the FBI-DEA Senior Executive Service. (See Title 5, USC, Section 2108.)

(3) With respect to adverse actions, the procedural rights of a preference eligible employee who has completed one year of current continuous service are set forth at Title 5, USC, Section 7513. These rights include: (a) at least 30 days' advance written notice stating the specific reasons for the proposed action, unless there is a reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed; (b) a reasonable time of not less than seven days to answer orally and in writing and to furnish affidavits and other documentary evidence; (c) the right to be represented by an attorney or other representative; (d) a written decision which includes the specific reasons for the agency action; (e) the right to appeal the adverse action to the Merit Systems Protection Board (MSPB); and, (f) the right to inspect documents which the agency relied upon in arriving at its decision. As a general matter, appeals to the MSPB by preference eligible employees are to be filed within 30 days after the effective date of the adverse action.

(4) During the period of advance written notice, the employee may be retained on active duty, be placed on administrative leave, be placed on annual leave or leave without pay with the employee's consent, or be suspended without pay if the suspension does not exceed 14 days in length.

(5) Like nonpreference eligible employees, a preference eligible employee who has completed his/her one-year probationary period (see MAOP, Part 1, Section 21) may appeal an adverse action to the Assistant Director, Administrative Services Division, FBIHQ.

(6) Any necessary notices to preference eligible employees will be handled by FBIHQ.

(7) Upon receiving an employee's reply to the notice of proposed disciplinary action, FBIHQ will consider the reply and advise the employee in writing of the final decision.

(8) A nonpreference eligible employee in an "excepted service" agency such as the FBI is not LEGALLY entitled to the same procedural rights afforded to a preference eligible employee in adverse action cases.

13-11 USE OF AN INDEFINITE SUSPENSION IN PERSONNEL MATTERS (See MAOP, Part I, 1-29.)

(1) Indefinite suspensions are defined by the FBI as the placing of an employee in a temporary status without duties and pay pending investigation, inquiry, or further agency action. The indefinite suspension continues for an indeterminate period of time and ends with the occurrence of the pending conditions set forth in the notice of action which may include the completion of any subsequent administrative action. An indefinite suspension may be imposed when it is determined that an employee's continued presence in the workplace will be injurious to the employee, to co-

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workers or the public, to the FBI's operations, or to national security interests pending additional investigation into the underlying conduct of the employee. Members of the FBI's Senior Executive Service (SES) are not covered by this policy. Rather, indefinite suspensions involving members of the FBI's SES are governed by the adverse action provisions set forth in the FBI's SES policy.

(2) An indefinite suspension for more than 14 days is considered an adverse action under 5 CFR, 752.401(a)(2). Preference eligible employees are, therefore, afforded statutory entitlements which are set forth in Title 5, USC, Section 7513 and MAOP, Part I, 13-10.

(3) See MAOP, Part I, 1-29 for further information concerning the use of an indefinite suspension in matters involving revocation of a security clearance.

13-11.1 Use of an Indefinite Suspension in Matters Involving Criminal Conduct

(1) Each incident involving suspected criminal conduct will be considered from the viewpoint of whether the employee's continued presence in the workplace is detrimental to the FBI in accomplishing its mission. Should the Office of Professional Responsibility (OPR) find that reasonable cause exists to believe an employee has committed a crime for which a sentence of imprisonment may be imposed, a letter signed by the Assistant Director, OPR, will be prepared advising the employee that he/she will be placed on indefinite suspension (without pay or duties) and the reason for such action. Reasonable cause may be established, for example, by an indictment, arrest, the filing of criminal information, credible news reports of egregious acts that are detrimental to the Bureau's mission, such as murder or national security offenses, or through a judicial determination of probable cause. A warrantless arrest alone may not be sufficient to establish reasonable cause. Separate action may be taken to suspend the employee's security clearance in connection with a criminal case. In these types of criminal conduct cases, employees will not be given the option of using leave. (See MAOP, Part I, 1-29.)

(2) An indefinite suspension for more than 14 days is considered an adverse action under Title 5, United States Code (USC), Section 7512 and Title 5, Code of Federal Regulations (CFR), Part 752.401(a)(2). When an adverse action is proposed or taken against a preference eligible employee, i.e., certain veterans or the spouses, widows, or mothers of veterans who meet the definition of "preference eligible" in Title 5, USC, Section 2108, specific statutory rights apply. Information regarding these rights will be contained in the letter advising the employee of the proposed indefinite suspension.

Since federal law requires that a preference eligible employee continue to be paid during the advance notice period even if required to be absent from the work place, any preference eligible employee receiving a letter proposing his/her indefinite suspension will remain on administrative leave with pay until a final decision regarding placing the employee on indefinite suspension is made and communicated, in writing, to the employee.

(3) Nonpreference eligible employees do not have the additional rights granted to preference eligible employees. Accordingly, an indefinite suspension is effective upon receipt of the written notice of such, and no appeal rights are afforded.

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13-11.2 Other Sources of Compensation During Period of Indefinite Suspension

(1) During periods of indefinite suspension, an employee may request approval for outside employment following established Bureau procedures, which include review to determine whether the proposed outside employment presents a conflict of interest. For a field support employee, an outside employment request should be submitted through the security officer in the field office where located. For an FBIHQ support employee, an outside employment request should be submitted to the Reinvestigation Unit, Security Division. For a Special Agent, an outside employment request should be submitted through the Employee Benefits Unit, ASD. Form FD-331 should be used for such purposes. Review will be expedited upon the employee's request.

(2) The written notice of indefinite suspension will include instructions to the office to provide the employee a copy of Standard Form 8, Unemployment Compensation for Federal Employees Program; Notice to Federal Employees About Unemployment Compensation. For additional information on this topic, employees must contact their state or local unemployment compensation office.

13-11.3 Removal From Indefinite Suspension

An indefinite suspension will be terminated upon completion of the FBI's inquiry and decision concerning the status of the employee (i.e., a decision to fully or partially allow the employee to return to the work place or to terminate employment with the FBI).

13-11.4 Back Pay Matters

If investigative results determine that an employee is to be restored to full duty, the employee is immediately eligible to return to a paid status. In each such case, the Assistant Director, ASD, will cause a review of the circumstances to determine whether back pay may be appropriate for the period of indefinite suspension and make decisions on a case-by-case basis. In addition, when an employee's return to duty is delayed, back pay may be afforded from the time the decision to allow the return to work and the actual return to work date. Such cases are reviewed on their merits and decisions regarding pay and placement are made accordingly.

**13-12 RESIGNATION TENDERED DURING PERSONNEL ACTION INQUIRY
(FORMERLY 13-11) (See MAOP, Part I, 17-1.1.)**

(1) It may be that an employee would rather submit his/her resignation than see the inquiry continue and face possible charges. Division heads, SACs and other supervisory employees may, upon conclusion of their findings, discuss with the employee what the intended recommendation to FBIHQ will be with respect to administrative action, being careful to point out at the same time that any formal action or charges will be made at FBIHQ. Accordingly, it is permissible to discuss the possibility of resignation with the employee. Duress, deception, intimidation or anything similar will not be tolerated and must not be used to influence employee's decision nor may employee be denied adequate time, if requested, to make a decision between resigning or seeing the inquiry continued. Employee should be advised of the Bureau's procedures for employee discipline and that these procedures allow an employee the opportunity to rebut negative allegations and recommendations of his/her supervisors. Employee should also be advised that a voluntary

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resignation might preclude him/her from receiving unemployment compensation he/she may otherwise be entitled to.

(2) Should an employee involved in allegations submit his or her resignation from the Bureau's service, such resignation should be received and forwarded to FBIHQ.

13-13 SCHEDULE OF DISCIPLINARY OFFENSES AND PENALTIES FOR FBI EMPLOYEES (FORMERLY 13-12) (See MAOP, Part 1, 1-30.3 and 21-7 (4).)

(1) This schedule is to be used only as a guide in determining appropriate discipline based on the violation of regulations by Bureau employees. This schedule is not all inclusive, and final determination of the appropriate disciplinary action warranted in each case will be made by FBIHQ, except for those matters delegated to SACs and Assistant Directors (see 13-2(4) of this section for details). It should be noted that the decision-making process utilized in determining appropriate action in disciplinary matters is extensive in nature and involves input from every level of management in FBIHQ. In addition, consideration is given to Bureau policy and similar incidents previously resolved, as well as any aggravating or mitigating circumstances of the case in point. In some instances, discussions are held with the Department of Justice and the Office of Personnel Management before a final determination is made. In most instances, penalties for violations of regulations will fall within the range of penalties set forth in this schedule. In aggravated case, a penalty outside the range of penalties may be imposed. For example, supervisors and Bureau officials, because of their responsibility to demonstrate exemplary behavior, may be subject to a greater penalty than is provided in the range of penalties. The purpose of this schedule is not to remove the personnel management decisions made in all disciplinary matters but rather to provide an example and guide which is used at FBIHQ and in the field in connection with decisions made in regard to disciplinary matters.

(2) In regard to suspensions, it is noted that the Civil Service Reform Act (CSRA) of 1978 provides that days of suspension will be computed in terms of calendar days, not days worked. Therefore, recommendations for a period of suspension will only be made in terms of calendar days. A period of suspension will always commence at the close of business, Friday of any given week. For example, recommendation of seven (7) days' suspension, if approved, will result in a forfeiture of five days' pay whereas a recommendation of fourteen (14) days' suspension will result in a forfeiture of ten days' pay. A period of suspension in excess of 14 calendar days is an adverse action as defined in the CSRA of 1978 (see 13-10 of this section for details).

(3) A non-SES employee desiring to appeal any suspension from duty without pay and/or an adverse disciplinary sanction will be required to file an appeal stating the grounds relied upon in writing. Only employees who have completed the one-year (two years for Special Agents and forensic examiners) probationary period required by the FBI will be entitled to an appeal. This appeal must be filed within 30 days following notification of the disciplinary action to the employee. The Deputy Assistant Director (DAD), Inspection Division (INSD), will serve as the primary official responsible for the appellate review of disciplinary matters which have involved a non-SES employee's suspension from duty without pay for a period of 14 days or less (called a nonadverse action), unless that disciplinary sanction was issued by the AD, OPR. Whenever the AD, OPR, serves as the deciding official in the suspension of a non- SES employee in a nonadverse

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action, the AD, INSD, will serve as the deciding appellate official. The decision of the AD or DAD, INSD, in such matters will constitute the final authority within the FBI for appellate review.

When a matter under appeal involves a suspension of more than 14 days, demotion or dismissal of a non-SES employee (called an adverse action), the AD, INSD, will establish a Disciplinary Review Board (DRB) to review the action taken by OPR.

When disciplinary action is taken against SES members or ASACs, the Deputy Director is the action authority. The Director is the final appeal authority for disciplinary actions taken by the Deputy Director. Thereafter, nonpreference eligible FBI employees in the excepted service do NOT have a right to appeal a disciplinary action to the Merit Systems Protection Board (MSPB). A "preference eligible" employee who has completed one year of current continuous service in the same or similar positions in an agency, in addition to being able to appeal a disciplinary action as indicated above, may also appeal an "adverse action" (e.g., removal, suspension for more than 14 days, reduction in grade or pay) to the MSPB. As a general matter, appeals to the MSPB by preference eligible employees are to be filed within 30 days after the effective date of the adverse action. (See MAOP, Part 1, 13-2, 13-10, 14-4.1 and 14-4.2.)

(4) COMPOSITION OF A DISCIPLINARY REVIEW BOARD

(a) A DRB will be composed of three voting members, each of whom is a member of the FBI's Senior Executive Service (SES). After designation as members of a DRB, employees will be instructed to refrain from acquainting themselves with any facts or circumstances involving the subject of the appeal, except to review the record of the case.

(b) The DRB will be chaired by the AD, INSD, whenever the disciplinary sanction was imposed by the AD, OPR. In instances in which the disciplinary action under appeal is decided by the DAD, OPR, at the discretion of the AD, INSD, the Board may be chaired by the DAD, INSD.

(c) A non-SES employee who appeals a suspension of more than 14 days, demotion or dismissal will be permitted to select one member of the DRB from a list of all FBI SES participants except those serving at SES level 6, and those who, due to the nature or geographical location of their assignments, have been determined to pose conflicts with the objective and expeditious character of DRB proceedings. This list will be forwarded by the INSD to the employee's division head, and made available for the employee's review, upon request, by the division head or his/her designee (e.g., the Chief Division Counsel), who will then report the employee's selection to the INSD. The third member of the DRB will be selected randomly from the same list. After serving on the DRB, this third member will be removed from the pool of SES participants eligible for random selection (but not employee selection) for DRBs for the remainder of the fiscal year.

(d) An SES member who serves (or last served, in the case of a dismissal) as an employee's rating or reviewing official will not be permitted to serve as a member of a DRB which decides that individual's appeal of an adverse disciplinary sanction.

(e) If, after selection, a member of a DRB feels constrained to disqualify himself/herself, a replacement will be chosen in the same manner the disqualified member was selected.

(5) INSD AND DRB AUTHORITY AND PROCEDURES

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(a) INSD, in an appeal from a suspension of 14 days or less, and a DRB, in an appeal of a suspension of more than 14 days, demotion or dismissal, will review the issues presented in writing by the employee. The review will be of the employee's written appeal, any response submitted by OPR, and any documentary record. If the record of a disciplinary action taken under the auspices of OPR is insufficient to decide the merits of an appeal, INSD or the DRB may remand the case to OPR and direct such additional investigation and findings as may be necessary. Nothing shall preclude INSD or a DRB from requiring an oral presentation if considered helpful to a resolution of the appeal.

(b) An appeal of a suspension of 14 days or less will be decided by the designated INSD official. The decision of a DRB in an appeal of a suspension of more than 14 days, demotion or dismissal will be by majority vote.

(c) In exercising appellate authority, INSD and a DRB may independently redetermine the factual findings and/or the penalty imposed. However, in the event that a different disciplinary sanction is determined to be appropriate, that sanction must be consistent with applicable disciplinary precedent.

(d) After reaching a decision in the review of an appeal, INSD or a DRB will document its findings in writing and provide the employee a written decision.

(e) If INSD or a DRB finds that an employee has not received the procedural protections in the disciplinary process to which he/she is entitled, it may retain the matter for decision, e.g., when the matter involves harmless error, may refer the matter back to OPR for corrective action; or may reverse or modify the action of the deciding official.

(f) The decision of INSD or of a DRB concerning the merits of an appeal involving a non-SES employee will constitute the final decision of the FBI concerning the appropriateness of the disciplinary sanction in the matter under appeal.

(g) Decisions by the INSD or a DRB in the appeal of disciplinary sanctions will be implemented no later than 60 calendar days after the appellate decision is rendered in writing.

These procedures will not apply to matters involving an appeal of an adverse disciplinary action resulting from an employee's loss of a security clearance.

The expansion of procedural entitlements in the appeal of disciplinary actions will not include the right of appeal to the MSPB. The statutory right to appeal an adverse disciplinary action to the MSPB is preserved for preference eligible employees. Existing policies governing indefinite suspensions, administrative leave actions, fitness for duty determinations and nonadverse actions will not be affected by this expansion of appellate procedures.

(6) The following definitions are furnished for information. This schedule does not include discipline required by law or infractions which, in addition to being a violation of Bureau rules and regulations, are also a criminal offense.

(a) Oral reprimand--Employees are advised of deficiency or infraction of regulations and notation made in personnel file relating to the need for the official reprimand.

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(b) Commented upon in annual performance rating--In this instance, the infraction warranted more than an oral reprimand but is not considered severe enough for official recognition in the form of a letter of censure. This refers to work-related matters only.

(c) Censure--Official written reprimand.

(d) Censure and probation--Official written reprimand which includes a minimum probationary period of 90 days for Special Agents and 60 days for other employees.

(e) Censure, probation and suspension--Official written reprimand which, in addition to a probationary period, includes a period of time in which the employee is removed from duty without pay.

(f) Demotion--Any reduction in grade or pay.

(g) Removal--Dropped from the rolls of the FBI.

(7) The standards by which all employees are held are set forth in greater detail in this manual. For further reference, these standards of conduct can be found in the Department of Justice Order 350-65 captioned "Standards of Conduct," Executive Order 12764, and the ETHICS HANDBOOK which is distributed to all personnel.

(8) An employee may be censured when the cause for administrative action is sufficiently aggravated as to require a written reprimand. At the time FBIHQ makes a promotional decision, all relevant information including the cause for a disciplinary matter, including probation, is considered. FBIHQ expects the employee's superior to provide a strong favorable recommendation when the employee has been the subject of disciplinary action within the preceding 12 months. Lacking such a recommendation, FBIHQ may determine that a promotion from one GS or Wage level to another should be delayed for a period of up to 60 days for support employees or up to 90 days for Agents. (See MAOP, Part 1, 3-1.2.2 (3) & (4).)

SCHEDULE OF DISCIPLINARY OFFENSES AND PENALTIES FOR FBI EMPLOYEES

1. Unexcused or unauthorized absence of 8 hours or less

Applies to: All Personnel

First Offense - Oral Reprimand to 3-day suspension

Second Offense - Oral Reprimand to 5-day suspension

Third Offense - Oral Reprimand to removal

2. Excessive unauthorized absence (in excess of 8 hours)

Applies to: All Personnel

First Offense - Oral Reprimand to 5-day suspension

Second Offense - Oral Reprimand to 15-day suspension

Third Offense - Oral Reprimand to removal

3. Work deficiencies and/or inattention to duty (See MAOP, Part 1, 8-1.11.)

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Applies to: Agent Personnel

First Offense - Oral reprimand to removal

Second Offense - 5-day suspension to removal

Third Offense - 15-day suspension to removal

Applies to: Non-Agent Personnel (Excluding Fingerprint Examiners, Information Services Section, Criminal Justice Information Services Division, for whom standards of production and accuracy, as well as minimum penalties, have been established.)

First Offense - Oral reprimand to removal

Second Offense - 3-day suspension to removal

Third Offense - 5-day suspension to removal

4. Insubordination (See MAOP, Part 1, 8-1.11.)

Applies: All Personnel

First Offense - Censure to removal

Second Offense - 5-day suspension to removal

Third Offense - 15-day suspension to removal

5. Unauthorized possession of, use of, or loss or damage to government property other than motor vehicle or aircraft

Applies to: All Personnel

First Offense - No action to removal

Second Offense - Oral reprimand to removal

Third Offense - Censure to removal

6. ***Unauthorized possession of, use of, loss of or damage to government-owned or -leased motor vehicle or aircraft

Applies to: All personnel

First Offense - Oral reprimand to removal

Second Offense - 3-day suspension to removal

Third Offense - 5-day suspension to removal

***Title 31, U.S. Code, Section 1349(b), provides a minimum of 30 days' suspension for employee who willfully uses or authorizes the use of any government-owned or -leased motor vehicle or aircraft for other than official purposes. (See MAOP, Part 1, 1-3.1.)

7. Traffic violations

Applies to: All personnel

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a. Aggravated (all types)

First Offense - Oral reprimand to removal

Second Offense - Oral reprimand to removal

Third Offense - Oral reprimand to removal

b. Driving Under the Influence or While Intoxicated (See MAOP, Part 1, 1-30.3 and 8-1.12.2.)

First Offense - 30-day suspension to removal

Second Offense - Removal

8. Illegal use of controlled substance (drugs and marijuana)

Applies to: All personnel

First Offense - Censure to Removal

Second Offense - Removal

9. Criminal, dishonest, immoral, infamous or notoriously disgraceful conduct

Applies to: All personnel

First Offense - Oral reprimand to removal

Second Offense - 5-day suspension to removal

Third Offense - 30-day suspension to removal

10. Failure to honor confirmed financial obligations

Applies to: All personnel

First Offense - Oral reprimand

Second Offense - Oral reprimand

Third Offense - Oral reprimand to removal

11. Unauthorized disclosure of information from Bureau records

Applies to: All personnel

First Offense - Oral reprimand to removal

Second Offense - Removal

12. Falsification of official documents and/or records

Applies to: All personnel

First Offense - Oral reprimand to removal

Second Offense - Removal

13. Availability

Applies to: All personnel

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First Offense - Oral reprimand to removal

Second Offense - Oral reprimand to removal

Third Offense - Oral reprimand to removal

14. Fitness for duty (overweight)

Applies to: Agent Personnel

First Offense - Oral reprimand

Second Offense - Oral reprimand to 5-day suspension

Third Offense - Oral reprimand to 15-day suspension

15. Smoking regulations (See MAOP, Part 2, 2-1.6.)

Applies to: All personnel

First Offense - Oral reprimand to censure

Second Offense - Oral reprimand to 5-day suspension

Third Offense - Oral reprimand to 14-day suspension

16. Security violations for:

Applies to: All personnel

a. Loss of classified/sensitive information

First Offense - Censure to removal

Second Offense - Suspension to removal

Third Offense - Suspension to removal

b. Mishandling classified/sensitive information by: improper removal, storage (to include unlocked/unsecure safes, vaults, or cabinets), disposal, transporting, reproduction, transmittal, or access

Applies to: All personnel

First Offense - Oral reprimand to removal

Second Offense - Censure to removal

Third Offense - Suspension to removal

c. Computers

Applies to: All personnel

Medium Risk

1. Failure to properly label ADP storage media

2. Unauthorized Software

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3. Unlicensed Software

4. Nonofficial use of FBI computers

5. Introduction of malicious code

First Offense - Oral reprimand to removal

Second Offense - Censure to removal

Third Offense - Suspension to removal

High Risk

1. Misuse of accessor IDs and passwords

2. Improper maintenance

3. Improper equipment and media disposal

4. Failure to maintain proper control of FBI microcomputers and ADP storage media

5. Unauthorized telecommunications

6. Unauthorized access to FBI computers or networks or exceeding authorized codes

First Offense - Censure to removal

Second Offense - Suspension to removal

Third Offense - Suspension to removal

d. Routing of "Top Secret" or SCI information by telelift system, mail-mobile, pneumatic tube, U.S. Postal Service, or other commercial mail service

Applies to: All personnel

First Offense - Oral reprimand to removal

Second Offense - Oral reprimand to removal

Third Offense - Censure to removal

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13-13.1 Moved to 13-14.1

13-13.2 Moved to 13-14.2

13-13.3 Moved to 13-14.3

13-13.4 Moved to 13-14.4

13-13.5 Moved to 13-14.5

13-14 DISCIPLINARY PROBATION (FORMERLY 13-13) (See MAOP, Part I, 1-30.3, 8-1.12.2.)

Disciplinary probation is a corrective and/or punitive procedure (which may be imposed with censure and/or suspension when so dictated by the factual situation) to closely monitor an employee's performance with intent to provide counsel and correction during a specified period of time. During the disciplinary probation period, a denial of certain employee benefits may be imposed.

13-14.1 Purpose of Disciplinary Probation (Formerly 13-13.1)

To provide the employee with notice that the particular area of inefficiency, delinquency, or poor judgment, etc., will be afforded close scrutiny for a specified period of time. During the period of disciplinary probation, the employee is expected to make a concerted effort to improve in the deficient area.

13-14.2 Length of Disciplinary Probation (Formerly 13-13.2.)

The length of the disciplinary probation period is flexible and will be determined by the Director or Director's delegated representative. In most cases the original disciplinary probation period will be 90 days for Special Agents and 60 days for support employees.

13-14.3 Effects of Disciplinary Probation on Employee (Formerly 13-13.3)

During the period of disciplinary probation an employee:

- (1) Will not be promoted from one GS or Wage Board level to another;
- (2) Will not be considered for advancement within the Executive Development and Selection Program of the Bureau;
- (3) Will not be considered for a Personnel Resource List Transfer;
- (4) May have a promotion delayed for a period of time not to exceed the period of disciplinary probation if the action occurred during the preceding 12 months and has not been offset by a strong favorable recommendation for promotion from the employee's superior. The final determination will be made by the Personnel Officer at FBIHQ.

13-14.4 Application of Disciplinary Probation (Formerly 13-13.4.)

An employee will be placed on disciplinary probation only when the cause for administrative action is work performance related or work-related.

- (1) Work performance considers the technical competence aspect of an employee.
- (2) Work-related action involves judgment, common sense, and the impact the cause has on the public's perception of the FBI.

13-14.5 Removal from Disciplinary Probation (Formerly 13-13.5)

(1) At the expiration of a disciplinary probation period, the Administrative Summary Unit, Personnel Division, will activate a computer entry into the Bureau's Personnel Management System to remove the employee from probation. No paperwork will be involved on the part of the SAC/AD or FBIHQ for this process to occur. However, should the SAC/AD choose to recommend that an employee remain in a probationary status due to continued deficiency in the area for which the employee was disciplined, the Administrative Summary Unit should be telephonically advised just prior to the end of the period, followed by an appropriate communication detailing the basis for same. It is important that a tickler be set in the respective divisions so this matter can be followed closely.

(2) As a guideline in recommending that an employee in a probationary status be continued in this status, the employee must continue to be deficient in the area for which they had been initially disciplined. If the employee is deficient in another area, this would not be sufficient justification to continue the initial probationary status. If additional problems are identified, the SAC/AD should seriously consider recommending an additional disciplinary action to address the other deficient areas, whether it be performance or conduct related.

SECTION 14. APPEALS AND GRIEVANCES

**EffDte: 02/28/1978 MCRT#: 0 Div: OPD3 Cav: SecCls:

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14-1 INTRODUCTION

(1) The FBI has always attempted to anticipate and avoid possible sources of employee discontent or grievances by following fair and objective policies, uniformly applied to all. To detect and solve grievances which might arise, the FBI depends upon the alertness of its supervisors and officials.

(2) The FBI is confident that its indoctrination and training programs ensure that each employee is fully aware that any grievance should be brought to the attention of their supervisor so that the matter may be discussed, explained and resolved. All employees should be aware that their division head or Special Agent in Charge is always available for further discussion with them of any problem which cannot be handled satisfactorily on the supervisory level; and that any problem which cannot be resolved satisfactorily on any lower level may be brought to the Director's attention in writing, or may be presented orally to an appropriate Bureau official.

(3) Other means by which employees may present their problems include the suggestion program or contact with the inspectors who periodically inspect each division or field office. In addition, certain formal procedures exist as set out in the subsections below.

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14-2 CONTESTING PERFORMANCE APPRAISALS

(See Part I, Section 5 of this manual.)

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14-3 POSITION CLASSIFICATION

Position classification decisions may be appealed in accordance with provisions of Title 5, Code of Federal Regulations, Chapter 1, Part 511. Supervisors should be alert for situations in which it appears an employee may be considering an appeal. Experience has shown that if a supervisor carefully explains to an

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employee the basis for a given classification action misunderstandings are averted. If difficulty persists in a given case, it may be feasible to take administrative steps, such as readjustment of work assignments, to eliminate it. FBIHQ should be notified of problems which resist settlement. If need arises, FBIHQ will furnish, upon request, the necessary instructions for filing classification appeals.

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14-4 APPEAL RIGHTS

**EffDte: 02/28/1991 MCRT#: 0 Div: D3OP Cav: SecCls:

| 14-4.1 |Appeal Rights of Preference Eligible Employees Regarding Adverse Actions

| Pursuant to Title 5, United States Code (USC), Section
| 7511, "preference eligible" employees (e.g., certain veterans) who
| have completed one year of current continuous service in the same or
| similar positions with an agency may have certain procedural rights
| when an adverse action is proposed or taken against them. For the
| purposes of this manual, an "adverse action" involves removal,
| suspension for more than 14 days, reductions in grade or pay, or a
| furlough of 30 days or less. (See MAOP, Part I, 13-10, 13-13(3) &
| 14-4.2.)|

**EffDte: 12/01/1994 MCRT#: 353 Div: D3OP Cav: SecCls:

14-4.2 Appeal Rights in General (See MAOP, Part 1, 8-1.11 and 13-13.)

(1) This subsection provides a general overview of the appeal rights of an employee when there is an administrative action of a disciplinary nature. For a discussion of the additional rights of a preference eligible employee when there is an adverse action, see MAOP, Part 1, 13-10 and 14-4.1. For the purposes of this manual, an adverse action is removal, suspension for more than 14 days, reduction in grade or pay, or a furlough of 30 days or less. For a discussion of an employee's rights when there is a proposal for the employee to be reduced in grade or removed for unacceptable performance, see MAOP, Part 1, 5-4.7 and 5-4.7.1.

(2) Recommendations for adverse actions are made by a field office, headquarters division or the inspection staff and forwarded to the Office of Professional Responsibility (OPR). The matter is reviewed in the Administrative Services Division or OPR and a decision recommended. If, following review of the matter by the

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Assistant Director of the OPR, it is determined that administrative action is warranted, the action is taken and the employee notified. The action taken (or determination made) by the Assistant Director of the OPR is subject to review by the Deputy Director. If the proposed disciplinary action is against a member of the FBI's Senior Executive Service (SES), below the rank of Assistant Director, or an ASAC, the Deputy Director would determine whether an administrative action is warranted. The action taken by the Deputy Director is subject to review by the Director. If the proposed disciplinary action is against an Assistant Director or the Deputy Director, the Director would determine whether an administrative action is warranted. The actions taken by the Director with regard to an Assistant Director or Deputy Director are subject to review by the Deputy Attorney General.

(3) If the employee has not completed his/her probationary period of employment which began when the employee entered on duty, he/she will be notified that he/she has no right to appeal the action within the FBI (see MAOP, Part 1, 21-8). If the employee has completed the probationary period, the employee will be notified that he/she may appeal the action to the next level of authority for appeals. Should an employee who has completed his/her probationary period be concerned about other administrative actions taken against him/her short of adverse action, with the exception of oral reprimands and letters of censure, the employee may express this concern, through channels, to his/her SAC, Assistant Director, office head, or the Personnel Officer. In a case where disciplinary action was taken by an SAC, Assistant Director, office head, or the Personnel Officer, the appeal will be handled by the Assistant Director, | Administrative Services|Division. When disciplinary action is taken against SES members or ASACs, the Deputy Director is the action authority. The Director is the final appeal authority for disciplinary actions taken by the Deputy Director. Appeals must be received within 30 calendar days after the effective date of the disciplinary action. Thereafter, nonpreference eligible FBI employees in the excepted service do NOT have a right to appeal a disciplinary action to the Merit Systems Protection Board (MSPB). A "preference eligible" employee who has completed one year of current continuous service in the same or similar positions in an agency, in addition to being able to appeal a disciplinary action as indicated above, may also appeal an "adverse action" (e.g., removal, suspension for more than 14 days, reduction in grade or pay) to the MSPB. As a general matter, appeals to the MSPB by preference eligible employees are to be filed within 30 days after the effective date of the adverse action. (See SAC Memorandum 11-90 dated April 20, 1990, and MAOP, Part 1, 13-2(4) and 13-10, regarding the handling of offenses by SACs and Assistant Directors.)

(4) With the exception of the reference to the appeals rights of preference eligible employees in regard to the MSPB, the rights discussed in this section are not required by statute or regulation and should not be construed to indicate or imply that nonpreference eligible employees in the excepted service have a property interest in their employment such as in the form of an expectation of continued employment with the FBI. (See MAOP, Part I, 13-1(5) & 21-1.)

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14-5 CIVIL SERVICE REFORM ACT (PUBLIC LAW 95-454)

**EffDte: 04/27/1990 MCRT#: 0 Div: D3 Cav: SecCls:

14-5.1 Public Law 95-454

Public Law 95-454 provides the authority to grant grade retention for a period of 2 years and the authority for granting indefinite pay retention when an employee is demoted through no fault of his/her own. This is provided the demotion is not due to personal cause based upon conduct, character or inefficiency or at the employee's own request or consent.

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14-5.2 Requirement for Grade Retention

When an employee is demoted to a position which is lower graded than the position held immediately prior to demotion, as a result of a reduction-in-force or as a result of a reclassification process, he/she may qualify for grade retention. To qualify, the employee must have had served 52 consecutive weeks in the same agency in a grade or grades higher than the one to which demoted, and the position which is being reduced has to have been classified at the higher grade for a continuous period of at least one year immediately before the reduction.

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14-5.3 Requirement for Pay Retention

Pay retention shall apply to an employee whose rate of basic pay would otherwise be reduced as the result of the following: the expiration of a two-year period of grade retention; a reduction-in-force when the employee does not meet the eligibility requirements of grade retention; the reduction or elimination of scheduled rates; placement of an employee into a nonspecial rate position or into a lower special rate position from a special rate position; placement of an employee in a position in a lower wage area or in a position in a different pay schedule; or the placement of employee in a formal employee development program (upward mobility).

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14-5.4 Appeals

The denial of grade or pay retention benefits can be appealed under some circumstances. See Title 5, Code of Federal Regulations, Chapter 1, Part 511, for appeal rights.

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14-5.5 Temporary Promotion or Reassignment

Employee's entitlement to grade or pay retention is not affected by a temporary promotion or temporary reassignment. However, an employee serving under a temporary promotion or temporary reassignment may not retain a grade or rate of basic pay held during the temporary promotion or temporary reassignment.

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14-5.6 Wage Board Employees

Similar salary retention provisions apply to Wage Board employees.

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| 14-6 WITHIN-GRADE INCREASE |(See MAOP, Part 1, 8-8.6)|

(1) An employee who is denied a within-grade increase because of failure to perform at an acceptable level of competency may request reconsideration of the Bureau's action by filing a written request within 15 calendar days after receiving the denial notification.

(2) If the employee files a request for reconsideration, FBIHQ will establish a reconsideration file containing all pertinent documents relating to the negative determination and the request for reconsideration. This file will be made available to the employee and/or his/her personal representative for review.

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(3) If the negative determination is sustained after reconsideration, the employee will be informed in writing of the reasons for the decision and that he/she has the right of appeal to the Merit Systems Protection Board (MSPB) within 30 days of receipt of the notification. An employee can only appeal to the MSPB if he/she requests internal reconsideration of the WIGI denial first.

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14-7 SUPPORT PROMOTION AND PLACEMENT

Refer to MAOP, Part I, Section 7-7.

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

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