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SECTION 15. THEFT FROM INTERSTATE SHIPMENT

15-1 STATUTES

Title 18, USC, Section 659

Title 18, USC, Section 660

Title 18, USC, Section 2117

EFFECTIVE: 01/31/78

15-1.1 Section 659

"Whoever embezzles, steals, or unlawfully takes, carries away, or conceals, or by fraud or deception obtains from any pipeline system, railroad car, wagon, motor truck, or other vehicle, or from any tank or storage facility, station, station house, platform or depot or from any steamboat, vessel, or wharf, or from any aircraft, air terminal, airport, aircraft terminal or air navigation facility with intent to convert to his own use any goods or chattels moving as or which are a part of or which constitute an interstate or foreign shipment of freight, express, or other property; or

"Whoever buys or receives or has in his possession any such goods or chattels, knowing the same to have been embezzled or stolen; or

"Whoever embezzles, steals, or unlawfully takes, carries away, or by fraud or deception obtains with intent to convert to his own use any baggage which shall have come into the possession of any common carrier for transportation in interstate or foreign commerce or breaks into, steals, takes, carries away, or conceals any of the contents of such baggage, or buys, receives, or has in his possession any such baggage or any article therefrom of whatever nature, knowing the same to have been embezzled or stolen; or

"Whoever embezzles, steals, or unlawfully takes by any fraudulent device, scheme, or game, from any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier moving in interstate or foreign commerce or from any passenger thereon

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any money, baggage, goods, or chattels, or whoever buys, receives, or has in his possession any such money, baggage, goods, or chattels, knowing the same to have been embezzled or stolen. . . "

EFFECTIVE: 01/31/78

15-1.1.1 Elements

Elements of violations growing out of the embezzlement, stealing, or unlawful taking from any pipeline system, railroad car, wagon, motor truck, etc., of any goods or chattels moving as or which are a part of or which constitute an interstate or foreign shipment of freight, express, or other property.

(1) The theft or embezzlement violation:

(a) Goods or chattels moving as or which are a part of or which constitute an interstate or foreign shipment of freight, express, or other property in one of the places named in section 659.

(b) The goods or chattels have been embezzled, stolen, or obtained by fraud or deception.

(2) The buying, receiving, or possessing violation:

(a) Goods or chattels were moving as or were a part of or constituted an interstate shipment or foreign shipment of freight or express in one of the places named in the statute.

(b) The actual theft or embezzlement of same.

(c) Guilty knowledge on the part of the buyer, receiver, or possessor of such goods or chattels that they have been stolen or embezzled. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the property was stolen or embezzled, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

NOTE that in subparagraphs (1) and (2) above, the theft, embezzlement, etc., need not be from a vehicle operated by a common carrier. The Department is of the opinion that a theft, etc., of freight or express moving in interstate commerce taken from a consignor-owned or -controlled vehicle is within the above portions of section 659.

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(3) Elements of violations growing out of the embezzlement, theft, or unlawful taking or obtaining by fraud or deception of any baggage in the possession of any common carrier for interstate or foreign transportation:

(a) Baggage is in the possession of any common carrier for transportation in interstate or foreign commerce.

(b) The baggage has been embezzled, stolen, or obtained by fraud or deception.

(c) Baggage is in the possession of any common carrier for transportation in interstate or foreign commerce.

(d) Contents of same are broken into, or stolen, or concealed.

(e) Baggage is in the possession of any common carrier for transportation in interstate or foreign commerce.

(f) Baggage has been embezzled, stolen, broken into, or any of the contents have been stolen.

(g) Buying, receiving, or possessing such baggage or any article therefrom knowing the same has been embezzled or stolen. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the property was stolen or embezzled, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

(4) Elements of violations growing out of the embezzlement, theft, or unlawful taking by fraud of money, baggage, goods, or chattels from any railroad car, bus, vehicle, aircraft, etc., operated by any common carrier moving in interstate or foreign commerce or from any passenger thereon:

(a) The embezzlement, theft, or unlawful taking from a vehicle violation. Money, baggage, goods, or chattels have been embezzled, stolen, or unlawfully taken by a fraudulent device, scheme, or game from railroad car, bus, vehicle, or aircraft operated by any common carrier. The vehicle was moving in interstate or foreign commerce.

(b) The embezzlement, theft, or unlawful taking from

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a passenger violation. Money, baggage, goods, or chattels have been embezzled, stolen or unlawfully taken by a fraudulent device, scheme, or game from a passenger while that passenger was on any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier and moving in interstate or foreign commerce.

(c) The buying, receiving, or possessing of such property violation. Money, baggage, goods, or chattels have been stolen or embezzled as outlined in (4)(a) and (4)(b) above. Guilty knowledge on the part of the buyer, receiver, or possessor of such goods that they have been stolen or embezzled. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the property was stolen or embezzled, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

(5) The subsequent interstate or foreign transportation of such property:

Money, freight, express, baggage, goods, or chattels as have been stolen as outlined in either subparagraphs (1), (2), (3), or (4) above. The statute provides that such subsequent transportation shall constitute a separate offense and subject the offender to the penalties under the section for unlawful taking. Venue for such subsequent interstate transportation lies in any district into which such money, freight, etc., shall have been removed or into which the same shall have been brought by the offender.

EFFECTIVE: 10/23/95

15-1.1.2 Other Provisions

(1) Venue - The offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said money, baggage, goods, or chattels.

(2) To establish the interstate or foreign commerce character of any shipment in any prosecution under this section the waybill or other shipping document of such shipment shall be prima facie evidence of the place from which and to which such shipment was made. The removal of property from a pipeline system which extends

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interstate shall be prima facie evidence of the interstate character of the shipment of the property.

(3) A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution under this section for the same act or acts. Nothing contained in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of the section or any provision thereof.

(4) The carrying or transporting of any such money, freight, express, baggage, goods, or chattels in interstate or foreign commerce, knowing the same to have been stolen, shall constitute a separate offense and subject the offender to the penalties under this section for unlawful taking, and the offense shall be deemed to have been committed in any district into which such money, freight, express, baggage, goods, or chattels shall have been removed or into which the same shall have been brought by such offender.

EFFECTIVE: 01/31/78

15-1.1.3 Possible Violations

(1) Those dealing with the embezzlement, theft, or unlawful taking of any goods or chattels from any pipeline system, railroad car, wagon, motor truck, or other vehicle, etc.

(a) The embezzling, stealing, or unlawful taking, carrying away, or concealing, or the obtaining by fraud or deception, from any pipeline system, railroad car, wagon, motor truck, or other vehicle or from any tank or storage facility, station, station house, platform, or depot, or from any steamboat, vessel, wharf, aircraft, air terminal, airport, aircraft terminal, or air navigation facility with intent to convert to his own use any goods or chattels moving as or which are a part of or which constitute an interstate or foreign shipment of freight, express, or other property.

(b) The buying, receiving, or possessing such goods or chattels knowing them to have been stolen or embezzled.

(c) The embezzling, stealing, or unlawful taking,

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carrying away, or obtaining by fraud or deception with intent to convert to his own use any baggage which shall have come into the possession of any common carrier for transportation in interstate or foreign commerce or the breaking into, stealing, taking, carrying away, or concealing any of the contents of such baggage or the buying, receiving, or possessing any such baggage or any article therefrom knowing the same to have been embezzled or stolen.

(d) The embezzling, stealing, or unlawful taking by any fraudulent device, scheme, or game from any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier moving in interstate or foreign commerce or from any passenger thereon any money, baggage, goods, or chattels or the buying, receiving, or possessing such property knowing the same to have been stolen or embezzled.

EFFECTIVE: 01/31/78

15-1.2 Section 660

"Whoever, being a president, director, officer, or manager of any firm, association, or corporation engaged in commerce as a common carrier, or whoever, being an employee of such common carrier riding in or upon any railroad car, motor truck, steamboat, vessel, aircraft or other vehicle of such carrier moving in interstate commerce, embezzles, steals, abstracts, or willfully permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation arising or accruing from, or used in, such commerce, in whole or in part, or willfully or knowingly converts the same to his own use or to the use of another..."

EFFECTIVE: 01/31/78

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15-1.2.1 Elements

(1) Offenses by officers:

(a) A president, director, officer or manager of any firm, association or corporation engaged in interstate commerce as a common carrier.

(b) Embezzles, steals, abstracts, willfully misapplies, or willfully permits to be misapplied any of the moneys, funds, credits, securities, property or assets of such firm, association, or corporation arising or accruing from, or used in such commerce in whole or in part or willfully or knowingly converts, the same to his own use or to the use of another.

(2) Offenses by employees:

(a) An employee of any firm, association, or corporation engaged in commerce as a common carrier.

(b) Riding in or upon any railroad car, motor truck or steamboat, vessel, aircraft, or other vehicle of such carrier moving in interstate commerce.

(c) Embezzles, steals, abstracts or willfully misapplies or willfully permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation arising or accruing from or used in, such commerce in whole or in part, or willfully knowingly converts the same to his own use or to the use of another.

EFFECTIVE: 01/31/78

15-1.2.2 Other Provisions

(1) Venue - The offense shall be deemed to have been committed not only in the district where the violation first occurred but also in any district in which the defendant may have taken or had possession of such moneys, funds, credits, securities, property, or assets.

(2) "A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts."

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(3) The Department is of the opinion that under the employee's embezzlement portion of section 660 the vehicle must actually be moving in interstate commerce at the time the embezzlement occurs in order to constitute a violation. The Department also is of the opinion that the employee must be riding in or on one of the specified vehicles at the time of the embezzlement in order to have an offense.

EFFECTIVE: 01/31/78

15-1.2.3 Possible Violations

(1) Those dealing with embezzlements, etc., by officers of firm, association, or corporation engaged in commerce as a common carrier:

The embezzling, stealing, abstraction, willful misapplication, or willful consent to misapplication by a president, director, officer, or manager of any firm, association, or corporation engaged in commerce as a common carrier of any of the moneys, funds, securities, etc., of such firm, etc., arising or accruing from or used in such commerce, in whole or in part, or the willful conversion of the same to his own use or the use of another.

(2) Those dealing with embezzlements, etc., by employees of firm, etc., engaged in commerce as a common carrier riding in or upon conveyance of such carrier moving in interstate commerce.

EFFECTIVE: 01/31/78

15-1.3 Section 2117

"Whoever breaks the seal or lock of any railroad car, vessel, aircraft, motor truck, wagon or other vehicle or of any pipeline system containing interstate or foreign shipments of freight or express or other property, or enters any such vehicle or pipeline system with intent in either case to commit larceny therein . . ."



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EFFECTIVE: 01/31/78

15-1.3.1 Elements

(1) Breaking or entering carrier facilities (seal- or lockbreaking)

(a) A seal or lock was unlawfully broken.

(b) The seal or lock was on a railroad car, vessel, aircraft, motor truck, wagon, or other vehicle, or of any pipeline system.

(c) The specified conveyance contained interstate or foreign shipments of freight, express, or other property.

(d) An intent to commit larceny in the specified conveyance.

(2) The railroad car, vessel, aircraft, pipeline system, etc., entering violation

(a) A railroad car, vessel, aircraft, pipeline system, etc., was entered.

(b) The specified conveyance contained interstate or foreign shipments of freight, express, or other property.

(c) An intent to commit larceny in the specified conveyance.

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15-1.3.2 Other Provisions

"A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution under this section for the same act or acts. Nothing contained in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of the section or any provision thereof."

EFFECTIVE: 01/31/78

15-1.3.3 Possible Violations

(1) Those dealing with the breaking of the seal or lock, and the entry therein

(a) The unlawful breaking of the seal or lock of any railroad car, vessel, aircraft, motor truck, wagon, or other vehicle or of any pipeline system containing interstate or foreign shipments of freight, express, or other property.

(b) The entry of such vehicle or pipeline system with intent in either case to commit larceny therein.

EFFECTIVE: 01/31/78

15-2 DEFINITIONS

(1) An interstate shipment is a shipment of freight, express, baggage, or any kind of shipment which begins in one state and ends in another, or which begins in one state and ends in the same state, if in getting to its destination it actually goes through another state.

(2) A foreign shipment is a shipment of freight, express, baggage, or any kind of shipment which begins in the U. S. and ends in a foreign country or vice versa.

(3) Interstate or foreign character of a shipment - the

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general rules is that a shipment becomes of interstate or foreign character when it is delivered into the custody and control of the carrier by the consignor. It retains its interstate or foreign character until actually delivered to the consignee, unless it remains undelivered an unreasonable length of time. If question exists as to whether stolen shipment was of interstate character at time of theft, embezzlement, etc., consult USA at outset of investigation.

(4) Hijacking - this term applies only where force is used, there is a display of violence or victim is put in fear, i.e., common-law definition of robbery.

EFFECTIVE: 06/09/80

15-3 INVESTIGATIVE PROCEDURE

EFFECTIVE: 06/09/80

15-3.1 Buyers, Receivers and Possessors

These provisions of the statute are aimed at "fences" who by their willingness to handle stolen goods foster thievery. It must be remembered that the taking section of the statute prohibits several things: (1) stealing; (2) embezzling; (3) unlawfully taking; (4) unlawfully carrying away; (5) unlawfully concealing; (6) obtaining by fraud or deception. The "fence" section prohibits three things: (1) buying; (2) receiving; (3) possessing such goods and chattels if accompanied by a knowledge that they have been previously stolen or embezzled. By the plain wording of this statute, if such goods and chattels have been originally removed from the interstate shipment by other means, such as obtaining them by fraud or deception there can be no conviction of the buyer, receiver or possessor, because he/she can't have knowledge they have been stolen when they haven't been stolen. [But see Title 18, USC, Section 21, pursuant to which the element of guilty knowledge may also be established by proof that the defendant believed that the property was stolen or embezzled, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).]

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EFFECTIVE: 10/23/95

15-3.2 Guilty Knowledge

In receiving cases by far the most difficult and important investigative procedure is to prove the receiver knew or should have known from the circumstances that the property had been stolen or embezzled. There follow some suggestions for consideration:

(1) The testimony of the person who stole or embezzled goods, which is usually admissible as to the guilty knowledge of the person receiving, buying or possessing them.

(2) Circumstantial evidence, such as: the concealment of the goods; the fact that the goods had been recently stolen; similar prior activities of the accused; knowledge by the accused of the criminal tendencies of the thieves; payment by the accused of a price much lower than the well established market value of the goods; destruction by the accused of identification marks on the goods; and false statements by the accused as to the source from which he/she obtained the goods. (See MIOG, Part I, 87-4.4(3).)

(3) Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the property was stolen or embezzled, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

EFFECTIVE: 10/23/95

15-3.3 Establishing the Interstate or Foreign Character of a Shipment

(1) Obtain copy of waybill or other shipping document. This is prima facie evidence of place from which and to which shipment made. Ascertain name and address of person who has custody of original waybill or other shipping document and can produce same in evidence. If not readily available, set out leads to obtain such documentation only in priority investigations or in cases wherein prosecution is anticipated.

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(2) If waybill or other shipping document cannot be located for production in evidence, endeavor to ascertain following:

Identities of individuals who packed, labeled, and checked stolen shipment; who transferred goods from consignor to carrier; who obtained bill of lading or receipt; who checked goods at receiving depot or terminal; who transferred goods from depot to car or vehicle; who sealed car; who were in charge of shipment during transportation.

EFFECTIVE: 06/09/80

15-3.4 Identification of Stolen Interstate Shipment

(1) Obtain complete description of stolen merchandise to assist in locating same and to establish subsequently that goods found in possession of suspect actually identical with stolen merchandise.

(2) Consignor may be able to assist in identifying recovered goods.

(3) If serial numbers or other positive identifying markings present, obtain same.

(4) Consider stops and circularization to effect recovery of goods.

(5) Difficult to obtain conviction unless some of stolen property recovered, though not impossible.

(6) Where stolen goods not susceptible of positive identification, do not discontinue investigation for this reason inasmuch as it may be possible to identify them by chain of witnesses who have had them in their possession since theft.

(7) In cases reported to Bureau long after theft occurred concerning property incapable of positive identification, extensive inquiries might not be warranted in absence of plausible leads pointing to thief.

(8) It is necessary to definitely establish by serial number or a chain of witnesses that the property in the possession of the receiver is the same property which has been previously stolen from an interstate shipment. In this connection, while the Federal

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strip tax stamps across the tops of individual whiskey bottles do not have individual serial numbers, they all do have serial numbers in groups bearing the same numbers. The possibilities of definitely identifying an individual bottle of whiskey, if all whiskey bottles bearing the same strip stamp number can be accounted for except those stolen, should not be overlooked. The whiskey bottling concern is the proper place to obtain data relative to the disposition of a certain series of strip stamps.

EFFECTIVE: 06/09/80

15-3.5 Hijacking

(1) Hijacked truck should always be processed for fingerprints.

(2) Interview driver of hijacked truck as soon as possible. Obtain complete statement, including any suspects|driver|has. View truck driver with suspicion if suspects not immediately developed. If any indication|driver|is involved, conduct background investigation concerning|driver|. Consider reinterview of truck driver after reasonable length of time. Consider physical surveillance of suspect truck driver.

(3) Conduct investigation at terminal from which hijacked truck dispatched for information concerning suspicious individuals. Be alert for collusion on part of terminal employees. In many hijackings and major thefts, the "finger man" will be employee or ex-employee of victim carrier.

EFFECTIVE: 06/09/80

15-3.6 Introduction of Waybills into Evidence

Title 28, USC, Section 1732, makes entries which are made in usual course of business admissible by their custodian. This may be valuable as to producing waybills, etc.

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15-3.7 Miscellaneous Procedures

(1) If violation consists of theft from vehicle of common carrier, or from passenger thereon, ascertain points of departure and destination of vehicle. Conductor of train, pilot of aircraft, etc., can usually furnish necessary evidence to prove interstate factor. If violation consists of practicing fraudulent scheme or game on passenger, such as crooked dice or marked cards, local police may be able to assist in furnishing suspects.

(2) If theft occurs from vehicle in transit, obtain identity of carrier employees who last noted shipment to be intact and who first found it stolen. This will assist in establishing point of theft.

(3) If violation consists of theft, embezzlement, etc., of goods from interstate shipment, necessary to prove corpus delicti by evidence of actual theft, embezzlement, etc. In some instances, interstate shipments are found short at destination as result of error by consignor, loss in transit or misdirection.

(4) If violation consists solely of unlawfully breaking the seal, matters should be promptly presented to the appropriate USA before conducting investigation. If prosecution authorized, search should be made for such seal. It may later be possible for FBI Laboratory to establish that knives or tools found in possession of suspects were used to break seal. In seal-breaking violation, remember that intent to commit larceny in vehicle is necessary element of offense. This is of particular importance if nothing stolen from pertinent vehicle. Ascertain identities of individuals who placed seal on vehicle and who last noted it intact. Endeavor to establish venue by ascertaining where seal broken.

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15-3.8 Modus Operandi

These thefts can be perpetrated in a number of ways, i.e., conversion of overage by truck driver, terminal employee secreting package in personally owned car, collusion between terminal employee and truck driver to load extra cartons on latter's vehicle, "tail gate" thefts, which may be thefts of opportunity by passer-by or perpetrated by organized ring whose members actually surveil trucks, checker using "fast count" to mislead driver and thus not turning over to driver all items called for by shipping documents, etc.

EFFECTIVE: 06/09/80

15-4 POLICY

(1) If complainant or victims are found to be local bootleggers, black-market operators, or racketeers, submit information to USA before continuing investigation.

(2) Where a theft from interstate shipment case has been first unsuccessfully investigated by local authorities or railroad police and then reported to the Bureau long afterwards, the same should be promptly closed if the subjects are unknown and no immediate leads to identify them are apparent. Also, in all such cases in which the subjects are unknown and there is no immediate indication they will become known, no effort should be made to obtain or report the so-called shipping data or any other information of purely jurisdictional import not connected with identifying the subjects.

(3) In all hijackings and in other theft from interstate shipment cases which are of major importance or of unusual interest, including all trailer loads and full container shipments, promptly advise FBIHQ of the pertinent facts and of the progress being made in the investigation. This notification should normally be made by teletype as soon as possible after the theft or hijacking is reported. In unusual instances, it may be deemed advisable to inform FBIHQ by telephone. The victim driver's name, date of birth, and results of office indices check should be included in the initial teletype. This in turn will be searched in Bureau indices and positive results furnished.

(4) Investigation of armed hijackings and trailer load thefts of interstate shipment cases to commence the "same day" after receipt of complaint; other TFIS cases should be handled according to



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the circumstances of the case and consistent with the local USA guidelines. This policy will not apply in those instances where the complainant has delayed reporting the theft or loss for several days or longer after determining that the property was stolen or missing. The latter complaints should be acknowledged telephonically or as otherwise appropriate and investigation initiated consistent with the facts of the complaint and manpower commitments.

(5) In cases involving Section 660, complainant will almost invariably be official or owner of victimized carrier. If subject, who in vast majority of cases will be truck driver, is readily available or can be located with reasonable effort, driver should be interviewed promptly. Case may then usually be presented to USA. Note under elements of Section 660 that this statute is narrow one. If it appears that extensive, drawn-out investigation will be necessary to locate suspect for interview, examine facts of complaint carefully to ascertain if violation present. If doubt exists, present to USA promptly.

(6) Upon receipt of a complaint involving a minor theft from interstate shipment where there are no known aggravating or unusual circumstances, immediately present the facts to USA for a prosecutive opinion or handle in accordance with existing blanket declination policy for TFIS violations. If USA will not consider federal prosecution, conduct no investigation. Refer matter to local law enforcement agency having jurisdiction over violation. So advise complainant and confirm with USA in accordance with procedural agreements. These cases should be handled from a control file in accordance with the procedure set forth in Buairtel to Albany dated 3/10/76, under the caption "Use of Personnel."

(7) The standards established under the "quality vs. quantity" concept should not preclude targeting instances of organized thievery involving a series of package thefts from the same carrier wherein experience has shown that such thefts can amount to a significant monetary loss in a short period of time.

(8) To ensure accurate retrieval of information, indexing standards require that the following data be set forth in the title of unsub, TFIS cases:

(a) Name of common carrier, or if unknown, the name of the consignee or consignor;

(b) Type of merchandise; e.g., televisions, liquor, etc.;

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and (c) Location where theft occurred (city and state);

(d) Date of theft, if known.

(e) Retail value of the merchandise. (Do not include the value of the tractor and/or trailer. These should be included in the body of the teletype.)

NOTE: The setting forth of VINs, serial numbers, model numbers, and license plate numbers in captions of TFIS cases should be avoided.

(9) In TFIS violations involving armored carrier/courier losses, an FD-430 must be submitted to FBIHQ, Attention: Violent Crimes/Fugitive Unit, Criminal Investigative Division, in duplicate, within 30 working days. Submission of the FD-430 will be required in all cases involving an armored carrier/courier loss regardless of the amount. Any investigation should continue to be consistent with current Bureau policy and local USA guidelines. The OO shall determine if regional or other field office notification is necessary. (See MIOG, Part I, 87-5.3.2(5), 91-3.2, 91-12.1, 91-12.2, & 192-11.2; MAOP, Part II, 9-6.)

(10) Effective January 1, 1985, the phrase "property or cargo" was added to the "Motor Vehicle" definition in Title 18, USC, Section 31 (DAMV Statute - Part I, 149-1.1.5 of this manual), to cover trucks. As a result, a person who destroys or damages a truck with intent to endanger the driver or another person on board, or with reckless disregard for their safety, can be prosecuted under Title 18, USC, Section 33 (DAMV). (See MIOG, Part I, 26-4.6 & 149-5.1.)

(a) DOJ has advised that expansion of the term "Motor vehicle" is not intended to "federalize" every attack upon a truck which endangers persons on board, and offices should develop prosecutive guidelines with respect to this statute through their law enforcement coordinating committees.

(b) Employees assigned TFIS investigations should be aware of the provisions of the above section since violations of this nature may be brought to their attention.

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EFFECTIVE: 01/08/96

15-5 LIAISON AND COVERAGE

This is one of the cardinal points in successful handling of theft from interstate shipment matters. Coverage must be established with carriers, local law enforcement agencies, railroad police, trucking associations, traffic groups, insurance companies, representatives of the Interstate Commerce Commission, etc., in order that violations will be reported to us promptly. The best means of maintaining such liaison is by periodic personal contact. Theft From Interstate Shipment posters, suitable for distribution to all types of carriers, are available at all times and may be obtained by requesting same from FBIHQ. These posters have been found to be effective in strengthening liaison with carriers, educating them as to our jurisdiction and deterring thievery.

EFFECTIVE: 02/16/89

15-6 PENALTIES

(1) Section 659 - A fine of not more than \$5,000 or imprisonment for not more than ten years, or both. If the amount or value of such money, baggage, goods, or chattels does not exceed \$100, the offender shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(2) Section 660 - A fine of not more than \$5,000 or imprisonment for not more than ten years, or both

(3) Section 2117 - A fine of not more than \$5,000 or imprisonment for not more than ten years, or both.

EFFECTIVE: 07/11/85

15-7 CHARACTER - THEFT FROM INTERSTATE SHIPMENT (TFIS)

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EFFECTIVE: 07/11/85

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SECTION 17. FRAUD AGAINST THE GOVERNMENT -  
DEPARTMENT OF VETERANS AFFAIRS  
| (SEE MIOG, PART I, SECTION 46.) |

| 17-1 | BACKGROUND

| The 17 classification was eliminated and reclassified in  
Fiscal Year 1996 as 46G (Fraud Against the Government - Department of  
Veterans Affairs). See MIOG, Part I, Section 46. |

EFFECTIVE: 07/31/97

| 17-2 | DELETED |

EFFECTIVE: 07/31/97

| 17-3 | DELETED |

EFFECTIVE: 07/31/97

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EFFECTIVE: 07/31/97

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EFFECTIVE: 07/31/97

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EFFECTIVE: 07/31/97



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SECTION 18. MAY ACT

18-1 STATUTE

Title 18, USC, Section 1384.

EFFECTIVE: 06/15/81

18-1.1 Section 1384. Prostitution Near Military and Naval Establishments

(1) "Within such reasonable distance of any military or naval camp, station, fort, post, yard, base, cantonment, training or mobilization place as the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or any two or all of them shall determine to be needful to the efficiency, health, and welfare of the Army, the Navy, or the Air Force, and shall designate and publish in general orders or bulletins, whoever engages in prostitution or aids or abets prostitution or procures or solicits for purposes of prostitution, or keeps or sets up a house of ill fame, brothel, or bawdy house, or receives any person for purposes of lewdness, assignation, or prostitution into any vehicle, conveyance, place, structure or building, or permits any person to remain for the purpose of lewdness, assignation, or prostitution in any vehicle, conveyance, place, structure or building, or part thereof, knowing or with good reason to know that it is intended to be used for any of the purposes herein prohibited shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

(2) "The Secretaries of the Army, Navy, and Air Force and the Federal Security Administrator (now Secretary of Health and Human Services) shall take such steps as they deem necessary to suppress and prevent such violations thereof, and shall accept the cooperation of the authorities of States and their counties, districts, and other political subdivisions in carrying out the purpose of this section."

(3) "This section shall not be construed as conferring on the personnel of the Departments of the Army, Navy or Air Force or the Health and Human Services any authority to make criminal investigation searches, seizures, or arrests of civilians charged with violations of this section."

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EFFECTIVE: 06/15/81

18-2 DEPARTMENTAL INSTRUCTIONS

The Department has pointed out:

(1) FBI has investigative jurisdiction over criminal violations of the act but not with policing responsibilities.

(2) In most cases violations of the act would also constitute violations of the state law and state and local law enforcement agencies have concurrent jurisdiction.

(3) Arrangements could be worked out with local police to carry out the necessary patrols and make arrests for petty individual infractions.

(4) This leaves the FBI the task of investigating organized violations of a major character.

EFFECTIVE: 06/15/81

18-3 MISCELLANEOUS

(1) Effective April 11, 1953, the Federal Security Administrator was abolished and all functions of the Federal Security Administrator were transferred to the Secretary of Health, Education and Welfare. The Department of Health, Education and Welfare was subsequently abolished and all functions of that department were transferred to the Department of Health and Human Services, effective May 4, 1980.

(2) It should be noted that violations of this statute occur primarily in time of war.

EFFECTIVE: 06/15/81

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18-4 POLICY

(1) The May Act is subject to invocation only by the Secretary of the Army, Secretary of the Navy, or Secretary of the Air Force. After invocation it is the FBI's responsibility to investigate violations of the May Act. Prior to invocation, the FBI has no responsibility under the act and accordingly makes no recommendation as to the desirability of invocation and expresses no opinions as to the necessity therefor.

(2) The Secretaries of the Army, the Navy, and the Air Force, and the Secretary for Health and Human Services are authorized and directed to take such steps as they deem necessary to suppress and prevent violations of the act and also to accept the cooperation of state, county and local authorities in carrying out the purposes of the act.

(3) The act shall not be construed as conferring on the personnel of the Army, Navy, or Air Force, or the Department of Health and Human Services any authority to make criminal investigations, searches, seizures or arrests of civilians charged with violation of the act.

(4) In the past the Federal Security Administrator (now Secretary of Health and Human Services), the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force have stipulated that a reasonable opportunity should be given local authorities in the vicinity of the military establishments to curb prostitution at those localities before the May Act is invoked. Whenever the May Act is invoked the SAC and all investigative personnel should be alert to point out to all interested parties that FBI investigations under the May Act are conducted pursuant to congressional enactment and are not to be interpreted as an indication of any desire on the part of the FBI to enter the field of local vice control.

EFFECTIVE: 06/15/81

18-5 VENUE

Judicial district wherein offense is committed.

EFFECTIVE: 06/15/81

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18-6 CHARACTER - MAY ACT

EFFECTIVE: 06/15/81

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SECTION 21. FOOD AND DRUGS

21-1 FOOD AND DRUGS

The Food and Drug Administration enforces the Food, Drug, and Cosmetic Act; Tea Act; Import Milk Act; Caustic Poison Act; and Filled Milk Act. Its activities are directed mainly toward promoting purity, standard potency, and truthful and informative labeling of the essential commodities covered by the provisions of these five acts, as well as not controlled depressant and stimulant drugs. Complaints of this nature received at FBIHQ are referred to the Commissioner of Food and Drug Administration, Washington, D. C. Similar complaints received in the field should be referred to the nearest field component of the Food and Drug Administration.

EFFECTIVE: 01/31/78

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SECTION 23. PROHIBITION

23-1 PROHIBITION

The Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury is charged with the administration of the laws relating to the manufacture, warehousing, and distribution of spirituous liquors, wines, fermented liquors, and industrial alcohol. Bootlegging activities and other violations of the alcohol tax laws which are reported to FBIHQ are referred to the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, D. C. Similar complaints received by field offices should be reported to the nearest field representatives of the Bureau of Alcohol, Tobacco and Firearms.

EFFECTIVE: 01/31/78

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SECTION 25. SELECTIVE SERVICE ACT

25-1 STATUTES

Criminal Provisions, Title 50, App., USC; Reemployment  
Provisions, Title 38, USC, Sections 2021 - 2026

EFFECTIVE: 05/08/81

25-2 REGISTRATION

(1) On March 29, 1975, the President issued Proclamation 4360, which revoked all former proclamations providing for registration under the Military Selective Service Act, and terminated then existing Selective Service registration procedures. The Selective Service System ceased registrations effective midnight, April 1, 1975. Subsequently, all related registrant processing was also terminated, including issuance of replacement status cards, classification action of any kind, action by area offices regarding nonregistrants or late registrants.

(2) The below registration provisions were in effect prior to April 1, 1975, and should read in that context. These provisions predicate the basis for Selective Service investigations of registration violations before the above date.

(a) Male citizens of the United States who have attained the eighteenth anniversary of the day of their birth and have not yet attained the twenty-sixth anniversary of the day of their birth are required to register.

(b) Generally aliens admitted to the United States for permanent residence who are between the ages of 18 and 26 are required to register. Nonimmigrant aliens are not required to register for so long as they maintain that status.

(c) Persons on active duty in the Armed Forces, cadets and midshipmen at the service academies, members of the reserve components of the Armed Forces on procurement programs at a certain few military colleges, the curriculum of which has been approved by the Secretary of Defense, are not required to register while they

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certify and he must also designate the specific reason registration is not required of him.

EFFECTIVE: 07/18/86

25-3 INDUCTIONS

(1) The statutory authority to induct persons into the Armed Forces expired on July 1, 1973. This, of course, does not change the status of our investigations of those persons who did not comply with induction orders issued prior to July 1, 1973.

(2) The Military Selective Service Act and Selective Service regulations have not deleted all references to induction and if and when the Congress reestablishes the authority to induct, those references in the law and regulations will again be applicable.

(3) The major responsibilities of the Selective Service System at the present time are the maintenance of records and the retaining of the nucleus of a system which may be required in the event of future registration.

EFFECTIVE: 07/18/86

25-4 PARDON

(1) All persons who may have committed any offense between 8/4/64 and 3/28/73, in violation of the Military Selective Service Act (SSA) or any rule or regulation promulgated thereunder.

(2) All persons convicted of any SSA violation committed during the same period.

(3) All SSA violators who have taken citizenship in another country, and therefore, could have been excluded from returning to the United States. They may now return as visitors and apply for U.S. citizenship under the same regulations as any alien.

(4) All SSA offenders who participated in President Ford's clemency program. Any conditional clemency will now be made a full pardon.



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(a) Excluded from the Presidential Pardon are all those whose violation of the law involved force or violence and any employees of the Selective Service System who may have violated the SSA.

(b) The pardon also orders the Attorney General to drop all pending investigations against alleged SSA violators and not to initiate new investigations with the exception of the previously mentioned two exclusions.

EFFECTIVE: 02/16/89

25-5 INVESTIGATIVE PROCEDURES

(1) Since the reinstitution of the SSA, cases are referred by the DOJ simultaneously to the United States Attorney's (USA) Office having jurisdiction and to FBIHQ.

(2) Upon receipt of the DOJ referrals, the USA's Office sends a registered letter to the subject advising him of his failure to register with the Selective Service System (SSS) and being a possible violator of the Military Selective Service Act, Title 50, USC, Section 462(A).

(3) SSA cases are transmitted by FBIHQ to the field by cover airtel with the following instructions:

(a) Prior to the initiation of investigation, contact the Selective Service Data Management Center, Great Lakes, Illinois, to determine if captioned individual has registered since his case was referred to DOJ. This contact can be made using the Data Management Center toll-free number, which is included in each FBIHQ airtel sent to each field office.

(b) Consult with the USA's Office to determine if captioned individual has been contacted. DOJ instructions to USA suggest sending a registered letter to potential violators stating prosecution will be considered if registration is not accomplished. USA may request direct contact with captioned individual by an Agent.

(c) If captioned individual is indicted and prosecuted, submit an original and two (2) copies of prosecutive report to FBIHQ for dissemination.

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(d) Upon closing of case, regardless of reason, submit an original and three (3) copies of an LHM to FBIHQ for dissemination.

(4) Selective Service Act-Fraud Against the Government (SSA-FAG) and Selective Service Act-Failure to Register (SSA-FTR) matters - The Department of Education, Office of the Inspector General, Washington, D.C., conducts quality control studies and program reviews from which the number of registration-age student aid applicants are checked against Selective Service records. As a result, certain individuals are identified as student loan applicants who have certified that they are registered with the Selective Service System and who apparently have not registered. The Department of Education refers the names of alleged nonregistrants to the Department of Justice for investigation. The FBI will assume the lead role in these investigations under the supervision and direction of the Violent Crimes and Major Offenders Section, Criminal Investigative Division, FBI Headquarters.

Under Selective Service regulations, an individual is not deemed registered until the pertinent data is entered into the Selective Service master computer file, 32 C.F.R. Section 1615.1. Because of processing delays, it may take up to 60 to 90 days from the time a registration form is submitted to Selective Service until the data is actually entered into the master computer file. Thus, some of the student aid applicants referred for investigation may have submitted Selective Service registration forms but, because of processing delays, a record of registration might not be readily located.

(a) Bureau airtels initiating new SSA-FAG investigation cases will be sent to the field and will include identifying data for the nonregistrant subject, information on schools attended, and instructions for obtaining school records from regional offices of the Department of Education, Office of the Inspector General.

(b) Because of the delay in the processing of Selective Service registration forms, prior to any investigation contact should be made with the Selective Service Data Management Center (DMC), Great Lakes, Illinois, to determine if the subject has registered since the time his case was referred to the Department of Justice.

(c) Pursuant to Section 1113(b) of Public Law 97-252, if it is determined that any applicant was registered with Selective Service on or before June 30, 1983, no further investigation

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should be conducted and an original and three copies of an LHM containing results of inquiries should be submitted to FBIHQ for dissemination to the Department of Justice. With regard to applicants who are not registered or who registered after June 30, 1983, a complete investigation should be conducted with results submitted to the appropriate United States Attorney's Office and to FBIHQ for dissemination to the Department of Justice.

The Department's policy in failure-to-register investigations is to afford nonregistrants an opportunity to avoid prosecution by registering with Selective Service. It is the position of the Department, however, that this policy should not extend to situations where the failure-to-register offense has been compounded by a false-statement offense. Therefore, in conducting these investigations, care should be taken to ensure that no representations are made to the subject or his counsel that the investigation will be terminated if the subject registers prior to indictment.

(d) For administrative purposes, Selective Service Act cases involving failure-to-register violations only will be designated as Selective Service Act-Failure to Register (SSA-FTR) matters. Selective Service Act cases involving failure-to-register violations coupled with false-statement violations will be designated as Selective Service Act-Fraud Against the Government (SSA-FAG) matters.

EFFECTIVE: 02/16/89

25-5.1 General Procedures

(1) The subject's Selective Service file should be reviewed for information of lead value. Unnecessary effort and expense can be eliminated by a thorough review of the Selective Service file, and no other investigation should be conducted prior to this file review in the absence of good reason to the contrary. The Selective Service System at National Headquarters has stated that all of its files on violators who have been referred to a USA's office will be forwarded to its headquarters, Washington, D.C. Such a central repository will ensure a uniform policy as to access and protect the integrity of the files in the event a file is necessary for a court proceeding. Thus, any lead for the review of a Selective Service file on any of our subjects should be directed to the Washington|Metropolitan|Field Office, which will maintain liaison with Selective Service Headquarters.

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(2) According to the Selective Service System, the files on all other registrants will be destroyed upon the arrival of the twenty-sixth birthday of the registrants. Only the registration card, classification card and the classification record for nonviolators will be maintained at Regional Federal Record Centers. Our access to those records would also be sought via Selective Service Headquarters, based upon either the written approval of the registrant or the existence of pending prosecution of the registrant.

(3) During the aforementioned file review, and throughout the remainder of the investigation, Agents must be alert for evidence bearing upon the willfulness or lack thereof, of the violation. The USA must have a clear indication of the presence or absence of willfulness on the part of the violator in order to render a sound prosecutive opinion.

EFFECTIVE: 10/16/90

25-5.2 Placing Wanted Notices

(1) After review of Selective Service file, the usual next step in the investigation is locating and interviewing the subject. If initial attempts to locate the subject are unsuccessful, a wanted notice, FD-165, may be placed with the FBI Criminal Justice Information Services Division, indicating on the wanted notice that subject is wanted for questioning in a Selective Service matter. When the wanted notice is no longer necessary, promptly remove it. If, however, process is obtained, subject becomes a fugitive, and an FD-65, fugitive form, is issued. It will be automatically canceled when the fugitive stop is eventually removed.

(2) Wanted notices should not, as a general practice, be placed with law enforcement agencies. There is no objection to requesting a local law enforcement agency to be alert for a particular subject, but the local agency should clearly understand that subject is only wanted for interview, when that is the case, and subject's arrest is not desired. Care should be taken to advise the local agency when subject is no longer wanted.

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EFFECTIVE: 04/08/96

25-5.3 Subjects Currently in the Armed Forces

(1) When a case is received from the USA due to a subject's failure to register with Selective Service and investigation indicates that subject is not required to register under the provisions of 25-2 (2) (c) REGISTRATION above, verify subject's military status through appropriate checks and advise USA.

(2) This may happen because the Defense Department has not advised Selective Service of subject's entry into the Armed Forces by use of Form DD-53. When the USA's Office has received information that a registrant has entered the Armed Forces, and registrant's Selective Service file does not contain a DD-53, the USA's Office is required by Selective Service procedural directives to submit SSS Form 720 to the appropriate component of the Armed Forces, requesting information concerning registrant's Armed Forces status. When the Selective Service file indicates that the USA's Office has received information indicating the subject is, or may be, on active duty, and SSS Form 720 has not been submitted to the military by the USA's Office, discuss with the USA with the view of returning case to the Selective Service for further processing.

EFFECTIVE: 07/18/86

25-5.4 Fictitious Registrations

(1) The Selective Service Registrants Processing Manual provides that whenever the USA's Office has its mailings returned because of an apparently fictitious name or address, or whenever the USA has any other reason to believe that a registration is fictitious, USA shall, after reasonable efforts to determine the facts, report the responsible person as a violator. Upon receipt of such a case from the USA, investigation should be made promptly to ascertain whether registration is fictitious. Ordinarily, this can be determined by checking out all information furnished by subject at time of registration. If all information is false or cannot be substantiated, registration may be considered fictitious, and an appropriate LHM should be prepared, a copy of which must be furnished to USA. Although fictitious registrations may be motivated by desire for identifying document to accomplish any of an infinite variety of

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purposes, from enlisting in the Armed Forces or obtaining employment to evading arrest for desertion or past criminal offenses, majority of such registrations fall within one of the following categories:

(a) Registrations by juveniles to obtain Selective Service cards for identification purposes in obtaining access to places, activities, or employments from which normally excluded because of their youth.

(b) Registrations by persons desiring an identification document to aid in consummation of a crime, such as cashing stolen, forged, or worthless checks, or otherwise obtaining something of value by illegal means.

(2) While primary purpose of investigation in cases involving apparent fictitious registrations is to establish whether registrations are, in fact, fictitious, and may be canceled by the USA, each fictitious registration is a violation of the Act and every effort should be made during investigation to identify subject so a decision as to prosecution may be obtained from USA. Unless unusual circumstances exist, extensive investigation is not to be conducted to identify subject, once it has been established registration is fictitious.

EFFECTIVE: 07/18/86

25-5.5 Aliens Referred by Selective Service for Failure to Register

A male alien between the ages of 18 and 26 who is admitted for permanent residence in the United States, or whose previous temporary visa status is changed to permanent residence in the United States is advised by INS of his obligation to register with Selective Service. This is normally accomplished by having the alien read and sign INS form I-59, Selective Service Registration Notice. INS forwards the executed I-59 to the appropriate State Director of Selective Service, along with a copy of INS form I-181, Memorandum of Creation of Record of Lawful Permanent Residence. Cases will be referred by Selective Service to the USA when it appears to the State Director of Selective Service that the alien has not registered with Selective Service in that state. It is noted that the alien may have moved from the state of his initial U.S. residence and may have registered with Selective Service in another state. As of this writing, there is no operable central system in Selective Service



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which may be used to determine if a person is registered anywhere in the Nation. When presenting these cases to the USA, advise USA of the evidence available in Selective Service and/or INS files which indicates the alien was aware of his obligation to register.

EFFECTIVE: 10/24/85

25-5.6 No Card Cases

(1) For many years, Selective Service registrants were issued SSS Form 2, Registration Certificate, and SSS Form 110, Notice of Classification. In late 1974, Selective Service developed SSS Form 7, Status Card, which has been phased in to replace both SSS Forms 2 and 110. Registrants may be encountered who possess any one, two or all three of these documents.

(2) There is no law or regulation which requires a registrant to have in his possession evidence of Selective Service registration. Selective Service Regulation 1641.6 provides, however, that failure to have evidence of registration in possession shall be prima facie evidence of failure to register. There is no regulation which requires the registrant to exhibit registration documents to any person.

(3) Cases of persons in custody of local authorities will be referred to field offices because these persons do not possess registration documents. It is to be clearly understood and imparted to local authorities, however, that no arrests or detentions for sole purpose of determining an individual is in possession of registration documents are desired. Such action may constitute illegal arrest or detention and Bureau will not be party to such activities on part of local authorities who may be overzealous or attempting to use this Act as authority for arrest of individuals in instances where no grounds for arrest under local laws and ordinances. Detention of an individual on charge of "hold for FBI," or any similar phraseology, while registration is being verified must be neither requested nor tolerated. It is responsibility of SAC to advise USA of above policy so there will be no misunderstanding on his/her part as to course of action the Bureau will pursue in these cases.

(4) Verification of registration of subjects in police custody who do not possess registration documents.

(a) If subject in custody of local police without

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cards and has NOT been charged with and arraigned on local offense, immediately advise local authorities that subject's continued detention on Selective Service charges is not desired by the FBI. Institute investigation to determine subject's Selective Service status.

(b) If subject is being held on local charges and will be so held regardless of whether or not he possesses registration documents, institute investigation to determine if subject is registered, and if subject found not to be registered, present facts to appropriate USA for his/her opinion as to prosecution. Advise local authorities of USA's decision.

EFFECTIVE: 10/24/85

25-6 SELECTIVE SERVICE PERSONNEL

(1) If complaint is received alleging official or employee of Selective Service System has violated criminal provisions of Act, thoroughly interview complainant to secure all details upon which complaint based. If complaint specific and believed to have substance, appropriate investigation should be promptly initiated. FBIHQ must be advised of allegation immediately. If prosecution authorized furnish prosecutive report to FBIHQ. If prosecution declined, furnish closing LHM to FBIHQ.

(2) Miscellaneous complaints alleging misconduct on part of draft officials, unaccompanied by specific allegations of fraud, should be referred to State Director of Selective Service. For example, a complainant may submit list of registrants/complainant considers incorrectly classified, without alleging facts upon which prosecution might be predicated. Matters which are administrative in nature should be referred to State Director of Selective Service for handling. If criminal violation indicated, Selective Service System may then refer matter to USA for investigation.

EFFECTIVE: 10/24/85

25-7 VIOLATORS LOCATED ABROAD



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EFFECTIVE: 10/24/85

25-7.1 Aliens Located Abroad

(1) Public Law 414, 82nd Congress, commonly known as the McCarren-Walter Act, enumerated the general classes of aliens ineligible to receive visas and excluded from admission into the United States. These exclusion provisions are incorporated into Title 8, USC, Section 1182 (a). Title 8, USC, Section 1182 (a) (22), provides that aliens who have departed from or who have remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period declared by the President to be a national emergency, are one category of excludable aliens. On March 16, 1964, the Department of Justice issued Order Number 314-64, which established the procedure for invoking this exclusion statute. The procedure was set forth as follows and remains in effect:

(a) USA shall examine his/her file and investigative reports in each case and, upon determination Section 1182 (a) (22) is applicable, he/she shall so notify the field office of FBI.

(b) FBI will furnish INS all information pertinent to application of above Section. Application of the law from an administrative viewpoint shall thereafter be responsibility of INS. Where appropriate, FBI should also make such information available to State Department.

(c) USA shall notify the Selective Service System Headquarters of names and Selective Service number in such cases so its records may be appropriately noted.

(d) In all cases involving aliens in which indictment not returned, cases may be closed in offices of USAs and FBI. Where indictments have been returned, the USA may request Department's authorization to dismiss.

(2) It should be noted that this statute does not require that the aliens have been convicted for violation of Selective Service Laws, or even prosecuted. It is also important to note that the exclusion statute may be invoked against an alien who may have been a citizen of the U.S. at the time that he chose to leave or remain outside the U.S. to avoid military service.

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EFFECTIVE: 10/24/85

25-7.2 Investigative Steps

(1) Conduct thorough review of Selective Service file.

(2) In those cases in which initial review of Selective Service file indicates subject is an alien, thoroughly review INS file to obtain background information, facts concerning alien's admission to the United States, and to determine whether subject ever became a naturalized U.S. citizen. For Title 8, USC, Section 1182, (a) (22), to apply, SUBJECT MUST BE AN ALIEN.

(3) Conduct logical investigation to attempt to verify that subject is abroad. In many cases, this information can be obtained from logical sources in the United States, including, but not limited to, close relatives and INS records. In limited instances, leads may be sent to Legats to verify subject's foreign location. Bear in mind, however, that asking an agency of a foreign nation to conduct investigation of one of the citizens of that nation on behalf of a U.S. agency is a sensitive matter, and such requests must be held to a minimum.

(4) Conduct logical investigation to attempt to determine subject's reason for departure from and/or remaining outside the United States. Do not set leads to have the subject interviewed for this purpose.

(5) When the aforementioned investigation, and any other logical investigative steps have been completed, and it has been determined that subject is an alien, discuss the applicability of Title 8, USC, Section 1182 (a) (22), with USA. In some cases, Selective Service process may already have been obtained by this time. If not, both Title 50, App., Section 462 violation, and the Title 8 exclusion process should be presented at the same time.

(6) If USA invokes Title 8, USC, Section 1182 (a) (22), submit a succinct LHM of the investigation, original and four copies to FBIHQ. These LHMs will be disseminated at FBIHQ and will serve as a basis for INS and Department of State to institute procedures to exclude the alien from admission into the United States. If Selective Service prosecution is declined or dismissed, this LHM should be a closing LHM. If Selective Service process is to remain outstanding, the LHM should reflect a pending inactive status and the case should

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| (4) | Restrictive passport action

(a) When process is outstanding and U.S. citizen is abroad, even though subject's precise whereabouts are unknown, the matter of restrictive passport action should be discussed with the USA. The revocation, restriction or denial of a passport should usually result in hampering subject's movements overseas, and may encourage subject to return to the United States.

(b) The USA initiating the request should address a letter to Director, Passport Office, Department of State, Attention: PT/LS, Washington, D.C. 20524, incorporating the following data: name, birth data and passport concerning subject; brief statement of the felony charges pending against subject and prosecutive action taken in the matter; information as to subject's present location abroad, if known; statement by the USA that prosecution of subject will be undertaken if and when subject returns to the United States; request by the USA that restrictive passport action be taken; enclose a copy of the Federal complaint and warrant or indictment and warrant.

EFFECTIVE: 10/24/85

25-8

REEMPLOYMENT PROVISIONS

Title 38, USC, Sections 2021 - 2026

(1) These sections of the law give veterans, both draftees and persons enlisted in the armed forces for limited periods, certain rights regarding restoration of employment with former civilian employers. The sanctions imposed upon an employer who violates these provisions are essentially civil in nature. The U.S. District Court is empowered to specifically require a former employer to reemploy the veteran.

(2) No investigation should be conducted in these cases except upon specific request by the USA. Advise FBIHQ by letter immediately upon the receipt of such a request. Discuss necessary and logical investigative steps with the USA. These investigations must receive preferred and expeditious attention to ensure the security of returning veterans.

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EFFECTIVE: 07/18/86

25-8.1 Privacy Act - Requirements

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

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

EFFECTIVE: 07/18/86

25-9 CLOSING COMMUNICATIONS

(1) If the case is closed administratively, for whatever reason, submit an original and three copies of an LHM suitable for dissemination setting forth complete details of the investigation to FBIHQ. In the event subject's case proceeds to indictment and prosecution, submit an original and two copies of the prosecutive report to FBIHQ for dissemination to DOJ. An LHM may be used, except in cases involving aliens, employees of Selective Service, bombings, or interference with the Selective Service System, counseling, Aiding and Abetting, burning or mutilating registration cards, veterans reemployment, or prominent people. Do not use an LHM to report statistical accomplishments to FBIHQ.

(2) SSA-FAG and SSA-FTR cases: If it is determined that any applicant was registered with Selective Service on or before June 30, 1983, no further investigation should be conducted and an original and three copies of an LHM containing results of inquiries should be submitted to FBIHQ for dissemination to the DOJ. In the event subject's case proceeds to indictment and prosecution, submit an original and two copies of the prosecutive report to FBIHQ for dissemination to the DOJ.

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EFFECTIVE: 07/18/86

25-10 REPORTING PROCEDURES

(1) No communication need be submitted to FBIHQ at the outset of a routine selective service investigation or if prosecution is not authorized. If prosecution is authorized, a prosecutive report is to be submitted.

(2) An original and two copies of the prosecutive report should be submitted to FBIHQ upon the authorization of prosecution by the USA, or when a specific request for such report is made by the USA or FBIHQ.

(3) If the subject becomes a fugitive, two copies of an FD-65 should be promptly submitted to FBIHQ, and one copy submitted directly to the Savannah Information Technology Center (SITC), by the office of origin. Upon the fugitive's apprehension or location, the locating office must promptly notify FBIHQ by teletype (at least ROUTINE in precedence) and claim the appropriate statistical accomplishment via the Integrated Statistical Reporting and Analysis Application (ISRAA). The office of origin must ensure that all auxiliary offices are notified by teletype to discontinue. (See MIOG, Part I, 76-1.8, 76-2.9, 76-3.13, 88-12, 115-7, & Part II, 21-29.)

(4) In reporting the results of prosecutive action following the submission of a prosecutive report, while Form R-84 (if applicable) is to be forwarded to FBIHQ, a separate letter (airtel with LHM if dissemination desired) should also be submitted detailing the final disposition of each subject. The required letter should note that the appropriate statistical accomplishment has been claimed via the ISRAA.

EFFECTIVE: 10/11/94

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25-11 CHARACTER - SELECTIVE SERVICE ACT

(1) In reemployment cases, character is "SELECTIVE SERVICE ACT - REEMPLOYMENT."

(2) In cases concerning organized opposition to the Act, character is "SELECTIVE SERVICE ACT - SEDITION."

(3) In Selective Service Act cases involving only failure-to-register violations, the character will be "SELECTIVE SERVICE ACT - FAILURE TO REGISTER."

(4) In cases involving failure-to-register violations coupled with false statement violations, character will be "SELECTIVE SERVICE ACT - FRAUD AGAINST THE GOVERNMENT."

EFFECTIVE: 07/18/86

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SECTION 26. INTERSTATE TRANSPORTATION OF STOLEN MOTOR  
VEHICLE OR AIRCRAFT

26-1 STATUTES

Title 18, USC, Sections 511, 512, 513, 2119, 2311 (in part), 2312, 2313, 2321, and 2322. (See MIOG, Part I, 87-4.2.1.)

EFFECTIVE: 10/13/93

26-1.1 Section 511. Altering or Removing Motor Vehicle  
Identification Numbers

"(a) A person who -

"(1) knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle or motor vehicle part; or

"(2) with intent to further the theft of a motor vehicle, knowingly removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, shall be fined under this title, imprisoned not more than five years, or both.

"(b) (1) Subsection (a) of this section does not apply to a removal, obliteration, tampering, or alteration by a person specified in paragraph (2) of this subsection (unless such person knows that the vehicle or part involved is stolen).

"(2) The persons referred to in paragraph (1) of this subsection are -

"(A) a motor vehicle scrap processor or a motor vehicle demolisher who complies with applicable State law with respect to such vehicle or part;

"(B) a person who repairs such vehicle or part, if the removal, obliteration, tampering, or alteration is reasonably necessary for the repair;

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"(C) a person who restores or replaces an identification number for such vehicle or part in accordance with applicable State law; and

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by -

"(i) the owner or his authorized agent;

"(ii) applicable state or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.

"(c) As used in this section, the term -

"(1) 'identification number' means a number or symbol that is inscribed or affixed for purposes of identification under the National Traffic and Motor Vehicle Safety Act of 1966, or the Motor Vehicle Information and Cost Savings Act;

"(2) 'motor vehicle' has the meaning given that term in section 2 of the Motor Vehicle Information and Cost Savings Act;

"(3) 'motor vehicle demolisher' means a person, including any motor vehicle dismantler or motor vehicle recycler, who is engaged in the business of reducing motor vehicles or motor vehicle parts to metallic scrap that is unsuitable for use as either a motor vehicle or a motor vehicle part;

"(4) 'motor vehicle scrap processor' means a person

"(A) who is engaged in the business of purchasing motor vehicles or motor vehicle parts for reduction to metallic scrap for recycling;

"(B) who, from a fixed location, uses machinery to process metallic scrap into prepared grades; and

"(C) whose principal product is metallic scrap for recycling;



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but such term does not include any activity of any such person relating to the recycling of a motor vehicle or a motor vehicle part as a used motor vehicle or a used motor vehicle part.

"(d) For purposes of subsection (a) of this section, the term 'tamper with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility."

Special attention should be given the definition of a motor vehicle in Section 511. That definition, also applicable to Sections 512 and 2321, includes any vehicle driven or drawn by mechanical power for primary use on public streets, roads, or highways. (See Title 15, USC, Section 1901(15).) This would include trailers, but not include construction or farm equipment not manufactured primarily for street use. The definition of a motor vehicle in Section 2311 (see 26-1.8) includes self-propelled vehicles designed for running on land. This would include farm and construction equipment, but not trailers.

EFFECTIVE: 10/19/94

26-1.1.1 Section 511A. Unauthorized Application of a Decal or Device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed \$1,000."

"(b) For purposes of this section, the term, theft prevention decal or device, means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act."

EFFECTIVE: 10/19/94

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26-1.2 Section 512. Forfeiture of Certain Motor Vehicles and  
Motor Vehicle Parts

"(a) If an identification number for a motor vehicle or motor vehicle part is removed, obliterated, tampered with, or altered, such vehicle or part shall be subject to seizure and forfeiture to the United States unless -

"(1) in the case of a motor vehicle part, such part is attached to a motor vehicle and the owner of such motor vehicle does not know that the identification number has been removed, obliterated, tampered with, or altered;

"(2) such motor vehicle or part has a replacement identification number that -

"(A) is authorized by the Secretary of Transportation under the National Traffic and Motor Vehicle Safety Act of 1966; or

"(B) conforms to applicable State law;

"(3) such removal, obliteration, tampering, or alteration is caused by collision or fire or is carried out as described in section 511(b) of this title; or

"(4) such motor vehicle or part is in the possession or control of a motor vehicle scrap processor who does not know that such identification number was removed, obliterated, tampered with, or altered in any manner other than by collision or fire or as described in section 511(b) of this title."

| The FBI has been delegated authority to institute civil administrative forfeiture proceedings pursuant to Section 512. The Forfeiture and Abandoned Property manual contains the step-by-step procedure to be followed for seizures and civil forfeiture proceedings (judicial and administrative) conducted in conjunction with this violation. |

EFFECTIVE: 06/18/87

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26-1.3 Section 513. Securities of the States and Private  
Entities (See MIOG, Part I, 26-7.)

"(a) Whoever makes, utters, or possesses a counterfeited security of a State or a political subdivision thereof or of an organization; or whoever makes, utters, or possesses a forged security of a State or political subdivision thereof or of an organization, with intent to deceive another person, organization, or government shall be fined not more than \$250,000 or imprisoned for not more than ten years, or both."

"(b) Whoever makes, receives, possesses, sells, or otherwise transfers an implement designed for or particularly suited for making a counterfeit or forged security with the intent that it be so used shall be punished by a fine of not more than \$250,000 or by imprisonment for not more than ten years, or both."

EFFECTIVE: 07/31/97

26-1.4 Elements - Section 513 (Securities of States and Private  
Entities)

(1) That an individual make, utter, or possess a counterfeit or forged security (or blank form) of a state. This would include a motor vehicle title.

(2) That the individual intends to deceive another person, organization, or government.

(3) Although this section does not require that the security be transported in interstate commerce, its use should be limited to those situations which do involve interstate commerce.

(4) FBIHQ - Department of Justice approval must be obtained prior to the use of this section wherein no interstate commerce is present.

EFFECTIVE: 07/31/97

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26-1.5 Section 2119. Motor Vehicles (See MIOG, Part I,  
26-2.9 & 26-7.)

"Whoever, with the intent to cause death or serious bodily harm, takes a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from the person or presence of another by force or violence or by intimidation, or attempts to do so, shall-

"(1) be fined under this title or imprisoned not more than 15 years, or both;

"(2) if serious bodily injury (as defined in Section 1365 of this title) results, be fined under this title or imprisoned not more than 25 years, or both; and

"(3) if death results, be fined under this title or imprisoned for any number of years up to life, or sentenced to death."

EFFECTIVE: 10/19/94

26-1.6 Section 2312. Transportation of Stolen Vehicles (See  
MIOG, Part I, 26-7.)

"Whoever transports in interstate or foreign commerce a motor vehicle or aircraft, knowing the same to have been stolen, shall be fined under this title or imprisoned not more than 10 years, or both."

EFFECTIVE: 10/13/93

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|26-1.7| Section 2313. Sale or Receipt of Stolen Vehicles | (See MIOG, Part I, 26-7.) |

"Whoever receives, possesses, conceals, stores, barter, sells, or disposes of any motor vehicle or aircraft, which has crossed a State or United States boundary after being stolen, knowing the same to have been stolen shall be fined under this title or imprisoned not more than 10 years, or both."

Federal criminal jurisdiction is retained over a stolen motor vehicle even after it ceases to be a part of interstate commerce. It is no longer necessary to prove a continuing interstate commerce nexus regarding a stolen vehicle taken across state lines after October 25, 1984.

EFFECTIVE: 10/13/93

|26-1.8| Section 2311. Definitions - Applicable to Sections 2312 and 2313 | (See MIOG, Part I, 26-1.1(1).) |

"Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or for flight in the air.

"Motor vehicle" includes an automobile, automobile truck, automobile wagon, motorcycle, or any other self-propelled vehicle designed for running on land but not on rails.

"Securities" includes... (in part) voting-trust certificate; valid or blank motor vehicle title; certificate of interest...." (See Part I, 87-1.1.1 (Definitions), of this manual, for additional details.)

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26-1.9 Elements - Sections 2312 and 2313

(1) That the motor vehicle, security, or aircraft was stolen

(2) That the motor vehicle, security, or aircraft was transported in interstate or foreign commerce

(3) That the person transporting the motor vehicle, security, or aircraft knew it to have been stolen, or that the person receiving, possessing, concealing, storing, bartering, selling, or disposing of the motor vehicle, security, or aircraft knew it to have been stolen. [Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the motor vehicle, security, or aircraft was stolen, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).]

EFFECTIVE: 10/23/95

||26-1.10| Section 2321. Trafficking in Certain Motor Vehicles or Motor Vehicle Parts

"(a) Whoever buys, receives, possesses, or obtains control of, with intent to sell or otherwise dispose of, a motor vehicle or motor vehicle part, knowing that an identification number for such motor vehicle or part has been removed, obliterated, tampered with, or altered, shall be fined not more than \$20,000 or imprisoned not more than ten years, or both.

"(b) Subsection (a) does not apply if the removal, obliteration, tampering, or alteration -

"(1) is caused by collision or fire; or

"(2) is not a violation of Section 511...."

Neither Sections 511 nor 2321 cover the simple possession of a vehicle or component with a falsified or removed identification number. Section 511 is limited to the person who removes or falsifies the identification number or who aids or abets such conduct. Section 2321 covers the trafficker of such vehicles or components, not a mere

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possessor.

EFFECTIVE: 10/13/93

26-1.11 Section 2322. Chop Shops (See MIOG, Part I, 26-2.10 & 26-7.)

"(a) In general, 'Unlawful Action' means any person who knowingly owns, operates, maintains, or controls a chop shop or conducts operations in a chop shop shall be fined under this title or by imprisonment for not more than 15 years, or both. If a conviction of a person under this paragraph is for a violation committed after the first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to any fine and imprisonment.

"(b) For purposes of this section, the term 'chop shop' means any building, lot, facility, or other structure or premise where one or more persons engaged in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce."

EFFECTIVE: 10/13/93

26-1.12 Elements - Sections 511 (Altering or Removing Motor Vehicle Identification Numbers), 512 (Forfeiture of Certain Motor Vehicles and Motor Vehicle Parts), and 2321 (Trafficking in Certain Motor Vehicles or Motor Vehicle Parts)

(1) Section 511 - that the identification number for a motor vehicle or major component part knowingly be removed, obliterated, tampered with, or altered.

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(2) Section 512 - any motor vehicle or motor vehicle part where the identification number has been removed, obliterated, tampered with, or altered is subject to seizure.

(3) Section 2321 - any person who buys, receives, possesses, or obtains control of such a vehicle or part, knows the identification number has been removed, obliterated, tampered with or altered and intends to sell or otherwise dispose of the vehicle or part.

(4) These sections do not require that the vehicle or part be transported in interstate commerce.

EFFECTIVE: 10/13/93

26-2 POLICY (See MIOG, Part I, 87-3.4.)

EFFECTIVE: 10/13/93

26-2.1 Office of Origin

(1) The office of origin in cases relating to violations of Section 2119 (carjacking) and 2322 (chop shops) will be the office covering the place where the offense is committed. (See MIOG, Part I, 26-2.9.)

(2) The office of origin in most other motor vehicle cases will be that office covering the place where the stolen car is recovered. It may be desirable in certain cases to change the office of origin from the place of recovery to the place of theft or the place where the principal criminal activity is taking place. An example of this is a case in which a commercial theft (CT) ring is involved. This is in accord with departmental instructions to USAs that prosecution should be instituted in the district into which the stolen motor vehicle is last brought unless it would appear that by reason of unusual circumstances it is inexpedient to institute prosecution in that district but rather in the district from which the vehicle was first brought.



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EFFECTIVE: 10/13/93

26-2.2 Referral of Complaints

When a complaint is received and no investigation is to be conducted in the field office where the complaint was received, the following procedure is to apply:

(1) The complaint shall be prepared for transmittal to the appropriate offices, and include the basic data, as well as source of the complaint.

(2) A file copy of the outgoing communication from the office receiving complaint should all be placed in "26-0" file. Thus, the office receiving the complaint but having no subsequent investigative work to perform shall not open and close a case or make assignment cards when its sole function is to transmit the complaint to other field offices for investigation.

EFFECTIVE: 08/19/85

26-2.3 Liaison Program

(1) Every field office must maintain an efficient and productive liaison program with all possible sources of ITSMV cases. Good liaison can best be obtained by ensuring that referrals are followed up by promptly instituting investigation.

(2) The liaison program should be structured to reflect any established prosecutive policy of the USA in the district concerned. Some USAs have established blanket declination policies in certain ITSMV matters.

(3) Examples of sources which should be included in the program are:

- (a) Local and state police agencies
- (b) State and/or local motor vehicle registration

bureaus

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(c) New and used car dealers

(d) Automobile auctions

(e) Automobile salvage and junk dealers, and

(f) National Insurance Crime Bureau (NICB)

(4) Effective liaison is also essential in Interstate Transportation of Stolen Aircraft (ITSA) investigations.

(5) Examples of sources which should be included for ITSA matters are:

(a) Local and state police

(b) Federal Aviation Administration (FAA)

(c) Aircraft dealers, repair and refueling facilities, transient tie-down centers, salvage dealers, and airport operators

(d) International Aviation Theft Bureau (IATB)

(e) El Paso Intelligence Center (EPIC)

EFFECTIVE: 10/13/93

26-2.3.1 NCIC Entry (See MIOG, Part I, 26-2.9.)

Where automobiles are involved in Bureau cases, such as Crime on Government Reservation, Bank Robbery, Kidnaping, or in carjackings and similar cases and the vehicle identification number (VIN), license plate number, and descriptive data of the automobile are known, these should be included in NCIC immediately, if whereabouts of vehicle or license plate is unknown (whether stolen or not). In addition, cases of special interest involving theft of automobiles and/or major automobile component parts should also be included in NCIC. Ensure vehicle, license plate and/or component parts are removed from NCIC when they are located.

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EFFECTIVE: 10/13/93

26-2.4 Characterization of Agencies as Sources of Information

(1) NATIONAL INSURANCE CRIME BUREAU (NICB). NICB is a nonprofit organization maintained by a voluntary association of automobile insurance companies. It is private in character, in the nature of a quasi-official service organization but not a private detective agency. Its functions are to receive, correlate, and distribute to law enforcement agencies information regarding stolen motor vehicles and to aid law enforcement agencies authorities in tracing, identification, and recovery of stolen motor vehicles. Bureau Agents may properly make use of the services of NICB as a source of Bureau cases, to check their records for data on stolen automobiles, and in some instances, NICB personnel may assist Bureau Agents in the examination and identification of suspected stolen automobiles. NICB may also serve to trace the ownership history and title record of an automobile from the factory to the present possessor.

(2) INTERNATIONAL AVIATION THEFT BUREAU (IATB). IATB is a project of the Airline Owners and Pilots Association (AOPA). IATB was instituted in 1974 and is supported by the aviation insurance industry. The mission of IATB is to accept aviation-related theft information, publish this information for the industry to reduce thefts, and compile statistics and work closely with law enforcement at all levels. The publication of the quarterly "Alert Bulletin" often results in recoveries or further information leading to recoveries of stolen aircraft or avionics. IATB is not in the business of investigation, only statistical support for related agencies. IATB is located at the AOPA Headquarters, 421 Aviation Way, Frederick, Maryland 21701, telephone: (301) 695-2022.

(3)

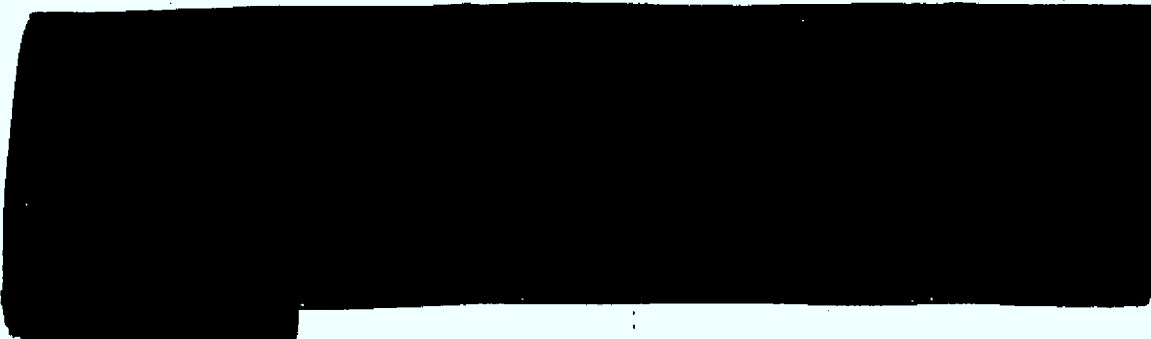


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26-2.5 Verification of Recovered Vehicles and Physical  
Examination of Stolen Automobiles Involved in Commercial  
Thefts (See MIOG, Part I, 26-2.9.)

(1) In carjacking cases, telephone calls, followed by teletypes, should be considered in setting out leads concerning the identification of vehicles suspected of having been taken by force, suspected carjackers, or the location of stolen or suspect vehicles depending upon the exigency of the circumstance. Leads set out in this fashion must be covered immediately as the lives of victims may be at risk. In other cases, consider use of teletypes in setting out leads concerning the identification of a suspected stolen car and for the purpose of determining whether or not it is stolen. Upon receiving such a lead, the receiving office must advise the sending office of all available information within 24 hours after receipt of the communication. Where common sense and good judgment indicate a teletype is not necessary, an electronic communication may be used.

(2) A thorough physical examination of the stolen car should be done promptly in order to correctly identify the vehicle and to eliminate tedious and unnecessary record searches. Special care should be given to the processing of vehicles when they are the subject of a carjacking investigation in order to safeguard potential evidence such as hairs, fibers, and body fluids. This physical examination of stolen cars must be done by qualified law enforcement officers or laboratory personnel for several reasons:

(a) To locate and properly preserve physical evidence and

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(b) To discover any alteration of identifying numbers on the automobile and other such indications of possible commercial theft ring activity.

(c) To assist in the gathering of pertinent data on vehicles and in the preparation of FD-302s, FD-653, Motor Vehicle Inspection Inventory Record, may be used. The FD-653 is an optional administrative form which, if used, is to be retained in a 1-A envelope (FD-340 and/or FD-340b) with the Agent's notes. (See MIOG, Part I, 26-2.7(2), 149-3(3)(g) & Legal Handbook for Special Agents, 5-7.2(3)(e).)

(3)

[REDACTED] This book should be afforded the same security as other official FBI manuals but it should be readily available and thoroughly understood by Bureau Agents conducting physical examinations of stolen cars. Also of assistance to Bureau Agents is the "National Insurance Crime Bureau (NICB) Manual for Identification of Automobiles" which contains information relating to public identification on automobiles. Bureau Agents assigned to these cases should, if possible, possess this NICB manual.

(4)

(5)

(6) The points listed above also pertain to ITSA investigations [REDACTED]

EFFECTIVE: 04/07/97

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26-2.6 Custody of Recovered Vehicles (See MIOG, Part I,  
26-2.9; & MAOP, Part II, |2-4.4.14.)|

Bureau Agents should not take possession of a stolen motor vehicle or aircraft unless necessary. However, special attention must be given to carjacked vehicles, especially in circumstances where victims have been injured or killed. In such circumstances, it may be necessary for Bureau Agents to secure such vehicle in order to ensure its proper processing for significant evidence. Any problem arising out of custody of such vehicle or aircraft must be immediately discussed with the appropriate USA. In this respect, a stolen motor vehicle or aircraft located in the hands of an apparently innocent purchaser may subsequently involve a civil action. Care must be taken to ensure that the Bureau does not become involved in such civil action; attention must be directed to the provisions of Departmental Order 501-73 (previously Departmental Order 381-67, 324-64, 260-62, and 3229) and Departmental Order No. 3464, Supplement No. 4 (Revised), concerning the confidential character of FBI reports and records.

EFFECTIVE: 10/16/96

26-2.7 Commercial Theft (CT) Ring Cases

(1) A CT case is one in which an individual or group of persons is involved in commercial auto theft activities. These cases must receive imaginative, thorough, and continuous investigative attention. In CT cases the office of origin should assign a number to each stolen and suspect car under investigation and all offices should follow the numbering system assigned by the office of origin. In the initial stages of these cases, all leads should be set forth by expedite communications and these leads should be given preferential investigative attention.

(2) The basic and essential investigative steps in all ITSMV-CT cases are the prompt location, physical examination, and correct identification of each stolen car involved and the identification of each subject involved in the handling of each car. Generally in a CT case there will be subjects other than the actual transporters and receivers of stolen vehicles who will be acting in conspiracy with the violators of the substantive statutes. Investigation should be conducted to show the extent that these subjects, such as thieves, fences, motor number changers, and preparers of fictitious motor vehicle documents, have entered into a

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conspiracy to transport stolen autos in interstate commerce. To assist in gathering all pertinent data regarding the recovered vehicle, the FD-653, Motor Vehicle Inspection Inventory Record, may be used. (See MIOG, Part I, 26-2.5(2)(c), 149-3(3)(g) & Legal Handbook for Special Agents, 5-7.2(3)(e).)

EFFECTIVE: 11/15/93

26-2.8 Laboratory Automobile Files (See MIOG, Part II, 13-13.5.)

(1) NATIONAL AUTOMOBILE ALTERED NUMBERS FILE: The FBI Laboratory is maintaining in the National Automobile Altered Numbers File selected specimens, including surface replica plastic impressions of altered vehicle identification numbers found on stolen cars, trucks and heavy equipment. The purpose of this file is to have a central repository for such specimens of altered numbers so that comparisons can readily be made at any time in an attempt to identify recovered stolen cars and possibly link such vehicles with commercialized theft rings nationwide or other cases investigated by the Bureau. (See MIOG, Part I, 26-2.5(5).)

The field has been supplied with kits containing surface replica plastic, along with instructions for its use in making impressions of altered die-stamped vehicle identification numbers (VIN). Upon recovery of a stolen motor vehicle bearing an altered VIN, BEFORE ANY ATTEMPT IS MADE TO RESTORE THE ORIGINAL VIN, plastic impressions should be made and forwarded to the Laboratory. For detailed instructions for making plastic impressions of stamped numbers, see Part II, 13-13.3.1 of this manual. For information on number restoration, also see MIOG, Part II, 13-14.2 (10).

(2) Deleted

EFFECTIVE: 04/07/97

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26-2.9 | Carjacking (See MIOG, Part I, 26-1.5, 26-2.1, 26-2.3.1,  
26-2.5, 26-2.6, & 26-7(2).)

(1) A carjacking is defined by Title 18, USC, Section 2119, as the taking or attempted taking, with a firearm, of a motor vehicle from the person or presence of another by force and violence or by intimidation. Due to the differing priorities within various field offices, the response to carjacking may vary between divisions. In all jurisdictions, the Bureau should seek to assist the state and local police departments as needed in their investigation of carjacking. Field offices experiencing gang activity, organized crime activity involving carjacking and or cases of significant notoriety should take an active role in the investigation of carjacking under appropriate Federal statutes.

(a) The carjacking statute applies only to carjackings in which the defendant is armed with a firearm. An unarmed carjacking or one in which the defendant is armed with any other type weapon is not a Federal offense under this provision. The statute adopts the definition of a firearm contained in Title 18, USC, Section 921(a) (3). Such term does not include an antique firearm.

(b) The interstate commerce nexus is established by the movement of the vehicle (not the firearm) in interstate or foreign commerce. To prove the interstate nexus, it should be necessary to show only that the vehicle traveled at some time in interstate or foreign commerce. The NICB can assist in this respect. When supplied with the vehicle identification number of a motor vehicle via inquiry through the Bureau's information center at Butte, NICB can furnish a detailed history of a motor vehicle including its place and date of assembly and all subsequent shipments. NICB can furnish documentation for court and expert witness testimony when needed.

(2) FBIHQ should be advised by teletype of any carjacking cases which involve a loss of life and those that generate significant media attention.

(3) The Federal statute which addresses carjacking, the Anti-Car Theft Act of 1992, specifies that the FBI is to have Federal criminal investigative responsibility for violations arising under this statute. Violations of Title 18, USC, Section 2119 should be addressed under the TURK classification 26A and be characterized as ITSMV-CARJACKING. FBIHQ should be advised by teletype of any incursions by other Federal law enforcement agencies in its jurisdiction relative to carjacking.



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EFFECTIVE: 10/13/93

26-2.10 Chop Shops (See MIOG, Part I, 26-1.11.)

(1) Title 18, USC, Section 2322 makes it illegal for anyone to knowingly own, operate, maintain, or control a chop shop or to conduct operations in a chop shop. For the purposes of this section, a chop shop is defined as any building, lot, facility, or other structure or premise where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce.

(2) Violations of Title 18, USC, Section 2322 should be addressed under the TURK classification 26B and be characterized as ITSMV-CHOP SHOPS.

EFFECTIVE: 10/13/93

26-2.11 Accomplishments

(1) The recovery value of vehicles or major component parts will be credited to field offices in those instances when the item itself is actually recovered by FBI personnel. The fact that a bona fide ITSMV case exists and an automobile or part has been recovered does not mean that an office will automatically be credited with the value of the recovered item.

(2) Recovery value will be credited to the field office submitting the statistical accomplishment via the Integrated Statistical Reporting and Analysis Application (ISRAA). Border field offices will make a record of value of such motor vehicle, part, or aircraft located or recovered in their respective territories in

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Mexico and Canada when the recovery is the direct result of FBI investigation. The field office where a motor vehicle, part, or aircraft was stolen will record recovery value where it is located or recovered in remaining parts of Mexico and Canada or in any other foreign country when the recovery is a direct result of specific FBI investigation. If a stolen automobile, part, or aircraft is recovered by Bureau personnel in the same state in which it was stolen (not having been transported interstate), the recovery value will be credited to the office of recovery upon submission via the ISRAA.

(3) In determining value of recovered stolen automobiles, Blue Book value should be followed. Where Blue Book value is unrealistic, such being case where vehicle or part is in a wrecked or dismantled condition upon recovery, the value should be secured from best available local estimate. In such cases, acceptable sources of valuation would include reputable automobile dealers and insurance company adjusters. In no instances are Bureau personnel to furnish an opinion as to value nor are values to be obtained from owners of stolen vehicles.

EFFECTIVE: 11/15/93

||26-2.12| Reporting Procedure

Prosecutive report in CT cases need be prepared:

- (1) When prosecutive action is undertaken
- (2) When requested by USA's Office
- (3) When needed by field supervisory personnel

EFFECTIVE: 10/13/93

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26-3 DEPARTMENTAL PROSECUTIVE POLICY

(1) In March, 1970, the Department of Justice issued prosecutive guidelines to all USAs regarding prosecution of ITSMV cases. The Department felt that the desirability of deferring many of these cases to local authorities for prosecution should be emphasized. USAs were instructed to defer prosecution to local authorities in individual cases involving persons under 21 years of age, unless such a person is a recidivist who has been arrested twice previously for motor vehicle theft and had been incarcerated on one or more occasions for this or other offenses. In order for a USA to authorize ITSMV prosecution of an individual over 21 years of age, this individual should have been convicted of a previous felony in any jurisdiction. The USA may also consider prosecution if:

(a) The stolen vehicle is used in the commission of a separate felony for which punishment less than ITSMV could be expected from local court;

(b) The stolen vehicle is demolished; sold, stripped, or grossly misused; and

(c) An individual steals more than one vehicle in such a manner as to form a pattern of conduct. No prosecution is to be considered with regard to "joy-riding" thefts.

(2) To determine if a subject has a prior record which would qualify him/her for prosecution under the above guidelines, field offices should first check the subject through the Interstate Identification Index (see Part II, Section 14-12.3.3 of this manual). If this inquiry is negative, a teletype should be directed to FBIHQ, Attention: Criminal Justice Information Services Division. Include all available identifying data and request the Criminal Justice Information Services Division to furnish any record by return teletype.

(3) The Department instructed USAs that CT cases and multitheft operations should continue to be investigated and prosecuted. Bureau Agents should thoroughly investigate all CT cases and discuss their prosecutive merits with USAs at an appropriate time.

(4) The guidelines stated above apply to motor vehicles, NOT AIRCRAFT. All ITSA cases should be presented for prosecutive opinion, absent specific prosecutive guidelines for a particular judicial district.

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(5) Concerning Section 513 (Securities of the States and Private Entities), FBIHQ and Department of Justice authority must be obtained prior to its use where no interstate element exists.

EFFECTIVE: 04/08/96

26-3.1 Juvenile Offenders

A large number of subjects involved in stolen motor vehicle investigations are juveniles (17 years of age and younger). These cases should be promptly discussed with the USA for his/her decision as to Federal prosecution. The USA should be furnished with adequate background information on the juvenile such as his/her prior arrest record, aggravated circumstances of the present offense, present and past juvenile delinquency status with local authorities, and other special background data. Should the USA decline, the case should be immediately referred to state or local prosecuting authorities for their consideration under applicable state statutes. The obtaining of the juvenile's background should not occasion any delay in the prompt and timely presentation of the case.

EFFECTIVE: 10/13/93

26-4 INVESTIGATIVE PROCEDURES (See MIOG, Part I, 87-3.4.)

In investigating these violations, the following suggestions are made. Many of the suggestions as to motor vehicles also apply in general to aircraft:

EFFECTIVE: 10/13/93

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26-4.1 Proof of Theft

(1) It should be immediately examined and proper notes made of the license, identification and other assembly numbers, together with any distinctive marks, stains, damages, and equipment which may prove of value in identifying it.

[REDACTED] Notes taken during this examination should be preserved in a exhibit envelope (FD-340 and/or FD-340b) for future reference during the trial.

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(2) If the owner is not known, trace ownership by use of assembly numbers through NICB, automobile associations or offices covering the factory and dealer to whom shipped. Information on ownership of aircraft can be obtained from the license and airworthiness certificates required to be in the aircraft, or by lead to Washington Metropolitan Field Office furnishing the aircraft's description and license number and requesting contact with Federal Aviation Administration headquarters for ownership data.

(3) Owner of vehicle in most cases will not be notified of its recovery by Bureau personnel unless requested by office of origin. NCIC will request department which entered stolen vehicle in NCIC to notify owner. In those few instances in which vehicle has not been entered in NCIC, owner should promptly be notified of its recovery and location by office of origin instructing appropriate office to handle. Following examination of a vehicle by office of origin, they may desire to have owner interviewed. If an auxiliary office receives such a request, ascertain following:

(a) Date, place, and hour of theft

(b) The means by which he/she can identify the vehicle, ascertaining whether he/she ever saw the identification or other assembly numbers and can testify from his/her own independent knowledge and recollection as to them. If not, information should be secured as to the nature of documents, notes, or papers from which he/she can refresh his/her memory. The owner should be informed that he/she will be a necessary witness before the grand jury and at the trial. He/She should be acquainted with the general nature of the testimony expected of him/her.

(c) His/Her evidence of ownership, such as certificate of title and registration card. He/She should be instructed to preserve carefully these papers in order that he/she may bring them with him/her when subpoenaed as a witness.

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- (d) Who last had possession of the vehicle before the theft
- (e) The circumstances surrounding the theft and any lead as to the identity of the thief
- (f) When and to whom the theft was reported
- (g) If it appears vehicle was fraudulently obtained, rented, or borrowed from the owner, develop fully all circumstances tending to show the practice of fraud, deceit, or trickery in obtaining possession of it, and intent on the part of the subject to convert to his/her own use.
- (h) If practicable, arrange for the owner to examine the vehicle after its location or recovery in order that he/she may positively identify it.

EFFECTIVE: 10/13/93

26-4.2 Evidence and Witnesses Regarding Theft

If it is necessary to prove identity of the stolen vehicle by assembly numbers, a complete chain of evidence should be set forth tracing the stolen vehicle from the point of its location or recovery to the owner. If the identification number on the stolen vehicle has been changed, the USA ordinarily will desire the following chain of witnesses:

(1) The person who located or recovered it, with original notes as to all assembly numbers at the time

(2) Investigator or other person, with original notes,

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(3) Proper witness from factory which manufactured vehicle, with assembly records showing correct identification and assembly numbers

(4) Proper witness, with necessary records, from office of dealer who sold vehicle to owner

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(5) Proper witness, with records, from office of motor vehicle registration bureau of state in question, showing identification number of vehicle sold to and registered by owner

(6) Owner of vehicle with evidence of ownership, such as certificate of title and registration card

EFFECTIVE: 08/19/85

26-4.3 Ownership of Vehicle

If the owner is a firm or concern, either a partnership, or corporation, the necessary information as to the exact name of such firm, partnership, or corporation shall be included in the prosecutive report. Also show the state under the laws of which it was incorporated.

EFFECTIVE: 08/19/85

26-4.4 Proof of Vehicle Transported in Interstate or Foreign Commerce

(1) Show the date, hour when, place where, and by whom it was located or recovered, and from whom it was recovered or in whose possession it was located.

(a) Interview thoroughly and, if possible, obtain written statement of persons from whom it was recovered or in whose possession it was located.

(b) Interview the persons who recovered it.

(2) Show all points from, through, and to which it was transported, by evidence obtained from subject, persons recovering it, or any other persons having knowledge of the transportation. Interview other persons having knowledge of the transportation. Secure all corroborating details, such as garage or airport records of storage and repairs while en route, and hotel registrations of transporters. As venue for prosecution lies in the district where it was stolen, or at any point in any judicial district of another state through which it was transported, or in the judicial district into which it was brought, showing all points into or through which the

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vehicle was transported frequently will enable USAs to select as the place for prosecution a judicial district from, into, or through which all stolen vehicles handled by the subject were brought. In this way complete evidence as to the various violations on the part of the defendant may be submitted to the same grand and petit juries.

EFFECTIVE: 08/19/85

26-4.5 Proof of Guilty Knowledge of Theft by the Accused

(1) The transporter frequently is the thief and proof to the effect that he/she stole it is conclusive evidence that he/she knew it to be stolen at the time of the transportation.

(2) Guilty knowledge on the part of the transporter frequently is proved by circumstantial evidence such as:

- (a) [REDACTED]
- (b) [REDACTED]
- (c) [REDACTED]
- (d) [REDACTED]
- (e) [REDACTED]
- (f) [REDACTED]
- (g) [REDACTED]
- (h) [REDACTED]
- (i) [REDACTED]

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[REDACTED]

(3) On the part of the person who received, possessed, concealed, stored, bartered, sold, or disposed of it--in some cases it is necessary to prove the theft and interstate transportation of the vehicle in order to give the federal government jurisdiction. It is then necessary to prove guilty knowledge on the part of the receiver, etc., to the effect that it has been stolen. Such guilty knowledge usually is proved by circumstantial evidence similar to that mentioned above.

(4) Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the property was stolen, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

EFFECTIVE: 10/23/95

26-4.6 Definition of Motor Vehicle (See MIOG, Part I, 15-4, 26-1.8, 149-5.1.)

(1) Employees should be aware of the definition of a motor vehicle as set forth in Title 18, USC, Section 31 (DAMV Statute - Part I, Section 149-1.1.5 of this manual).

(2) Effective January 1, 1985, a motor vehicle is described under this section as "... every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo." Based on this definition, a person who destroys or damages a truck with intent to endanger the driver or another person on board, or with reckless disregard for their safety, can be prosecuted under Title 18, USC, Section 33 (DAMV Statute).

(3) DOJ has advised that expansion of the term "motor vehicle" is not intended to "federalize" every attack upon a truck which endangers persons on board, and offices should develop prosecutive guidelines with respect to this statute through their law enforcement coordinating committees.

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EFFECTIVE: 01/08/96

26-5 NATIONWIDE STOLEN AIRCRAFT ALERT PROCEDURES

EPIC will automatically request an FAA alert on all aircraft entered into NCIC as stolen. Area alerts for specific regions of the country can also be requested through EPIC, but these are done by request only and not automatically.

EFFECTIVE: 08/19/85

26-6 VENUE

Venue lies in any district from, through, or into which the motor vehicle, motor vehicle component parts, security or aircraft has been transported (Title 18, USC, Section 3237).

EFFECTIVE: 08/19/85

26-7 PENALTIES

(1) Title 18, USC, Section 511 (Altering or Removing Motor Vehicle Identification Numbers), five years in prison or a \$10,000 fine or both.

(2) Title 18, USC, Section 513 (Securities of the States and Private Entities), ten years in prison or a \$250,000 fine or both. (See MIOG, Part I, 26-1.3.)

(3) Title 18, USC, Section 2119 (Motor Vehicles), up to 15 years in prison and a fine or both; if serious bodily injury occurs, fine and imprisonment for up to 25 years or both; if death occurs, fine and up to life imprisonment or both. (See MIOG, Part I, 26-1.5 & 26-2.9.)

(4) Title 18, USC, Section 2312 (Transportation of Stolen Vehicles), up to ten years in prison or fined or both. (See MIOG, Part I, 26-1.6.)

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| (5) | Title 18, USC, Section 2313 (Sale or Receipt of Stolen Vehicles), up to ten years in prison or fined or both. (See MIOG, Part I, 26-1.7.) |

| (6) | Title 18, USC, Section 2321 (Trafficking in Certain Motor Vehicles or Motor Vehicle Parts), up to ten years in prison or a \$20,000 fine or both. (See MIOG, Part I, 26-1.10.) |

| (7) | Title 18, USC, Section 2322, (Chop Shops), up to fifteen years in prison or a fine or both. (See MIOG, Part I, 26-1.11.) |

| (8) | Title 18, USC, Section 3623 (Alternative fines), should also be consulted.

EFFECTIVE: 10/13/93

26-8

CHARACTER - INTERSTATE TRANSPORTATION OF STOLEN MOTOR VEHICLE OR INTERSTATE TRANSPORTATION OF STOLEN AIRCRAFT  
| (See MIOG, Part I, 87-3.4.) |

For commercial thefts, see also 87 - Interstate Transportation of Stolen Property - Heavy Equipment (HE)

EFFECTIVE: 10/13/93

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SECTION 27. PATENT MATTER

27-1 STATUTES

Title 35, USC, entitled "Patents," was revised and codified by the enactment of Public Law 593, 82nd Congress, approved 7-19-52, and became effective 1-1-53. Violations occurring prior to 1-1-53 should be considered under the former code sections.

(1) Title 35, USC, Section 31, "Regulations for agents and attorneys" and Section 32, "Suspension or exclusion from practice (formerly Title 35, USC, Section 11), provides that the Commissioner, subject to the approval of the Secretary of Commerce, may prescribe regulations governing the recognition and conduct of agents or attorneys representing others before the Patent Office, and may, under certain conditions, suspend or exclude either generally or in any particular case, any agent or attorney from further practice before the Patent Office.

(2) Title 35, USC, Section 33, "Unauthorized representation as practitioner" (formerly Title 35, USC, Section 11a), is quoted as follows: "Whoever, not being recognized to practice before the Patent Office, holds himself out or permits himself to be held out as so recognized, or as being qualified to prepare or prosecute applications for patent, shall be fined not more than \$1,000 for each offense."

Note: Section 11a provided a fine of not less than \$50 and not exceeding \$500.

(3) Title 35, USC, Section 181, "Secrecy of certain inventions and withholding of patent"; Section 182, "Abandonment of invention for unauthorized disclosure"; Section 183, "Right to compensation"; Section 184, "Filing of application in foreign country"; and Section 185, "Patent barred for filing without license" (formerly Title 35, USC, Section 42), provides that whenever publication or disclosure by the grant of a patent on an invention in which the Government has a property interest may be detrimental to the national security, in the opinion of the interested Government agency, the Commissioner may order the invention kept secret and withhold the granting of a patent. If such invention has been published, or disclosed in violation of such order or an application for a patent has been applied for in a foreign country without the consent of the Commissioner, the patent may be held abandoned. An applicant, whose patent has been withheld for security reasons, under certain conditions

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may apply for compensation for damage or use by the Government caused by the order.

(4) Title 35, USC, Section 186, "Penalty" (formerly Title 35, USC, Section 42c), provides parties covered by secrecy requirements in Section 181 who publish or disclose information regarding patent, or violate provisions of Section 184 with regard to filing applications for patent in foreign country, are subject to not more than \$10,000 fine or 2 years' imprisonment or both.

(5) Title 35, USC, Sections 271 through 292 (formerly Title 35, USC, Sections 49, 50, 66, 67, 69, 70, 71, 72a, 73, 74, and 75), deals with infringement of patents and remedies.

Title 35, USC, Section 292, "False marking" (formerly Title 35, USC, Section 50), is quoted as follows:

"(a) Whoever, without the consent of the patentee, marks upon, or affixes to, or uses in advertising in connection with anything made, used, or sold by him, the name or any imitation of the name of the patentee, the patent number, or the words 'patent,' 'patentee,' or the like, with the intent of counterfeiting or imitating the mark of the patentee, or of deceiving the public and inducing them to believe that the thing was made, or sold by or with the consent of the patentee; or "Whoever marks upon, or affixes to, or uses in advertising in connection with any unpatented article, the word 'patent' or any word or number importing that the same is patented, for the purpose of deceiving the public; or "Whoever marks upon, or affixes to, or uses in advertising in connection with any article, the words 'patent applied for,' 'patent pending,' or any word importing that an application for patent has been made, when no application for patent has been made, or if made, is not pending, for the purpose of deceiving the public - "Shall be fined not more than \$500 for every such offense."

"(b) Any person may sue for the penalty, in which event one-half shall go to the person suing and the other to the use of the United States."

(6) Title 18, USC, Section 497, Letters patent "Whoever falsely makes, forges, counterfeits, or alters any letters patent granted or purporting to have been granted by the President of the United States; or "Whoever passes, utters, or publishes, or attempts to pass, utter or publish as genuine, any such letters patent, knowing the same to be forged, counterfeited or falsely altered - "Shall be fined not more than \$5,000 or imprisoned not more than ten years, or both."

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EFFECTIVE: 01/31/78

27-2 POLICY

(1) Due to close relationship between criminal and civil aspects of patent laws, criminal investigation concerning above violations conducted only after USA advises allegations warrant criminal prosecution.

(2) Civil procedures alone, available to injured party in connection with infringement of patent, not investigated by Bureau.

(3) Allegations involving violations under Title 18, USC, Section 497, should be thoroughly discussed with the USA before initiating any investigation. Since there has been no prosecution brought under this section, assure USA discusses facts with the Criminal Division, U. S. Department of Justice, prior to authorizing any prosecutive action.

EFFECTIVE: 01/31/78

27-3 CHARACTER - PATENT MATTER

EFFECTIVE: 01/31/78

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SECTION 28. COPYRIGHT MATTER

28-1 STATUTES

| Title 17, USC, Section 506; Title 18, USC, Sections 2318  
and 2319. |

EFFECTIVE: 01/26/83

28-2 ELEMENTS

| (1) | Section | 506(a). Criminal Infringement - Any person  
who infringes a copyright willfully and for purposes of commercial  
advantage of private financial gain. |

| (2) | Section | 506(c). Fraudulent Copyright Notice - Any  
person who, with fraudulent intent, places on any article a notice of  
copyright or words of the same purport, that such person knows to be  
false, or who, with fraudulent intent, publicly distributes or imports  
for public distribution any article bearing such notice or words that  
such person knows to be false.

| (3) | Section | 506(d). Fraudulent Removal of Copyrighted  
Notice - Any person who, with fraudulent intent, removes or alters any  
notice of copyright appearing on a copyrighted work.

| (4) | Section | 506(e). False Representation in Application  
for Copyright - Any person who knowingly makes a false representation  
of a material fact in the application for copyright registration  
provided for by Section 409, or in any written statement filed in  
connection with the application.

| (5) Section 2318. Trafficking in Counterfeit Labels for  
Phonorecords, and Copies of Motion Pictures or Other Audiovisual Works  
- Whoever, in any of the circumstances described below knowingly  
traffics in a counterfeit label affixed or designed to be affixed to a  
phonorecord, or a copy of a motion picture or other audiovisual  
work. The circumstances referred to above are-

| (a) the offense is committed within the special  
maritime and territorial jurisdiction of the United States, or within

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the special aircraft jurisdiction of the United States (as defined in Section 101 of the Federal Aviation Act of 1958);

(b) the mail or a facility of interstate or foreign commerce is used or intended to be used in the commission of the offense; or

(c) the counterfeit label is affixed to or encloses, or is designed to be affixed to or enclose, a copyrighted motion picture or other audiovisual work, or a phonorecord of a copyrighted sound recording.

EFFECTIVE: 01/26/83

28-3 POLICY

(1) Investigations involve the illegal manufacture, distribution, sale and/or exhibition of musical compositions (sheet music) and sound recordings (records and tapes), motion picture films, audiovisual works (video games), television shows, books, objects of art, and other copyrightable works, for profit. The policy of the Department of Justice (DOJ) regarding copyright violations is to pursue criminal investigations and prosecutions generally in the areas of sound recordings, motion pictures and audiovisual works (video games), primarily because adequate civil remedies are available to copyright proprietors whose rights have been violated in other areas.

The United States Attorney (USA) should be contacted prior to conducting investigations involving infringement of copyrighted works other than sound recordings, motion pictures and audiovisual works.

(2) Generally, investigation in all copyright cases should be directed toward locating and identifying the producers, principal distributors, and publishers of unauthorized duplications of copyrighted products in order to eliminate the sources of illicit productions.

(3) Investigative experience in sound recording and motion picture cases has shown a most effective method to identify manufacturers and distributors is to locate retailers, seize contraband found in plain view and available to general public, only after making a purchase of illegal sound recording or film. If retailer has not been previously advised of provisions of the



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Copyright Statute and warned of violation, record warning and index in offices' indices. On second occasion, contact USA and consider seizure of contraband, arrest warrant, subsequent indictment and additional investigation to locate distributor or manufacturer.

(4) Sound Recordings

(a) The DOJ is primarily interested in prosecuting manufacturers and distributors of pirated copies; however, retailers should be considered subjects for prosecution, since the statute covers any willful infringement for purposes of commercial advantage or private financial gain. The prosecution of retailers will usually depend on their awareness of the Copyright Statute and the extent of their cooperation in our investigation and prosecution of major suppliers.

(b) All unauthorized duplications of sound recordings, whether pre-2-15-72 or post-2-15-72, are prosecutable in Federal court and all such pirated sound recordings may be seized when executing search warrants or consents to search. Prosecution of pre-2-15-72 sound recording infringements are prosecutable for infringement of the musical composition copyright (sheet music) and not for infringement of sound recording copyright.

NOTE: The unauthorized duplication of a pre-2-15-72 sound recording infringes the underlying musical composition copyright regardless of whether or not the duplicator tenders royalty payments to the copyright owner.

(5) Motion Picture Films, Television Programs and Audiovisual Works (Video Games) - As in other copyrighted cases, the object of investigation is to determine source of production, actual producer of unauthorized copies, and identity of distributors, subdistributors, wholesalers, and retailers or collectors.

(6) Motion Picture Sound Tracks

(a) Sound tracks derived directly from motion pictures are covered by copyright on the motion picture and not by sound recording copyright. However, motion picture sound tracks which have been re-recorded may have their own sound recording copyright.

(b) Section 401 of the Copyright Act of 1976 requires a copyright notice for a motion picture sound track be present only on copies of a work; and consistent with case law under the Copyright Act of 1909, the new legislation does not consider a

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phonorecord a copy. Section 401 copyright notice is therefore not required on phonorecords. To protect any new matter present on a soundtrack album, the owner should place on each phonorecord embodying that new matter, a second copyright notice, as required under Section 402(b) of the Act.

(c) Under DOJ policy investigations should center on motion picture or sound recording infringements, excluding soundtrack, whenever possible.

EFFECTIVE: 09/20/89

28-4 INVESTIGATION

EFFECTIVE: 09/20/89

28-4.1 Investigation to Determine Copyright

(1) Office receiving complaint should promptly determine whether a product is copyrighted and, if so, the identity of the copyright holder. The individual rights in copyrighted works enumerated in Section 106 may be owned individually or collectively. Therefore, when conducting preliminary investigation with respect to the copyright owner(s), some care should be exercised in determining ownership of the particular right being infringed.

(2) In order to save investigative time, information regarding copyright registration on current albums, tapes, and single records, should be obtained directly from the Recording Industry Association of America (RIAA) headquarters in New York, New York. From these records, which are filed by the name of the artist and cross-referenced to the title of the song or album, the following information is available: copyright registration number, release date, address and telephone number of the copyright holder, and the person to contact to determine if an individual or company has permission to duplicate a particular sound recording. Copyright registration pertaining to copyrighted motion picture films, television, educational and training films can be obtained from the Film Security Office of the Motion Picture Association of America (MPAA), 14144 Ventura Boulevard, Sherman Oaks, California 91428, telephone (818) 995-6600. The Film Security Office of the MPAA can also determine the gauge in which the film has been released, i.e.,

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70mm, 35mm, 16mm, 8mm, Super 8, or 3/4-inch or 1/2-inch video. For example, if a video copy of a film is located and it is determined that a studio had only released the film in 35mm or 16mm format, the video is obviously illegal.

(3) | The MPAA and RIAA have also established toll-free "hotlines" to receive antipiracy complaints from anywhere in the United States. The MPAA number is 1-800-NO-COPYS (1-800-662-6797), and the RIAA number is 1-800-BAD-BEAT (1-800-223-2328). Offices receiving information or complaints concerning films, video, or sound piracy may wish to refer the complainant to either the MPAA or RIAA if there is insufficient information or available resources to initiate a copyright investigation.

(4) | If information regarding copyright registration on sound recording or motion picture is not available through the RIAA or MPAA, or a copy of the registration certificate is needed for court, a lead should be set out for the Washington|Metropolitan|Field Office to obtain this information from the U.S. Copyright Office. Under Section 708 of the Copyright Law of 1976, which became effective January 1, 1978, each certified Copyright Registration Certificate obtained from the Copyright Office will cost the Bureau \$4.

(5) | In certain cases, where a particular bootleg or counterfeit operation is large in scope, violations of Title 17 may be prosecuted under other criminal statutes including Interstate Transportation of Stolen Property, Mail Fraud and, in especially aggravated cases, Racketeer Influenced and Corrupt Organizations statute.

EFFECTIVE: 09/20/89

28-4.2 Search Warrants

(1) Section 509(a) authorizes the seizure of infringing copies and means of producing such copies when used, intended for use, or possessed with intent to use, in violation of criminal provisions of the Copyright Law, Section 506(a).

(2) Consider obtaining search warrants for search of premises utilized by distributor, wholesaler, retailer or others and subsequent seizure of contraband located. A copy of complete inventory of items seized must be left on premises searched, along with a copy of the search warrant.

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(3) In searching, be alert for evidence of existence of other locations for storage of alleged items utilized by subject, customer records, and information regarding distributors of raw materials. If located, obtain search warrant if consent to search cannot be obtained.

(4) Note that in conducting searches, all pirated sound recordings may be seized whether pre-2-15-72 or post-2-15-72.

(5) Because of decisions in the First and Ninth Circuit Courts of Appeal, the DOJ has advised care should be exercised in describing, both on the face of the warrant and in the affidavit, the property (i.e., pirated copies) to be seized. For example, the affidavit should describe with some degree of particularity the various ways in which pirated copies of copyrighted sound recordings or motion pictures differ from their legitimate counterparts. The description on the face of the warrant should make reference to the particular description in the affidavit. Also, Agents should detail their experience and expertise in detecting pirate copies.

EFFECTIVE: 09/20/89

28-4.3 Seizures Without a Warrant

According to DOJ, pirated sound recordings and motion picture films which are being sold in public (street vendors, flea markets, etc.) can be seized without a search warrant, providing the USA in the district in which the search is conducted concurs with this procedure. The basis for this warrantless seizure is the fact that an offense is being committed in the presence of an Agent, and there is no expectation of privacy; therefore, a warrant is not necessary. The sound recordings and films seized must be displayed openly and in a public place where the Agent has a right to be present as a member of the public. In order to establish the profit element of the Copyright Statute, Agent must purchase one or more of the pirate copies or witness the sale of a pirate copy. [REDACTED]

[REDACTED] This procedure for warrantless seizures is limited to open-air, transient and movable locations. In those instances where retail stores are concerned, warrants should be obtained.

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EFFECTIVE: 09/20/89

28-4.4 Forfeiture and Destruction

(1) Title 17, Sections 509 (a) and (b) provide that "all copies or phonorecords manufactured, reproduced, distributed, sold or otherwise used, intended for use, or possessed with intent to use in violation of (the Copyright Law), and all plates, molds, matrices, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced, and all electronic, mechanical, or other devices for manufacturing, reproducing or assembling such copies or phonorecords may be seized and forfeited to the United States." The FBI has been delegated authority to institute civil administrative forfeiture proceedings pursuant to Section 509. The Forfeiture and Abandoned Property Manual contains the step-by-step procedure to be followed for seizures and civil forfeiture proceedings (judicial and administrative) conducted in conjunction with this violation.

(2) Title 17, Section 506(b) of the Copyright Law provides that when any person is convicted of any violation of subsection (a) (criminal infringement) the court in its judgment of conviction shall, in addition to the usual penalty, order the forfeiture and destruction or other disposition of all infringing copies or phonorecords and all implements, devices or equipment used in the manufacture of such infringing copies or phonorecords.

(3) Title 18, Section 2318(d) provides that when any person convicted of any violation of Title 18, USC, Section 2318(a) (Trafficking in Counterfeit Labels), the court in its judgment of conviction shall, in addition to the penalty therein described, order the forfeiture and destruction or other disposition of all counterfeit labels and all articles to which counterfeit labels have been affixed or which were intended to have had such labels affixed.

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28-4.5 Examination by Technical Services Division

(1) In sound recording violations, send suspected pirate sound recordings to Technical Services Division (TSD) for aural comparisons with legitimate sound recordings. Request should also be made for examination of labels and slip jackets, if appropriate, which will be conducted by the Laboratory.

(2) An authorized copy of the copyrighted sound recording should be obtained from the manufacturer or the manufacturer's representative and submitted at the same time the sound recording is submitted to the Technical Services Division (TSD).

(3) The chain of custody of the authorized copy of the copyrighted sound recording must be maintained and this authorized copy must be dated and initialed by the manufacturer's representative who will be available to testify as to the ownership of the copyright and the existence of any licensing agreements.

(4) Prior to requesting comparison by TSD

(a) Secure copyright verification

(b) Contact USA to determine whether USA will prosecute in the event TSD determines suspected copies are pirated, and, if so, number of counts USA desires to charge for a determination as to number of suspected sound recordings that should be sent for comparison. If USA does not intend to prosecute, there is no need to request comparison by TSD.

EFFECTIVE: 06/18/87

28-5 VENUE

Where offense is committed, begun, or completed.

EFFECTIVE: 06/18/87

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28-6 DISCLOSURE TO PRIVATE SECTOR

(1) Pursuant to the published routine uses of information maintained in the FBI central records system, we are authorized to disclose certain information relative to a copyright matter investigation to the copyright proprietor injured by the infringement of the copyright, in order to assist him/her in the initiation or maintenance of a civil copyright infringement action against the person charged with the violation.

(2) In accordance with departmental recommendations, it is preferable for the copyright proprietor to initiate the civil action, after which the plaintiff in the case can avail himself/herself of civil discovery to request testimony of FBI personnel involved in the investigation, for which the Department normally will give approval.

(3) Where the copyright proprietor claims he/she has insufficient information to institute a suit, he/she must be able to demonstrate a specific need for our information, the release of which is always discretionary. Where disclosure appears warranted, it must be restricted to only that which is needed for initiation of the suit. Usually a list of pirated material and the identity and location of the person charged with the copyright infringement will suffice for this purpose.

(4) Requests for information relative to suspects or others not actually charged with a violation of Title 17, U.S. Code, should ordinarily be denied, as disclosure could constitute an unwarranted invasion of individual privacy under current, applicable standards.

EFFECTIVE: 06/18/87

28-7 PENALTIES

(1) Title 17, Section 506(a) - Criminal Infringement - Penalties for violation of Section 506(a) are set forth in Title 18, USC, Section 2319 and are as follows:

(a) Those who reproduce or distribute 1,000 or more unauthorized sound recordings or 65 or more unauthorized copies of a motion picture or audiovisual work during any 180-day period, the maximum penalty is five years' imprisonment and/or a \$250,000 fine.

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(b) Those that reproduce or distribute more than 100 but less than 1,000 unauthorized sound recordings, or more than 7 but less than 65 unauthorized copies of a motion picture or audiovisual work during any 180-day period, the maximum penalty is two years' imprisonment and/or a \$250,000 fine.

(c) Those that reproduce or distribute 100 or less unauthorized copies of a sound recording or 7 or less unauthorized copies of a motion picture or audiovisual work during a 180-day period, or where more than 180 days has elapsed between violations, the maximum penalty is one-year imprisonment and/or a \$25,000 fine.

(2) Title 17, Section 506(c) - Maximum penalty is a fine of not more than \$2,500.

(3) Title 17, Section 506(d) - Maximum penalty is a fine of not more than \$2,500.

(4) Title 17, Section 506(e) - Maximum penalty is a fine of not more than \$2,500.

(5) Title 18, Section 2318 - Trafficking in Counterfeit Labels - Maximum penalty is a fine of not more than \$250,000 and/or imprisonment for not more than five years.

NOTE: The statute of limitations on violations of Title 17 is three years.

EFFECTIVE: 06/18/87

28-8

CHARACTER - COPYRIGHT MATTER

EFFECTIVE: 06/18/87



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SECTION 29. FINANCIAL INSTITUTION FRAUD

29-1 BACKGROUND

(1) On October 12, 1984, the President signed the Comprehensive Crime Control Act of 1984 which became Public Law 98-473. This act amended Title 18 of the United States Code (USC), by amending Section 215 "Receipt of Commissions or Gifts for Procuring Loans," deleting Section 216, creating Section 1344 "Bank Fraud" and Section 1345 "Injunctions Against Fraud." (See MIOG, Part I, 192-5 (3).)

(2) On August 3, 1986, the President signed a revision of Title 18, USC, Section 215, entitled "Bank Bribery Amendments Act of 1985."

(3) On August 9, 1989, the President signed the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) which became Public Law 101-73. This act specifically addressed the ten banking-related offenses which consist of Title 18, United States Code (USC), Sections 215 (Bribery), 656 and 657 (Embezzlement/Misapplication), 1005 and 1006 (False Entries), 1007 (Federal Deposit Insurance Corporation Transactions), 1014 (False Statements), 1344 (Bank Fraud), 1341 (Mail Fraud), and 1343 (Wire Fraud), if the Mail Fraud and Wire Fraud offenses involved a federally insured financial institution. This act:

(a) increased maximum penalties for violation of each of the ten banking-related offenses to 20 years' imprisonment and/or \$1,000,000 fine (the Crime Control Act of 1990 increased the maximum penalties for violation of the ten banking-related offenses from 20 years to 30 years' imprisonment);

(b) increased the Statute of Limitations for the ten banking-related offenses from five years to 10 years, including those offenses for which the Statute of Limitations had not expired as of August 9, 1989;

(c) amended Title 18, USC, Section 1961, the Racketeer Influenced and Corrupt Organizations (RICO) Statute, to add Title 18, USC, Section 1344 (Bank Fraud) as a RICO predicate offense;

(d) amended Title 18, USC, Section 1510 (Obstruction

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of Justice) to prohibit an officer, director, partner, or employee of, or an agent or attorney for, a financial institution to disclose the existence or contents of federal grand jury subpoenas for records issued in connection with investigations of possible violations of the ten banking-related offenses. The maximum term of imprisonment is five years if the disclosure is made to any person with the intent to obstruct a judicial proceeding, or one year if the disclosure is made to a customer or any other person named in the subpoena;

(e) provided for civil forfeiture in connection with eight banking offenses (excluding Mail Fraud and Wire Fraud) and authorized criminal forfeiture upon conviction of any of the ten banking-related offenses, or conspiracy to commit any of these ten offenses;

(f) required that the U.S. Sentencing Commission promulgate sentencing guidelines for ten banking-related offenses that "provide for a substantial period of incarceration" if the offense substantially jeopardizes the safety and soundness of a federally insured financial institution;

(g) authorized the Attorney General to bring civil actions to recover civil penalties for violations of ten banking-related offenses;

(h) authorized the federal banking agencies to pay a reward for information which leads to the recovery of over \$50,000 through restitution, criminal fine, civil money penalty or forfeiture. The maximum reward cannot exceed the lesser of 25 percent of the recovery or \$100,000;

(i) created a new cause of action, or "whistleblower" protection, for financial institution employees who are fired because they provided information about alleged violations to a banking agency or DOJ. Persons who are involved in alleged violations or who provided substantially false information will not be able to pursue such actions;

(j) amended the Fair Credit Reporting Act to provide specifically that a credit reporting agency must furnish consumer credit report records when served with a federal grand jury (FGJ) subpoena for those records;

(k) authorized the disclosure of FGJ information to a federal banking agency for use in relation to any matter within the agency's jurisdiction, if a court finds that there is a "substantial

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need" for the disclosure;

(l) authorized the disclosure of FGJ information concerning a banking law violation, without a court order, to an attorney for the government for use in enforcing a related civil forfeiture proceeding;

(m) added additional exceptions to Section 1113 of the Right to Financial Privacy Act of 1978, permitting the disclosure of information to federal banking agencies relevant to the examination, conservatorship, or receivership of financial institutions;

(n) abolished the Federal Home Loan Bank Board (FHLBB) and the position of the Chairman of FHLBB as the chief regulator of the savings and loan industry;

(o) established the Office of Thrift Supervision, within the Department of the Treasury, to regulate the savings and loan industry;

(p) gave the Federal Deposit Insurance Corporation (FDIC) the duty of insuring the deposits of savings associations, in addition to banks. Insurance funds relating to banks and savings associations are to be administered separately by FDIC through the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF), respectively;

(q) established the Federal Savings and Loan Insurance Corporation (FSLIC) Resolution Fund, managed by FDIC, to assume the assets and liabilities of FSLIC and close out its affairs;

(r) authorized FDIC to act as a conservator or receiver for federally insured banks and savings associations. This gives FDIC the authority to operate an institution as a going concern, facilitate its merger or acquisition, or liquidate the institution;

(s) established the Resolution Trust Corporation (RTC) to resolve the affairs of failed and insolvent savings associations. The RTC is to be exclusively managed and staffed by FDIC and will exercise the FDIC's conservatorship and receivership powers; (See (6).)

(t) abolished the Federal Asset Disposition Association (FADA), the assets of which are to be liquidated by the RTC within 180 days of enactment;

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(u) broadened the group of individuals and entities covered by the Federal Deposit Insurance Act and Federal Credit Union Act by substituting the new term "institution-affiliated party," and replacing the term "bank" with "depository institution" so that enforcement provisions are applicable to both banks and savings associations;

(v) authorized federal banking agencies to take enforcement actions against "institution-affiliated parties" for up to six years following resignation or other departure from a financial institution, retroactively applied;

(w) substantially increased the maximum amount for civil money penalties, expanded the scope of misconduct covered by civil money penalty provisions, and authorized federal banking agencies to take action to collect these penalties;

(x) increased the criminal penalty for participation in the affairs of a depository institution in violation of a removal order to a maximum of five years' imprisonment and \$1,000,000 fine;

(y) broadened the prohibition against participation in the affairs of insured depository institutions by persons who have been convicted of any criminal offense involving dishonesty or breach of trust, and increased the maximum criminal penalty to five years' imprisonment and \$1,000,000 per day fine;

(z) added state criminal charges as grounds for removal of an "institution-affiliated party" from a financial institution;

(aa) required the federal banking agencies to jointly establish their own pool of administrative law judges, and to develop a set of uniform administrative rules and procedures within 24 months;

(bb) mandated an interagency task force study of the desirability and feasibility of the delegation of additional investigative and enforcement authority to the regional offices of the federal banking agencies; and

(cc) added the Securities and Exchange Commission as one of the agencies which may share information under Section 1112(e) of the Right to Financial Privacy Act of 1978.

(4) On November 29, 1990, the President signed the "Crime

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Control Act of 1990 (CCA)." The CCA affects all criminal investigative programs of the FBI with Title XXV of CCA, "The Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990" most affecting the area of financial institution fraud. Title XXV:

(a) established Title 18, U.S. Code (USC), Section 1032, as a criminal offense for concealing assets from the Federal Deposit Insurance Corporation (FDIC), the Resolution Trust Corporation (RTC), any conservator appointed by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, or the National Credit Union Administration Board, acting as conservator or liquidating agent;

(b) established Title 18, USC, Section 1517, concerning the obstruction of an examination of financial institution by any agency of the United States;

(c) established Title 18, USC, Section 225, (Financial Crime Kingpin Statute), which makes it a crime to engage in a continuing financial crime enterprise. The enterprise is defined as bank frauds that involve four or more persons from which any one person has received \$5 million or more in a 24-month period. The penalty for the Kingpin Statute is ten years to life and/or \$10 million fine for individuals or \$20 million for corporations;

(d) increased maximum penalties for violation of the ten banking-related offenses from 20 years' to 30 years' imprisonment;

(e) prohibits certain convicted persons, such as those convicted of any of the bank-related statutes, from participating in or controlling a depository institution, for a minimum period of ten years, except by order of the sentencing court;

(f) established a 10-year statute of limitations for RICO offenses involving financial institutions;

(g) authorized wiretap (Title III) authority for bank fraud and related offenses;

(h) stipulated that the U.S. Sentencing Commission shall promulgate guidelines such that offenders of certain bank fraud statutes be assigned an offense level not less than level 24 under Chapter 2;

(i) made fraudulent transfers of a financial

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institution voidable if they occur within five years before the appointment of a conservator or receiver;

(j) made certain financial institution fraud debts nondischargeable in bankruptcy. It also disallowed the use of bankruptcy to evade depository institution capital commitments;

(k) prohibited certain convicted debtors from purchasing the assets of any insured depository institution;

(l) extended the statute of limitations for civil penalties under FIRREA to 10 years.

(m) increased the list of crimes for which civil forfeiture is available.

(n) requires the Attorney General to compile and collect extensive data on the nature and number of financial institutions investigations, prosecutions, and enforcement proceedings and report monthly to Congress through 12/31/91 and quarterly thereafter.

(o) created an Office of Special Counsel for Financial Institution Fraud (five-year sunset provision) within the Office of the Deputy Attorney General, DOJ, to supervise and coordinate investigations and prosecutions of financial institution fraud. The Special Counsel is to ensure that federal laws relating to financial institution fraud are utilized to the fullest extent possible, including civil enforcement, asset seizure, forfeiture, money laundering and racketeering, and that adequate resources are devoted to financial institution fraud;

(p) directed the Attorney General to establish Financial Institution Fraud Task Forces;

(q) directed the Attorney General to establish a Senior Interagency Group to assist in identifying the most significant financial institution fraud cases and promote interagency coordination as a tool to fight financial institution fraud;

(r) established an eight-member National Commission to examine and identify the origin and causes of the S & L crisis. This commission will have the power to conduct hearings, receive evidence, and subpoena witnesses. The Commission is required to submit a detailed report to the President within nine months of electing a chairperson;

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(s) provides a mechanism, "declarations" for private citizens (declarant) to bring forward information that the government is unaware of, which would help in civil and criminal financial institution fraud cases. Declarant CANNOT have participated in the underlying illegal activities or profited from them. Declarant, if the information they provided is relied upon in securing a criminal conviction, may receive between \$5,000 and \$100,000. They may also receive a percentage (maximum \$1.6 million) of any recovery by the U.S. based on their declaration;

(t) provides rewards up to \$50,000 to informants, individuals who provide tips or leads but are NOT declarants, if their information leads to a conviction, whether or not the U.S. actually recovers assets from the offender.

(5) On November 30, 1992, Section 1542 of the Housing and Community Development Act of 1992 was enacted which requires that, unless otherwise prohibited by law, the heads of federal agencies will disclose to the appropriate federal financial institution regulatory agencies any information that is believed to raise significant concerns regarding the "safety and soundness" of any depository institution doing business in the United States. This Act ensures that information necessary to protect depositors at our Nation's depository institutions is forwarded in a timely manner to the appropriate regulatory agencies. (See MIOG, Part I, 29-2.2.3 & 29-6.5.)

(6) Pursuant to the terms of the Resolution Trust Corporation (RTC) Completion Act, the RTC ceased to exist as of 12/31/95. All remaining RTC matters have been transferred to the Federal Deposit Insurance Corporation (FDIC).

EFFECTIVE: 11/21/96

29-2 STATUTES, PENALTIES AND DEFINITIONS

EFFECTIVE: 06/26/91

29-2.1 Statutes and Penalties

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EFFECTIVE: 06/26/91

29-2.1.1 Section 212. Offer of Loan or Gratuity to Bank Examiner

"Whoever, being an officer, director or employee of a financial institution which is a member of the Federal Reserve System or the deposits of which are insured by the Federal Deposit Insurance Corporation, or of any National Agricultural Credit Corporation, or of any Farm Credit Bank, bank for cooperatives, production credit association, Federal land bank association, agricultural credit association, Federal land credit association, service organization chartered under section 4.26 of the Farm Credit Act of 1971, the Farm Credit System Financial Assistance Corporation, the Federal Agricultural Mortgage Credit Corporation, the Federal Farm Credit Banks Funding Corporation, the National Consumer Cooperative Bank, or other institution subject to examination by a Farm Credit Administration examiner, or of any small business investment company, makes or grants any loan or gratuity, to any examiner or assistant examiner who examines or has authority to examine such bank, corporation, or institution, shall be fined not more than \$5,000 or imprisoned not more than one year, or both; and may be fined a further sum equal to the money so loaned or gratuity given.

"The provisions of this section and section 213 of this title shall apply to all public examiners and assistant examiners who examine member banks of the Federal Reserve System or insured financial institutions, or National Agricultural Credit Corporations, whether appointed by the Comptroller of the Currency, by the Board of Governors of the Federal Reserve System, by a Federal Reserve Agent, by a Federal Reserve bank, by the Federal Deposit Insurance Corporation, by the Office of Thrift Supervision, or by the Federal Housing Finance Board, or appointed or elected under the laws of any state; but shall not apply to private examiners or assistant examiners employed by a clearing-house association or by the directors of a bank."

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29-2.1.2 Section 213. Acceptance of Loan or Gratuity by Bank Examiner

"Whoever, being an examiner or assistant examiner of member banks of the Federal Reserve System or financial institutions the deposits of which are insured by the Federal Deposit Insurance Corporation, or a farm credit examiner or examiner of National Agricultural Credit Corporations, or an examiner of small business investment companies, accepts a loan or gratuity

from any bank, corporation, association or organization examined by him or from any person connected herewith, shall be fined not more than \$5,000 or imprisoned not more than one year, or both; and may be fined a further sum equal to the money so loaned or gratuity given, and shall be disqualified from holding office as such examiner."

EFFECTIVE: 06/26/91

29-2.1.3 Section 214. Offer for Procurement of Federal Reserve Bank Loan and Discount of Commercial Paper

"Whoever stipulates for or gives or receives, or consents or agrees to give or receive, any fee, commission, bonus, or thing of value for procuring or endeavoring to procure from any Federal Reserve bank any advance, loan, or extension of credit or discount or purchase of any obligation or commitment with respect thereto, either directly from such Federal Reserve bank or indirectly through any financing institution, unless such fee, commission, bonus, or thing of value and all material facts, with respect to the arrangement or understanding therefor shall be disclosed in writing in the application or request for such advance, loan, extension of credit, discount, purchase, or commitment, shall be fined not more than \$5,000 or imprisoned not more than one year, or both."

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29-2.1.4 Section 215. Receipt of Commissions or Gifts for  
Procuring Loans

"(a) Whoever--

"(1) corruptly gives, offers, or promises anything of value to any person, with intent to influence or reward an officer, director, employee, agent, or attorney of a financial institution in connection with any business or transaction of such institution; or

"(2) as an officer, director, employee, agent, or attorney of a financial institution, corruptly solicits or demands for the benefit of any person, or corruptly accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business or transaction of such institution; shall be fined not more than \$1,000,000 or three times the value of the thing given, offered, promised, solicited, demanded, accepted, or agreed to be accepted, whichever is greater, or imprisoned not more than 30 years, or both; but if the value of the thing given, offered, promised, solicited, demanded, accepted, or agreed to be accepted does not exceed \$100, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"(c) (sic) This section shall not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

"(d) (sic) Federal agencies with responsibility for regulating a financial institution shall jointly establish such guidelines as are appropriate to assist an officer, director, employee, agent, or attorney of a financial institution to comply with this section. Such agencies shall make such guidelines available to the public."

Note: Four versions of section 215 are in force. The first is applicable to offenses occurring prior to October 12, 1984. The second applies to offenses occurring in the period beginning October 12, 1984, and ending September 2, 1986. The third is applicable to offenses occurring in the period beginning September 3, 1986, and ending August 9, 1989, when FIRREA was signed into law. The fourth applies to offenses occurring after the signing into law of FIRREA, August 9, 1989.

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

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EFFECTIVE: 06/26/91

29-2.1.5 | Section 225. Continuing Financial Crime Enterprise

"(a) Whoever

"(1) organizes, manages, or supervises a continuing financial crimes enterprise; and

"(2) receives \$5,000,000 or more in gross receipts from such enterprise during any 24-month period,

"shall be fined not more than \$10,000,000 if an individual, or \$20,000,000 if an organization, and imprisoned for a term of not less than 10 years and which may be life.

"(b) for purposes of subsection (a), the term 'continuing financial crimes enterprise' means a series of violations under section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of this title, or section 1341 or 1343 affecting a financial institution, committed by at least 4 persons acting in concert."

EFFECTIVE: 06/26/91

29-2.1.6 | Section 334. Issuance of Federal Reserve or National Bank Notes

"Whoever, being a Federal Reserve Agent, or an agent or employee of such Federal Reserve Agent, or of the Board of Governors of the Federal Reserve System, issues or puts in circulation any Federal Reserve notes, without complying with or in violation of the provisions of law regulating the issuance and circulation of such Federal Reserve notes; or

"Whoever, being an officer acting under the provisions of chapter 2 of Title 12, countersigns or delivers to any national banking association, or to any other company or person, any circulating notes contemplated by that chapter except in strict accordance with its provisions--

"Shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

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||29-2.1.7| Section 655. Theft by Bank Examiner

"Whoever, being a bank examiner or assistant examiner, steals, or unlawfully takes, or unlawfully conceals any money, note, draft, bond, or security or any other property of value in the possession of any bank or banking institution which is a member of the Federal Reserve System or which is insured by the Federal Deposit Insurance Corporation, or from any safe deposit box in or adjacent to the premises of such bank, shall be fined not more than \$5,000 or imprisoned not more than five years, or both; but if the amount taken or concealed does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and shall be disqualified from holding office as a national bank examiner or Federal Deposit Insurance Corporation examiner.

"This section shall apply to all public examiners and assistant examiners who examine member banks of the Federal Reserve System or banks the deposits of which are insured by the Federal Deposit Insurance Corporation, whether appointed by the Comptroller of the Currency, by the Board of Governors of the Federal Reserve System, by a Federal Reserve Agent, by a Federal Reserve bank, or by the Federal Deposit Insurance Corporation, or appointed or elected under the laws of any State; but shall not apply to private examiners or assistant examiners employed only by a clearinghouse association or by the directors of a bank."

EFFECTIVE: 06/26/91

||29-2.1.8| Section 656. Theft, Embezzlement, or Misapplication by Bank Officer or Employee

"Whoever, being an officer, director, agent or employee of, or connected in any capacity with any Federal Reserve bank, member bank, national bank or insured bank, or a receiver of a national bank, or any agent or employee of the receiver, of a Federal Reserve Agent, or an agent or employee of a Federal Reserve Agent or of the Board of Governors of the Federal Reserve System, embezzles, abstracts, purloins or willfully misapplies any of the moneys, funds or credits of such bank or any moneys, funds, assets or securities intrusted to

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the custody or care of such bank, or to the custody or care of any such agent, officer, director, employee or receiver, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both; but if the amount embezzled, abstracted, purloined or misapplied does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"As used in this section, the term 'national bank' is synonymous with 'national banking association'; 'member bank' means and includes any national bank, state bank, or bank and trust company which has become a member of one of the Federal Reserve banks; and 'insured bank' includes any bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corporation."

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

EFFECTIVE: 06/26/91

||29-2.1.9| Section 657. Lending, Credit and Insurance Institutions

"Whoever, being an officer, agent or employee of or connected in any capacity with the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, National Credit Union Administration, Home Owners' Loan Corporation, Farm Credit Administration, Department of Housing and Urban Development, Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, or the Farm Credit System Insurance Corporation, a Farm Credit Bank, a bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States or any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, or by the National Credit Union Administration Board or any small business investment company, and whoever, being a receiver of any such institution, or agent or employee of the receiver, embezzles, abstracts, purloins or willfully misapplies any moneys, funds, credits, securities or other things of value belonging to such institution, or pledged or otherwise intrusted to its care, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both; but if the amount or value embezzled, abstracted, purloined or misapplied does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

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Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

EFFECTIVE: 06/26/91

||29-2.1.10| Section 658. Property Mortgaged or Pledged to Farm Credit Agencies

"Whoever, with intent to defraud, knowingly conceals, removes, disposes of, or converts to his own use or to that of another, any property mortgaged or pledged to, or held by, the Farm Credit Administration, any Federal intermediate credit bank, or the Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, any production credit association organized under sections 1131-1134m of Title 12, any regional agricultural credit corporation, or any bank for cooperatives, shall be fined not more than \$5,000 or imprisoned not more than five years, or both; but if the value of such property does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

EFFECTIVE: 06/26/91

||29-2.1.11| Section 1004. Certification of Checks

"Whoever, being an officer, director, agent, or employee of any Federal Reserve bank or member bank of the Federal Reserve System, certifies a check before the amount thereof has been regularly deposited in the bank by the drawer thereof, or resorts to any device, or receives any fictitious obligation, directly or collaterally, in order to evade any of the provisions of law relating to certification of checks, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

EFFECTIVE: 06/26/91

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||29-2.1.12| Section 1005. Bank Entries, Reports and Transactions

"Whoever, being an officer, director, agent or employee of any Federal Reserve bank, member bank, bank or savings and loan holding company, national bank or insured bank, without authority from the directors of such bank, issues or puts in circulation any notes of such bank; or

"Whoever, without such authority, makes, draws, issues, puts forth, or assigns any certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond, or other obligation, or mortgage, judgment or decree; or

"Whoever makes any false entry in any book, report, or statement of such bank or company with intent to injure or defraud such bank or company, or any other company, body politic or corporate, or any individual person, or to deceive any officer of such bank or company, or the Comptroller of the Currency, or the Federal Deposit Insurance Corporation, or any agent or examiner appointed to examine the affairs of such bank or company, or the Board of Governors of the Federal Reserve System;

"Whoever, with intent to defraud the United States or any Agency thereof, or any financial institution referred to in this section, participates or shares in or receives (directly or indirectly) any money, profit, property, or benefits through any transaction, loan commission, contract, or any other act of any such financial institution--

| "Shall be fined not more than \$1,000,000 or imprisoned not more than |30| years, or both.

"As used in this section, the term 'national bank' is synonymous with 'national banking association'; 'member bank' means and includes any national bank, state bank, or bank or trust company, which has become a member of one of the Federal Reserve banks; an 'insured bank' includes any state bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corporation."

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.



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EFFECTIVE: 06/26/91

||29-2.1.13| Section 1006. Federal Credit Institution Entries, Reports  
and Transactions

"Whoever, being an officer, agent or employee of or connected in any capacity with the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, National Credit Union Administration, Home Owners' Loan Corporation, Farm Credit Administration, Department of Housing and Urban Development, Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, or the Farm Credit System Insurance Corporation, a Farm Credit Bank, a bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States or any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or by the National Credit Union Administration Board, or any small business investment company, with intent to defraud any such institution or any other company, body politic or corporate, or any individual, or to deceive any officer, auditor, examiner or agent of any such institution or of department or agency of the United States, makes any false entry in any book, report or statement of or to any such institution, or without being duly authorized, draws any order or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond or other obligation, or draft, bill of exchange, mortgage, judgment, or decree, or, with intent to defraud the United States or any agency thereof, or any corporation, institution, or association referred to in this section, participates or shares in or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such corporation, institution, or association, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both."

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

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||29-2.1.14| Section 1007. Federal Deposit Insurance Corporation  
Transactions

"Whoever, for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, knowingly makes or invites reliance on a false, forged or counterfeit statement, document, or thing

"shall be fined not more than \$1,000,000 or imprisoned, not more than 30 years, or both."

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

EFFECTIVE: 06/26/91

||29-2.1.15| Section 1011. Federal Land Bank Mortgage Transactions

"Whoever, being a mortgagee, knowingly makes any false statement in any paper, proposal, or letter, relating to the sale of any mortgage, to any Federal land bank; or

"Whoever, being an appraiser, willfully overvalues any land securing such mortgage--

"Shall be fined not more than \$5,000 or imprisoned not more than one year, or both."

EFFECTIVE: 06/26/91

||29-2.1.16| Section 1013. Farm Loan Bonds and Credit Bank Debentures

"Whoever deceives, defrauds, or imposes upon, or attempts to deceive, defraud, or impose upon any person, partnership, corporation, or association by making any false pretense or representation concerning the character, issue, security, contents, conditions, or terms of any farm loan bond, or coupon, issued by any Federal land bank or banks; or of any debenture, coupon, or other obligation, issued by any Federal intermediate credit bank or banks, or by any National Agricultural Credit Corporation; or by falsely pretending or representing that any farm loan bond, or coupon, is anything other than, or different from, what it purports to be on the

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face of said bond or coupon, shall be fined not more than \$500 or imprisoned not more than one year, or both."

EFFECTIVE: 06/26/91

[|29-2.1.17| Section 1014. Loan and Credit Applications Generally;  
Renewals and Discounts; Crop Insurance

"Whoever knowingly makes any false statement or report, or willfully overvalues any land, property or security, for the purpose of influencing in any way the action of the Reconstruction Finance Corporation, Farm Credit Administration, Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, any Farm Credit Bank, production credit association, agricultural credit association, bank for cooperatives, or any division, officer, or employee thereof, or of any regional agricultural credit corporation established pursuant to law, or of the National Agricultural Credit Corporation, a Federal land bank, a Federal land bank association, a Federal Reserve bank, a small business investment company, a Federal credit union, an insured State-chartered credit union, any institution the accounts of which are insured by the Farm Credit System Insurance Corporation, the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Federal Home Loan Bank System, National Credit Union Administration Board, upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both."

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

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29-2.1.18 | Section 1032. Concealment of Assets from Conservator,  
Receiver, or Liquidating Agent of Financial Institution

"Whoever

"(1) knowingly conceals or endeavors to conceal an asset or property from the Federal Deposit Insurance Corporation, acting as conservator or receiver or in the Corporation's corporate capacity with respect to any asset acquired or liability assumed by the Corporation under section 11, 12, or 13, of the Federal Deposit Insurance Act, the Resolution Trust Corporation, any conservator appointed by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, or the National Credit Union Administration Board, acting as conservator or liquidating agent;

"(2) corruptly impedes or endeavors to impede the functions of such Corporation, Board, or conservator, or

"(3) corruptly places or endeavors to place an asset or property beyond the reach of such Corporation, Board, or conservator, shall be fined under this title or imprisoned not more than 5 years or both."

EFFECTIVE: 06/26/91

|29-2.1.19| Section 1306. Participation by Financial Institutions

"Whoever knowingly violates section 5136A of the Revised Statutes of the United States, section 9A of the Federal Reserve Act, or section 20 of the Federal Deposit Insurance Act, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."  
(See|29-2.1.27|below.)

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

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||29-2.1.20| Section 1341. Mail Fraud

FIRREA and the CCA amended Section 1341 by providing a penalty of up to 30 years' imprisonment and a \$1,000,000 fine for violations affecting a financial institution. See MIOG, Part I, Section 36 for the statute and elements.

EFFECTIVE: 06/26/91

29-2.1.21 Section 1343. Wire Fraud

FIRREA and the CCA amended Section 1343 by providing a penalty of up to 30 years' imprisonment and a \$1,000,000 fine for violations affecting a financial institution. See MIOG, Part I, Section 196.

EFFECTIVE: 10/01/97

||29-2.1.22| Section 1344. Bank Fraud

"Whoever knowingly executes, or attempts to execute, a scheme or artifice--

"(1) to defraud a financial institution; or

"(2) to obtain any of the moneys, funds, credits, assets, securities or other property owned by or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises; shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both."

Note: Alternative fine provisions are contained in Title 18, USC, Section 3571.

EFFECTIVE: 06/26/91

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||29-2.1.23| Section 1345. Injunctions Against Fraud

"Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a violation of this chapter (Title 18, USC), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure."

EFFECTIVE: 06/26/91

||29-2.1.24| Section 1510. Obstruction of Criminal Investigations

"(a) Whoever willfully endeavors by means of bribery to obstruct, delay, or prevent the communication of information relating to a violation of any criminal statute of the United States by any person to a criminal investigator shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

"(b) (1) Whoever, being an officer of a financial institution, with the intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that financial institution, or information that has been furnished to the grand jury in response to that subpoena, shall be fined under this title or imprisoned not more than 5 years, or both.

"(2) Whoever, being an officer of a financial institution, directly or indirectly notifies--

"(A) a customer of that financial institution whose records are sought by a grand jury subpoena; or

"(B) any other person names in that subpoena; about the existence or contents of that subpoena or information that has been furnished to the grand jury in response to that subpoena,

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shall be fined under this title or imprisoned not more than one year, or both.

"(3) As used in this subsection--

"(A) the term 'an officer of a financial institution' means an officer, director, partner, employee, agent, or attorney of or for a financial institution; and

"(B) the term 'subpoena for records' means a Federal grand jury subpoena for customer records that has been served relating to a violation of, or a conspiracy to violate--

"(i) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344; or

"(ii) section 1341 or 1343 affecting a financial institution.

"(C) As used in this section, the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations of or prosecutions for violations of the criminal laws of the United States."

EFFECTIVE: 06/26/91

29-2.1.25 Section 1517. Obstructing Examination of Financial Institution

"Whoever corruptly obstructs or attempts to obstruct any examination of a financial institution by an agency of the United States with jurisdiction to conduct an examination of such financial institution shall be fined under this title, imprisoned not more than 5 years, or both."

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||29-2.1.26| Section 3293. Statute of Limitations

"No person shall be prosecuted, tried, or punished for a violation of, or a conspiracy to violate--

"(1) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, or 1344; or

"(2) section 1341 or 1343, if the offense affects a financial institution;

unless the indictment is returned or the information is filed within 10 years after the commission of the offense."

EFFECTIVE: 06/26/91

||29-2.1.27| Other Statutes

(1) In addition to the above sections, Title 12, USC, Sections 25a, 339, and 1829a, respectively, prohibit certain other activities: Financial institutions may not deal in lottery tickets; deal in bets used as a means or substitute for participation in a lottery; announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery; permit the use of any part of their own offices by any person for any purpose forbidden above.

(2) These institutions are not prohibited from accepting deposits or handling checks or other negotiable instruments or performing other lawful banking services for a state operating a lottery, or for an employee of that state charged with the administration of the lottery. (See|29-2.1.19|above.)

EFFECTIVE: 06/26/91

29-2.2 Definitions

EFFECTIVE: 06/26/91

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29-2.2.1 Criminal Acts

As used in the preceding sections, the below acts are defined:

(1) Embezzlement -

To "embezzle" means willfully to take, or convert to one's own use, another's money or property, of which the wrongdoer acquired possession lawfully, by reason of some office or employment or position of trust. The elements of "embezzlement" are that there must be relationship such as that of employment or agency between the owner of the money and the defendant, the money alleged to have been embezzled must have come into the possession of defendant by virtue of that relationship and there must be an intentional and fraudulent appropriation or conversion of the money. If embezzlement is charged, the conversion alleged may not be to some third party other than the embezzler himself/herself.

(2) Abstraction -

Abstraction is the act of one who, being an officer of a financial institution, wrongfully takes or withdraws moneys, funds or credits with the intent to injure or defraud the financial institution or some other person, and without the financial institution's or board of directors' knowledge or consent, converts them to the use of oneself or some other person or entity other than the financial institution.

(3) Misapplication -

The term "misapplication" means a willful and unlawful misuse of moneys, funds or credit of the financial institution made with intent to injure or defraud the financial institution. "The prescribed misapplication of funds occurs when funds are distributed under a written, printed, etc., record which misrepresents the true state of the document with the intent that bank officials, bank examiners or the Federal Deposit Insurance Cooperation will be deceived." Misapplication should be charged where there is a third party beneficiary.

(4) False entry -

An entry in books of a financial institution which is intentionally made to represent what is not true or does not exist, with intent either to deceive its officers or a bank examiner or to



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defraud the financial institution.

(5) Defraud -

To make a misrepresentation of an existing material fact, knowing it to be false intending another to rely and under circumstances in which such person, financial institution, corporation, etc., does rely on their damage. (Intent to defraud: means an intention to deceive another person, and to induce such other person, in reliance upon such deception, to assume, create, transfer, alter or terminate a right, obligation or power with reference to property.)

(6) Connected In Any Capacity -

Includes any person who has such a relationship to the institution that he/she could injure it by committing one or more of the criminal offenses set out in Title 18, USC, Sections 656 and 657.

EFFECTIVE: 06/26/91

29-2.2.2 Section 20. Financial Institution Defined

"As used in this title, the term 'financial institution' means-

"(1) an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);

"(2) a credit union with accounts insured by the National Credit Union Share Insurance Fund;

"(3) a Federal home loan bank or a member, as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422), of the Federal home loan bank system;

"(4) a Federal land bank, Federal intermediate credit bank, bank for cooperatives, production credit association, and Federal land bank association;

"(5) a System institution of the Farm Credit System, as defined in section 5.35(3) of the Farm Credit Act of 1971;

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"(6) a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act).

"(7) a Federal Reserve bank or a member bank of the Federal Reserve System;

"(8) an organization operating under section 25 or section 25(a) of the Federal Reserve Act; or

"(9) a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978)."

EFFECTIVE: 06/26/91

29-2.2.3 Safety And Soundness of Any Depository Institution

As used in MIOG, Part I, Section 29-1 (5), the below terms are defined:

(1) Safety and Soundness - The terms "Safety" and "Soundness" are commonly used in laws governing financial institution regulation, and safety and soundness determinations fall within the special expertise of the federal financial institution regulatory agencies. The terms are generally used as a measure of an institution's financial health, the integrity of its operations, and its ability to remain financially viable. In determining whether an institution is operating in a safe and sound manner, regulators typically consider such factors as whether the institution has sufficient capital, good quality assets, competent management and broad supervision, strong earnings history and adequate liquidity. Financial institution regulators also consider whether the institution and its officers, directors, and subsidiaries and other affiliates operate in compliance with applicable laws and regulations or engage in acts or omissions that are contrary to prudent banking standards, present an abnormal risk of loss or harm to the institution, or are fraudulent or dishonest. Additionally, regulators assess the extent to which suspicious or criminal misconduct occurs within an institution with, or without, the institution's knowledge or complicity, even if it may not result in monetary loss or damage to the institution.

(2) Any Depository Institution - Any Depository

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Institution refers to any bank or savings association, foreign or domestic, insured or uninsured, operating in the United States.

EFFECTIVE: 05/26/94

29-3 JURISDICTION

(1) The Federal Bureau of Investigation (FBI) has investigative jurisdiction in all matters referred to above. On 11/5/90 in the Treasury, Postal Service and General Government Appropriations Act, Public Law 101-509, section 528(a), the United States Secret Service (USSS) was given concurrent jurisdiction in financial institution fraud matters. The concurrent jurisdiction was to expire with the authority of the Resolution Trust Corporation. The Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, amended Public Law 101-509 extending the concurrent jurisdiction of the USSS in financial institution fraud matters until 12/31/2004. The Act provided that USSS participation is subject to the supervision of the Attorney General (AG). It provided that USSS shall not initiate investigations independent of the supervision of the AG. On 3/1/91, the AG delegated his authority to accept the services and coordinate the activities of the USSS in financial institution fraud investigations to the Director of the FBI. On 3/22/91, the FBI and USSS Directors signed a letter of agreement establishing a protocol to most effectively and efficiently coordinate the jurisdiction responsibilities.

(2) The USSS, by way of Title 18, USC, Section 3056 (Powers, Authorities, and Duties of the USSS), has primary, investigative jurisdiction in Title 18, USC, Section 1007 (Federal Deposit Insurance Corporation Transaction) and Title 18, USC, Section 657 (Embezzlements and Thefts) and Sections 1006 (Federal Credit Institution Entries, Reports and Transactions), 1011 (Federal Land Bank Mortgage Transactions), 1013 (Farm Loan Bonds and Credit Bank Debentures), and 1014 (Fraud and False Statements) for violations of these statutes occurring within federal land banks, joint-stock land banks, and national farm loan association.

(3) Jurisdictional problems, if any, should be resolved in coordination with FBIHQ.

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EFFECTIVE: 11/21/96

29-4 POLICY

EFFECTIVE: 06/26/91

29-4.1 Investigative Policy

The FBI will investigate any allegation of a significant crime, within its authority, that will be prosecuted by the United States Attorney (USA) in the appropriate district. Given the significant priority that has been placed upon this crime problem by Congress, the Department of Justice, as well as the FBI, and in an effort to provide a Special Agent in Charge (SAC) the latitude necessary to appropriately address the crime problem in his/her division, all FIF matters are designated as priority case matters; regardless of the dollar loss involved. However, it will still be incumbent upon each SAC to ensure that the highest priority FIF matters within his/her division are being appropriately addressed. Consideration should be given to the implementation of a "fast track" program to handle lower dollar loss cases when justified by volume and the USA's prosecutive support.

EFFECTIVE: 06/30/93

29-4.2 Prosecutive Policy

EFFECTIVE: 06/26/91

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29-4.2.1 Bank Bribery

"The primary purposes of Title 18, USC, Section 215 are to ensure fair access to the resources and services provided by the federally protected financial community and to guard against the corrupt (i.e., the unlawful and wrongful use of one's position to procure some benefit for oneself or for another person, contrary to a fiduciary duty and the rights of others) dissipation of such resources and services. As a general rule, bank officials who misuse their position, thereby violate their private trust, would be the primary focus for prosecution. If state law is not adequate to cover the illegal bank bribery activity, careful consideration should be given to federal prosecution."

(1) Congress agreed in passing the revised Title 18, USC, Section 215, that the purpose of the statute was "to deter instances of corruption in the banking industry where efforts are made to undermine an employee's fiduciary duty to his or her employer."

(2) This statute makes both the offeror or acceptor of a bribe subject to prosecution and makes the offense a felony if the amount of the bribe exceeds \$100.

EFFECTIVE: 06/26/91

29-4.2.2 Misapplication/Embezzlement

The purpose of Title 18, USC, Sections 656 and 657 is to protect the assets of banks having a Federal relationship.

They usually relate to a particular class of individuals; i.e., officers, directors, agents, employees, or whoever is connected in any capacity with any of the designated institutions.

(1) Elements of Offenses

(a) The essential elements of the crime are as follows: (1) the accused must be of the designated class of persons (2) of a particular type of federally connected institution, and (3) he/she must have willfully misapplied moneys, funds or credits of such institution or entrusted to its custody (4) with the intent to injure or defraud the institution.

(b) The honest exercise of official discretion in

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good faith, without fraud, for the advantage, or supposed advantage of the association is not punishable; but if official action is taken, not in the honest exercise of discretion, in bad faith, for personal advantage and with fraudulent intent, it is punishable. It is generally necessary to allege that the moneys, funds or credits were converted to the use of the accused or to some party other than the bank.

(2) Examples

(a) Bad loans

May be the result of bad or inefficient management as opposed to criminal misapplication. A misapplication may occur by either granting an unsecured loan to a person who is known to be unable to financially repay or by granting a loan knowing that the collateral is inadequate and valueless. The bad loan is often connected with an interest of a bank officer or employee in the borrower. The bad loan may be a misapplication, however, without any showing that the bank officer personally benefited from the transaction, if it can be shown that the officer acted in reckless disregard of the bank's interest.

(b) Dummy Loans (Nominee Loans)

A misapplication occurs where an officer of a bank knowingly lends money to fictitious or financially insecure borrowers, where the loans are for the banker's own benefit and his/her interest in said loans is concealed from the bank. Circumstances where third party loans are in violation of the statute are as follows: (1) where the bank official knew the named debtor was either fictitious or wholly unaware that his/her name was being used; (2) where the bank official knew that the named debtor was financially incapable of repaying the loan, the proceeds of which he/she passed on to a third party; and (3) where the bank officials assured the named debtor, regardless of his/her financial capabilities, that they would look for repayment only to the third party, who actually received the loan proceeds.

(3) In addition to Title 18, USC, Sections 656 and 657, consideration should also be given to other statutes in connection with third-party loans for the benefit of bank officials. An officer of a national or FDIC insured bank can be prosecuted for receiving directly any benefit from a loan transaction under Title 18, USC, Section 215; and an officer of a savings and loan association or credit institution can be prosecuted under Title 18, USC, Section

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1006, for participation, directly or indirectly, in any loan. Further, if a banking regulation is violated, the participants in the scheme might possibly be prosecuted on the theory of a conspiracy to defraud the United States through a deliberate circumvention of a regulatory program. Finally, consideration may be given to a violation of Title 18, USC, Section 1014, if the borrower, even if financially responsible, falsifies the loan application as to the purpose of the loan. Proof that normal loan procedures are circumvented or facts were concealed from other bank officers or the board of directors would be indicative of fraudulent intent.

EFFECTIVE: 06/26/91

29-4.2.3 False Statements

(1) This section (Title 18, USC, Section 1014) covers knowingly making false statements or willfully overvaluing any property or security for the purpose of influencing in any way the action of the enumerated agencies and organizations.

(2) Elements of Offense

The elements of the offense are: (1) making a false statement or willfully overvaluing property or security knowing same to be false, (2) for the purpose of influencing in any way the action, (3) of the enumerated agencies and organizations. Actual damage is not an essential element of the offense.

EFFECTIVE: 06/26/91

29-4.2.4 False Entries

(1) Title 18, USC, Sections 1005 and 1006 prohibit false entries and are correlative to Title 18, USC, Sections 656 and 657. A violation of one of these statutes usually occurs in conjunction with Title 18, USC, Sections 656 and 657, since a false entry is often used to cover up embezzlement and misapplications.

(2) The aim of the statute is to give assurance that, upon inspection of a bank, public officers and others will find its books of account to be a reflection of the bank's true financial condition. If a note representing a sham transaction is entered on

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provision to prosecute check-kiting cases involving nonemployees.

(d) Previously enacted statutes were not clear if a bogus offshore bank was used to victimize an insured institution and the criminal conduct took place outside the U.S.

This statute, which is written in language similar to that of the mail fraud and the wire fraud statutes, was passed in an effort to correct these problems and to anticipate future activity. It should be noted that FIRREA has made this bank fraud statute a predicate offense under the Racketeering Influenced and Corrupt Organizations (RICO) statute.

EFFECTIVE: 06/26/91

29-4.2.6 Injunctions Against Fraud

(1) The purpose of this legislation is to provide an effective tool to prevent the continuation of a fraudulent scheme during the pendency of the investigation. As the Senate Judiciary Committee reported, "...the investigation of fraudulent schemes often takes months, if not years, before the case is ready for criminal prosecution, and innocent people continue to be victimized while the investigation is in progress. ...Even after indictment or the obtaining of a conviction, the perpetrators of fraudulent schemes continue to victimize the public."

(2) Those who wish to use the injunctive statute should take particular note that during the pendency of the injunction, but before the indictment is returned, the Federal Rules of Civil Procedure apply both to procedure and to discovery. Thus, defense counsel may be able to use the fact that the injunction is pending to seek discovery of materials which would not be discoverable under the Federal Rules of Criminal Procedure. Once the indictment is returned, the Federal Rules of Criminal Procedure apply. Presumably, where an injunction or other equitable relief occurs during the pendency of the grand jury investigation, the grand jury records would still be subject to Rule 6 of the Federal Rules of Criminal Procedure, but other materials, such as investigative notes and reports of interviews, may be discoverable under the civil discovery rules. Thus, in seeking a preindictment injunction, you may be opening the door for extensive discovery of your case.



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EFFECTIVE: 06/26/91

29-4.2.7 Kingpin Statute

The Continuing Financial Crime Enterprise Statute, Title 18, USC, Section 225, created a means to prosecute individuals for a series of violations of Title 18, USC, Sections 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344, or sections 1341 and 1343 affecting a financial institution. To use this statute, at least four people acting in concert must be involved in financial institution fraud with at least any one person receiving \$5 million or more in gross receipts during any 24-month period. Individuals prosecuted face a minimum sentence of ten years and can be imprisoned for life. Under this statute, individuals can be fined up to \$10 million and corporations can be fined up to \$20 million.

EFFECTIVE: 06/26/91

29-4.2.8 Concealment of Assets

The aim of Title 18, USC, Section 1032 (Concealment of Assets from Conservator, Receiver, or Liquidating Agent of Financial Institution) is to make it a criminal act to hide or attempt to hide assets from the Federal Deposit Insurance Corporation, or any conservator appointed by the Comptroller of the Currency, the Director of the Office of Thrift Supervision, or the National Credit Union Administration Board.

EFFECTIVE: 11/21/96

29-4.2.9 Obstructing an Examination

This statute makes it a criminal act to obstruct or attempt to obstruct an examination of a financial institution by any Federal agency responsible for conducting such an examination.

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EFFECTIVE: 06/26/91

29-5 INVESTIGATIVE PROCEDURES

(1) Deleted

(2) Complaints of Section 1014 violations (false statements) and all matters involving losses or exposure to the financial institution of less than \$25,000 should be discussed with the appropriate U.S. Attorney prior to conducting any investigation so as to determine whether the U.S. Attorney will prosecute should a violation be proven.

(3) Confer with the appropriate official of the bank or institution unless he/she is a subject under investigation or with the receiver of the suspended bank or institution.

(4) Obtain evidence of Bureau's jurisdiction, such as national bank charter, date of issuance; Federal Reserve System certificate of membership, date of issuance and number; Federal Deposit Insurance Corporation certificate number and date of issuance; or credit union charter.

(5) Obtain history and description of subject, including information set forth in the personal records of the subject at the bank or institution under investigation. FIRREA amended the Fair Credit Reporting Act so that a credit report can now be obtained by a Federal grand jury subpoena.

(6) On cases involving insiders, the supervisory agency should be contacted. Officers of financial institutions are required to periodically submit personal financial statements. They sign off on the statement of condition (which could give Title 18, USC, Section 1001 violations), and examiners' workpapers (line, loan, or tab sheets) may contain evidentiary statements made to regulators by officers of the financial institution.

(7) Prior to obtaining SAC authority for a polygraph examination in all Financial Institution Fraud (FIF) cases, the USA should be contacted to ensure that USA will consider prosecution should a subject be identified. (See MIOG, Part II, 13-22.3(4).)

(8) Deleted

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EFFECTIVE: 06/30/93

29-6 REPORTING RULES

FIRREA requires the Attorney General to report annually to Congress on enforcement actions, including data relating to investigations, prosecutions, and convictions or other dispositions. The FD-467 captures the information requested by Congress relating to Suspicious Activity Reports (SAR).

EFFECTIVE: 11/21/96

29-6.1 Receipt of Suspicious Activity Report (SAR)

(1) An FD-467 should be prepared by the office of origin upon the opening of all 29 classification cases and entered into Automated Case Support (ACS) by rotor personnel. In all instances where an SAR is received, whether a case is opened or not, an FD-467 must be prepared. When multiple SARs are received relating to the same case, an FD-467 must be completed for each.

(2) The FD-467 may be handwritten and is to be maintained in the case file or with the SAR if a case is not opened. The FD-467 should NOT be submitted to FBIHQ.

(3) For instructions on completing the FD-467, see the Correspondence Guide - Field, Section 3-54.3.

(4) Upon the receipt of an SAR, notification must be made to the referring financial institution (if applicable, i.e., the institution is not the subject of the case), the supervisory agency for the institution, and the U.S. Attorney's Office of the action taken on the SAR. Notification may be made in the form of a letter, a monthly report, or documented telephone conversation. Computerized reports are available from the FD-467 application to assist in this notification process.

(5) SARs will not be mailed to individual field offices; they are filed at the Internal Revenue Service's Computer Center

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located in Detroit, Michigan. In order to access the SAR Database, the FBI has developed an application that disseminates SARs to each field office based on the ZIP Code where the activity occurred. Effective 5/20/96, each field office can access the FBI SAR application through the Financial Institution Fraud application within ACS.

(6) Each field office should routinely ensure that the number and types of violations being reported in the SAR application are consistent with those previously reported using the Criminal Referral Form.

EFFECTIVE: 11/21/96

29-6.1.1 Supervisory Agencies

The following is a list of the supervisory agencies:

(1) Federal Deposit Insurance Corporation (FDIC)

(a) any state nonmember insured bank (except a District bank)

(b) foreign bank having an insured branch

(2) Office of Comptroller of Currency (OCC)

(a) any national banking association

(b) District bank

(c) Federal branch

(d) agency of a foreign bank

(3) Federal Reserve Bank (FRB)

(a) any state member-insured bank (except a District bank)

(b) any bank holding company and any subsidiary of a bank holding company (other than a bank)

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(c) any agency or commercial lending company other than a Federal agency

(d) any foreign bank which does not operate an insured branch

(e) supervisory or regulatory proceeding arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceeding under the Depository Institutions Supervisory Act

(4) Office of Thrift Supervision (OTS)

(a) any savings association

(b) any savings and loan holding company

(5) National Credit Union Administration

EFFECTIVE: 02/12/92

29-6.1.2 Definitions

(1) "State bank" - incorporated under the laws of any state

(2) "District bank" - any state bank operation under the Code of Law of the District of Columbia

(3) "member" - means any institution which has subscribed for the stock of a Federal Home Loan Bank

(4) "national bank" - any national charter bank, i.e., any bank with the word "national" or "N.A." in its title

EFFECTIVE: 02/12/92

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29-6.2 Field Office Reporting Requirements to FBIHQ

(1) FBIHQ should be notified by teletype within five working days upon the opening, upon any major action, and upon the completion of any case that may have a significant impact on Bureau policy or receives wide media coverage. (Airtel, LHMs, and prosecutive reports are no longer required to be sent to FBIHQ.)

(2) Submit R-84 (Final Disposition) and FD-515 (Statistical Accomplishment) forms.

EFFECTIVE: 07/19/95

29-6.3 Deleted

EFFECTIVE: 02/12/92

29-6.4 Deleted

EFFECTIVE: 12/10/91

29-6.5 Field Office Reporting Requirements To Federal Financial Institution Regulatory Agencies Relative To Section 1542 of the Housing And Community Development Act of 1992 (See also MAOP, Part II, 10-9 (24))

(1) Having obtained an opinion from an Assistant United States Attorney (AUSA) that disclosure is required, a Letterhead Memorandum (LHM) (one copy) setting forth the facts which raise significant concern regarding the safety and soundness of any depository institution doing business in the U.S. (see MIOG, Part I, 29-1 (5)) shall be disseminated to the appropriate federal regulatory agency, with the original and three copies sent to the Financial Institution Fraud Unit, Room 3849, FBIHQ. Exceptions to this disclosure requirement are:

(a) Information obtained by the Central Intelligence Agency (CIA) shall be disclosed directly to the Attorney General (AG)

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or the Secretary of the Treasury (SOT). After consultation, said information will then be disclosed by the CIA, AG, or SOT to the appropriate regulators;

(b) Special reporting procedures are to be administered BY THE AG OR SOT where required disclosure may jeopardize a pending civil investigation or litigation, or a pending criminal investigation or prosecution, may result in serious bodily injury or death to a Government employee, informant, witness or their respective families, or may disclose sensitive investigative techniques and methods; and

(c) Legislation does not require disclosure of information received in connection with a pending grand jury investigation or information whose disclosure is otherwise prohibited by law.

(2) If an exception is requested, the United States Attorney's Office will handle the appropriate reporting to the DOJ. Each field office shall submit an original LHM and three copies to FBIHQ summarizing the facts which justify the exception.

EFFECTIVE: 05/26/94

29-7 FINANCIAL INSTITUTION FRAUD SUBCLASSIFICATIONS (See MIOG, Part I, 29-5(2) and MAOP, Part II, 3-1.1 & 3-1.2.)

The subclassifications of Financial Institution Fraud cases capture statistical data to include Direct Agent Work Years (DAWY) expenditures and accomplishments. Listed below are the applicable subclassifications:

29A Financial Institution Fraud - Loss or losses contributing to the failure of a federally insured BANK.

29B Financial Institution Fraud - Loss or loss exposure of \$100,000 or more involving a federally insured BANK.

29C Financial Institution Fraud - Loss or loss exposure of \$25,000 to \$99,999 involving a federally insured BANK.

29D Financial Institution Fraud - Loss or losses

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contributing to the failure of a federally insured SAVINGS ASSOCIATION.

29E Financial Institution Fraud - Loss or loss exposure of \$100,000 or more involving a federally insured SAVINGS ASSOCIATION.

29F Financial Institution Fraud - Loss or loss exposure of \$25,000 to \$99,999 involving a federally insured SAVINGS ASSOCIATION.

29G Financial Institution Fraud - Loss or losses contributing to the failure of a federally insured CREDIT UNION.

29H Financial Institution Fraud - Loss or loss exposure of \$100,000 or more involving a federally insured CREDIT UNION.

29I Financial Institution Fraud - Loss or loss exposure of \$25,000 to \$99,999 involving a federally insured CREDIT UNION.

29J Financial Institution Fraud - Loss or loss exposure of under \$25,000 involving a federally insured financial institution and HANDLED VIA FAST TRACK.

29K Financial Institution Fraud - Loss or loss exposure of under \$25,000 involving a federally insured financial institution and not HANDLED VIA FAST TRACK.

EFFECTIVE: 10/18/95



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SECTION 31. WHITE SLAVE TRAFFIC ACT

31-1 STATUTES

Title 18, USC, Sections 2421-2424, effective 2/6/78;  
amended 11/7/86 by Child Sexual Abuse and Pornography Act of 1986,  
Public Law 99-628.

EFFECTIVE: 06/18/87

31-1.1 Section 2421. Transportation Generally

"Whoever knowingly transports any individual in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title or imprisoned not more than five years, or both."

EFFECTIVE: 06/18/87

31-1.1.1 Deleted

EFFECTIVE: 06/18/87

31-1.2 Section 2422. Coercion and Enticement

"Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce, or in any Territory or Possession of the United States, to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title or imprisoned not more than five years, or both."

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EFFECTIVE: 06/18/87

| 31-1.2.1 | Deleted |

EFFECTIVE: 06/18/87

31-1.3 Section 2423. Transportation of Minors

"Whoever knowingly transports any individual under the age of 18 years in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title or imprisoned not more than ten years, or both."

EFFECTIVE: 06/18/87

| 31-1.3.1 | Deleted |

EFFECTIVE: 06/18/87

31-1.4 Section 2424. Filing Factual Statement About Alien Individual

"(a) Whoever keeps, maintains, controls, supports, or harbors in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien individual within three years after that individual has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic, shall file with the Commissioner of Immigration and Naturalization a statement in writing setting forth the name of such alien individual, the place at which that individual is kept, and all facts as to the date of that individual's entry into the United States, the port through which that individual entered, that individual's age, nationality, and parentage, and concerning that individual's procurement to come to this country within the knowledge of such person; and 'Whoever fails within thirty days after commencing to keep, maintain, control, support, or harbor in any house or place

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for the purpose of prostitution, or for any other immoral purpose, any alien individual within three years after that individual has entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic, to file such statement concerning such alien individual with the Commissioner of Immigration and Naturalization; or 'Whoever knowingly and willfully states falsely or fails to disclose in such statement any fact within that person's knowledge or belief with reference to the age, nationality, or parentage of any such alien individual, or concerning that individual's procurement to come to this country--' Shall be fined not more than \$2,000 or imprisoned not more than two years or both.

"(b) In any prosecution brought under this section, if it appears that any such statement required is not on file in the office of the Commissioner of Immigration and Naturalization, the person whose duty it is to file such statement shall be presumed to have failed to file said statement, unless such person or persons shall prove otherwise. No person shall be excused from furnishing the statement, as required by this section on the ground or for the reason that the statement so required by that person, or the information therein contained, might tend to criminate that person or subject that person to a penalty or forfeiture, but no information contained in the statement or any evidence which is directly or indirectly derived from such information may be used against any person making such statement in any criminal case, except a prosecution for perjury, giving a false statement or otherwise failing to comply with this section."

EFFECTIVE: 08/23/88

31-1.4.1 Deleted

EFFECTIVE: 08/23/88

31-2 DELETED

EFFECTIVE: 08/23/88

31-3 POLICY

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EFFECTIVE: 08/23/88

31-3.1 Presenting Facts to USAs

Agents should understand that the duty of interpreting departmental policy involving prosecution of WSTA cases rests solely with USAs. It is not desired that Agents carry on any investigative activity which could in any way be considered unnecessary or ineffective. Agents should bear in mind that the Department's instructions to the USAs do not change the Bureau's position in any manner with regard to the necessity for thoroughly handling all WSTA cases. These instructions increase our responsibility of developing and bringing to the attention of the USA all facts which indicate that prosecution is warranted.

EFFECTIVE: 08/23/88

31-3.1.1 Sexual Exploitation of Children

Particular attention should be paid to any situation or report that a pedophile may have transported a minor in interstate or foreign commerce to engage in any sexual activity for which any person can be charged with a criminal offense. These amendments to the Mann Act (Public Law 99-628, 11/7/86) provide the Bureau with excellent criminal statutes to investigate those individuals who take children across state lines or out of the country and then sexually abuse them. Violations of Title 18, USC, Sections 2421, 2422 and 2423 are to be investigated by the FBI.

EFFECTIVE: 08/23/88

31-3.2 Emphasis on Organized Commercialized Prostitution

Direct particular attention to organized commercialized prostitution. Where it is common knowledge that prostitution is flourishing unmolested in a city, it is incumbent upon the FBI to make an appropriate preliminary investigation in that community with a view to determining whether those engaged in the prostitution activities are violating the WSTA. (See 31-5.)

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EFFECTIVE: 08/23/88

31-4 INVESTIGATIVE PROCEDURES

(1) The primary step in any WSTA investigation is to secure a signed statement from the victim, showing the interstate transportation for prostitution or any sexual activity for which any person can be charged with a criminal offense. In prostitution cases care should be taken not to create any basis for a charge of intimidation or inducement in obtaining statements from the victim, since the courts have held that the individual may be found guilty of conspiracy to violate the act although the conspiracy involved that person's own transportation.

(2) Secure all possible evidence to corroborate the statement of the victim by interviewing that individual's relatives and associates and other persons in a position to give pertinent information.

(3) Secure all possible documentary evidence to corroborate the statement of the victim. [REDACTED]

b2/b7E

(4) Interviews with victims of this type of case or with informants or others involved in alleged law violations are at all times to be conducted in a completely businesslike manner. Precautions should be taken to prevent the interviewing employee becoming involved in a compromising situation. Where such interviews are to be conducted in hotel rooms or other places out of the presence of witnesses, every effort should be made to have present a second Bureau employee.

EFFECTIVE: 08/23/88

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31-4.1 Essential Facts to Obtain

As to persons involved:

(1) The names (with aliases), descriptions, brief personal histories, reputation, marital status, and identification records of subject and victim.

(2) Previous acquaintances and attendant relations between subject and victim.

(3) The facts as to the places of residence of victim when that individual is an alien, as well as the probable immoral purposes connected with that individual's immigration; and the place of birth, citizenship, naturalization status, date of last entry into the U.S., port of entry, and means of travel to the U.S. of any subject or victim who might be an alien.

EFFECTIVE: 06/18/87

31-4.2 As to Transportation in Interstate and Foreign Commerce:

(1)

(2)

(3)

(4)

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EFFECTIVE: 06/18/87

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31-4.3 As to Purposes Involved in the Transportation:

(1) [REDACTED]

(2) [REDACTED]

(3) [REDACTED]

(4) [REDACTED]

(5) [REDACTED]

b2/b7E

EFFECTIVE: 06/18/87

31-4.4 As to Circumstances of Aggravation or Mitigation:

(1) The facts as to whether the victim is of tender age (under 18 years old) or previously chaste; whether the victim is a married woman, with young children, who has been induced to leave her husband.

(2) The facts as to the motives of the complainant, the pendency of divorce proceedings, the probability of state prosecution, the indication of any blackmail scheme, and the attitude of victim as possible witness.

(3) The indication that the victim voluntarily, and without any overreaching, consented to the immoral agreement.

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31-5 PRELIMINARY INVESTIGATION IN CITIES WHERE PROSTITUTION IS  
KNOWN TO BE FLOURISHING UNMOLESTED

(1) Determine where the principal houses of prostitution  
are located and who operates them.

(2) [REDACTED]

(3) [REDACTED]

(4) [REDACTED]

(5) [REDACTED]

(6) [REDACTED]

b2/b7E

EFFECTIVE: 06/18/87

31-6 INTERSTATE TRANSPORTATION OF VENEREALLY INFECTED PERSONS

Title 42, USC, Section 264 empowers the Surgeon General, with the approval of the Secretary of Health and Human Services, to make and enforce such regulations as in Surgeon General's judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the states or possessions, or from one state or possession into any other state or possession. Pursuant to this authority, the Public Health Service has promulgated regulations which are set forth in the Federal Register. Volume 12, #97, dated 5-16-47, page 3187, captioned "Public Health,"

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regulation 12.2 defines the communicable diseases as anthrax, chancroid, cholera, dengue, diphtheria, granuloma, inguinale, infectious encephalitis, favus, gonorrhea, lymphogranuloma venereum, meningococcus meningitis, plague, poliomyelitis, psittacosis, ringworm of the scalp, scarlet fever, streptococcic sore throat, smallpox, syphilis, trachoma, tuberculosis, typhoid fever, typhus, and yellow fever. Regulation 12.11 restricts the travel of such infected persons. This regulation states that a person who has a communicable disease in the communicable period shall not travel from one state or possession to another without a permit from the health officer of the state, possession, or locality of destination, if such permit is required under the law applicable to the place of destination. Stopovers other than those necessary for transportation connections shall be considered as places of destination. Violations of the various regulations are subject to criminal punishment according to the provisions of Title 42, USC, Section 271, which provides that anyone who violates the regulations is punishable by fine of not more than \$1,000 or imprisonment of not more than one year, or both. These regulations should be considered as possible assistance in connection with the development of prosecution of violations of the WSTA, especially in dealing with subjects and victims with contagious disease who have violated the terms of these regulations and who, on interview, have been found to be uncooperative and hostile.

EFFECTIVE: 02/16/89

31-7. REFERRAL OF COMPLAINTS TO HHS OR USA

When original complaints are received dealing solely with interstate transportation of persons infected with venereal and other contagious diseases, no investigation should be conducted but the matter should be referred to the nearest office of the U.S. Public Health Service of the Department of Health and Human Services (HHS) for attention. However, if evidence of a violation of any interstate quarantine regulation is obtained during the course of investigation being conducted by the Bureau and such evidence involves the subjects or victims of the investigation, the facts should be referred to the USA for his/her decision relative to prosecution. If prosecution is authorized, the necessary investigation should be conducted by the Bureau to substantiate the violation.

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31-8 POSSIBLE APPLICATION OF INVOLUNTARY SERVITUDE AND SLAVERY  
STATUTES

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

EFFECTIVE: 02/16/89

31-9 REPORTING PROCEDURES

| Each field office should advise FBIHQ, Criminal Investigative Division (CID), Violent Crimes Unit (VCU), whenever a WSTA investigation is opened. Thereafter, every six months, the Office of Origin (OO) should submit a summary Letterhead Memorandum (LHM) providing details of the investigation conducted. A summary LHM should also be submitted when the case is closed. |

EFFECTIVE: 09/22/93

31-10 VENUE

Venue lies in any district from, through, or into which transportation occurs or in the District of Columbia or territory or possession of the United States wherein such transportation occurs. (Title 18, USC, Section 3237)

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31-11 CHARACTER - WHITE SLAVE TRAFFIC ACT

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SECTION 32. IDENTIFICATION (FINGERPRINT MATTERS)

32-1 IDENTIFICATION (FINGERPRINT MATTERS)

Information concerning the above classification is set forth in MIOG: Part II, Sections 14 and 15.

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SECTION 33. UNIFORM CRIME REPORTING (UCR) PROGRAM

33-1 BACKGROUND

(1) Uniform Crime Reports provide a periodic nationwide assessment of crime not available elsewhere in the criminal justice system. Participation on the part of state and local law enforcement agencies, although voluntary, has resulted in reporting coverage of approximately 96 percent of the total United States population. The UCR Program was developed by the International Association of Chiefs of Police (IACP). This organization continues to serve in an advisory capacity to the UCR Program through its Committee on Uniform Crime Records. At the request of the IACP, the FBI assumed operational responsibilities for this program on 9/1/30 under an Act of Congress approved 6/11/30.

(2) In June 1966, the National Sheriffs' Association (NSA) established a committee on UCR to serve in an advisory capacity to the NSA membership and the national UCR Program.

(3) Participation in the UCR has historically been through a direct relationship between individual law enforcement agencies and the UCR Program. State UCR programs have been developed with the cooperation of the FBI. There are 44 such programs, many of which have mandatory reporting requirements for local law enforcement. In those states having state UCR programs, local crime data is submitted directly to a state agency and required information forwarded to the national program as a by-product of that state's efforts.

(4) While the current UCR system will remain the principle reporting program for years to come, a new, enhanced program is being introduced around the country on a limited basis. Known as the National Incident-Based Reporting System (NIBRS), the new program is designed to collect data on an incident-by-incident basis (incident-based reporting) within an expanded set of crime categories. Details about the offense, offender, victim, property, and arrestee will provide substantial information on crimes reported to police. The enhanced UCR is designed for automated systems exclusively and will include a quality assurance program.

(5) To function in an advisory capacity concerning UCR policy and provide suggestions on uses of the data collected under

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NIBRS, a Uniform Crime Reporting Data Providers Advisory Policy Board (APB) was established in 1988. Its charter has since expired. With the formation of the Criminal Justice Information Services (CJIS) Division, of which the UCR Program is a part, a CJIS Advisory Board has been implemented. The CJIS Advisory Board will advise the FBI on policy issues concerning UCR, as well as the NCIC Program and Identification Services.

(6) The Anti-Drug Abuse Act of 1988 contained a separate Act which requires federal law enforcement participation in the UCR Program. Entitled the "Federal Uniform Crime Reporting Act of 1988," it directs the Attorney General of the United States to collect crime statistics which comprise the national UCR Program from all federal agencies "that routinely investigate crime activities, including the Department of Defense." The FBI and other federal law enforcement agencies will find it necessary to enhance their data collection methods and reporting functions in order to fulfill the Act's mandate. The FBI will serve as the lead agency and will be responsible for coordinating federal implementation of the program and ensuring uniformity and implementation of the program and ensuring uniformity and data quality. The FBI's UCR Program will administer the program. Plans to implement the redesigned UCR Program at the federal level are underway. Data produced as a result of the Act should be of tremendous benefit to all levels of law enforcement, to the Executive and Legislative Branches, and to many other interests.

(7) In response to a growing concern about hate crimes, Congress, on April 23, 1990, enacted the "Hate Crime Statistics Act of 1990." The Act requires the Attorney General to establish guidelines and collect, as part of the UCR Program, data "about crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity, including where appropriate the crimes of murder, nonnegligent manslaughter; forcible rape; aggravated assault, simple assault, intimidation; arson; and destruction, damage or vandalism of property." The FBI's UCR Program was assigned the task of developing the procedures for, and managing the implementation of, the collection of hate crime data. Although the Hate Crime Statistics Act mandated collection for only five years, the FBI considers the statistics collection to be a permanent addition to the UCR Program. The data collection captures information about the type of bias serving as the motivating factor, the nature of the offense, and various descriptors pertaining to both victims and offenders. Hate crimes are not separate distinct offenses, but rather traditional crimes motivated by the offender's bias. It was, therefore, not necessary to create whole new crime categories. Hate crime data could be collected by merely capturing additional information about

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crimes already being reported to UCR. Bias motivations reported are those specifically addressed by the enabling Act, i.e., prejudice against a race, religion, sexual orientation, or ethnic group. Because of the difficulty of ascertaining the offender's subjective motivation, bias is reported when the law enforcement investigation reveals sufficient objective facts to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by bias. For counting purposes, one offense is counted for each victim of a "crime against person." One offense is counted for each distinct operation of "crime against property," regardless of the number of victims. Notification of hate crime incidents is received by the FBI's UCR Program from city, county, and state law enforcement agencies through various types of media ranging from paper reporting forms to floppy disks and magnetic tapes. Individual reports are submitted for each hate crime incident coming to the attention of law enforcement agencies participating in the UCR Program. Quarterly reports are used to advise that no hate crimes occurred within the reporting jurisdiction. Reports are sent through state-level UCR Programs or directly to the FBI from agencies in states without Programs or whose state Programs have not begun collection.

EFFECTIVE: 07/18/95

33-2 PUBLICATION AND DISTRIBUTION OF CRIME DATA

(1) The UCR publication "Crime in the United States" is published annually, with preliminary Crime Index data being published on a semiannual basis. The term, Crime Index, is utilized in Uniform Crime Reports to include the crimes of murder and nonnegligent manslaughter, forcible rape, robbery, aggravated assault, burglary-breaking and entering, larceny-theft, motor vehicle theft and arson. The Crime Index is widely cited in newspapers and periodicals and is used as a "yardstick" to measure the level of criminality in our society. Information presented in the annual publication entitled "Crime in the United States" gives the police executive the ability to measure crime in a particular locale and the ability to assess the degrees of success of the department in coping with the crime problem. Principal features of Uniform Crime Reports are, of course, listed in the Table of Contents of that publication. Also, a publications list is contained in one of the appendices of the book. The semiannual releases contain trend information, which enables the reader to compare the crime situation of one reporting period to that in a

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preceding period. Additionally, limited historical information is presented, which illustrates current levels of reported crime to those in previous years. Data is also presented setting forth the number of Crime Index offenses reported by individual cities having 100,000 or more inhabitants.

(2) A publication entitled "Law Enforcement Officers Killed and Assaulted" produced by the UCR Program on an annual basis addresses the following three topics: first, the felonious and accidental line-of-duty deaths of federal, state, and local law enforcement officers; second, nonfatal assaults on sworn local, county, and state law enforcement officers; and finally, nonfatal assaults on officers of certain federal agencies employing the majority of personnel responsible for protecting government officials, enforcing and investigating violations of federal laws, and prosecuting and incarcerating offenders. The publication is designed to aid in developing and revising officer training programs; selecting and assigning personnel; designing and adopting new equipment; and supporting budgetary requests aimed at safeguarding law enforcement officers. Information on the felonious, line-of-duty killings of federal, state and local law enforcement officers is disseminated in semiannual press releases.

In connection with its Law Enforcement Officers Killed and Assaulted Program, the national UCR staff published a special report on officer homicides in September 1992. With the assistance of the FBI's Behavioral Science Unit and an outside consultant, the staff developed a protocol from which to interview offenders convicted of having killed law enforcement officers. The data collected as a result of the interviews are published in the study, "Killed in the Line of Duty," which examined extensively 51 distinct cases involving the felonious killings of 54 law enforcement officers by 50 offenders to attempt a better understanding of the nature of these fatal attacks.

A follow-up study entitled "Violence Against Law Enforcement Officers" is underway. It will examine selected incidents of serious assault by cutting instrument or firearm where the victim officer survived the incident.

(3) Information about the National Incident-Based Reporting System (NIBRS) is contained in four publications. "Volume 1: Data Collection Guidelines" is for the use of state and local UCR Program personnel (i.e., administrators, training instructors, report analysts, coders, data entry clerks, etc.) who are responsible for collecting and recording NIBRS crime data for submission to the FBI. It contains a system overview and descriptions of the offenses,



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offense codes, reports, data elements, and data values used in the system. "Volume 2: Data Submission Specifications" is for the use of state and local systems personnel (i.e., computer programmers, analysts, etc.) who are responsible for preparing magnetic tapes for submission to the FBI. It contains the tape data submission instructions, tape layouts, error-handling procedures, designations of mandatory and optional data elements, and data element edits that must be followed in submitting magnetic tapes to the FBI for NIBRS reporting purposes. "Volume 3: Approaches to Implementing an Incident-Based Reporting (IBR) System" is for the use of state and local systems personnel (i.e., computer programmers, analysts, etc.) who are responsible for developing a state or local IBR system which will meet NIBRS' reporting requirements. It contains suggested approaches to developing an IBR system, including a model incident report, standard data entry guide, data entry screens, and software design suggestions. "Volume 4: Error Message Manual" contains designations of mandatory and optional data elements, data element edits, and error messages. A new NIBRS edition of the UCR Handbook has also been published to assist law enforcement agency data contributors implementing NIBRS within their departments. This document is geared toward familiarizing local and state law enforcement personnel with the definitions, policies, and procedures of NIBRS.

(4) Guidelines for reporting hate crime are contained in two documents, the "Hate Crime Data Collection Guidelines" and the "Training Guide for Hate Crime Data Collection." The FBI also publishes annual statistical reports pertaining to hate crime. Other topical studies highlighting unique aspects of hate crime are planned. The first UCR hate crime data was limited 1991 figures issued in a press release April 4, 1991. The first annual publication on hate crime was entitled "Hate Crime Statistics - 1992."

(5) Beginning with the 1988 edition, the publication entitled "Bomb Summary" is being issued by the Bomb Data Center, Laboratory Division. The "Bomb Summary" contains statistics relative to explosive and incendiary bombings in the United States.

(6) UCR publications are mailed to the contributors of UCR data, FBI field divisions and resident agencies, and state-level UCR Programs. No mailing list is maintained for other data users. Copies of the "Law Enforcement Officers Killed and Assaulted" book and preliminary Semiannual Uniform Crime Reports are distributed free of charge and may be requested directly from the UCR Program, Programs Support Section, FBI, Gallery Row Building, Washington, D.C. 20535. While "Crime in the United States" is furnished free of charge upon

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request of government and law enforcement agencies, other requesters must purchase the book from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(7) For requesters other than law enforcement or other government agencies, the UCR Program, Programs Support Section, FBIHQ, charges a fee for unpublished or out-of-print data. Any requests for such information should be referred to the UCR Program, Programs Support Section, FBI, Gallery Row Building, for handling.

EFFECTIVE: 07/18/95

33-3 RETENTION OF UCR PUBLICATIONS

Every FBI field office should retain Uniform Crime Reports for the last two years in order to respond to questions concerning crime figures from the general public. Policy matters, however, should be referred to FBIHQ. The latest preliminary crime release should be maintained so it will be convenient for reference. Each resident agency of a field office should maintain copies of Uniform Crime Reports and semiannual releases as issued. Nothing contained in Uniform Crime Reports publications is confidential; and after the official release, news agencies are welcome to the information.

EFFECTIVE: 05/26/89

33-4 OTHER PUBLICATIONS OF ASSISTANCE TO LAW ENFORCEMENT

All forms, guides, manuals, handbooks, and booklets utilized in the UCR Program are provided free of charge. Many state UCR programs have designed individualized reporting forms and handbooks; and these are also provided by the states free of charge to law enforcement agencies. The National UCR Handbook provides necessary instructions on how to prepare the various report forms utilized in UCR. The Manual of Law Enforcement Records provides outlines for basic police records systems and sample records forms. Each field division should maintain copies of these two publications.

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EFFECTIVE: 05/26/89

33-5 FBIHQ REQUESTED CONTACT WITH DELINQUENT CONTRIBUTORS

If FBIHQ requests that a law enforcement agency be contacted concerning a delinquent report and the agency explains the form was mailed when due, the agency should be requested to mail a duplicate of the report to FBIHQ, Attention: UCR Program, Programs Support Section.

EFFECTIVE: 08/18/94

33-6 FBIHQ REQUESTED CONTACT WITH NONCONTRIBUTORS

FBIHQ will normally only request that field offices contact noncontributors in those states not having state UCR programs. In the event such contact is required, the following should be done:

(1) Review of the "UCR Handbook" with particular emphasis on the section covering the preparation of the monthly Return A (the monthly Return A is the basic reporting form utilized in this program).

(2) Review this section (Section 33 of MIOG) in order to be conversant relative to UCR matters.

(3) Discuss with the contacted agency the various types of records maintained by the agency, mindful that the monthly Return A should be prepared from a record of each offense reported or known to police as distinguished from a mere record of persons arrested for crimes.

(4) If the records of the contacted agency appear to be inadequate or incapable of producing information for Uniform Crime Reports, offer the "Register of Incidents/Offenses" (daily log), which is illustrated in the "UCR Handbook."

(5) Assist the contacted agency in the actual preparation of the Return A for the previous month. Once this report is completed and signed by the Chief or other department head, it should be mailed to FBIHQ, Attention: UCR Program, Programs Support Section.

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EFFECTIVE: 12/02/94

33-7 OBTAINING UCR SUPPLIES

Supplies necessary for the preparation of Uniform Crime Reports may be requested by means of the UCR Supply Request (Form 1-722) or by merely placing a notation on the monthly crime report of the contributing agency.

EFFECTIVE: 12/02/94

33-8 FIELD OFFICES' RESPONSIBILITY TO UCR SPECIAL PROGRAMS

EFFECTIVE: 05/26/89

33-8.1 Police Killings

Each field division is to advise FBIHQ by teletype of the line-of-duty killing of any police officer. Further instructions are set forth in Part I, Section 184 of this manual.

EFFECTIVE: 05/26/89

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SECTION 35. CIVIL SERVICE

35-1 CIVIL SERVICE

Requests for information concerning civil service positions and complaints pertaining to civil service matters which are received at FBIHQ are referred directly to the Office of Personnel Management, Washington, D.C. Similar information reported to field offices should be forwarded to the nearest regional office of the Office of Personnel Management.

EFFECTIVE: 04/08/80

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SECTION 36. MAIL FRAUD

36-1 STATUTE

Title 18, USC, Section 1341, frauds and swindles.

"Whoever having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined not more than \$1,000 or imprisoned not more than five years or both. If the violation affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both."

EFFECTIVE: 06/26/91

36-1.1 Elements

(1) A scheme devised or intended to be devised to defraud or for obtaining money or property by means of false pretenses.

(2) The mails must be used in furtherance of such scheme.

EFFECTIVE: 06/26/91

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36-2 POLICY

(1) Inspection service of U.S. Postal Service is specifically charged with duty of investigating use of mails in furtherance of scheme or artifice to defraud.

(2) Complaints involving allegations of mail fraud only, with no allegation of violation over which Bureau has primary jurisdiction, should be referred to nearest postal inspector.

(3) During course of investigations of cases within the Bureau's primary investigative jurisdiction, evidence of violations of mail fraud statute may be disclosed. In such cases, the complete investigation of mail fraud statute may be disclosed. In such cases, the complete investigation of mail fraud angle shall be made by Bureau as part of regular investigation. Agents should be on alert for mail fraud violations in any kind of investigation.

EFFECTIVE: 06/26/91

36-3 CHARACTER - MAIL FRAUD

EFFECTIVE: 06/26/91

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SECTION 39. FALSELY CLAIMING CITIZENSHIP

39-1 STATUTES

Title 18, USC, Sections 911 and 1015 (a) (b).

EFFECTIVE: 09/21/81

39-1.1 Section 911 (Citizen of the United States)

EFFECTIVE: 09/21/81

39-1.1.1 Elements

- (1) Whoever falsely and willfully
- (2) Represents himself/herself to be a U.S. citizen

EFFECTIVE: 09/21/81

39-1.2 Section 1015 (a) (b) (Naturalization, Citizenship, or  
Alien Registry)

EFFECTIVE: 09/21/81



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39-1.2.1 Elements

(1) Section 1015 (a)

- (a) Whoever knowingly
- (b) while under oath
- (c) makes false statement
- (d) in any case relating to naturalization, citizenship,  
or registry of alien

(2) Section 1015 (b)

- (a) Whoever knowingly
- (b) with intent to avoid duty or liability imposed by law
- (c) denies citizenship
- (d) after being naturalized or admitted as citizen

EFFECTIVE: 09/21/81

39-2 POLICY

|The FBI has only secondary jurisdiction over the enforcement of crimes involving Falsely Claiming Citizenship, Title 18, USC, Sections 911 and 1015. Primary investigative jurisdiction rests in the Immigration and Naturalization Service (INS). Therefore, unless a violation of these statutes grows out of a violation within the FBI's primary investigative jurisdiction, no investigation should be conducted and any complaint received should be referred to INS. Pertinent information concerning convictions obtained by the FBI under these acts should be furnished to the nearest regional office of INS. This may be furnished in the form of a short dissemination memorandum. |

EFFECTIVE: 09/21/81

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39-3 PENALTIES

- (1) Section 911 - \$1,000 fine and/or three years' imprisonment.
- (2) Section 1015 - \$5,000 fine and/or five years' imprisonment.

EFFECTIVE: 09/21/81

39-4 CHARACTER - FALSELY CLAIMING CITIZENSHIP

EFFECTIVE: 09/21/81

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SECTION 40. PASSPORT AND VISA MATTER

40-1 STATUTES

Title 18, USC, Sections 1541-1546

EFFECTIVE: 11/08/78

40-2 GENERAL INFORMATION

EFFECTIVE: 11/08/78

40-2.1 Definitions

(1) Passport - A formal document issued by a competent officer of a country to a citizen for the purpose of identifying  
|citizen|and attesting to|his/her|citizenship while in a foreign country.

(2) Visa - A document issued by a host nation granting permission to an alien to enter the host nation. Two primary types of visas are the U.S. Immigrant and U.S. Non-Immigrant visas.

EFFECTIVE: 11/08/78

40-2.2 Issuance of Passports

(1) U.S. Passports are granted and issued only to American citizens by the Passport Office, Department of State, and are valid for a period of five years.

(2) Individuals desiring a U.S. Passport must execute a written application, under oath, before a passport agent, clerk of a Federal court, clerk of any state court of record or a judge or clerk of any probate court, or a postal employee designated by the postmaster at a post office which has been selected to accept passport applications. Abroad, passport applications must be executed before a U.S. diplomatic or

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consular officer.

(3) All passport applicants must show proof of U.S. citizenship. If applicant was born in the United States, applicant shall present his/her birth certificate when applying for a passport. The following items are acceptable if they contain the signature and either a physical description or a photograph of the applicant:

- (a) Previous U.S. Passport.
- (b) A certificate of naturalization or of derivative citizenship.
- (c) Driver's license (temporary or learner's permit not acceptable).
- (d) A governmental (Federal, state, municipal) identification card or pass.
- (e) In the event the applicant is not able to establish identity, same can be attested to by an identifying witness who has known the applicant for at least two years.

EFFECTIVE: 11/08/78

40-2.3 Issuance of Visas

(1) An alien desirous of obtaining a visa must first file application, accompanied by original birth certificate, police and medical certificate, and other essential facts to justify American Consul in issuing visa.

(2) Visa Office of the Department of State merely acts as an auxiliary to Immigration and Naturalization Service as pertains to the issuance of visas.

(3) The immigrant visa permits the recipient to settle in the United States as a permanent resident while the nonimmigrant visa permits an alien to remain in the United States for a temporary stay and for an expressed purpose.

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EFFECTIVE: 10/16/90

40-3 POLICY

EFFECTIVE: 10/16/90

40-3.1 Passports

(1) Conduct no active investigation upon receipt of a complaint.

(2) Forward pertinent information to FBIHQ by LHM for transmittal to the Passport Office, Department of State which has primary investigative jurisdiction. Include in LHM, all available identifying data for assistance of Passport Office.

(3) Passport Office, Department of State, on occasions, requests the Bureau to conduct investigation. Additionally, Passport Office will waive, on individual case basis, investigative jurisdiction in cases wherein FBI has ongoing investigation in which FBI has primary investigative interest. All waivers of this nature will be secured through FBIHQ by liaison with Passport Office, Department of State, Washington, D.C.

(4) Requests for check of records of Passport and Visa Office, Department of State, or obtaining duplicates of passport applications or visas should be set forth for WMFO. Include all available data to facilitate locating records. Department of State reference of file numbers should be set forth if known.

EFFECTIVE: 10/16/90

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40-3.2 Visas

(1) Conduct no active investigation concerning immigration visas.

(2) All complaints should be promptly referred by field office to appropriate Immigration and Naturalization Service Office, which agency supervises entry and departure of aliens.

EFFECTIVE: 10/16/90

40-4 INVESTIGATIVE PROCEDURES

EFFECTIVE: 10/16/90

40-4.1 Issuance of False Passports of Unauthorized Person -  
Section 1541

(1) Passport Office, Department of State, will advise FBIHQ at time investigation requested whether subject authorized to issue passports. If subject unknown at time facts are referred by Passport Office and subsequent investigation reveals subject's identity, set out lead for WMFO to contact Passport Office to determine if subject so authorized.

(2) Fraudulent passport should be obtained and transmitted to FBI Laboratory properly marked as evidence for examination to prove if it is a fraudulent passport.

EFFECTIVE: 10/16/90

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40-4.2 False Statement in Application - Section 1542

(1) Investigations will be conducted with the view to proving falsity of statements appearing in application for passport. In cases where fraudulent passport application is based upon a deceased infant identity, both the birth and death certificate must be secured for evidence purpose.

(2) Investigation will consist, for the most part, of record checks and interviews of acquaintances and other individuals who may have some independent knowledge of false statement.

(3) In cases involving false statements by naturalized citizens, consideration should be given to information available at Immigration and Naturalization Service.

EFFECTIVE: 10/10/83

40-4.3 Falsely Made, Forged, Altered, Mutilated, or Counterfeit Passports - Section 1543

Consideration should be given to facilities of FBI Laboratory in this type examination. Examination should be requested of all questioned materials, particularly in regard to erasures and eradications, handwriting and typewriter examinations, paper examinations, examination of seal on passport, examination for latent prints of subject, etc.

EFFECTIVE: 09/24/93

40-4.4 Use of a Passport of Another - Section 1544

(1) This type investigation deals primarily with establishing identity and showing that subject not identical with individual mentioned in passport.

(2) Passport should be examined in an effort to identify and locate person to whom originally issued. Photograph of subject appearing on passport should be exhibited to witnesses and old acquaintances to establish subject identity and to prove subject is not identical with person to whom passport originally issued.

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EFFECTIVE: 10/10/83

40-4.5 Securing of Arrest Warrant

In cases where the Passport Office has waived primary investigative jurisdiction and where FBI has, at a later date, obtained arrest warrants, promptly notify FBIHQ by teletype, under individual case caption and in form suitable for dissemination, that an arrest warrant has been issued. Also, include in this teletype, specific identifying data such as when and where the warrant was secured, warrant number, recommended bond, if any, and basis for the issuance of the warrant.

EFFECTIVE: 10/10/83

40-5 STATUTE OF LIMITATIONS - 10 years

EFFECTIVE: 10/10/83

40-6 REPORTING REQUIREMENTS

(1) Upon receipt of a complaint or information concerning a passport violation, forward pertinent information to FBIHQ, including available identifying data, by LHM or other appropriate communication in a form suitable for dissemination depending upon the exigencies of the situation. However, when FBIHQ receives the initial complaint from the Passport Office and refers same to the field office for investigation, no LHM will be required for 120 days. Subsequent to submission of initial LHM by the field office, a status LHM concerning active investigations will be required every 120 days thereafter, until the case is resolved. This pertains only to cases where process has not been obtained.

(2) In those cases where process has been obtained, notify FBIHQ by teletype followed by a report within five days. Subsequent reports should be submitted at six-month intervals unless there is a need to report significant developments such as arrests, convictions, or dismissals, which should be submitted as they occur.

(3) Submit five copies of report to FBIHQ designating one copy



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for Criminal Division, U.S. Department of Justice and one copy for U.S.  
Passport Office, Department of State.

EFFECTIVE: 10/10/83

40-7 VENUE

Venue lies in the city where fraudulent passport application was  
made.

EFFECTIVE: 10/10/83

40-8 CHARACTER - PASSPORT AND VISA MATTER

EFFECTIVE: 10/10/83

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SECTION 42. FUGITIVE DESERTERS

42-1 BACKGROUND

| The FBI, by agreement with the Department of Defense (DOD) will conduct investigations to apprehend military deserters in those situations where aggravating circumstances exist, in addition to the deserter offense. (See Part II, 18-3, of this manual for detailed Memorandum of Understanding (MOU) listing situations which warrant FBI involvement.)

EFFECTIVE: 11/08/78

| 42-2 INVESTIGATIVE AUTHORITY

EFFECTIVE: 11/08/78

| 42-2.1 Statutes

| Title 10, USC, Section 808 (article 8); Title 10, USC, Section 885 (article 85)

EFFECTIVE: 11/08/78

| 42-2.1.1 Title 10, USC, Section 808 (article 8)

| Any civil officer having authority to apprehend offenders under the laws of the United States or of a State, Territory, Commonwealth, or Possession, or the District of Columbia may summarily apprehend a deserter from the armed forces and deliver him/her into custody of those forces.

EFFECTIVE: 11/08/78

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42-2.1.2 Title 10, USC, Section 885 (article 85)

Any member of the armed forces of the United States who is found guilty of desertion or attempt to desert shall be punished by death or such other punishment as a court-martial may direct if the offense is committed in time of war or by such punishment, other than death, as a court-martial may direct if the desertion or attempt to desert occurs at any other time.

EFFECTIVE: 11/08/78

42-2.2 Other Provisions

(1) FBI investigative authority does not extend to the apprehension of mere military absentees but is limited to deserters alone and in accordance with an agreement with the military, those deserting under aggravating circumstances. (See Part II, 18-3, of this manual.)

(2) The FBI will seek the location of military personnel (discharges not executed) who have been convicted of one or more of the Uniform Code of Military Justice (UCMJ) articles listed in formal FBI-DOD "MOU" (See Part II, 18-3, of this manual.) who subsequently escape from military confinement.

EFFECTIVE: 11/08/78

42-3 POLICY

EFFECTIVE: 11/08/78

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42-3.1 Investigations Accepted and Initiated by FBIHQ

FBIHQ will accept requests for assistance to locate military deserters who absent themselves under aggravated circumstances when:

(1) The Military Department Headquarters provides FBIHQ with written notice specifying the serious offense, in addition to the desertion, of which the absentee is suspected, and

(2) Such notice (usually DA-3835 Army and DD-553, other services) indicates that appropriate judicial or administrative disposition is contemplated upon the deserter's return to military control.

EFFECTIVE: 11/08/78

42-3.2 Exceptions

Requests for fugitive assistance will be honored when, according to the military, the offense committed in addition to the desertion while not one of those listed in the formal FBI-DOD "MOU," because of its circumstances, is so aggravated that the deserter's return to military control is desired. In these few instances, requests for FBI investigations will be closely monitored by the Military Department Headquarters. The appropriate headquarters will provide FBIHQ with factual details explaining the seriousness of the offense to support an FBI investigation.

EFFECTIVE: 11/08/78

42-3.3 Requests for Investigation Received Directly by the Field

On occasion the field may receive requests for deserter assistance directly from military commands and may initiate an investigation

(1) When an authorized military officer requests the assistance of a field office in apprehending an escaped prisoner of the armed services whose discharge has not been executed and who has been convicted of one of the UCMJ articles enumerated in the FBI-DOD "MOU." (See Part II, 18-3, of this manual.)

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(2) In the above instances, FBIHQ must be immediately advised by teletype of the request for investigation. This teletype, which may be submitted on a UACB basis, must request FBIHQ approval to initiate investigation and is to set out full details justifying FBI involvement. Of course, the escapee must fit the criteria as listed in the "MOU."

EFFECTIVE: 11/08/78

42-3.3.1 Exceptions

In those escape situations involving military prisoners not convicted of one of the listed UCMJ articles, or in any other situation, if a request for FBI investigation is received by the field directly from the military, conduct no active investigation. Instruct the military command that a formal request of FBIHQ must be made by the appropriate Military Department Headquarters. Upon receipt of this formal request, if facts warrant, FBIHQ will instruct that an investigation be initiated.

EFFECTIVE: 11/08/78

42-4 RECEIPT OF MILITARY REQUEST FOR FBI INVESTIGATION FORM  
(DD-553 or DA-3835)

(1) Office of origin should promptly cause an administrative inquiry (z) to be made of NCIC to insure that the military entry in the wanted persons file of NCIC is still in existence before a case is opened and assigned.

(2) If this NCIC administrative inquiry fails to reveal any military NCIC entry a case should not be opened.

(a) Advise FBIHQ and all auxiliary offices by ROUTINE teletype.

(b) Place a copy of the military Request for Investigation form and the ROUTINE teletype into 42-0.

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EFFECTIVE: 11/08/78

42-4.1 Supervision of Cases

EFFECTIVE: 11/08/78

42-4.1.1 Duty of Office of Origin

The responsibility for the close supervision of deserter cases rests upon the office of origin.

(1) An important duty is the obligation to advise all auxiliary offices having outstanding leads to discontinue investigation when the office of origin learns that subject has been:

- (a) Apprehended
- (b) Discharged
- (c) Returned to military control, or
- (d) For other reasons is no longer wanted.

(2) The office of origin will, by ROUTINE teletype, notify FBIHQ and all auxiliary offices upon receipt of information indicating subject has been located or apprehended.

(3) The office of origin is also responsible to assure that all auxiliary offices are aware of dangerous aspects, suicidal tendencies, etc., concerning subjects.

EFFECTIVE: 08/12/86

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42-4.2 Other Provisions

(1) An initial fugitive airtel (FD-65) is not necessary in deserter cases. However, a supplemental form (FD-65) should be submitted to show any changes, additions, or deletions to identifying data furnished in correspondence from FBIHQ initiating the investigation.

(2) The statute of limitations (3 years) does not apply to wartime desertions. Wartime periods are 12-7-41 to 7-25-47, 6-25-50 to 7-27-53, and 8-10-64 to 1-27-73.

EFFECTIVE: 08/12/86

42-4.2.1 Arrest in Private Premises

Although the FBI possesses explicit statutory authority to apprehend deserters, the Supreme Court has held that an arrest warrant is required to effect an entry to arrest in a subject's home in the absence of consent or exigent circumstances. Where the entry will occur on third-party premises, the Supreme Court has held a search warrant must also be obtained. (See Legal Handbook for Special Agents, Section 3-7.) To facilitate the obtaining of appropriate warrant(s), forms obtained from the Department of Defense should include a declaration under oath by the subject's Commanding Officer which will provide the FBI with the deserter's identity, his/her military assignment, and the circumstances surrounding his/her desertion. The office of origin, upon receipt of this information, should obtain an arrest warrant for the deserter and promptly advise auxiliary offices of the outstanding warrant. If the information on the forms lacks adequate specificity, the subject's Commanding Officer should be interviewed.

EFFECTIVE: 08/12/86

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42-5 INTERVIEWS AND CONFESSIONS OF DESERTERS

U.S. Court of Military Appeals has held that if a deserter suspect or subject is subjected to custodial interrogation for any statement which might be used against him/her on a charge of desertion or other military offense, he/she must first be given full warning of constitutional safeguards.

EFFECTIVE: 08/12/86

42-6 DISPOSITION OF DESERTERS AFTER APPREHENSION

(1) When a deserter is apprehended by Bureau Agents or otherwise located, the following action must be taken:

(a) If apprehension or location is by an auxiliary office - immediately (within 24 hours) place "located" in Bureau NCIC record which will notify the office of origin and FBIHQ. The auxiliary office's "located" on the Bureau record will be office of origin's authority to "clear" NCIC and notify FBIHQ and all auxiliary offices by ROUTINE teletype to discontinue. Any military NCIC record should be also "located"; this serves as notification to military authorities. (See MAOP, Part II, 10-9.)

(b) If apprehension or location is by the office of origin - immediately notify FBIHQ and all auxiliary offices by ROUTINE teletype. Office of origin will "clear" Bureau NCIC record and place a "located" in any military record in NCIC (within 24 hours.) (See MAOP, Part II, 2-5.2.4, 7-2.2.1.)

(c) If locate is placed by military agency - office of origin will immediately (within 24 hours) clear NCIC and will notify FBIHQ and auxiliary offices to discontinue.

(d) If locate is placed by agency other than another FBI office or the military - office of origin will immediately instruct the office covering the area of the "locating" agency to promptly verify both the identity and the apprehension of the fugitive. Following this verification, office of origin will immediately (within 24 hours) clear NCIC record. The appropriate communication advising of the subject's apprehension must be submitted to FBIHQ and interested offices.

(2) Local military authorities should be promptly advised



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of the deserter's whereabouts. After apprehension, deserters are to:

(a) Be turned over to the military, or

(b) Turned over to local authorities to be held for the military.

(3) Additionally, the deserter should be fingerprinted and photographed or arrangements made for this to be done. If no identification record is needed for prosecutive action, which will be the circumstances in most instances, the block on the face of the criminal fingerprint card (FD-249) which reads "Reply desired?" should also be marked. If deserter is charged with a substantive offense, either local or federal, such as car theft or interstate transportation of a stolen motor vehicle, and his/her prints show this, the block should be checked "Yes" and Criminal Justice Information Services Division will answer with a copy of his/her record.

EFFECTIVE: 02/14/97

| 42-7 | DELETED |

EFFECTIVE: 08/12/86

42-8 INVESTIGATION AT MILITARY OR NAVAL INSTALLATION

The office covering the military or naval installation from which the deserter absented himself/herself will not receive copies of communications initiating the deserter investigation except in Marine Corps deserter cases from Camp Lejeune, North Carolina.

EFFECTIVE: 11/08/78

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42-8.1 Leads

(1) If investigation is desired at such military or naval installation, appropriate leads should be set out to the office covering such installation. These leads should state the specific investigation desired such as:

(a) Review of military file, if available,

(b) A check of the individual's personal effects, or

(c) Conduct inquiry at the unit level in an effort to develop military associates.

(2) The office of origin may request appropriate office to check records of military branch involved at any time after initial leads have been exhausted where doing so offers potential of developing additional leads.

EFFECTIVE: 11/08/78

42-8.2 Personal Effects - Navy

(1) Personal effects of Navy deserters deserting west of the Mississippi will be shipped to U.S. Naval Supply Center, Oakland, California.

(2) Personal effects of Navy deserters deserting east of the Mississippi will be shipped to Naval Supply Center, Naval Base, Norfolk, Virginia.

EFFECTIVE: 11/08/78

42-8.2.1 Final Disposal of Personal Effects - Navy

Personal effects of Navy deserters will be maintained for a period of one or two years before final disposal is made.

EFFECTIVE: 11/08/78

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42-8.3 Personal Effects - Army

(1) Generally for the first ninety days after AWOL status (as opposed to deserter status), subject's personal effects will be kept at subject's place of military assignment. After ninety days contact must be made with Ft. Benjamin Harrison, Indiana, to determine the location of subject's personal effects.

(2) Subject's military file record will be sent to Ft. Benjamin Harrison ninety days from date he/she is considered AWOL.

EFFECTIVE: 11/08/78

42-9 REQUEST FOR DESERTERS' FBI IDENTIFICATION RECORD

Upon processing the military request for FBI investigation forms (DD-553 or DA-3835) at FBIHQ, a stop is placed in the Criminal Justice Information Services Division regarding that record is noted, the office of origin will be furnished two copies and two copies of that individual's photograph and negative, if available.

EFFECTIVE: 04/08/96

42-10 TESTIMONY AND DEPOSITION OF AGENT

When competent authority of the armed services requests an Agent furnish a deposition concerning details of a deserter's apprehension, SAC is authorized to approve such deposition in routine deserter apprehensions. Where unusual circumstances are involved or where an Agent's presence for testimony before a court-martial is requested, send an airtel or teletype to FBIHQ setting forth the full facts and advising of the action contemplated, unless advised to the contrary by FBIHQ.

EFFECTIVE: 08/12/86

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42-11 LOCATION OF DESERTERS AND ABSENTEES INCIDENTAL TO OTHER INVESTIGATIONS

(1) When a deserter or absentee, not the subject of an FBI investigation, is located incidental to another investigation, advise military authorities of the individual's whereabouts, if known.

(2) Where information disseminated to military or local authorities results in the return of a deserter to military control, fugitive credit may be taken even though no formal request for assistance was received from the military. To claim credit, submit a succinct letter to FBIHQ, sufficiently complete as to require no reference to other communications. The letter should contain the following items:

(a) Individual's full name, social security account number with appropriate suffix indicating branch of service and brief identifying data.

(b) Information received as to possible whereabouts and to whom disseminated.

(c) Date and place of return to military control based on information disseminated.

(d) Data establishing subject is actually a deserter rather than a mere absentee, including date of unauthorized absence.

(e) Statement to the effect that a request for deserter credit (a fugitive locate) is being claimed by Form FD-515.

(3) Form FD-515 should be submitted for statistical purposes.

(4) Desertion in these instances may be established in the field. If this data is not available to the office locating the deserter, it may be obtained by the office covering the location of the individual's organizational command. In most situations, an individual is declared a deserter upon completion of 29 consecutive days of unauthorized absence.

EFFECTIVE: 11/01/93

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42-12 REPORTING PROCEDURES

(1) Upon initiating a deserter investigation referred from FBIHQ, no initial FD-65 or other communication need be submitted to FBIHQ. Upon the deserter's apprehension or location, the locating office must promptly submit a ROUTINE teletype to FBIHQ and the office of origin, followed by Form FD-515. The office of origin must ensure that all auxiliary offices are notified by teletype to discontinue.

(2) As a general rule, Prosecutive Reports are not required in deserter cases and, therefore, are not to be submitted to FBIHQ unless a specific request is made for same.

EFFECTIVE: 08/12/86

42-13 HARBORING DESERTER FUGITIVES

EFFECTIVE: 08/12/86

42-13.1 Statute

Title 18, USC, Section 1381

(1) Section 1381. Enticing desertion and harboring deserters. "Whoever entices or procures, or attempts or endeavors to entice or procure any person in the Armed Forces of the United States, or who has been recruited for service therein, to desert therefrom, or aids any such person in deserting or in attempting to desert from such service; or

(2) "Whoever harbors, conceals, protects, or assists any such person who may have deserted from such service, knowing him to have deserted therefrom, or refuses to give up and deliver such person on the demand of any officer authorized to receive him - -

"Shall be fined not more than \$2,000 or imprisoned not more than three years, or both."

EFFECTIVE: 08/12/86

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42-13.2 Policy

(1) It is desirable in this type of case to present the facts to the USA at an early stage to determine USA's prosecutive opinion. The Department has ruled it is not necessary that the alleged deserter be convicted by court-martial of desertion prior to a successful prosecution of the individual charged with harboring deserter. It is necessary in all cases that the person harboring the member of the armed forces know that the individual harbored is a deserter or that he/she intended to desert.

(2) In cases where information is developed that a deserter is being harbored and no immediate necessity exists to enter the harborer's premises to apprehend the deserter, the facts should be presented to the USA. Through this means either (1) a search warrant may be obtained to enter the premises of the harborer, or (2) a complaint may be filed against the harborer and a warrant obtained for his/her arrest, and entry made to execute this warrant. This will assure that a subsequent prosecution for harboring will not be jeopardized because of an illegal entry.

EFFECTIVE: 08/12/86

||42-13.3| Elements

Member of the Armed Forces of the United States who is a deserter or intends to desert is:

(1) Harbored, concealed, protected or assisted

| (2) With knowledge of|his/her|deserter status or|his/her|  
intention to desert

EFFECTIVE: 11/08/78

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||42-13.3.1| Other Provisions

(1) Enticing or procuring a member of the armed forces of the United States to desert or assisting him/her to desert

(2) Refusing to give up a deserter upon demand of any authorized officer

(3) Attempt to do either of the above

EFFECTIVE: 11/08/78

||42-13.4| Investigative Procedure

(1) The deserter should be interviewed as soon as possible and every effort made to obtain a signed statement. The deserter should be specifically asked if the person who harbored him/her knew he/she was a member of the armed forces and knew he/she was in deserter status. The harborer should be thoroughly interviewed as soon as possible and every effort made to obtain a signed statement.

(2) When interviewing persons technically classed as "absentees" regarding the activities of persons who harbored them, they should be closely questioned regarding their intention at the time they left their post of duty and for any facts indicating they did not intend to return to the service. Several factors could indicate these individuals had no intention of returning to the service. The individual should specifically be questioned as to whether the person who harbored deserter knew of deserter's intention not to return to duty.

(3) After preliminary inquiry, the facts should be presented to the USA to determine if USA desires further investigation. This procedure may save unnecessary work since some USAs, as a matter of policy, frequently decline prosecution where there is lack of aggravating circumstances.

EFFECTIVE: 11/08/78

||42-14| VENUE - District where harbored

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EFFECTIVE: 11/08/78

|| 42-15 | CHARACTER - DESERTER - HARBORING

EFFECTIVE: 11/08/78



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SECTION 43. ILLEGAL WEARING OF UNIFORM OR DECORATIONS, ET AL.; ILLEGAL MANUFACTURE, USE, POSSESSION OR SALE OF EMBLEMS AND INSIGNIA; ET AL.; FRAUDULENT PRACTICES CONCERNING CERTAIN MILITARY AND NAVAL DOCUMENTS; SEALS AND SYMBOLS OF AGENCIES OF THE UNITED STATES

43-1 STATUTES

Title 18, USC, Sections 702, 703, and 704

EFFECTIVE: 01/31/78

43-1.1 Section 702. Uniform of Armed Forces and Public Health Service

EFFECTIVE: 01/31/78

43-1.2 Elements

Wearing the uniform or distinctive part thereof, or similar to the uniform of any of the Armed Forces, or Public Health Service or any auxiliary of such without authority.

EFFECTIVE: 01/31/78

43-1.3 Penalty

A fine of not more than \$250 or imprisonment of not more than six months, or both.

EFFECTIVE: 01/31/78

43-1.4 Section 703. Uniform of Friendly Nation

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EFFECTIVE: 01/31/78

43-1.5 Elements

Wearing the uniform or any naval, military, police, or other official uniform, decoration, or regalia or colorable imitation of a foreign government with which the United States is at peace without authority and with intent to deceive or mislead.

EFFECTIVE: 01/31/78

43-1.6 Penalty

A fine of not more than \$250 or imprisonment of not more than six months, or both.

EFFECTIVE: 01/31/78

43-1.7 Section 704. Military Medals or Decorations

EFFECTIVE: 01/31/78

43-1.8 Elements

Wearing, manufacturing, or selling any decoration or medal authorized by Congress for the Armed Forces or any medal, badge, or decoration awarded to the members of such forces without authority.

EFFECTIVE: 01/31/78

43-1.9 Penalty

A fine of not more than \$250 or imprisonment of not more than six months, or both.

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EFFECTIVE: 01/31/78

43-1.10 Miscellaneous

The Department has advised that pursuant to the authority contained in Section 704, Title 18, the Secretary of the Army has established rules and regulations concerning the sale and manufacture of military decorations and awards (which include the honorable discharge button). Under these regulations dealers must have a certificate of authority from the Department of the Army, must restrict their sale to certain individuals, and must keep a record of their sales. (See Army regulations #600-90 dated February 24, 1944, Washington, D.C.) The failure to comply with these rules and regulations constitutes a violation of Section 704, Title 18, USC. Subjects in Illegal Wearing of Uniform cases, therefore, who have in their possession such military insignia, decorations, and awards which they are not entitled to wear, should be thoroughly interrogated concerning the manner in which they came into possession of such insignia, etc. If there is specific evidence of an illegal sale on the part of an identified dealer, a separate investigation should be initiated concerning this dealer.

EFFECTIVE: 01/31/78

43-1.11 Investigative Procedures

(1) An intent to defraud is not necessary to constitute a violation of Illegal Wearing of a Uniform. As a matter of fact, the court will not inquire into any reason or purpose in wearing the uniform. It is sufficient to prove that the uniform is duly prescribed and worn without authority.

(2) The Agent should have a witness from the appropriate military or naval organization available to testify that the uniform is duly prescribed, as well as evidence obtained from the Washington headquarters of the military or naval organization that the subject had no authority to wear same. This evidence, in addition to proof of wearing, is sufficient to establish a violation.

(3) When subjects are interviewed and statements are taken, the Agent should make certain the subject includes a statement

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that he was not a member of the military or naval organization represented by the uniform and knew he had no authority to wear same. The signed statements taken from those individuals who wear without authority the uniform of the U. S. Maritime Service should incorporate information pertaining to the similarity of the uniform worn to one of the four uniforms mentioned in Title 18, USC, Section 702.

(4) It is imperative that before arresting an individual in the uniform of a high ranking officer of the U. S. Army or Navy the Agent should make certain the individual is an imposter rather than a bona fide officer. When such a subject is taken into custody or even closely questioned, particular care must be taken to make certain that he is not possessed of weapons with which to harm himself or others.

(5) In connection with investigations involving Illegal Wearing of the Uniform violations, consideration should be given to the possibility of prosecutive action of related offenses as set out in Section 43-2 captioned "Illegal Manufacture, Use, Possession, or Sale of Emblems and Insignia" and Section 43-3 "Fraudulent Practices Concerning Certain Military and Naval Documents; Seals and Symbols of Agencies of the United States."

EFFECTIVE: 01/31/78

43-1.12 Exceptions

These sections do not prohibit members of organizations from wearing their prescribed uniforms which are authorized by state or regulation, or members of the following organizations: officers and enlisted men of the National Guard, members of the Boy Scouts, individuals who serve as officers in time of war and have been honorably discharged and desire to wear their uniforms on occasions of ceremony, instructors and members of cadet corps of educational institutions, civilians attending authorized courses in naval and military institutions, actors portraying military or naval characters, retired officers of the Army and Navy, and those persons who have served honorably in the armed forces during the war who desire to wear their uniform upon occasions of ceremony.

EFFECTIVE: 01/31/78

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43-1.13 Venue

Jurisdiction for prosecution lies where the uniform or other prohibited apparel is worn.

EFFECTIVE: 01/31/78

43-1.14 Character - Illegal Wearing of Uniform

EFFECTIVE: 01/31/78

43-2 STATUTES

Title 18, USC, Sections 701, 705, 707, and 710.

Title 50, Appendix, USC, Section 2284.

Title 46, USC, Section 249c.

EFFECTIVE: 05/08/80

43-2.1 Section 701. Official Badges, Identification Cards, Other Insignia

EFFECTIVE: 05/08/80

43-2.2 Elements

Manufacture, sell or possess any badge or insignia prescribed by the head of any department or agency of the United States Government without authority.

EFFECTIVE: 05/08/80

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43-2.3 Penalty

A fine of not more than \$250 or imprisonment of not more than six months, or both.

EFFECTIVE: 05/08/80

43-2.4 Section 705. Badge or Medal of Veterans' Organizations

EFFECTIVE: 05/08/80

43-2.5 Elements

Manufacture, sell or resell, or reproduce any badge or other insignia of any veterans' organization without authority.

EFFECTIVE: 05/08/80

43-2.6 Penalty

A fine of not more than \$250 or imprisonment of not more than six months, or both.

EFFECTIVE: 05/08/80

43-2.7 Section 707. 4-H Club Emblem Fraudulently Used

EFFECTIVE: 05/08/80

43-2.8 Elements

Wearing or displaying the sign or emblem of the 4-H clubs to induce belief of membership, association, or agent thereof with intent to defraud.

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EFFECTIVE: 05/08/80

43-2.9 Penalty

A fine of not more than \$250 or imprisonment of not more than six months, or both.

EFFECTIVE: 05/08/80

43-2.10 Section 710. Cremation Urns for Military Use

EFFECTIVE: 05/08/80

43-2.11 Elements

Manufacture, or sell without authority a cremation urn of a design approved by the Secretary of Defense.

EFFECTIVE: 05/08/80

43-2.12 Penalty

A fine of not more than \$250 or imprisonment of not more than six months, or both.

EFFECTIVE: 05/08/80

| 43-2.13 | Deleted |

EFFECTIVE: 05/08/80

| 43-2.14 | Deleted |

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EFFECTIVE: 05/08/80

| 43-2.15 | Deleted |

EFFECTIVE: 05/08/80

43-2.16      Section 249c. Regulations Governing Manufacture, Sale,  
Possession or Display of Decorations

EFFECTIVE: 05/08/80

43-2.17      Elements

Manufacture, possession, sale, or display of merchant  
marine or other seamen's decorations without authority.

EFFECTIVE: 05/08/80

43-2.18      Penalty

A fine not more than \$250 or imprisonment of not more than  
six months, or both.

EFFECTIVE: 05/08/80

43-2.19      Section 2284. Civil Defense Identity Insignia;  
Manufacture, Possession or Wearing

EFFECTIVE: 05/08/80



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43-2.20 Elements

Manufacture, possess, or wear without authority civil defense insignia.

EFFECTIVE: 05/08/80

43-2.21 Penalty

A fine of not more than \$1,000 or imprisonment of not more than one year, or both.

EFFECTIVE: 05/08/80

43-2.22 Investigative Procedure

(1) Section 701 - Ascertain whether the badge, card, or other insignia in question is the official badge, card, or insignia of the Federal agency involved, and obtain a witness who can so testify. Where the badge, card, or insignia is a colorable imitation, obtain a sample of the insignia imitated for use of the USA and FBIHQ in determining whether the imitation is colorable. Ascertain from the department whose insignia is used whether its use has been authorized.

(2) Section 705 - The following veterans' organizations are covered by this section: American Legion, Grand Army of the Republic, United States Blind Veterans of the World War, United Spanish War Veterans, Marine Corps League, Disabled American Veterans of the World War, Veterans of Foreign Wars of the United States, Navy Club of the United States, and the National Yeoman. Auxiliaries of these organizations are also protected by this section by virtue of Public Law 661.

(3) Section 710 - When a complaint is received concerning a violation of this statute, the following facts should be obtained from the complainant:

(a) Is the design of the cremation urn the same or similar to the approved design.

(b) Does the manufacturer have a contract with the Federal Government for the manufacture of these urns.

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(c) If a complaint is received as to the use, the identity of the sellers and purchasers should be obtained. You should obtain identifying information which will make it possible to determine whether the deceased served in the armed forces.

Where the initial complaint suggests a violation of the statutes, appropriate leads should be set forth for the Washington Metropolitan Field Office to check with the Department of Defense to determine whether the cremation urns were manufactured, sold, or used in accordance with the regulations of the Secretary of Defense. The USA should be contacted before any extensive investigation is conducted for his/her prosecutive opinion.

(4) Section 182d - Upon receipt of information alleging a violation, the necessary investigation should be instituted immediately. If a signed statement is obtained from a subject, this statement should include the admission that the subject realized he/she was not entitled to wear the emblem or insignia. Every investigation should be directed, in addition to obtaining full facts surrounding the substantive violation, toward learning the source of the insignia since Federal statutes also provide for the illegal sale of authorized insignia. (See Title 18, USC, Section 701.)

(5) Section 249c - After complaints are received and preliminary inquiry is made, the facts should be promptly discussed with the USA in order that he/she may render an opinion as to prosecution before any extensive investigation is conducted.

(6) Section 2284 - When a complaint is received concerning the illegal manufacture of civil defense insignia, a lead should be set forth for the Washington Metropolitan Field Office to ascertain whether such firm is manufacturing in compliance with regulations of the Federal Emergency Management Agency.

EFFECTIVE: 10/16/90

43-2.23 Venue - where the offense occurred

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EFFECTIVE: 11/20/90

||43-2.24| Character

Illegal Manufacture, Use, Possession, or  
Sale of Emblems and Insignia

Illegal Manufacture, Sale, or Use of  
Military Cremation Urn

Illegal Manufacture, Possession, or Wearing  
of Civil Defense Insignia

EFFECTIVE: 11/20/90

43-3 STATUTES

Title 18, USC, Sections 498, 499, 506, 709, 711, 711a, 712, 713,  
and 714.

Title 12, USC, Sections 1457 and 1723a(e).

Title 22, USC, Section 2518.

EFFECTIVE: 01/31/78

43-3.1 Section 498. Military or Naval Discharge Certificates

"Whoever forges, counterfeits, or falsely alters any certificate of discharge from the military or naval service of the United States, or uses, unlawfully possesses or exhibits any such certificate, knowing the same to be forged, counterfeited, or falsely altered, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

EFFECTIVE: 01/31/78

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43-3.2 Section 499. Military, Naval, or Official Passes

"Whoever falsely makes, forges, counterfeits, alters, or tampers with any naval, military, or official pass or permit, issued by or under the authority of the United States, or with intent to defraud uses or possesses any such pass or permit, or personates or falsely represents himself to be or not to be a person to whom such pass or permit has been duly issued, or willfully allows any other person to have or use any such pass or permit, issued for his use alone, shall be fined not more than \$2,000 or imprisoned not more than five years, or both."

EFFECTIVE: 01/31/78

43-3.3 Section 506. Seals of Departments or Agencies

"Whoever falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States; or

"Whoever knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal to or upon any certificate, instrument, commission, document, or paper, of any description; or

"Whoever, with fraudulent intent, possesses any such seal, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered -

"Shall be fined not more than \$5,000 or imprisoned not more than five years or both."

EFFECTIVE: 01/31/78

43-3.4 Section 709. False Advertising or Misuse of Names to Indicate Federal Agency

"Whoever, except with the written permission of the Director of the Federal Bureau of Investigation, knowingly uses the words 'Federal Bureau of Investigation' or the initials 'F.B.I.', or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular,

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book, pamphlet or other publication, play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the Federal Bureau of Investigation";

"Shall be punished as follows: a corporation, partnership, business trust, association, or other business entity, by a fine of not more than \$1,000; an officer or member thereof participating or knowingly acquiescing in such violation or any individual violating this section, by a fine of not more than \$1,000 or imprisonment for not more than one year, or both..."

EFFECTIVE: 01/31/78

43-3.5 Section 711. "Smokey Bear" Character or Name

"Whoever, except as authorized under rules and regulations issued by the Secretary of Agriculture after consultation with the Association of State Foresters and the Advertising Council, knowingly manufactures, reproduces, or uses the character 'Smokey Bear,' originated by the Forest Service, United States Department of Agriculture, in cooperation with the Association of State Foresters and the Advertising Council for use in public information concerning the prevention of forest fires, or any facsimile thereof, or the name 'Smokey Bear' as a trade name or in such manner as suggests the character 'Smokey Bear' shall be fined not more \$250 or than imprisoned not more than six months, or both."

EFFECTIVE: 01/31/78

43-3.6 Section 711a. "Woodsy Owl" Character or Name

"Whoever, except as authorized under rules and regulations issued by the Secretary, knowingly and for profit manufactures, reproduces, or uses the character 'Woodsy Owl', the name 'Woodsy Owl', or the associated slogan 'Give a Hoot, Don't Pollute' shall be fined not more than \$250 or imprisoned not more than six months, or both."

EFFECTIVE: 01/31/78

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43-3.7 Section 712. Misuse of Names, Words, Emblems, or Insignia

"Whoever, in the course of collecting or aiding in the collection of private debts or obligations, or being engaged in furnishing private police, investigation, or other private detective services, uses or employs in any communication, correspondence, notice, advertisement, or circular the words 'national', 'Federal', or 'United States', the initials 'U.S.', or any emblem, insignia, or name, for the purpose of conveying and in a manner reasonably calculated to convey the false impression that such communication is from a department, agency, bureau, or instrumentality of United States or in any manner represents the United States, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

EFFECTIVE: 01/31/78

43-3.8 Section 713. Use of the Great Seal of the United States or of the President or the Vice President of the United States

"Whoever knowingly displays any printed or other likeness of the great seal of the United States, or of the seals of the President or the Vice President of the United States, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, or whoever, except as authorized, knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seals of the President or Vice President, or any substantial part thereof, shall be fined not more than \$250 or imprisoned not more than six months, or both."

EFFECTIVE: 01/31/78

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43-3.9 Section 714. "Johnny Horizon" Character or Name

"Whoever, except as authorized under rules and regulations issued by the Secretary of the Interior, knowingly manufactures, reproduces, or uses the character 'Johnny Horizon', or any facsimile thereof, or the name 'Johnny Horizon' as a trade name or mark, or in such a manner as suggests the character 'Johnny Horizon', so that such use is likely to cause confusion, or to cause mistake, or to deceive shall be fined not more than \$250 or imprisoned not more than six months, or both."

EFFECTIVE: 01/31/78

43-3.10 Section 1457. Misuse of Name "Federal Home Loan Mortgage Corporation"

"Except as expressly authorized by statute of the United States, no individual or organization (except the Corporation) shall use the term 'Federal Home Loan Mortgage Corporation', or any combination of words including the words 'Federal', and 'Home Loan', and 'Mortgage', as a name or part thereof under which any individual or organization does any business...No individual or organization shall use or display (1) any sign, device, or insignia prescribed or approved by the Corporation for use or display by the Corporation or by members of the Federal home loan banks, (2) any copy, reproduction, or colorable imitation of any such sign, device, or insignia, or (3) any sign, device or insignia reasonably calculated to convey the impression that it is a sign, device, or insignia used by the Corporation or prescribed or approved by the Corporation, contrary to regulations of the Corporation prohibiting, or limiting, or restricting, such use or display by such individual or organization. An organization violating this subsection shall for each violation be punished by a fine of not more than \$10,000. An officer or member of an organization participating or knowingly acquiescing in any violation of this subsection shall be punished by a fine of not more than \$5,000 or imprisonment for not more than one year or both. An individual violating this subsection shall for each violation be punished as set forth in the sentence next preceding this sentence."

EFFECTIVE: 01/31/78

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43-3.11 Section 1723a(e). Misuse of Name "Federal National Mortgage Association"

"No individual, association, partnership, or corporation, except the body corporate created by Section 1717 of this title, shall hereafter use the words 'Federal National Mortgage Association' or any combination of such words, as the name or a part thereof under which he or it shall do business. Every individual, partnership, association, or corporation violating this prohibition shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$100 or imprisonment not exceeding thirty days, or both, for each day during which such a violation is committed or repeated."

EFFECTIVE: 01/31/78

43-3.12 Section 2518. Misuse of Name "Peace Corps"

"(b) (1) The use of the official seal or emblem and the use of the name 'Peace Corps' shall be restricted exclusively to designate programs authorized under this chapter."

"(2) Whoever, whether an individual, partnership, corporation, or association, uses the seal for which provision is made in this section, or any sign, insignia, or symbol in colorable imitation thereof, or the words 'Peace Corps' or any combination of these or other words or characters in colorable imitation thereof, other than to designate programs authorized under this chapter, shall be fined not more than \$500 or imprisoned not more than six months, or both. A violation of this subsection may be enjoined at the suit of the Attorney General, United States Attorneys, or other persons duly authorized to represent the United States."

EFFECTIVE: 01/31/78

43-3.13 Miscellaneous

Generally violations of Sections 498 and 499 are brought to FBIHQ's attention in the course of investigation of other violations within the FBI's jurisdiction, such as impersonation, illegal wearing of uniform, fraud against the Government, theft of Government property, deserters, and selective service.



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EFFECTIVE: 01/31/78

43-3.14 Policy

(1) When complaints are received in field, original complainant should be thoroughly interviewed relative to allegation, after which any necessary preliminary inquiry should be made. Thereafter, facts developed should be promptly discussed with USA in order that he may render an opinion as to prosecution before field has conducted an extensive investigation. In regard to possible violations of Sections 498 and 499, point out to USA whether civilian or military personnel are involved in these cases in order that facts may be properly considered and evaluated by him. Jurisdictional problems may arise where service personnel are involved and in such instances assistance of USA should be solicited.

(2) In regard to violations of Section 711, "Smokey Bear," and Section 711a, "Woodsy Owl," the FBI is to conduct no initial investigation until a preliminary compliance investigation is conducted by Department of Agriculture and referred to the Department of Justice. FBIHQ will then be notified by the Department of Justice as to what action is appropriate. Complaints received regarding "Smokey Bear" or "Woodsy Owl" are to be referred to nearest office of Department of Agriculture. Promptly prepare a letterhead memorandum containing details and furnish to FBIHQ for dissemination to Department of Justice and Department of Agriculture. One copy of this letterhead memorandum should be furnished to local office of Department of Agriculture.

(3) Violations of Section 714, "Johnny Horizon," will be handled through the Department of Interior in the same manner as the "Smokey Bear" violation with the Department of Agriculture.

(4) When complaints concerning unauthorized use of the FBI's name (Section 709) are brought to your attention, pertinent facts, together with copies of substantiating exhibits, should be sent to FBIHQ by letter. There should be no discussions held with USA prior to receipt of authorization from FBIHQ.

(5) By Departmental opinion, 11/3/54, investigative jurisdiction as to all violations under Section 709, with exception of those offenses enumerated in paragraph three of said section in its entirety, is vested in the FBI. Offenses under paragraph three of Section 709 relating to use of words "Federal Deposit," "Federal Deposit Insurance," or "Federal Deposit Insurance Corporation" or a combination of any three of these words are within investigative jurisdiction of Secret

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Service. As to specialized handling of violations of misuse of name "Federal Housing Administration" or initials "FHA" refer to the section of this manual concerning Department of Housing and Urban Development matters.

(6) The Department of Justice has advised the FBI should undertake investigation of all possible violations of criminal provisions of Peace Corps Act, Title 22, USC, Section 2518. Upon receipt of complaints regarding violations, full facts should be developed and timely presentation should be made to USA in district where violation occurred to determine whether allegation has prosecutive merit.

EFFECTIVE: 01/31/78

43-3.15 Venue

Where the offense occurred.

EFFECTIVE: 01/31/78

43-3.16 Character

(1) Section 498 - Miscellaneous - Forging or Using Forged Certificate of Discharge from Military or Naval Service;

(2) Section 499 - Miscellaneous - Falsely Making or Forging Naval Military, or Official Pass;

(3) Section 506 - Miscellaneous - Forging or Counterfeiting Seal of Department or Agency of the U. S.;

(4) Sections 709 and 712; Title 12, Sections 1457 and 1723a (e); and Title 22, Section 2518 - False Advertising or Misuse of Names, Words, Emblems or Insignia;

(5) Section 711 - Unauthorized Use of "Smokey Bear" symbol;

(6) Section 711a - Unauthorized Use of "Woodsy Owl" symbol;

(7) Section 713 - Misuse of the Great Seal of the United States or the Seals of the President or the Vice President of the United States;  
or

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(8) Section 714 - Unauthorized Use of "Johnny Horizon" Symbol

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SECTION 44. |RACIAL VIOLENCE OR DISCRIMINATION;  
RELIGIOUS VIOLENCE OR DISCRIMINATION;  
VOTING LAWS - RACIAL|

44-1 STATUTES

|The|United States Code (USC)|statutes covered under  
|this section|of|the|manual are as follows:

| (1) Title 18, Section 241, USC, Conspiracy Against  
Rights| (See MIOG, Part I, 44-1.1, 50-1.5, 56-3.1, 282-1.1.)|

| (2) |Deleted|

| (3) Title 18, Section 243, USC, Exclusion of Jurors on  
Account of Race or Color | (See MIOG, Part I, 44-1.3.)|

| (4) Title 18, Section 244, USC, Discrimination Against a  
Person Wearing Uniform of Armed Forces | (See MIOG, Part I, 44-1.4.)|

| (5) Title 18, Section 245, USC, Federally Protected  
Activities | (See MIOG, Part I, 44-1.5.)|

| (6) Title 18, Section 246, USC, Deprivation of Relief  
Benefits | (See MIOG, Part I, 44-1.6.)|

| (7) Title 18, Section 247, USC, Damage to Religious  
Property; Obstruction of Persons in the Free Exercise of Religious  
Beliefs. | (See MIOG, Part I, 44-1.7.)|

| (8) Title 42, Section 1973i, USC, Voting Rights Act of  
1965 | (See MIOG, Part I, 44-1.8.)|

| (9) Title 42, Section 1973dd, USC, Overseas Citizens  
Voting Rights Act of 1975 | (See MIOG, Part I, 44-1.9.)|

EFFECTIVE: 01/31/94

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44-1.1 Title 18, U.S. Code, Section 241 - Conspiracy Against  
Rights | (See MIOG, Part I, 44-1 (1), 50-1.5, 50-2.4,  
56-3.1, 177-2 (6), 177-2.6.) |

This statute makes it unlawful for two or more persons to conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory or District in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the United States, or because of his/her having exercised the same. It further makes it unlawful for two or more persons to go in disguise on the highway or on the premises of another with the intent to prevent or hinder his/her free exercise or enjoyment of any rights so secured. Among the rights secured from interference by private individuals over the years by the courts which have described them as basic substantive rights of Federal citizenship are the following:

- (1) The rights enumerated under the Homestead laws
- (2) The right to vote in a Federal election
- (3) The right of a voter in Federal elections to have his/her ballot fairly counted
- (4) The right to be free from violence while in Federal custody
- (5) The right to assemble and petition the Federal Government
- (6) The right to testify in Federal courts
- (7) The right to inform a Federal officer of a violation of Federal law
- (8) The right to furnish military supplies to the Federal Government for defense purposes
- (9) The right to enforce a decree of a Federal court by contempt proceedings
- (10) The right of a Federal officer not to be interfered with in the performance of his/her duties | (See MIOG, Part I, 89-2.2.) |
- (11) The right to be free to perform a duty imposed by the Federal Constitution

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(12) The right to travel freely from one state to another

In addition to the above rights, the United States Supreme Court in United States v. Price, 383 US 787 (1966), held that where state participation was involved in the conspiracy, Section 241 covers those rights secured under the 14th Amendment to the U.S. Constitution, which include protection against state action depriving any person of life, liberty, and property without due process of law.

EFFECTIVE: 01/31/94

| 44-1.2 | Deleted |

EFFECTIVE: 01/31/94

44-1.3 Title 18, U.S. Code, Section 243 - Exclusion of Jurors on Account of Race or Color

This statute holds that no citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit jurors in any court of the United States, or any state on account of race, color or previous condition of servitude. It is also a crime for any officer or other person charged with any duty in the selection or summoning of jurors to exclude or fail to summon any citizen for such cause.

EFFECTIVE: 11/23/87

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44-1.4 Title 18, U.S. Code, Section 244 - Discrimination Against  
Persons Wearing Uniform of Armed Forces

This statute makes it a crime for anyone being a proprietor, manager, or employee of a theater or other public place of entertainment or amusement in the District of Columbia, or in any Territory, or Possession of the United States to cause any person wearing the uniform of any of the armed forces of the United States to be discriminated against because of that uniform.

EFFECTIVE: 11/23/87

44-1.5 Title 18, U.S. Code, Section 245 - Federally Protected  
Activities (See MIOG, Part I, 89-3.6, 89-3.9 (2),  
89-4.7 (3), 175-8 (3)(c), 175-11 (5)(f), & 177-2.7.)

(1) Prohibits willful injury, intimidation, or interference, or attempt to do so, by force or threat of force of any person or class of persons because of their activity as: (See (3).)

(a) A voter, or person qualifying to vote, a candidate campaigning for elective office, a poll watcher, or an election official in any primary, special, or general election which includes all local, state and Federal elections;

(b) A participant in, or a person enjoying, any benefit, service, privilege, program, facility, or activity provided or administered by the United States; (See (5).)

(c) An applicant for Federal employment or an employee of the Federal Government; (See (5).)

(d) A juror or prospective juror in a Federal court;  
or

(e) Participant in, or a person enjoying the benefits of, any program or activity receiving Federal financial assistance.

(2) Prohibits willful injury, intimidation, or interference or attempt to do so, by force or threat of force of any person because of race, color, religion, or national origin and because of his/her activity as: (See (3).)

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(a) A student or applicant for admission to any public school or public college; (See (5).)

(b) A participant in, or a person enjoying, any benefit, service, privilege, program, facility, or activity provided or administered by a state or local government; (See (5).)

(c) An applicant for private or state employment or a private or state employee; a member or applicant for membership in any labor organization or hiring hall; or an applicant for employment through any employment agency, labor organization or hiring hall; (See (5).)

(d) A juror or prospective juror in a state court;

(e) A traveler or user of any facility of interstate commerce or common carrier; or (See (5).)

(f) A patron of any public accommodation including hotels, motels, restaurants, lunchrooms, bars, gas stations, theaters, arenas, amusement parks, or any other establishment which serves the public and which is principally engaged in selling food or beverages for consumption on the premises. (See (5).)

(3) Prohibits interference by force or threat of force against any person because he/she is or has been, or in order to intimidate such person or any other person or class of persons from participating or affording others the opportunity or protection to so participate, or lawfully aiding or encouraging other persons to participate in any of the benefits or activities listed in items (1) and (2), above without discrimination as to race, color, religion, or national origin.

(4) Section 245 is applicable to any person or class of person whether or not they acted under color of law. Section 245 specifically provides that no prosecution of any offense described therein shall be undertaken except upon written certification of the Attorney General that prosecution by the United States is in the public interest and necessary to secure substantial justice.

(5) It is noted that Section 245 applies when force and/or violence is utilized within the context of the above statute. When a violation of Section 245 occurs, criminal penalties attach. Those portions of the above-described statute applying to items (1) (b) and (c) and (2) (a), (b), (c), (e), and (f) are investigated as a violation of the Civil Rights Act of 1964, classification 173, when



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allegations are of a nonviolent and/or discriminatory nature. Violations of statutes which apply under the 173 classification carry civil rather than criminal penalties. (See Section 173 of this manual for appropriate instructions.)

EFFECTIVE: 11/23/94

44-1.6 Title 18, U.S. Code, Section 246 - Deprivation of Relief Benefits

Section 246 provides that no person shall directly or indirectly deprive, attempt to deprive, or threaten to deprive any person of any employment, position, work, compensation, or any other benefit provided for or made possible in whole or in part by any Act of Congress appropriating funds for work relief or relief purposes, on account of political affiliation, race, color, sex, religion, or national origin.

EFFECTIVE: 12/16/88

44-1.7 Title 18, U.S. Code, Section 247 - Damage to Religious Property; Obstruction of Persons in the Free Exercise of Religious Beliefs

(1) The statute proscribes two distinct types of conduct: Subsection (a)(1) prohibits intentional damage to, or attempts to damage, religious real property; Subsection (a)(2) prohibits intentional obstruction, or attempted obstruction, by force or threat of force, of any person's free exercise of religious beliefs, without regard to damage to religious real property.

(2) Both subsections establish as a jurisdictional prerequisite the requirement that, in committing the crime, the defendant either travel in interstate or foreign commerce or use a facility or instrumentality of foreign commerce. It is not sufficient that a facility or instrumentality of interstate or foreign commerce be used; such a facility must, in addition, be itself in interstate or foreign commerce. Subsection (a)(1) sets forth an additional jurisdictional prerequisite for a violation of that subsection only, namely, that the loss caused by the defacement, damage, or destruction exceed \$10,000.

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(3) It is important to observe that, on occasion, damage or defacement of religious property resulting in a loss of less than \$10,000 may not suffice to violate Subsection (a)(1) but nevertheless may violate Subsection (a)(2) (e.g., a synagogue spray-painted with anti-Semitic threats, not simply slurs or epithets, apparently directed at a particular person or group in order to intimidate them in the exercise of their religion).

EFFECTIVE: 12/16/88

44-1.8 Title 42, U.S. Code, Section 1973i - Voting Rights Act of 1965

Section 1973i provides that no person acting under color of law, shall fail or refuse to permit any person to vote who is entitled to vote, nor shall they willfully fail or refuse to give effect to such person's vote. This section also prohibits intimidation of or attempts to intimidate persons for voting or urging or aiding others to vote. Alleged violations of this statute having racial aspects are handled under the 44 classification. They are to be captioned, "Civil Rights - Voting Laws." Other alleged violations of Title 42, Section 1973 are handled under the 56 classification and are captioned "Election Laws."

EFFECTIVE: 12/16/88

44-1.9 Title 42, U.S. Code, Section 1973dd - Overseas Citizens Voting Rights Act of 1975

This Act applies to all Federal elections held on or after January 1, 1976. It provides rights for citizens residing overseas to register and vote in the state where they were last domiciled. The Act relates to any Federal election, provided the voter meets all qualifications for voting in the state in which he/she was last domiciled.

EFFECTIVE: 12/16/88

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44-2 TIME UTILIZATION RECORDKEEPING (TURK) DESIGNATION IN 44  
MATTERS

EFFECTIVE: 11/23/87

| 44-2.1 44A Investigations | (See MAOP, Part II, 3-1.1 & 3-1.2.) |

Any allegation of a violation of Title 18, USC, Sections  
241, 243, 244, 245 and 246 | which involves | the use of force and/or  
violence is to be handled as a 44A matter.

EFFECTIVE: 01/31/94

| 44-2.2 44B Investigations | (See MAOP, Part II, 3-1.1 & 3-1.2.) |

Any allegation of a violation of Title 18, USC, Sections  
241, 243, 244, and 246 which does not involve the use of force or  
violence is to be handled as a 44B matter. | (Note: Violations of  
Title 18, USC, Section 245, which do not involve the use of force or  
violence are investigated pursuant to MIOG, Part I, Section 173.) |

EFFECTIVE: 01/31/94

| 44-2.3 44C Investigations | (See MAOP, Part II, 3-1.1 & 3-1.2.) |

Any allegation of a violation of Title 42, USC, Sections  
1973i or 1973dd is to be handled as a 44C matter.

EFFECTIVE: 01/31/94

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44-2.4 44D Investigations (See MAOP, Part II, 3-1.1 & 3-1.2.)

Any allegation of a violation of Title 18, USC, Section 247 which involves the use of force or violence is to be handled as a 44D matter.

EFFECTIVE: 01/31/94

44-2.5 44E Investigations (See MAOP, Part II, 3-1.1 & 3-1.2.)

Any allegation of a violation of Title 18, USC, Section 247 which does not involve the use of force or violence is to be handled as a 44E matter.

EFFECTIVE: 01/31/94

44-3 HANDLING OF RACIAL/RELIGIOUS VIOLENCE INVESTIGATIONS

EFFECTIVE: 01/31/94

44-3.1 Initiation of Investigation (See MIOG, Part I, 44-3.2.)

The following circumstances represent EXAMPLES of situations in which racial/religious violence investigations should be initiated:

(1) Upon the receipt of information from a complainant or victim not known to be unreliable, including state, national or local community interest groups.

(2) Upon receipt of either a written or verbal request from the Civil Rights Division (CRD), Department of Justice (DOJ), the latter of which will also be documented by CRD, DOJ

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and transmitted to the field by airtel from FBIHQ. This information is obtained by CRD, DOJ from various sources and sometimes does not include the name of the victim(s) or potential subject(s). Diligent efforts are undertaken to ascertain the identities of such individuals prior to transmittal to the appropriate field office. If logical investigation fails to determine the identities of the individual(s), report the documented results of same to the Civil Rights Unit (CRU), FBIHQ, which will resolve the matter with CRD, DOJ.

(3) Upon receipt of a request for investigation from the United States Attorney's Office (USAO). If the field office believes the USA's request is not warranted and cannot resolve it, promptly advise the Civil Rights Unit (CRU), Criminal Investigative Division (CID), FBIHQ.

(4) Upon receipt of a request for investigative assistance from state or local law enforcement agencies which may have concurrent investigative authority in investigating matters involving racial/religious violence.

(5) Upon receipt of specific information appearing in legitimate print or broadcast media.

(6) If a field office strongly disagrees with the requirements of the DOJ investigative request(s) and taskings, the field office should contact the DOJ attorney generating the investigative request and attempt to resolve any issues. If the field office cannot resolve the matter with DOJ, contact the CRU.

EFFECTIVE: 08/10/94

44-3.2 Initiation of Voting Rights Act Investigations

(1) The same sources enumerated above in 44-3.1 are sources for investigations involving alleged violations of the Voting Rights Act.

(2) In addition, the Voting Rights Section (VRS) of CRD, DOJ will also request investigations in specific instances of alleged violation of the Voting Rights Act. Requests for investigation originating from this section are generally quite detailed, requiring certain specific tasks to be completed by the field. The complex nature of the criminal and civil provisions of the Voting Rights Act

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generally dictates the nature of these requests; failure to complete the requested investigation may jeopardize the chances of successfully enforcing this Act. If any portion of such a request cannot be completed, the field office should promptly contact VRS and discuss any issues with the DOJ attorney generating the investigative request. In the event field offices strongly disagree with the requirements of the DOJ investigative requests and/or taskings, and cannot resolve these issues with VRS, the field office should contact FBIHQ, CRU, to resolve the matter.

EFFECTIVE: 08/10/94

44-4 INVESTIGATIVE PROCEDURE - 44A AND 44D MATTERS WHICH INVOLVE THE USE OF FORCE OR VIOLENCE (SEE MAOP, PART II, 3-1.1 & 3-1.2.)

EFFECTIVE: 01/31/94

44-4.1 Initial Investigation (See MIOG, Part I, 44-5.1 (1) & 44-7.2 (5).)

(1) Interview the victim(s) and/or complainant(s) for full details of allegation(s). As a part of each interview, secure the identity of potential subject(s) and/or witness(es). In interviewing a victim/complainant, it is important that the interviewing Agent ascertain the nature of any threats, intimidation, and physical violence perpetrated against the victim. In interviewing the victim/complainant, he/she should be advised that any information furnished may be used in a court of law. It is necessary to reduce the interview(s) of victim(s), subject(s), and witness(es) to a signed statement only in the following instances:

- (a) Upon specific instructions from FBIHQ.
- (b) Upon specific request of USA.

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(c) Upon specific request of DOJ.

(d) When deemed appropriate by the Special Agent during the course of the interview.

If an individual refuses to provide a signed statement when requested, this declination should be noted in the interviewee's FD-302. (See (3) & (5).)

(2) Obtain copies of all local police reports relevant to the incident under investigation. A cover FD-302 should be prepared identifying the source of these records and the date obtained. Ensure that the copies obtained from local police are legible. Determine the status of any local investigation and/or prosecution against the subjects.

(3) Interview all witnesses to the incident. For those situations where it is necessary to obtain a signed statement from a witness, see above, Section 44-4.1(1).

(4) Locate and preserve physical evidence which may be at the scene of the crime or already in the possession of the local police department. Any forensic examination should be submitted directly to the FBI Laboratory with a copy of the written document requesting the forensic examination to be sent to the CRU, FBIHQ.

(5) Interview any suspects/subjects if identified. MIRANDA warnings are necessary only if the interview is CUSTODIAL in nature. For those instances where it is necessary to obtain a signed statement from the subjects/suspect, see 44-4.1(1), above.

(6) All logical investigation is to be conducted before sending a report to FBIHQ, CRU, which then forwards it to DOJ, CRD. (See Section 44-7 for reporting guidelines.) A copy of this report should also be sent to the USA's office.

EFFECTIVE: 01/31/94

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44-4.2 Additional Investigation Requested By DOJ, CRD

(1) In certain instances, once a closing report has been sent by FBIHQ, CRU, to DOJ, CRD, the DOJ, CRD, will request further investigation to be conducted in a case. This request for further investigation is sent to the CRU, which will forward same to the appropriate field office. Any request for further investigation should be completed within 21 workdays of receipt. If extenuating circumstances exist whereby the requested investigation cannot be completed within 21 workdays, contact FBIHQ, CRU.

(2) Certain occasions arise when a DOJ, CRD, request for investigation has been forwarded to the field office for compliance which is objected to by the field office for a legitimate reason. The office should first contact the DOJ, CRD to discuss and resolve any issues. If a resolution cannot be achieved, contact the CRU.

EFFECTIVE: 08/10/94

44-5 | INVESTIGATIVE PROCEDURE - 44B AND 44E MATTERS WHICH DO NOT INVOLVE THE USE OF FORCE OR VIOLENCE (SEE MAOP, PART II, 3-1.1 & 3-1.2.) |

EFFECTIVE: 01/31/94

44-5.1 | Specific Investigative Steps

(1) Interview the victim/complainant about the basis of the allegation. Report results of interview on an FD-302, unless advised to the contrary. (See MIOG, Part I, Section 44-4.1.)

(2) Obtain all necessary documentation from the alleged victim which supports his/her claim. If these items are obtained from a source other than the victim, an appropriate FD-302 should be prepared identifying the source of the documents and date of the receipt of same.



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(3) Interview any other individuals identified by the victim as potential victims or witnesses. Obtain any appropriate and necessary documentation from those individuals.

(4) Obtain any local police reports which might exist concerning the alleged incident.

(5) Conduct all logical investigation.

EFFECTIVE: 01/31/94

44-5.2 | Deleted |

EFFECTIVE: 01/31/94

44-6 INVESTIGATIVE PROCEDURE - 44C MATTERS - VOTING LAWS (SEE MAOP, PART II, 3-1.1 & 3-1.2.)

(1) Any allegation of a violation of Title 42, USC, Section 1973i (Voting Rights Act of 1965) or Section 1973dd (Overseas Citizens Voting Rights Act of 1975) involving the use of force or violence is to be investigated in the same manner as a 44A case.

(2) Any allegation of a violation of Title 42, USC, Section 1973i (Voting Rights Act of 1965) or Section 1973dd (Overseas Citizens Voting Rights Act of 1975) which does not involve the use of force or violence is to be investigated in the same manner as a 44B case.

(3) Agents are not to be assigned to "police" elections or act as observers at the polls. If a request is received for this type of activity, immediately advise the appropriate local and/or state officials, the USA, and FBIHQ of the receipt of the request. The board of election commissioners, all appropriate local law enforcement officials, the USA and FBIHQ are to be informed of any report received in regard to anticipated disturbances at the polls. The LHM or report submitted should show the notification to the

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outside agencies specifically identifying agency and official notified, as well as date and time notified.

(4) DOJ has advised that in order to fulfill its mandate, there may be instances where it would be most efficient and/or necessary for the FBI to perform related investigations in the vicinity of the open polls. Such requests, however, should be immediately brought to the attention of CRU, FBIHQ, and will be approved only on the instructions of the DOJ. Once approved, it must be realized that the potential for misunderstanding of the purpose of the FBI's inquiry(s) requires that every effort be made to limit the investigation to only what is absolutely necessary to meet the objective(s) identified by the DOJ. Agents will not enter the polls, or conduct any investigation inside any facility in which the polls are located.

(5) Investigations conducted under Title 42, USC, Section 1973i (Voting Rights Act of 1965) are generally civil in nature. Therefore, unless the DOJ advises the investigation under Title 42 is criminal in nature, the FBI is required under the Privacy Act of 1974 to furnish each individual interviewed with a statement that describes certain provisions of the Privacy Act (set forth in Form FD-496). Form FD-496 should be the only Privacy Act form used in voting rights investigations. The FD-302 used to report results of these interviews should clearly state that the interviewee was furnished a copy of this statement. All other interviewees (third party sources), when feasible, should be apprised of the purpose for which the information is sought and how it will be used. See Part I, 190-7 of this manual for details regarding express promise of confidentiality made to a third party source.

EFFECTIVE: 01/31/94

44-7 | REPORTING GUIDELINES - MATTERS INVOLVING THE USE OF FORCE  
OR VIOLENCE (SEE MIOG, Part I, 44-4.1 (6).)|

EFFECTIVE: 01/31/94

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44-7.1 Submission of FD-610

The FD-610 is to be submitted to FBIHQ, CRU, within five workdays of receipt of the complaint. (See MIOG, Part I, Section 282-8.1 for instructions on completion of the FD-610.)

EFFECTIVE: 01/31/94

44-7.2 Format of 44A and 44D Investigative Report (See MIOG, Part I, 44-8.2 (1) & MAOP, Part II, 3-1.1 & 3-1.2.)

(1) All investigative activity is to be reported utilizing the FD-263 cover page, the FD-204 synopsis page, FD-302s, and investigative inserts. Do not report investigative results by LHM unless specifically authorized by FBIHQ, CRU. All investigative activity is to be completed and reported within 21 workdays of receipt of the complaint. Any delays in meeting this time reporting requirement should be reported to FBIHQ, CRU by FD-205. Because of the nature of these cases (i.e., significant community interest) they should be given prompt attention.

(2) Three (3) copies of reports are to be sent to FBIHQ, CRU and one copy is sent to the U.S Attorney's Office. Of the three copies sent to FBIHQ, only two should contain the FD-263 cover page. The remaining copy without the FD-263 cover page will be sent to DOJ, CRD. One copy of the report is maintained in the FBIHQ, CRU and one is sent to the FBIHQ file.

(3) A completed FD-204 includes a DETAILED synopsis which succinctly sets forth the investigative content of the report and summarizes pertinent facts learned during the course of the investigation. Phrases such as "Interview set forth" and "details set forth" should not be used in the synopsis. The synopsis should contain more than the investigative steps taken by investigating Agents; it should contain investigative results.

(4) A predication statement should be the first sentence following the details heading of the FD-204. It should contain a brief statement on the rationale for the case to be opened.

(5) Victim, subject, and witness interviews are to be set

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forth in FD-302s which are part of the report. As noted above (see MIOG, Part I, 44-4.1), there are certain limited instances when signed statements of the victim(s), subject(s), and witness(es) are to be obtained and made a part of the report.

(6) Police records of less than ten (10) pages are to be included as pages in the report. Records of ten (10) or more pages are to be made enclosures to the report. An FD-302 is to be prepared noting the source of the police records and the date when they were obtained.

EFFECTIVE: 01/31/94

44-8      | REPORTING GUIDELINES - MATTERS NOT INVOLVING THE USE OF  
            | FORCE OR VIOLENCE

EFFECTIVE: 01/31/94

44-8.1      Submissions of FD-610

The FD-610 is to be submitted to FBIHQ, CRU within five workdays of receipt of the complaint. (See MIOG, Part I, Section 282-8.1 for instructions on completion of the FD-610.)

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44-8.2 Format of Reporting Investigative Results

(1) In any case that has been identified as a significant case by either DOJ, CRD; FBIHQ, CRU; or the field office conducting the investigation (as reported on the initial submission of the FD-610); the results of investigation are to be furnished to FBIHQ, CRU in a report format. (See MIOG, Part I, Section 44-7.2.) In all cases, the results of investigation should be reported by LHM with a cover airtel and FD-302s, investigative inserts, etc., as attachments to the LHM.

(2) In reporting all matters, three (3) copies of the report or LHM should be submitted to FBIHQ, CRU, and one copy be sent to the local USA's office.

EFFECTIVE: 01/31/94

44-9 MISCELLANEOUS

(1) In 1989, Congress passed the Hate Crimes Statistics Act, which mandated that Federal, state, and local law enforcement agencies gather data and report statistics regarding the commission of hate crimes or acts of violence against individuals on the basis of their race, religion, ethnicity, or sexual preference. These statistics are reported to and compiled by the Uniform Crime Reporting Section (UCR), Criminal Justice Information Services (CJIS) Division, which then issues an annual report regarding these incidents. Any questions or issues regarding the Hate Crimes Statistics Act must be referred to UCR, CJIS.

(2) In many racial/religious violence cases, the alleged perpetrators are juveniles. These incidents should not be dismissed merely as pranks or teenagers' malicious mischief or as unprosecutable solely because the alleged perpetrators are juveniles. Juveniles will be prosecuted under the terms of Title 18, USC, Section 5001m et seq, for acts of racial/religious violence. Any local prosecution of juveniles may be claimed as an accomplishment on an FD-515 in accord with applicable standards used in other programs for state/local prosecutions.

(3) No arrests in racial/religious violence cases are to

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be made or complaints filed without prior notification, if feasible,  
to FBIHQ, CRU.

EFFECTIVE: 01/31/94

44-10 PENALTIES

(1) Title 18, USC, Section 241 - maximum of \$10,000  
and/or not more than 10 years. If death results, any term of years or  
for life. (See MIOG, Part I, 50-1.5, 50-2.4.)

(2) Title 18, USC, Section 243 - maximum of \$5,000 fine.

(3) Title 18, USC, Section 244 - maximum of \$500 fine.

(4) Title 18, USC, Section 245 - maximum of \$1,000 and/or  
not more than 1 year. If bodily injury results, maximum of \$10,000  
and/or not more than 10 years. If death results, any term of years or  
for life.

(5) Title 18, USC, Section 246 - maximum of \$10,000  
and/or not more than 1 year.

(6) Title 18, USC, Section 247 - if death results, a fine  
in accordance with this title and imprisonment for any term of years  
or for life, or both; if serious bodily injury results, a fine in  
accordance with this title and imprisonment for not more than 10  
years, or both; and in any other case, a fine in accordance with this  
title and imprisonment for not more than 1 year or both.

(7) Title 42, USC, Section 1973i - maximum of \$10,000  
and/or not more than 5 years.

(8) Title 42, USC, Section 1973dd - maximum of \$5,000  
and/or not more than 5 years.

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| 44-10.1 | Deleted |

EFFECTIVE: 01/31/94

| 44-10.2 | Deleted |

EFFECTIVE: 01/31/94

| 44-10.3 | Deleted |

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| 44-10.4 | Deleted |

EFFECTIVE: 01/31/94

| 44-10.5 | Deleted |

EFFECTIVE: 01/31/94

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| 44-10.6 | Deleted |

EFFECTIVE: 01/31/94

| 44-11 | CHARACTER | (SEE MAOP, PART II, 3-1.1 & 3-1.2.) |  
| (1) 44A - Racial Violence - Use of Force  
| (2) 44B - Racial Discrimination - No Violence  
| (3) 44C - Voting Laws - Racial  
| (4) 44D - Religious Violence - Use of Force  
| (5) 44E - Religious Discrimination - No Violence |

EFFECTIVE: 01/31/94

| 44-12 | MOVED TO 44-11 |

EFFECTIVE: 01/31/94



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SECTION 45. CRIMES ON THE HIGH SEAS

45-1 STATUTES

Title 18, USC, Sections 7, 13, Chapters 81, 107, 111,  
and Sections 1243 and 2199.

EFFECTIVE: 10/24/85

45-1.1 Title 18, USC, Section 7 (See MIOG, Part I, 45-5 and  
70-1.1; Part II, 1-1.4.)

Section 7. Special maritime and territorial jurisdiction  
of the U.S. defined "The term 'special maritime and territorial  
jurisdiction of the United States,' as used in this title, includes:

"(1) The high seas, any other waters within the admiralty  
and maritime jurisdiction of the United States and out of the  
jurisdiction of any particular State, and any vessel belonging in  
whole or in part to the United States or any citizen thereof, or to  
any corporation created by or under the laws of the United States or  
of any State, Territory, District, or possession thereof, when such  
vessel is within the admiralty and maritime jurisdiction of the United  
States and out of the jurisdiction of any particular State.

"(2) Any vessel registered, licensed, or enrolled under  
the laws of the United States, and being on a voyage upon the waters  
of any of the Great Lakes, or any of the waters connecting them, or  
upon the Saint Lawrence River where the same constitutes the  
International Boundary Line.

"(3) Any lands reserved or acquired for the use of the  
United States, and under the exclusive or concurrent jurisdiction  
thereof, or any place purchased or otherwise acquired by the United  
States by consent of the legislature of the State in which the same  
shall be, for the erection of a fort, magazine, arsenal, dockyard, or  
other needful building.

"(4) Any island, rock, or key containing deposits of

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guano, which may, at the discretion of the President, be considered as appertaining to the United States.

"(5) Any aircraft belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or any State, Territory, District, or possession thereof, while such aircraft is in flight over the high seas, or over any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

"(6) Any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of Objects Launched into Outer Space, while that vehicle is in flight, which is from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the vehicle and for persons and property aboard.

"(7) Any place outside the jurisdiction of any nation with respect to an offense by or against a national of the United States.

"(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States."

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45-1.2 Title 18, USC, Section 13

Section 13 is commonly referred to as the "omnibus" statute and may be used as to crimes not adequately covered by other statutes in this section of the manual when such crimes are committed within the special territorial jurisdiction of the U.S. It deals with laws of states adopted for areas within Federal jurisdiction and states "Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in Section 7 of this title, is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State, Territory, Possession, or District in which such place is situated by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment."

EFFECTIVE: 10/24/85

45-1.3 Title 18, USC, Chapter 81 - Piracy and Privateering

This chapter contains the following sections:

- Section 1651. Piracy under law of nations
- Section 1652. Citizens as pirates
- Section 1653. Aliens as pirates
- Section 1654. Arming or serving on privateers
- Section 1655. Assault on commander as piracy
- Section 1656. Conversion or surrender of vessel
- Section 1657. Corruption of seamen and confederating with pirates
- Section 1658. Plunder of distressed vessel
- Section 1659. Attack to plunder vessel
- Section 1660. Receipt of pirate property
- Section 1661. Robbery ashore

In connection with the above maritime offenses covered by the provisions of the statutes included under Title 18, USC, Chapter 81, pertaining to piracy and privateering, it is important to bear in mind that the places to which these various statutes are applicable are determined from a close examination of each individual section as distinguished from other statutes in which the extent of Federal jurisdiction is limited to the special maritime and territorial jurisdiction of the U.S. as defined in Title 18, USC, Section 7.

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45-1.4 Title 18, USC, Chapter 107 - Seamen and Stowaways

In the following maritime offenses covered by the provisions of the statutes included under Title 18, USC, Chapter 107, Seamen and Stowaways, and Chapter 111, Shipping, the places to which these various statutes are applicable are determined from a close examination of each individual section.

- Section 2191. Cruelty to seamen
- Section 2192. Incitation of seamen to revolt or mutiny
- Section 2193. Revolt or mutiny of seamen
- Section 2194. Shanghaiing sailors
- Section 2195. Abandonment of sailors
- Section 2198. Seduction of female passenger (Section 3286. Trial. Section 3614. Fine)
- Section 2199: Stowaways on vessels or aircraft

EFFECTIVE: 10/24/85

45-1.5 Title 18, USC, Chapter 111 - Shipping

- Section 2271. Conspiracy to destroy vessel
- Section 2272. Destruction of vessel by owner
- Section 2273. Destruction of vessel by nonowner
- Section 2275. Firing or tampering with vessel
- Section 2276. Breaking and entering vessel
- Section 2277. Explosives or dangerous weapons aboard vessels
- Section 2278. Explosives on vessels carrying steerage passengers
- Section 2279. Boarding vessels before arrival

Note: False reports of violations of Title 18, USC, Sections 2271-2279, are covered by Title 18, USC, Section 35.

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45-1.6 Title 15, USC, Section 1243

This section provides a five-year sentence or a \$2,000 fine, or both, for anyone who, within the special maritime jurisdiction of the U.S. (as defined in Section 7 of Title 18, USC), manufactures, sells, or possesses any switchblade knife. Refer to Part I, Section 152, of this manual, pertaining to "Switchblade Knife Act."

EFFECTIVE: 10/24/85

45-1.7 Title 18, USC, Section 2199 - Stowaways

The following opinion was submitted by the Department upon inquiry being made by this Bureau relative to its investigative jurisdiction over violations of the Federal stowaway statute, Title 18, USC, Section 2199:

"Prior to June 11, 1940, stowing away on a vessel entering or leaving the United States was not a crime. A stowaway on a vessel entering the United States was merely inadmissible under the immigration laws, if he were an alien (Title 18, USC, subsection 132 (1)). Consequently, the examination of stowaways on vessels entering the United States from foreign countries was within the jurisdiction of the Immigration and Naturalization Service. By the act of June 11, 1940 (Title 18, USC, Section 469, now section 2199) stowing away on a vessel leaving or entering the United States was made a criminal offense. This provision of law is not a part of the immigration laws. Moreover, it does not distinguish between aliens and citizens. A stowaway is guilty of a criminal offense under this provision of law, irrespective of whether or not he is an American citizen. In view of this fact, the investigation of cases of stowaways becomes the function of the Federal Bureau of Investigation, which has charge of investigating all offenses against the United States except those specifically assigned for investigation to other investigative agencies."

Since violations of the Federal stowaway statute occur only when a ship is within the jurisdiction of the U.S., the venue applying to crimes on the high seas does not apply to stowaway violations. Such venue is in the district covering the place where a ship bearing a stowaway who boarded the vessel at some place within or without the jurisdiction of the U.S. first comes into the jurisdiction of the U.S. or the district covering the place within the jurisdiction of the U.S. from which a ship leaves bearing a stowaway who boarded the ship at the place.

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45-2 VIOLATIONS CONSTITUTING CRIMES ON THE HIGH SEAS

The following sections of Title 18, USC, provide penalties for the specified crimes when committed within the special maritime and territorial jurisdiction of the United States as defined above:

Section 13. Laws of states adopted for areas within  
Federal jurisdiction

Section 81. Arson

Section 113. Assault

Section 114. Maiming

Section 661. Theft

Section 662. Receiving stolen property

Section 1025. False pretenses on high seas and other  
waters

Section 1111. Murder

Section 1112. Manslaughter

Section 1113. Attempt to commit murder or manslaughter

Section 1201. Kidnaping

Section 1363. Destroying or injuring buildings or  
property

Section 2111. Robbery

Section 2241. Aggravated sexual abuse

Section 2242. Sexual abuse

Section 2243. Sexual abuse of a minor or ward

Section 2244. Abusive sexual contact

EFFECTIVE: 08/22/89

45-3 MISCELLANEOUS STATUTES DEALING WITH CRIME ON THE HIGH SEAS

In the following maritime or territorial offenses, the places to which these miscellaneous statutes are applicable are determined from an examination of each individual section.

Section 969. Exportation of arms, liquors, and narcotics  
to Pacific Islands

Section 1082. Gambling ships

Section 1115. Misconduct or neglect of ship officers

Section 1382. Entering military, naval, or Coast Guard

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Property  
Section 1991. Entering train to commit crime

EFFECTIVE: 08/22/89

45-4 CRIME ON THE HIGH SEAS INVOLVING AIRCRAFT

The Bureau has investigative jurisdiction under the Crimes on the High Seas Statute (Title 18, USC, Section 7) in cases involving aircraft of American registry while such aircraft are in flight over the high seas or over any other waters within the admiralty and maritime jurisdiction of the U.S. and out of the jurisdiction of any particular state.

EFFECTIVE: 08/22/89

45-5 JURISDICTION | (See MIOG, Part I, 45-1.1; Part II, 1-1.4.) |

Article 1, Section 8, Clause 10 of the Constitution of the United States gives Congress the power, "to define and punish piracies and felonies committed on the high seas and offenses against laws of nations."

In general, violations of the Crimes on the High Seas Statutes require that the offenses take place on the high seas, outside the jurisdiction of a particular state and on board an American vessel or aircraft. Of importance is the fact that the courts have interpreted violations occurring upon American vessels in foreign waters as being on the high seas and within the prosecutive jurisdiction of the United States government. For example, a crime of murder committed on an American vessel in a foreign port would be punishable in the United States District Court and, therefore, is within the investigative jurisdiction of the FBI. Such an offense could likewise be a violation of law of that nation within whose territorial waters it occurred. From a practical standpoint, although dual jurisdiction may exist, in any instances prosecution is usually initiated by that nation having a major prosecutive interest. For example, a crime committed on an American vessel in a foreign port participated in only by American nationals may be of no interest to the foreign power involved, whereas if nationals of that country participated in the offense those authorities may desire to exercise

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their prosecutive prerogatives. You should be alert, of course, to the fact that the Crime on the High Seas Statute also applies to offenses occurring on board American aircraft. According to the provisions of Title 18, USC, Section 7, the crimes and offenses described in Title 18, which are limited to the special maritime and territorial jurisdiction of the U.S., punishable in the federal courts when committed:

(1) On the high seas or any other waters within the admiralty and maritime jurisdiction of the U.S. and out of the jurisdiction of any particular state

(2) Within the admiralty and maritime jurisdiction of the U.S. and out of the jurisdiction of any particular state on board an American vessel

(3) On board an American vessel being upon a voyage of any of the Great Lakes or connecting waters or the Saint Lawrence River where it forms the international boundary line

(4) On board an American aircraft while such aircraft is in flight over the high seas or over any other waters within the admiralty and maritime jurisdiction of the U.S. and out of the jurisdiction of any particular state

(5) On board any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of Objects Launched into Outer Space.

(6) Subsection (7) to Title 18, USC, Section 7, defines the special maritime and territorial jurisdiction of the United States in that, under this provision, crimes committed outside the jurisdiction of any nation by or against a national of the United States now fall within the special maritime and territorial jurisdiction of the United States. This subsection is intended to provide United States extraterritorial jurisdiction of serious crimes by or against United States nationals, as when such crimes are committed in Antarctica or on an ice floe.

(7) To the extent permitted by international law, on any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.

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45-6 DEFINITIONS

(1) "Vessel of the United States," as used in Title 18, USC, Section 9, means a vessel belonging in whole or part to the U.S., or any other citizen thereof, or any corporation created by or under the laws of the U.S., or any state, territory, district, or possession thereof.

(2) "Aircraft," as used in Title 18, USC, Section 7, subsection (5), means any aircraft belonging in whole or in part to the U.S. or any citizen thereof, or to any corporation created by or under the laws of the U.S., or any state, territory, district, or possession thereof.

(3) "Out of jurisdiction of any particular State" must be construed to mean out of the jurisdiction of any particular state of the U.S. U.S. v. Furlong, 5 Wheat. (U.S.) 184. The question as to whether a particular place is within the jurisdiction or boundaries of a state is not a simple question of law, but the testimony bearing upon this question, whether of maps, surveys, practical location, and the like, should be submitted to the jury under proper instructions to find the fact. U.S. v. John, 1 Black (U.S.) 484.

(4) "District" means a judicial district defined by act of Congress. U.S. v. Newth, 149 F. 302. The word "district," as used in this provision, includes every territory within which there are courts regularly recognized and having jurisdiction over offenses against the U.S. (28 Op. Atty. Gen. 24).

(5) An offender is "found" within the meaning of this section where he/she is apprehended after coming into port, while the word "brought" means taken into custody on ship and carried into port. U.S. v. Townsend, 219 F. 761. To be "brought" into a district, within the meaning of this section, one must be first apprehended, and it is not enough that he/she merely "arrive" in the district. Kerr v. Shine, 136 F. 61.

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45-7 INVESTIGATIVE PROCEDURE

Since the crime has been committed aboard a ship or aircraft, witnesses may be found among passengers or member of the crew. As an aid in such investigations, the following suggestions are made:

- (1) Ascertain promptly upon the receipt of information with reference to the offense the approximate date and hour of the expected arrival in port of the vessel on which the crime has been committed, and arrange for continued information concerning its progress to the port.
- (2) Ascertain the name of the first U.S. port at which the vessel will call.
- (3) Obtain at the ship company's office the complete roster of the crew or arrange for its future production.
- (4) Examine and identify available records, showing the registry or ownership of the vessel involved and the exact location of the vessel at the time the crime was committed, as an aid in definitely deciding the question of jurisdiction. Discuss any jurisdictional questions with the USA early in the investigation.
- (5) Board the vessel before it docks. Arrangements for this procedure can probably be made through harbor police, the Coast Guard, the Customs or Immigration services.
- (6) Interview the Captain or Commanding Officer of the ship, and obtain his/her statement relative to the offense and the circumstances surrounding it.
- (7) Indicate to the Commanding Officer those members of the crew or passengers desired for interview and made such arrangements as may be possible that none of them be discharged or permitted to go ashore until such interviews have been completed.
- (8) Examine the ship's log and obtain a transcript of pertinent portions.
- (9) Examine, note, and arrange for the proper care of all exhibits.
- (10) Ascertain the prospective itinerary of the vessel so that, if necessary, the vessel and crew may later be found.
- (11) Upon leaving the vessel, submit all facts obtained to the

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USA for a determination as to further action.

EFFECTIVE: 10/24/85

45-8 OTHER PROVISIONS

(1) Title 18, USC, Section 3238, provides the trial of all offenses begun or committed upon the high seas, or elsewhere out of the jurisdiction of any particular state or district, shall be in the district in which the offender, or any one of two or more joint offenders, is arrested or is first brought; but if such offender or offenders are not so arrested or brought into any district, an indictment or information may be filed in the district of the last known residence of the offender or of any one of two or more joint offenders, or if no such residence is known the indictment or information may be filed in the District of Columbia. Venue over offenses committed on the Great Lakes aboard a vessel which is within the boundary of a particular state is in the U.S. District Court having jurisdiction over that area of the state where the offense occurred.

(2) Venue over offenses committed on the Great Lakes beyond the international boundary line and not within the area of a given state is found under the provisions of Title 18, USC, Section 3238, set out above.

EFFECTIVE: 10/24/85

45-9 REPORT WRITING RULES

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

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

EFFECTIVE: 10/24/85

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45-10 PENALTIES

Review specific statute for particular penalty.

EFFECTIVE: 10/24/85

45-11 CHARACTER - CRIMES ON THE HIGH SEAS, followed by a descriptive offense; as, CRIMES ON THE HIGH SEAS - MURDER.

EFFECTIVE: 10/24/85