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Description of document: **Six Department of Justice Federal Bureau of Investigation (FBI) Comity Agreements and Memoranda of Understanding**

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Record Information/Dissemination Section
170 Marcel Drive
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Note: See following page for list of MOUs enclosed

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1. Memorandum of Understanding: Federal Bureau of Investigation Background Investigations for the President-Elect of the United States of America, 1992
2. Statement of Principles on Crime Fighting Partnership Between the Department of Energy and the Department of the Treasury and the Department of Justice, 1998
3. Memorandum of Understanding between the Attorney General and the Postal Service, 1992
4. Memorandum of Understanding between the United States Department of the Interior Bureau of Indian Affairs and the United States Department of Justice Federal Bureau of Investigation, 1993
5. Memorandum of Understanding Between the Department of Justice and the Department of Defense Concerning Support for Security for Civilian Sporting Events, 1998
6. Memorandum of Understanding between the Department of State and the Department of Justice Regarding Accountability Review Boards, 2001



Federal Bureau of Investigation

Washington, D.C. 20535

April 3, 2009

Subject: COMITY AGREEMENTS AND MEMORANDA OF UNDERSTANDING

FOIPA No. 1122777- 000

The enclosed documents were reviewed under the Freedom of Information/Privacy Acts (FOIPA), Title 5, United States Code, Section 552/552a. Deletions have been made to protect information which is exempt from disclosure, with the appropriate exemptions noted on the page next to the excision. In addition, a deleted page information sheet was inserted in the file to indicate where pages were withheld entirely. The exemptions used to withhold information are marked below and explained on the enclosed Form OPCA-16a:

Section 552		Section 552a
<input type="checkbox"/> (b)(1)		<input type="checkbox"/> (d)(5)
<input checked="" type="checkbox"/> (b)(2)	<input type="checkbox"/> (b)(7)(A)	<input type="checkbox"/> (j)(2)
<input type="checkbox"/> (b)(3) _____	<input type="checkbox"/> (b)(7)(B)	<input type="checkbox"/> (k)(1)
_____	<input type="checkbox"/> (b)(7)(C)	<input type="checkbox"/> (k)(2)
_____	<input checked="" type="checkbox"/> (b)(7)(D)	<input type="checkbox"/> (k)(3)
_____	<input type="checkbox"/> (b)(7)(E)	<input type="checkbox"/> (k)(4)
<input type="checkbox"/> (b)(4)	<input type="checkbox"/> (b)(7)(F)	<input type="checkbox"/> (k)(5)
<input type="checkbox"/> (b)(5)	<input type="checkbox"/> (b)(8)	<input type="checkbox"/> (k)(6)
<input type="checkbox"/> (b)(6)	<input type="checkbox"/> (b)(9)	<input type="checkbox"/> (k)(7)

36 page(s) were reviewed and **29** page(s) are being released.

Document(s) were located which originated with, or contained information concerning other Government agency(ies) [OGA]. This information has been:

- referred to the OGA for review and direct response to you.
- referred to the OGA for consultation. The FBI will correspond with you regarding this information when the consultation is finished.

You have the right to appeal any denials in this release. Appeals should be directed in writing to the Director, Office of Information and Privacy, U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001 within sixty days from the date of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIPA number assigned to your request so that it may be easily identified.

The enclosed material is from the main investigative file(s) in which the subject(s) of your request was the focus of the investigation. Our search located additional references, in files relating to other individuals, or matters, which may or may not be about your subject(s). Our experience has shown, when ident, references usually contain information similar to the information processed in the main file(s). Because of our significant backlog, we have given priority to processing only the main investigative file(s).

If you want the references, you must submit a separate request for them in writing, and they will be reviewed at a later date, as time and resources permit.

☒ See additional information which follows.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Hardy", with a stylized flourish at the end.

David M. Hardy
Section Chief
Record/Information
Dissemination Section
Records Management Division

Enclosure(s)

In response to your Department of Justice, Office of Information and Privacy (DOJ/OIP) Administrative Appeal number 06-2013, please be advised that FBI documents referred to the FBI by DOJ/OIP have now been reprocessed pursuant to the provisions of the Freedom of Information Act (FOIA). All releasable information is enclosed with this letter.

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET

Total Deleted Page(s) ~ 7

Page 30 ~ b2, b7D

Page 31 ~ b2, b7D

Page 32 ~ b2, b7D

Page 33 ~ b2, b7D

Page 34 ~ b2, b7D

Page 35 ~ b2, b7D

Page 36 ~ b7D

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MEMORANDUM OF UNDERSTANDING

FEDERAL BUREAU OF INVESTIGATION BACKGROUND INVESTIGATIONS
FOR THE PRESIDENT-ELECT OF THE UNITED STATES OF AMERICA

The Federal Bureau of Investigation (FBI) will conduct file reviews or background investigations (hereinafter both referred to as investigations) at the request of the President-elect or his designated representative, of applicants, employees or any other persons engaged by contract or otherwise to perform services for the President-elect (hereinafter the individual on whom the investigation is conducted shall be referred to as the candidate). These investigations shall only be conducted pursuant to the agreement between the Attorney General and the President-elect to ascertain facts and information relevant to the candidate's suitability for Federal government employment or retention in such employment in accordance with Executive Order 10450; and/or trustworthiness for clearance for access to information classified under the provisions of Executive Order 12356 (or any future successor Executive Orders) and its implementing directives. The results of some of these investigations will permit adjudication of the candidate for clearance for access to Sensitive Compartmented Information, when necessary, in accordance with the standards set forth in Director of Central Intelligence (DCI) Directive 1/14.

Requests for investigations by the FBI shall be made in writing from the President-elect or his designated representative to the Director of the FBI enclosing a completed Standard Form 86 (SF-86) questionnaire (Questionnaire for Sensitive Positions) and its accompanying Authority for Release of Information, supplemented as necessary and approved by the FBI. In addition, a set of the candidate's fingerprints should be furnished, utilizing a standardized fingerprint card, to enable the FBI to check the candidate's fingerprints against FBI Identification Division records. To enable the FBI to comply with Section (e) (3) of the Federal Privacy Act of 1974, and in keeping with the spirit of this Act, the request shall be accompanied by a statement signed by the subject of the investigation acknowledging that he or she has consented to the investigation with the knowledge that facts or information gathered shall be retained consistent with the FBI Records Retention Plan and Disposition Schedule.

If, during the period in which the FBI is conducting its investigation, the President-elect or his designated representative determines that the candidate is not to be employed or appointed or no longer needs a security clearance, the FBI will be notified so that the investigation can be discontinued.

Subject to the Federal Privacy Act of 1974, persons interviewed during these investigations may be assured that, to the extent permitted by law, information identifying such persons will be kept confidential.

During the period in which the FBI is conducting its investigation, the FBI will inform the President-elect or his designated representative of any significant adverse information developed. If medical information bearing on the suitability or trustworthiness of the candidate is developed through investigation, the FBI will advise the President-elect or his designated representative. Prior to the candidate's assuming the position for which the investigation was conducted and/or being adjudicated for a clearance, the FBI will also provide the President-elect or his designated representative with any adverse information and supporting materials which subsequently come to the attention of the FBI that question the suitability or trustworthiness of a candidate to perform services for the President-elect. The FBI will also furnish summary memoranda or investigative reports and/or supporting materials (hereinafter referred to as reports) containing the results of its investigation to the President-elect or his designated representative and retain a record of the identity of the person to whom such reports are furnished. The President-elect or his designated representative will ensure that access to these reports is restricted to persons directly involved in making a determination as to the person's suitability for employment by the President-elect and/or trustworthiness for access to classified information. The President-elect or his designated representative shall maintain records of the identities of persons receiving access to the reports and such records shall be furnished to the FBI upon request. No person having access to the reports will reproduce or disseminate the reports except in accordance with procedures agreed to by the President-elect or his designated representative and the Director of the FBI or the Director's designated representative.

The President-elect or his designated representative will ensure that the reports and any copies received will be retained until January 20, 1993, at which time they will become part of the Presidential papers.

MEMORANDUM OF UNDERSTANDING
Page 3 of 4

Under no circumstances shall the President-elect or the designated representative allow the candidate or any person outside of the appointment, employment, security clearance, or confirmation process direct access to the reports. If necessary to discuss the contents of the reports with the candidate, the President-elect or his designated representative will ensure that the confidentiality of the sources contained therein is protected. Any request by the candidate for access to the reports will be referred to the FBI for processing in accordance with both the Federal Privacy Act of 1974 and the Freedom of Information Act.

Information obtained during an investigation will be retained at FBI Headquarters and FBI field offices in accordance with the FBI Records Retention Plan and Disposition Schedule. Prior to January 20, 1993, no subsequent dissemination shall be made by the FBI of the results of the investigation conducted for the President-elect without the express approval of the President-elect or his designated representative, except as expressly permitted by Federal statute or as part of an investigation of a violation of law. Thereafter, information obtained during any investigation conducted pursuant to this agreement will not be disseminated outside the FBI except when necessary to fulfill obligations imposed by law, FBI regulation or Presidential directive or Executive order.

When a tentative decision is made to employ a candidate who requires an appropriate clearance for access to classified information, the President-elect or his designated representative may confer with the Director of the FBI or his designated representative to ascertain the appropriate agency or department which is authorized to grant the necessary clearance to classified information. Thereafter, the President-elect or his designated representative shall make available a copy of the reports to the DCI or the appropriate agency or department granting clearance to classified information.

No person employed by the President-elect shall be given access to any classified information or material until appropriate procedures for granting clearance for access to classified information and materials have been established and/or completed, and clearance granted. The President-elect will provide the FBI and the DCI with a list of persons cleared for access to classified information and the President-elect will advise the FBI and DCI when an individual granted a clearance terminates employment with the President-elect.

MEMORANDUM OF UNDERSTANDING
Page 4 of 4

W. J. Brennan

Attorney General

Dated: 11/5/92

President-elect's
Transition Staff

Dated: _____

Bill Clinton

President-elect

Dated: 11/6/92

William Christopher

President-elect's
Transition Staff

Dated: 11/10/92

STATEMENT OF PRINCIPLES
ON
CRIME FIGHTING PARTNERSHIP
BETWEEN
THE DEPARTMENT OF ENERGY
AND
THE DEPARTMENT OF THE TREASURY
AND
THE DEPARTMENT OF JUSTICE

Recognizing that better prevention techniques and investigative strategies, tougher punishment, and an increased police presence have proven effective in reducing violent crime in communities throughout the United States;

Emphasizing the importance of close and effective cooperation among law enforcement agencies at the national, state, and local levels;

Recognizing that the United States criminal justice system is undergoing rapid change in investigative methods requiring new technical skills to fight crime on the street while protecting the rights of the accused;

Acknowledging that law enforcement agencies are increasingly challenged by the evolving technologies exploited by drug cartels, organized criminal enterprises, cybercriminals, and terrorists, and the potential availability of weapons of mass destruction;

Noting the internationally recognized capacity of the Department of Energy National Laboratories in advanced materials, advanced instrumentation, biotechnology, engineering, and information technologies:

Now, therefore, the Secretaries of the Treasury and Energy and the Attorney General join with the Vice President of the United States in resolving to deploy sophisticated technologies developed at the Department of Energy laboratories to aid in the war on drugs, violent crime, white collar crime, and terrorism. The Secretaries agree with the Vice President's assessment that "Science and technology hold forth the promise of improving the efficiency of the criminal justice system, enabling law enforcement agencies to better detect, preserve and analyze the trail of evidence."

And the Department of Energy, in partnership with the Departments of the Treasury and Justice, will direct the internationally renowned technical capabilities and resources of its laboratories to enhance, modernize and bring to the field additional crime fighting tools to aid national, state, and local law enforcement agencies. This partnership will draw upon and leverage 40 years of national investment in these capabilities at the laboratories, which have traditionally been applied to national security missions of the United States in the military and nuclear weapon arenas.

And in applying these capabilities to fight crime, the Department of Energy's National Laboratories will join the Departments of the Treasury and Justice in their use of advanced technology in the prevention and investigation of crime.

And the Departments of the Treasury and Justice, will partner with the Department of Energy to further improve and enhance crime fighting tools, and will continue their sharing of such tools with law enforcement agencies at the national, state, and local level, relying primarily on their existing intergovernmental networks. The three cabinet agencies recognize that the Memoranda signed today between the Department of Energy and the Federal Bureau of Investigation of the Justice Department, and between the Department of Energy and the Bureau of Alcohol, Tobacco and Firearms (ATF) of the Treasury Department are the next steps in increased cooperation. These agreements build upon the existing Memoranda of Understanding signed by the Department of Energy with the U.S. Customs Service and the Department of Justice's National Institute of Justice. The three cabinet agencies will work through established channels to facilitate the flow of technologies produced through the partnership to law enforcement agencies at the state and local level.

And we enter into this partnership in an effort to gain additional return from our national investments by applying technologies originally developed for the defense and national security of the United States to our domestic law enforcement efforts.

In witness whereof, we have here unto set our hands this nineteenth day of May, in the year of our Lord nineteen hundred and ninety-eight.

For

The Department of Energy

The Department of the Treasury

Federico Peña
Federico Peña
Secretary of Energy

Robert Rubin
Robert Rubin
Secretary of Treasury

Date: _____

Date: 5/19/98

The Department of Justice

Janet Reno
Janet Reno
Attorney General of the United States

Date: May 19, 1998

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B



MEMORANDUM OF UNDERSTANDING
BETWEEN THE
ATTORNEY GENERAL AND THE POSTAL SERVICE

The Attorney General of the United States and the U.S. Postal Service are authorized by 18 U.S.C. § 3061 (b) (2) to provide by agreement for the enforcement by the Postal Service of laws of the United States where the Attorney General determines that violations of such laws have a detrimental effect upon the operations of the Postal Service.

The Attorney General finds that: the Postmaster General is an "officer or employee of the Postal Service" within the meaning of 18 U.S.C. § 1114; that threats, assaults or other criminal acts identified in 18 U.S.C. § 115 against the Postmaster General or members of the immediate family of the Postmaster General motivated by an intention to impede, intimidate, or interfere with his official acts, or to retaliate against him for performance of his official acts, would violate 18 U.S.C. § 115; and that any such violation would have a detrimental effect upon the operations of the Postal Service.

THEREFORE, the Postal Service, acting through the Chief Postal Inspector, and the Attorney General of the United States agree:

I. Purpose

The purpose of this Memorandum of Understanding (MOU) is to establish the enforcement jurisdiction of the United States Postal Inspection Service regarding the investigation and prevention of violations of 18 U.S.C. § 115 directed against the Postmaster General or members of the immediate family of the Postmaster General.

II. Recognition and Delegation of Authority

A. The Postal Service recognizes the Federal Bureau of Investigation (FBI) as the principal enforcement agency responsible for the enforcement of 18 U.S.C. § 115. This MOU does not in any way limit the authority of the FBI to investigate violations of any statute over which it has investigative jurisdiction.

B. This MOU is intended to strengthen the enforcement of 18 U.S.C. § 115 by authorizing the Postal Inspection Service to supplement the jurisdiction of the FBI over violations of 18

U.S.C. § 115 directed against the Postmaster General or members of the immediate family of the Postmaster General.

C. The Attorney General recognizes the Postal Inspection Service as the principal law enforcement agency responsible for the investigation and enforcement of laws regarding property in the custody of the Postal Service, property of the Postal Service, the use of the mails and other postal offenses, as established by 18 U.S.C. § 3061, 39 U.S.C. § 404 (b) (7), and 5 U.S.C., App. 3. This MOU will not limit in any way the authority of the Inspection Service under Titles 5, 18 and 39 of the United States Code or any regulations promulgated under such laws.

D. To the extent that the investigation of violations of 18 U.S.C. § 115 committed against the Postmaster General or members of the immediate family of the Postmaster General are not now within the jurisdiction of the Postal Inspection Service under the statutes cited in the preceding paragraph, Postal Inspectors are hereby authorized to investigate, prevent, and arrest persons who commit such violations.


E. As soon as practicable after the arrest of any individual for violation of 18 U.S.C. § 115, the Postal Inspection Service shall notify the FBI and provide to that agency any information it may request.

III. Amendment

This MOU may be amended only by mutual consent of the parties in writing.

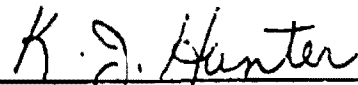
IV. Effective Date

This MOU shall be in effect upon signing by the parties.



William P. Barr
Attorney General
U.S. Department of
Justice

12/14/92
Date



Kenneth J. Hunter
Chief Postal Inspector
U.S. Postal Service

11/19/92
Date

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
AND THE
UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

I. PURPOSE

This Memorandum of Understanding (MOU) is made by and between the United States Department of the Interior (DOI) and the Department of Justice (DOJ) pursuant to the Indian Law Enforcement Reform Act (Act), 25 U.S.C. 2801 *et seq.* The purpose of this MOU is to establish guidelines regarding the respective jurisdictions of the Bureau of Indian Affairs (BIA) and the Federal Bureau of Investigation (FBI) in certain investigative matters, and to provide for the effective and efficient administration of criminal investigative service in Indian country.

II. BUREAU OF INDIAN AFFAIRS JURISDICTION

The Act establishes a Branch of Criminal Investigations within the Division of Law Enforcement (DLE) of the BIA, which shall be responsible for providing, or for assisting in the provision of, law enforcement services in Indian country. The responsibilities of the DLE shall include, *inter alia*, the enforcement of federal law and, with the consent of the Indian Tribe, Tribal law; and in cooperation with appropriate federal and Tribal law enforcement agencies, the investigation and presentation for prosecution of cases involving violations of 18 U.S.C. 1152 and 1153 within Indian country (and other federal offenses for which the parties have jurisdiction). In addition, the Act authorizes the Secretary of the Interior to develop interagency agreements with the Attorney General and provides for the promulgation of prosecutorial jurisdictional guidelines by United States Attorneys (USA).

III. FEDERAL BUREAU OF INVESTIGATION JURISDICTION

The FBI derives its investigative jurisdiction in Indian country from 28 U.S.C. 533, pursuant to which the FBI was given investigative responsibility by the Attorney General. Except as provided in 18 U.S.C. 1162 (a) and (c), the jurisdiction of the FBI includes, but is not limited to, certain major crimes committed by Indians against the persons or property of Indians and non-Indians, all offenses committed by Indians against the persons or property of non-Indians and all offenses committed by non-Indians against the persons or property of Indians. See 18 U.S.C. 1152 and 1153.

IV. GENERAL PROVISIONS

1) Each USA whose criminal jurisdiction includes Indian country shall develop local written guidelines outlining responsibilities of the BIA, the FBI, and Tribal Criminal Investigators, if applicable. Local USA guidelines shall cover 18 U.S.C. 1152 and 1153 offenses and other federal offenses within the investigative jurisdiction of the parties to this MOU.

2) Any other agreements that the DOI, DOJ and Indian Tribes may enter into with or without reimbursement of personnel or facilities of another federal, Tribal, state, or other government agency to aid in the enforcement of criminal laws of the United States shall be in accord with this MOU and applicable federal laws and regulations.

3) The Secretary will ensure that law enforcement personnel of the BIA receive adequate training, with particular attention to report writing, interviewing techniques and witness statements, search and seizure techniques and preservation of evidence and the crime scene. Successful completion of the basic Criminal Investigator course provided by the Department of the Treasury at the Federal Law Enforcement Training Center or its equivalent shall constitute the minimum standard of acceptable training. The BIA may consult with the FBI and other training sources with respect to such additional specialized training as may be desirable. United States Attorneys may also require, and participate in, training at the field level.

4) Any contracts awarded under the Indian Self-Determination Act to perform the function of the BIA, Branch of Criminal Investigations, must comply with all standards applicable to the Branch of Criminal Investigations, including the following:

- a) Local USA guidelines must be followed.
- b) Criminal Investigators must be certified Peace Officers and must have satisfactorily completed the basic Criminal Investigator course provided by the Department of the Treasury at the Federal Law Enforcement Training Center, or an equivalent course approved by the Commissioner of Indian Affairs. Criminal Investigators will receive a minimum of 40 hours in-service training annually to keep abreast of developments in the field of criminal investigations.
- c) Compensation for Criminal Investigators must be comparable to that of BIA Criminal Investigators.
- d) Criminal Investigators must be United States citizens.

- e) Criminal Investigators must possess a high school diploma or its equivalent.
- f) No Criminal Investigator shall have been convicted of a felony offense or crime involving moral turpitude.
- g) Criminal Investigators must have documentation of semi-annual weapons qualifications.
- h) Criminal Investigators must be free from physical, emotional, or mental conditions which might adversely affect their performance as law enforcement officers.
- i) Criminal Investigators must be certified by Tribal officials as having passed a comprehensive background investigation, including unannounced drug testing. Such examinations must be documented and available for inspection by the BIA.
- j) Appropriate procedures shall be devised to provide adequate supervision of Criminal Investigators by qualified supervisory personnel to ensure that investigative tasks are properly completed.
- k) When a Tribe is awarded a contract under the Indian Self-Determination Act, 25 U.S.C. 450 (a), there must be a "phase-in" period of not less than 180 days so as to ensure an orderly transition from one law enforcement agency to another. When a Tribe retrocedes its contract for the Criminal Investigator function, there must be a one-year time period from the date of request for retrocession, or a date mutually agreed upon by the BIA and the Tribe, for the BIA to prepare for re-assuming the Criminal Investigation responsibility. All case files, evidence, and related material and documents associated with active and closed investigations must be turned over to the receiving criminal investigative agency, whether it be the BIA or a Tribe.
- l) Appropriate procedures shall be established with respect to the storage, transportation and destruction of, and access to, case files, evidence, and related documents and other material, with particular attention directed to the confidentiality requirements of 18 U.S.C. 3509(d) and Rule 6(e) of the Federal Rules of Criminal Procedure. Criminal Investigators shall follow these procedures at all times. Access to such material will be for official use only.
- m) Before any Tribe contracts for the Criminal Investigator function, the BIA and the Tribe must ensure that there is sufficient funding to cover the costs of a Criminal

Investigator program including salary, equipment, travel, training, and other related expenses arising during both the investigation stage and the litigation stage of any case or matter covered by the contract.

- n) Tribal contractors must agree, and the BIA shall ensure, that there is an audit and evaluation of the overall contracted Criminal Investigator program at least every two years. Continuation of the contract shall be contingent upon successful completion of each audit and evaluation.
- o) Criminal Investigators are prohibited from striking, walking off the job, feigning illness, or otherwise taking any job action that would adversely affect their responsibility and obligation to provide law enforcement services in their capacity as Criminal Investigators.

5) Any individual who is a holder of a BIA Deputy Special Officer Commission and performing duties as a Criminal Investigator must comply with the standards applicable to Criminal Investigators set forth in the preceding paragraph.

6) When either the FBI or the BIA receives information indicating a violation of law falling within the investigative jurisdiction of the other agency, the agency receiving the information will notify the other agency. If either the FBI or the BIA declines to investigate a matter within the jurisdiction of both agencies, the other agency will be notified. The FBI and the BIA will attempt to resolve jurisdictional disputes at the field level. In the event the dispute cannot be resolved, it will be reviewed by each agency's respective headquarters for resolution.

7) With respect to the use of sensitive investigative techniques, such as the non-consensual interception of wire, oral or electronic communications and undercover operations involving any sensitive circumstance (as defined in the Attorney General's Guidelines for FBI Undercover Operations), and the investigation of organized crime matters, the FBI shall be the agency primarily responsible. Undercover operations involving sensitive circumstances shall be conducted in accordance with the Attorney General's Guidelines for FBI Undercover Operations. This paragraph is not intended to prohibit the BIA from conducting consensual eavesdropping or undercover operations not involving a sensitive circumstance or utilizing other nonsensitive investigative techniques after proper training and when authorized by the appropriate United States Attorney.

8) Nothing in this MOU is intended to change any existing cooperative relationships and responsibilities between the BIA and the FBI, and nothing in this MOU shall invalidate or diminish any law enforcement authority or responsibility of either agency.

9) Consistent with the availability of resources, the FBI will offer specialized training to the BIA.

10) Consistent with limitations regarding confidentiality, the requirements of the Privacy Act and any other applicable laws, and respective policies and procedures, the BIA and the FBI will cooperate on investigative matters of mutual interest, exchange intelligence, and investigative reports, as appropriate.

11) To the extent possible and in consideration of limited resources, the FBI will continue to assist the BIA in its investigative matters by providing investigative support services through the Identification Division, Training Division, Criminal Investigative Division and Laboratory Division.

This document constitutes the full and complete agreement between the BIA and the FBI. Modifications to this MOU will have no force and effect unless and until such modifications are reduced to writing and signed by an authorized representative of the parties thereto. This MOU will, at regular intervals, be subjected to a thorough review to determine if changes are appropriate.

The provisions set forth in this MOU are solely for the purpose of internal guidance of components of the Department of the Interior and the Department of Justice. This MOU does not, is not intended to, shall not be construed to, and may not be relied upon to, create any substantive or procedural rights enforceable at law by any party in any matter, civil or criminal. This MOU does not, is not intended to, and shall not be construed to, exclude, supplant or limit otherwise lawful activities of the Department of the Interior or the Department of Justice.

By subscription of their signatures below, the parties acknowledge that they have read, understand, and will abide by the foregoing statements.



Secretary
United States Department of the Interior

September 3, 1993
Date



Attorney General
United States Department of Justice

November 23, 1993
Date

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE DEPARTMENT OF JUSTICE AND THE DEPARTMENT OF DEFENSE
CONCERNING SUPPORT FOR SECURITY FOR
CIVILIAN SPORTING EVENTS**

WHEREAS, subsection 2554(a) of title 10, United States Code, provides that, at the request of a Federal, State, or local agency responsible for providing law enforcement services, security services, or safety services, the Secretary of Defense may authorize the commander of a military installation or the commander of a specified or unified combatant command to provide assistance in support of essential security and safety for civilian sporting events; and

WHEREAS, the provision of such assistance requires that the Attorney General certify that such assistance is necessary to meet essential security and other safety needs;

NOW THEREFORE, The Attorney General and the Secretary of the Army, having been duly delegated requisite authority by the Secretary of Defense, hereby establish procedures to be observed by representatives of the Department of Justice and its component agencies and the Department of Defense and its component agencies in responding to certain requests for support for security and safety for civilian sporting events.

Article 1. Scope

These procedures shall apply only to requests submitted pursuant to 10 U.S.C. §2554(a) by a Federal, State, or local government agency responsible for law enforcement, safety, or security services (hereinafter requesting agency) for Department of Defense assistance in support of essential security and safety at civilian sporting events.

Article 2. Joint Advisory Committee

2 a. Within thirty days after the effective date of this memorandum of understanding, the Attorney General and the Secretary of Defense shall establish a Joint Advisory Committee

• Throughout this memorandum of understanding, references to "the Attorney General" and "the Secretary of Defense" are understood to include any official properly designated by either the Attorney General or the Secretary of Defense to take any

(JAC). The JAC shall be comprised of at least one representative of the Department of Defense, the Department of Justice, and the Federal Bureau of Investigation. The Attorney General and the Secretary of Defense shall appoint co-chairs of the JAC.

b. Within ninety days of its establishment, and on a semi-annual basis thereafter, the JAC shall:

(1) Prepare and forward to the Attorney General and the Secretary of Defense a list of all civilian sporting events that are scheduled to occur within the succeeding five years that should be considered for eligibility for DoD assistance for essential safety and security. In compiling this list, the JAC shall develop criteria on which to base an event's qualification, and may include such factors as whether DoD has provided assistance for such an event in the past.

(2) Prepare and forward for the approval of the Attorney General and the Secretary of Defense a list of proposed criteria to be used to assess whether assistance requested by requesting agencies is necessary to meet essential safety and security needs for the civilian sporting events on the list prepared under Article 2.b(1). In compiling this list, the JAC may include such factors as whether DoD has provided a particular type of assistance in the past.

c. For all civilian sporting events specified by the Attorney General and the Secretary of Defense to be considered for eligibility for DoD assistance pursuant to Article 3, below, the JAC shall:

(1) Prepare and send to the organizers of the event, and to the federal, state, and local government agencies responsible for safety and security at the event, a security questionnaire based on the criteria approved pursuant to Articles 2.b(2) and 3. At a minimum, the questionnaire shall solicit information that:

(a) Describes the event in detail;

(b) Lists all locations at which the event will be held;

(c) Identifies all federal, state, and local government agencies responsible for safety and security for the event, with a description of any organization that has been

action on behalf of their respective Departments under this memorandum of understanding.

established to coordinate the activities of such agencies relative to the safety and security of the event;

(d) Assesses anticipated safety and security needs for which the responsible agencies will seek DoD assistance; and

(e) Describes the process used to assess security and safety needs for the event, including a description of significant security problems facing law enforcement or other government agencies responsible for safety and security.

(2) Review the response to the security questionnaire and, if necessary, conduct a preliminary assessment as to whether DoD assistance might be appropriate to address safety and security needs for the event.

(3) If, after review of the responses to the security questionnaire described in Article 2.c(1), above, the JAC determines that DoD assistance may be appropriate for the event, the JAC shall make available to the event's organizers and to federal, state, and local government agencies responsible for safety and security of the event:

(a) Information as to general categories of assistance that might be available from DoD;

(b) Advice as to the procedures for requesting assistance;

(c) A summary of the approval process established in this memorandum of understanding; and

(d) Other advice and assistance the JAC deems appropriate to help the JAC plan for safety and security for the event.

(4) For all sporting events as to which it determines that DoD assistance may be appropriate, the JAC shall consider whether any special procedures should be established to facilitate the processing of requests for, and provision of, DoD assistance. If it determines that such procedures should be established, it shall prepare a statement of such procedures for the approval of the Attorney General and the Secretary of Defense. In any event, for each sporting event, the JAC shall recommend to the Attorney General who the Attorney General's designated representative, as described in Article 5.a, should be.

Article 3. Selection of Qualifying Civilian Sporting Events

a. Within thirty days of their receipt of the recommendations of the JAC specified in Article 2.b, or as soon thereafter as possible, the Attorney General and the Secretary of Defense shall specify the civilian sporting events that shall be eligible to be considered for DoD assistance in support of essential safety and security.

b. The Attorney General and the Secretary of Defense shall provide the JAC with approved criteria for determining whether requested assistance is necessary to meet essential security and safety needs.

c. A requesting agency may request DoD assistance under section 2554(a) despite an event's not having been approved for consideration for DoD assistance under Article 3.a. In such cases, the JAC shall conduct the review described in Article 2.c(3), above, and advise the Attorney General and the Secretary of Defense of its recommendation as to whether the event should be considered as a qualifying event.

Article 4. Certification of Categories of Support

a. For each civilian sporting event approved by the Attorney General and the Secretary of Defense as eligible to be considered for DoD assistance, the JAC shall prepare a list of categories of support that relate to essential security and safety needs at the event.

b. The list shall be based on the response to the security questionnaire from the requesting agency relative to that event, historical data from similar events, security surveys of the venues for the event under consideration, any specific requests from law enforcement or other government agencies responsible for safety and security at the event, and other factors deemed relevant by the JAC.

c. The list shall be approved by the Attorney General and the Secretary of Defense. When the list is approved, the Attorney General shall certify those categories of support that he or she deems necessary to meet essential security and safety needs at the event. The list shall be transmitted to the Secretary of Defense and the Director of the Federal Bureau of Investigation for use in responding to requests for support of the sporting event.

d. After the Attorney General has certified general categories of support for the event, the Secretary of Defense, without the need for additional certification by the Attorney

General, may grant any request for items of support that fall within the categories certified by the Attorney General that are approved in accordance with Article 5 below.

Article 5. Processing Requests

a. Designated representative of the Attorney General. Requesting agencies shall submit requests for DoD assistance pursuant to 10 U.S.C. §2554(a) to the representative designated by the Attorney General to coordinate the Federal Government's security support to the sporting event. Unless the Attorney General designates another officer or employee of the United States, the head of the Federal Bureau of Investigation Field Office having investigative jurisdiction over the location where the sporting event will take place shall serve as the Attorney General's designated representative.

b. Coordination. Upon receipt of the request, the Attorney General's designated representative, in consultation with any representative of the Department of Defense designated to coordinate support for the subject sporting event, shall review the request and ensure that it contains a clear description of the desired support. If either representative has questions concerning the request, he or she shall seek clarification from the requestor. The representatives shall then assess whether the requested support falls within the categories of support previously certified by the Attorney General.

c. Upon concurrence of both representatives that the requested support falls within the categories of support previously certified by the Attorney General, the Attorney General's representative shall forward the request through the JAC to the Secretary of Defense for action.

d. If the representatives cannot agree whether the support requested is included within the categories previously certified by the Attorney General, or if the requested support does not fall within those categories, the designated representative shall forward the request to the JAC, which shall provide the Attorney General with its assessment whether the support requested is "necessary to meet essential security and safety needs" for the sporting event, along with its recommendation whether the Attorney General should certify the support as meeting that standard.

(1) If the Attorney General certifies that the support is necessary to meet essential security and safety needs of the civilian sporting event, he or she will forward the request, with a copy of the certification, to the Secretary of Defense. Upon receipt of the certified request, the Secretary of Defense may

approve the support. If the Secretary of Defense determines that the certified support may not be provided, he shall notify the Attorney General, who shall so notify the requesting agency through the JAC.

(2) If the Attorney General does not certify the support, he or she shall forward the request and the analysis justifying the decision not to certify the support to the Department of Defense for whatever further action may be appropriate and to the JAC, which shall notify the requesting agency of the denial of certification .

(3) If the Secretary of Defense or another appropriate official of the Department of Defense approves other assistance to the requesting agency in lieu of that which was requested but not certified, he or she will notify the Attorney General of the approval.

Article 6. Approved Requests

All administrative, logistical, and funding arrangements pertaining to the provision of requested support, whether or not certified by the Attorney General, shall be concluded directly between the requesting agency and the Secretary of Defense.

Article 7. Effective Date and Duration

a. This memorandum of understanding will take effect on the date of last signature. It shall remain in effect for a period of five years, unless sooner terminated by either party.

b. This memorandum of understanding may be amended at any time by written agreement of the parties. Unless otherwise expressly provided in any such amendment, amendments shall take effect no sooner than sixty days after agreement, to allow sufficient time to notify affected DOJ, DOD, and requesting agencies of the amendment.

Article 8. Funding

It is understood that agencies participating in the JAC shall fund all travel, per diem, and other similar costs related to their representatives' participation in JAC functions. JAC representatives will seek legal advice before engaging in any activity for which it appears that joint funding might be necessary.

Article 9. Interpretation

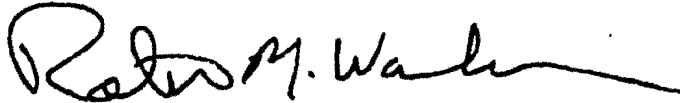
Any questions concerning the interpretation of this memorandum of understanding or the procedures set out herein shall be resolved by mutual agreement whenever possible.

FOR THE DEPARTMENT OF JUSTICE:

A handwritten signature in cursive script, appearing to read "Janet Reno".

DATE: February 10, 1998

FOR THE DEPARTMENT OF DEFENSE:

A handwritten signature in cursive script, appearing to read "Robert M. Walker".

DATE: January 26, 1998

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
DEPARTMENT OF STATE AND THE DEPARTMENT OF JUSTICE
REGARDING ACCOUNTABILITY REVIEW BOARDS**

I. PURPOSE

The purpose of this Memorandum of Understanding is to set forth agreed principles with respect to the coordination of Accountability Review Boards ("ARBs") and Department of Justice U.S. law enforcement activities. This Memorandum does not supersede U.S. law, including provisions related to the establishment of ARBs, provisions related to the confidentiality of grand jury proceedings, or any other memoranda of understanding or other agreements between the Department of State and the Department of Justice, including the February 5, 1991 Memorandum of Understanding Between the Department of State and the Federal Bureau of Investigation on Extraterritorial Post-Incident Investigations Relating to Terrorism. Similarly, this Memorandum does not supersede any Presidential directives or other instructions regarding the authorities and responsibilities of Chiefs of Mission, the Secretary of State, or the Attorney General.

This Memorandum of Understanding is not intended to, does not, and may not be relied upon to create any rights or benefits, substantive or procedural, enforceable at law by a party to litigation. Nor are any limitations hereby placed on otherwise lawful litigative prerogatives of the Department of Justice.

II. AGREED PRINCIPLES

1. Establishment and responsibilities of ARBs.

U.S. law provides that

A. "In any case of serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad . . . the Secretary of State shall convene an Accountability Review Board." 22 U.S.C. § 4831.

B. In addition to the requirements of 22 U.S.C. § 4831, the Secretary of State is obligated to convene an Accountability Review Board under the consular accountability provisions of Section 140(c) of the Foreign Relations Authorization Act, Fiscal Years '94 and '95 (P. L. 103236), as amended by Section 1(d) of P. L. 103415, codified at 8 U.S.C. § 1182 note.

C. An Accountability Review Board may, among other things,

"(i) administer oaths and affirmations;

(34)

(ii) require that depositions be given and interrogatories answered; and
(iii) require the attendance and presentation of testimony and evidence [of certain individuals.]" 22 U.S.C. § 4833(a)(1)(A).

D. "(a) FINDINGS. A Board convened in any case shall examine the facts and circumstances surrounding the serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad or surrounding the serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad (as the case may be) and shall make written findings determining--

- (1) the extent to which the incident or incidents with respect to which the Board was convened was security related;
- (2) whether the security systems and security procedures at that mission were adequate;
- (3) whether the security systems and security procedures were properly implemented;
- (4) the impact of intelligence and information availability; and
- (5) such other facts and circumstances which may be relevant to the appropriate security management of United States missions abroad." 22 U.S.C. § 4834(a).

A Board convened under the circumstances in the case outlined above in Section II(1)(B) shall make written findings and recommendations under 8 U.S.C. § 1182 note.

E. An Accountability Review Board may also make recommendations regarding "the security and efficiency of any program or operation which the Board has reviewed," and make recommendations with respect to breaches of duty by certain individuals. Where such recommendations are made, the Secretary of State within 90 days of receiving them shall "report to the Congress on each such recommendation and the action taken with respect to that recommendation." 22 U.S.C. §§ 4834(b), (c) and (d).

F. "Nothing contained [in Chapter 58 of Title 22] shall be construed to limit or impair the authority or responsibility of any other Federal, State, or local agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333." 22 U.S.C. § 4805(b).

2. Department of Justice Authorities.

U.S. law provides that:

A. "Except as otherwise authorized by law, the conduct of litigation in which the United States, an agency, or officer thereof is a party, or is interested, and securing evidence therefor, is reserved to officers of the Department of Justice, under the direction of the Attorney General." 28 U.S.C. § 516.

B. "The Attorney General may appoint officials ... to detect and prosecute crimes against the United States ... and ... to conduct such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the

Attorney General. This section does not limit the authority of departments and agencies to investigate crimes against the United States when investigative jurisdiction has been assigned by law to such departments and agencies." 28 U.S.C. § 533.

C. Within the Department of Justice, the Attorney General has authorized officials of the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service, and the United States Marshal Service to conduct investigations within the areas of their respective jurisdiction.

3. The Department of State recognizes that the circumstances which require the Secretary to convene an ARB may also indicate that U.S. criminal statutes have been violated. It therefore may be necessary under such circumstances for the Attorney General to institute a criminal investigation to determine whether a federal criminal offense occurred, and if so, the identity of the offenders. The Department of State is committed to cooperating with and assisting Department of Justice law enforcement personnel with such criminal investigations.

4. The Department of Justice recognizes that when an ARB is convened, the ARB has specified statutory responsibilities to investigate and make recommendations. The Department of Justice recognizes that the collection of this information requires a speedy and thorough investigation on the part of the ARB and is committed to cooperating with and assisting ARB personnel with such investigations.

5. To strengthen cooperation and coordination between the Department of State and the Department of Justice with regard to ARBs:

A. The Department of State shall notify the Department of Justice when a Permanent Coordinating Committee (PCC) (as defined in 12 FAM 032.1) is scheduled to meet to consider whether to recommend to the Secretary of State that an ARB be convened. The Department of Justice will be represented at any PCC meeting considering such a matter.

B. In any case where the PCC decides to recommend to the Secretary of State that an ARB be convened, the Attorney General shall notify the Secretary of State whether the Justice Department has initiated or anticipates initiating a criminal investigation on the matter and, if so, provide views on (i) the likely and specific impact, if any, of the ARB investigation on the Department of Justice's investigation; and (ii) how the ARB's investigation should be structured to minimize any negative impact on the Department of Justice's investigation.

C. The Secretary of State shall provide to the relevant ARB any material provided by the Attorney General pursuant to paragraph 5B above. The Secretary of State shall also instruct the ARB to carry out its activities in a manner that does not impede or compromise the work of the Justice Department or any other law enforcement authority conducting an investigation of the incident. Whenever an ARB is initially convened, the Secretary of State shall inform the Attorney General as soon as possible that it has been convened, and of its mandate, and of the identity of the ARB's members.

D. In cases where the Attorney General has notified the Secretary of State of a possible negative impact on a Department of Justice investigation, the Secretary of State shall instruct the ARB to cooperate fully with the Department of Justice's investigation in the manner set forth in the following paragraphs:

1. The Attorney General shall promptly designate a responsible official to serve as the principal point of contact ("POC") with the staff of the ARB and notify the Secretary of State of the identity of the Justice POC. The Secretary of State shall promptly notify the ARB of the designation by the Attorney General of a Justice POC. Upon receiving such notification, the ARB shall similarly promptly designate a responsible official to serve as the POC with the Justice Department and notify the Attorney General of the identity of the ARB POC.

2. The POCs shall coordinate with one another to facilitate the timely exchange of information, to the extent permitted by law, that may be relevant to the respective investigations of the ARB and the Justice Department. Their coordination shall include, but not be limited to, facilitating the following types of communication and mutual assistance:

a. Responding in a timely manner to inquiries from the ARB or Justice Department as to the status of their respective work.

b. Keeping each other apprised, to the extent possible, of their specific activities undertaken in connection with the areas of common concern in their respective investigations. Such communication will include providing one another advance notice that they intend to (i) interview, depose or otherwise take testimony from named individuals, or (ii) use their processes to obtain documentary or physical evidence, to the extent that such communication is not prohibited by law or is not likely to undermine the success of the criminal investigation.

c. Sharing information, subject to any restrictions imposed by law (e.g. relating to confidentiality) and the need to avoid steps that would undermine the success of the criminal investigation, that would assist the ARB or Justice Department in conducting its investigations and meeting its statutory obligations.

d. Coordinating their activities in a manner that will accommodate the legitimate concerns of law enforcement while permitting the ARB to conduct a thorough and speedy investigative proceeding. Such coordination may require the Justice Department to seek the ARB's agreement to delay specific investigative actions until such actions will no longer impair the criminal investigation.

6. If no agreement can be reached by the POCs in connection with disputed issues, the dispute shall be brought expeditiously to the Attorney General and the Secretary of State. If no agreement can be reached by the Attorney General and the Secretary of State, either may refer the matter to the President for decision.

7. At the conclusion of the ARB's review, the Secretary of State shall share with the Attorney General the ARB's findings and recommendations, and offer briefings by members of

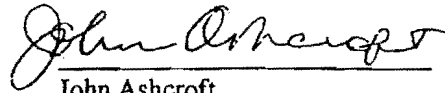
the ARB to appropriate officials at the Department of Justice. At the conclusion of the Department of Justice's investigation, the Justice Department shall similarly share with either the ARB or the Department, as appropriate, the results of that investigation, except insofar as sharing such information is prohibited by law or is likely to undermine the success of the criminal investigation, and offer briefings by Justice Department investigators to ARB members and staff or Department of State officials, as appropriate.

FOR THE DEPARTMENT
OF STATE

FOR THE DEPARTMENT
OF JUSTICE

Colin L. Powell
Secretary of State

Date: _____



John Ashcroft
Attorney General

Date: 8/20/01

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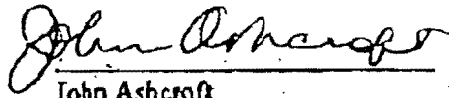
FOR THE DEPARTMENT
OF STATE



Colin L. Powell
Secretary of State

Date: 8/20/01

FOR THE DEPARTMENT
OF JUSTICE



John Ashcroft
Attorney General

Date: 8/20/01

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could be reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could be reasonably expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.