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SECTION 1. ACTIVITIES AND STANDARDS OF CONDUCT

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INTRODUCTION

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

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

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

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

[[(4)] In furtherance of the above, the Bureau expects its employees to so comport themselves that their activities both on and off duty will not discredit either themselves or the Bureau. Copies of Departmental Order 350-65, [as amended by Departmental Order 960-81 dated 10/26/81,] are furnished to employees during their indoctrination on entering the Bureau's service. Failure by an employee to follow these regulations will result in appropriate disciplinary action including possible dismissal. The rules and regulations regarding official and personal conduct which govern the granting of individual access to and use of Bureau cryptomaterials appear in the COMSEC Custodian Manual (Section II, A, 5, pages 7-7c).

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PERSONAL CONDUCT

Employees should never cause themselves to be mentally or physically unfit for duty. They are not permitted to consume alcoholic beverages during working hours, including that time allotted for meal periods or any period of leave taken if the employee intends to return to work before the termination of working hours. The use of illegal drugs or narcotics, or the abuse of any drugs or narcotics is strictly prohibited at any time. They must not, at any time, engage in criminal, dishonest, immoral or disgraceful conduct or other conduct prejudicial to the Government.

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GOVERNMENT PROPERTY

(1) All Government property, automobiles, boats, and other methods of conveyance, supplies, equipment, telephones, and facilities are to be used solely for official purposes and are not to be converted to any employee's personal use. In this regard, however, the use of equipment, such as cameras, for training and practice during nonwork hours shall be considered "official purposes." Any loss, misplacement, theft or destruction of Government property issued to any employee must be reported to his/her superior immediately.

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

1-3.1

Bureau Vehicles

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

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

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

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

(5) Should the weight of facts demonstrate that vehicles were in fact being used primarily for commuting purposes and were clearly not being operated primarily for the benefit of the Government, then this would be in violation of Title 31, USC, §[1349(b)]. Employees should be reminded that [Section[1349(b)]requires a minimum suspension of one month without compensation for anyone who uses or authorizes the use of a Government vehicle for other than official purposes. Additional penalties are optional.

(6) The employee who is authorized to drive the Bureau vehicle between his/her residence and office is considered to be using the vehicle for "official purposes" so that the use is not prohibited by Title 31, USC, §[1349 (b)]. The employee is not, however, considered to be on official business such that he/she can use the commuting time to qualify for Administratively Uncontrollable Overtime. The passengers are not on official business when they are riding to and from work with the driver and are, therefore, not eligible for benefits under the Federal Employee's Compensation Act. Any time a Special Agent who is on duty and is en route to or from his/her residence, receives instructions to proceed to an emergency situation, any passengers who are not likewise instructed are to be discharged.

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

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

(1) Provided it is in the best interest of the Government for an employee to start or conclude the workday from the employee's residence rather than place of employment, the SAC, or SAC's designated representative(s), may authorize the use of a Government vehicle for transportation between an employee's domicile and place of employment by completing the Form FD-490, Authorization to Maintain Bureau Vehicle Overnight at Agent's Residence on an Irregular and/or Emergency Basis.

(2) On those occasions when efficiency could be increased by maintaining the Government vehicle at the employee's residence for extended periods of time, i.e., Title III surveillances, back-to-back road trips, etc., the FD-490 will be completed for the entire period the vehicle is anticipated to be utilized by the employee. If the period extends beyond one month, a separate FD-490 will be completed to cover each month the requirement exists.

(3) The SAC is responsible for establishing appropriate procedures to ensure that only those Bureau vehicles with written authorization, a completed FD-490, are taken home. An administrative file will be established in each field office for FD-490s and reviewed periodically by the SAC to ensure that proper authorization and justification is documented on the FD-490. The FD-490 may be destroyed at the completion of the field office's inspection.

(4) To provide each field office with an emergency response capability, no more than 20 percent of the general investigative vehicles assigned to headquarters cities, all vehicles assigned to resident agencies and Special Operations Groups, and all vehicles assigned to offsite undercover operations are authorized to be taken home on a regular basis by FBI Special Agents.

(5) The SAC is required to perform and document a semiannual review of the personnel authorized to take vehicles home on a regular basis to ensure that optimum emergency response coverage is provided or that the responsibilities of the position continue to require the use of a vehicle. These documented reviews will be maintained in an appropriate administrative file and subject to review during the field office inspection.]

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1-3.2 Property in Vehicles

Employees are expected to take proper care of any Bureau property issued to them or used by them. No Bureau property, other than that normally associated with maintenance or use of the vehicle, may be left unattended and in view in a personally owned or Bureau vehicle without proper regard for security of the property even though the outside doors of the car are locked. It is not considered proper security to place property under the seat or in a locked glove compartment. Such property must not be left unattended in a locked vehicle overnight or when it can be anticipated the vehicle will be out of sight for an extended period. Personally owned weapons authorized to be carried on official business are to be treated in same manner as Bureau property.

1-3.3 Utilization of Facilities by Special Agents Attending School

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

1-3.4 Credentials and Badges

Employees are responsible for complete security of credentials, identification cards and badges at all times. These items must be kept under the employee's control, should be immediately available, are to be displayed for official purposes only and are not to be photographed. The Bureau's name or the initials "FBI" shall not be indiscriminately or improperly used by any employee in either oral or written form.

1-3.5 Business Cards

[Bureau officials, Special Agents, and [certain support employees] are permitted to use business cards for official business as needed. [Authorization for support employees to utilize business cards, on a select basis, may be obtained by formal written requests to the SAC or the appropriate Assistant Director at FBIHQ. Such requests must clearly demonstrate the necessity for the employee's use of business cards and should be limited to support personnel at the GS-7 level or above.] The cards should contain the following: name, official title, Federal Bureau of Investigation, office address, telephone number and may have the FBI Seal inscribed in the upper left corner. Expenses incurred for printing the cards must be borne by the employees who elect to use them.

1-3.6 Copies of Official Correspondence and Documents

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

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ILLEGAL ACTIVITIES

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

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

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

(4) No brutality, physical violence, duress or intimidation of individuals by our employees will be countenanced nor will force be used greater than that necessary to effect arrest or for self-defense.

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

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PAROLE OR PROBATION OFFICERS

Employees may not act as parole or probation officers.

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LAW ENFORCEMENT ORGANIZATIONS

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

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1-7 LAW ENFORCEMENT SELECTION BOARDS

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

1-8 LABOR ORGANIZATIONS

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

1-9 CIVIC ORGANIZATIONS

Specific prior FBIHQ authority is necessary in order for an employee to serve as an officer of a civic or other type of organization. It must also be obtained for participation as a judge, sponsor or speaker in any public contest, debate, forum or similar gathering in which the theme of the meeting involves a controversial topic.

1-10 NON-FBI FIREARMS MATCHES

No employee shall serve as range master or as a range officer at a competitive firearms match unless the match is part of a training program in which the FBI is officially participating and the instructor's assignment in the match has been specifically approved by FBIHQ in advance.

1-11 NON-FBI SEMINARS OR CLASSES

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

1-12 GRATUITIES AND REWARDS

(1) Employees may not accept rewards or gratuities resulting from their FBI employment nor shall they accept fees from an outside source on account of public appearances, speeches, lectures, or publications, if such public appearance or the preparation of the speech, lecture, or publication was part of an employee's official duties. Also, no employee shall receive compensation or anything of monetary value for any consultation, lecture, teaching, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs or operations of the Department, or which draws substantially on official data or ideas which have

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not become part of the body of public information. Further, in this regard, no employee shall engage, with or without compensation, in teaching, lecturing, or writing that is dependent on information obtained as a result of Government employment except when that information has been made available to the general public or when the Attorney General gives written authorization for the use of nonpublic information on the basis that such use is in the public interest. However, an employee injured during a kidnaping, assault or assassination attempt against the President, Vice-President or a Member of Congress may receive contributions or payments from a tax-exempt charitable organization.

(2) Bureau officials or other employees who speak or otherwise represent the FBI at conferences, training sessions, banquets, meetings and similar affairs given by outside groups are in official duty status when making such appearances and are entitled to claim payment through the Bureau for travel, subsistence, or other reimbursable expenses incurred. Any payments offered by sponsoring groups to such officials or employees as reimbursement for such expenses should be declined.

1-13 GIFTS

Employees should not solicit contributions from other employees for gifts to official superiors nor may an official superior accept gifts from other employees. However, this does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness or retirement.

1-13.1 Receipt of Gifts and Decorations

(1) Gifts and decorations received from foreign governments fall within one of two categories depending upon the estimated value of the gift. [If the estimated value of the gift is less than "minimal" value, as determined by the cost of living index set forth by Congress,] with the exception of [firearms,] [it] may be retained by the recipient for personal use or as a souvenir provided that all reporting requirements are satisfied. Foreign gifts and decorations of more than minimal value may be retained and placed in [official use (i.e., displayed in reception areas).] [(Contact Forfeiture and [Seized Property Unit (FSPU), Property Procurement and Management Section [(PPMS), Administrative Services Division (ASD), to determine minimal value.]] All gifts not retained shall be declared as excess to the General Services Administration (GSA) and later sold. This declaration will be made by FBIHQ. If the original recipient desires to participate in the sale of the property by GSA, FBIHQ should be advised at the time the gift is reported so that appropriate action can be taken.

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

1-13.2 Reporting Requirements

All gifts or decorations, regardless of value, received from [foreign individuals and all gifts valued at more than [the minimal value] given to foreign individuals by employees acting in an official capacity should be reported within ten days of the property's receipt or presentation. The [report should be submitted to FBIHQ, Attention: [FSPU, PPMS, ASD,] by memorandum or airtel as appropriate. A separate statement containing the following information should be submitted for each gift received or presentation made.

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- [(1) For tangible gifts:
 - [(a) Name and title of recipient.
 - [(b) Gift, date of acceptance, estimated value, and current disposition or location.
 - [(c) Identity of foreign donor and government.
 - [(d) Circumstances justifying acceptance.
- [(2) For travel or expenses for travel:
 - [(a) Name and title of recipient.
 - [(b) Brief description of travel or travel expenses occurring entirely outside the United States.
 - [(c) Identity of foreign donor and government.
 - [(d) Circumstances justifying acceptance.
- [(3) For each gift to a foreign individual:
 - [(a) Identity of individual receiving gift.
 - [(b) Description of gift.
 - [(c) Value of gift.
 - [(d) Type of funds used for gift (appropriated or nonappropriated).
 - [(e) Date gift presented.
 - [(f) Name of individual presenting gifts.]

1-14 MONETARY MATTERS AND FINANCIAL DEALINGS

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

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

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

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(4) No employee's Government employment shall be used

(a) for a purpose that is or gives the appearance of being motivated by the desire of private gain for the employee or any other person, or

(b) to coerce, or give the appearance of coercing, a person to provide a financial benefit to the employee or any other person.

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

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

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

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

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

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

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

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

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

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

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

1-14.1 Financial Relationships with Witnesses, Subjects, and
Individuals Furnishing Information to the FBI

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

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

(3) Requests for exceptions should be directed to the
Attention: Personnel Section, Administrative Services Division.

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1-15 ADMINISTRATIVE MATTERS1-15.1 Promotions, Transfers, Administrative Action

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

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

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

(4) In accordance with the provisions of the Privacy Act, the employee may request access to FBI records concerning his/her employment, including those compiled during the course of an internal administrative inquiry. [To access his/her employment records, the employee should execute an FD-488, the Privacy Act Request Form.] The Field Privacy Control Officer is responsible for ensuring prompt attention to each request. Requests must be processed without delay, and the employee provided with copies of whatever records are accessible to him/her under the law. The submission and processing of Privacy Act requests by employees should not be impeded by management personnel.

1-15.2 Employee Arrests or Involvement with Police

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

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

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[1-15.3 Testimonials[and/or Personal Recommendations Regarding FBI
[Employees and Personal Acquaintances

[(1) Employees are not to give testimonials, affidavits, or
[letters of recommendation to non-FBI investigators nor provide oral comments
[regarding the performance of present or former Bureau employees in their
[official role. An official role involves such areas as names, past/present
[position, titles, salaries, duty stations, reason for separation (derogatory
[or otherwise), etc. In instances in which an assessment of the performance of
[a present or former FBI employee is sought, the inquirer should be advised
[that questions about employment/performance can be addressed to FBIHQ,
[J. Edgar Hoover F.B.I. Building, Washington, D.C. 20535. (See Part I, Section
[20-15, of this manual, regarding service record and credit inquiries.)

[(2) Employees may be contacted by non-FBI investigators
[incidental to background investigations regarding employment or security
[clearances to furnish personal opinions involving former or present Bureau
[employees. Questions directed to employee may involve, but are not limited
[to, loyalty, character, habits, conduct, and reputation. In such instances,
[prior approval of the fact that comments are to be furnished and the substance
[of such comments must be obtained from the SAC or division head. Approval
[will be granted on a timely basis where the proposed comments are clearly
[personal in nature, make no reference to official performance, specific
[investigations or activities involving the FBI, and reveal no confidential
[information. Bureau stationery is not to be used in providing comments. If
[Bureau employment is made known to inquirer, inquirer should be advised that
[comments furnished are based on personal knowledge and are not to be construed
[as an official endorsement or recommendation of the FBI.

[(3) Employees may, in regard to friends or acquaintances that are
[not former or present Bureau employees, furnish personal opinions based upon
[personal association pertaining to loyalty, character, habits, conduct,
[reputation, etc., to individuals collecting information as part of a
[background investigation gathering information relating to suitability for
[employment or issuance of a security clearance. Bureau stationery may not be
[used to provide written comments.

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

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

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

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

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1-16 OUTSIDE EMPLOYMENT

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

1-17 ACTIVE PARTICIPATION IN MILITARY RESERVE OR NATIONAL GUARD UNITS (READY RESERVE STATUS)

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

(2) Due to the key Federal employee status of Special Agents, [[following appointment of a New Agent with Ready Reserve Status the employee is [required, as a condition of employment, either to request the appropriate [branch of the military to transfer (screen) him/her from the Ready Reserve to [the Standby Reserve, or request to be discharged from Reserve or National [Guard obligation. Due to availability requirements of all Special Agent [personnel, and in order to permit adequate contingency planning in the event [of an emergency which would necessitate the mobilization of the Ready Reserve, [Bureau policy precludes any Special Agent from enlisting, reenlisting, or [reactivating into a Ready Reserve Unit. It is permissible under Bureau policy [for Special Agents to join either the Active or Inactive Standby Reserve; [however, Special Agents are not authorized volunteer for active duty for [training purposes (ACDUTRA).]

1-18 POLITICAL ACTIVITIES

(1) The Code of Federal Regulations provides Federal agencies with the discretion to prohibit or limit the participation of Federal employees in political activities if such activities would interfere with the efficient performance of official duties or create a conflict or apparent conflict of interest. This discretionary authority is exercised by the FBI and as a matter of policy, FBI employees are precluded from participation in most political activity, partisan or otherwise, with the exception of voting. Employees should avoid any undertaking which may have any tinge of a political nature or which could be construed to indicate the FBI favors any political party. No advertisement supporting any candidate for public office or for any unauthorized purpose may be placed on official cars or Government property.

(2) In the event an FBI employee desires to participate in some form of political activity (with the exception of partisan politics), it may be possible, and a description of the planned activity must be forwarded to FBIHQ for evaluation and approval prior to participation.

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1-19 CONFIDENTIAL NATURE OF FBI OPERATIONS

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

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

1-19.1 Unofficial Contact with Nationals from Foreign Nations Whose Interests may be Hostile to the Interest of the United States

All FBI employees who have unofficial written or personal contact with nationals of foreign nations listed in the Foreign Counterintelligence Manual, Part III, Section 1-1, are required to report these contacts in writing to the FBI Security Programs Manager.

1-20 EMPLOYEES' RIGHTS UNDER THE PRIVACY ACT OF 19741-20.1 Privacy Act of 1974

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

1-20.2 Standards of Conduct

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

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

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

1-20.3 Penalties

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

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

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

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

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1-21 INTELLIGENCE OVERSIGHT BOARD

(1) The President, by Executive Order [12334 of December 4, 1981,] continued in existence the Intelligence Oversight Board. The Board, composed of three members appointed by the President from outside the Government, is charged with reviewing activities of the Intelligence Community [and informing the President of any activities that any member believes are in violation of the Constitution or laws of the United States, Executive orders, or Presidential directives.] The activities to be reviewed by the Board are those conducted by the Intelligence Community as part of Government business. With respect to the FBI, the Board reviews those activities relating to foreign intelligence and counterintelligence. Such activities are conducted in accordance with the [applicable Executive orders, Presidential directives,] rules, agreements, statutes, guidelines and investigative procedures and techniques set forth in the "Foreign Counterintelligence Manual." In this regard, the Board will receive and consider reports from Inspectors General and General Counsels of the Intelligence Community concerning [any intelligence] activities [of their organization that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive.] In the FBI, the Inspector General is the Assistant Director, Inspection Division, and the General Counsel is the Assistant Director, Legal Counsel Division. It is important to emphasize that the Board is not to review illegal or improper personal activities of Government employees.

(2) Pursuant to provisions of Executive Order [12333,] each employee is instructed to cooperate fully with the Intelligence Oversight Board. Further, the Intelligence Oversight Board has advised that the Executive Order does not explicitly establish a system by which employees of the Intelligence Community would report to the Board. The Board was not established as a substitute for the FBI's normal procedures for receiving complaints and allegations from employees. Nonetheless, the President has made it clear that he expects the Board to accept information from individual employees which falls within the Board's jurisdiction. Although the Board does not feel an obligation to investigate all allegations received, it will, as it deems appropriate, follow up on serious allegations received from employees bearing on activities conducted by the Intelligence Community as part of Government business. Accordingly, although only a fraction of the Bureau's work relates to foreign intelligence and counterintelligence, employees are advised that with respect to foreign intelligence and counterintelligence they do have the ability to report directly to the Board on matters coming within its purview.

(3) On a quarterly basis, each division will submit to FBIHQ (Attention: Office of Professional Responsibility, Inspection Division) a communication certifying that all the employees of that division have been contacted [concerning intelligence activities and that they have no reason to believe any activities may be unlawful or contrary to Executive order or Presidential directive.] This communication will be signed out personally by the SAC and this responsibility cannot be delegated. Should a question of [a violation of law, Executive order, or Presidential directive] arise, it must be reported promptly without waiting for the normal quarterly response. Failure to report [such activity] will subject the employees sharing the responsibility for the failure to severe administrative action up to and including dismissal from the service.

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1-22

DEPARTMENT OF JUSTICE OFFICE OF PROFESSIONAL RESPONSIBILITY

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

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

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

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

1-22.1

Protecting Employees (Whistleblowers) From Official Reprisals

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

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