

THE WIDESPREAD impression that J. Edgar Hoover has the power of life and death over the professional lives of the FBI's more than 18,000 employees is greatly exaggerated.

Although outspoken on most issues, the 76-year-old legendary G-Man has never appeared more high-handed than in his swift retribution to those individuals who incur his wrath. Over the last 47 years, the number of FBI agents and clerks feeling the sting of discharge or demotion or transfer have been legion.

But the fact is that Hoover, by law, could not sustain the firing of the lowest of clerks or the transfer of a single agent to the

lovely but lonely Butte, Mont., field office without the tacit approval of any of the Attorneys General in office at the time since at least 1946.

On the FBI's executive level, Hoover cannot appoint, assign, train, promote, demote, change compensation, grant leave, change classification or fire anyone without prior approval of the Attorney General.

THE ACTUAL BREADTH as well as the limitations on Hoover's power over FBI employees, who are for the most part exempt from Civil Service protection, is detailed in a generally overlooked section of the Code of Federal Regulations.

Below the level of Assistant FBI Director, Hoover has nearly complete power over agents and other employees, but Section O.137 of the regulations says all his personnel actions are subject to "post-audit and correction" by the Assistant Attorney General for Administration and to review by the Deputy Attorney General.

That means, for example, that the transfer of Special Agent John Shaw for indiscretions in his law class in New York could have been altered or prevented if Attorney General John N. Mitchell felt it was wrong.

But no counter action was taken. So far as could be determined, no action contrary to Hoover's personnel decisions has ever been taken. Lou Pellerzi, the current assistant attorney general for administration, says there hasn't even been an appeal filed during the Nixon era.

Few people below the very top of the Justice Department and the FBI know of the regulation, which is nestled in Title 28, Chapter I of the Code.

The regulation is significant because it means that Attorneys General back to 1946 must share the responsibility for all personnel actions by Hoover especially those on the FBI executive level.

Many of the high-level changes have been controversial and Hoover has taken all the heat for them.

In recent years, the "retirements" of Cartha DeLoach, Courtney Evans and William C. Sullivan can be at least partially attributed to Attorneys General standing with the director.

IN AUGUST, for example, Hoover appointed W. Mark Felt, 58, into a new position of assistant director-deputy associate director, placing him above Sullivan in the FBI's chain of command. By doing so, Hoover effectively "layered" Sullivan—that is, excluded Sullivan from active participation by placing men above and below who would bypass the out-of-far official.

The Felt promotion was seen by Justice and FBI officials as another successful Hoover ploy to force Sullivan out of the FBI. Whether or not this was true, the fact is that he could not have done it without concurrence of Attorney General Mitchell.

Sullivan later made the personal mistake of having a "you or me" confrontation with Hoover and found himself "retired" without notice. Like some of his predecessors, all of whom at one time or another were rumored as possible successors to Hoover, Sullivan actually entertained the belief that he might be rescued by Mitchell.

It is not known whether Mitchell ever considered exercising his power under the regulation to overrule Hoover on the Sullivan ouster. When it became apparent, however, that Mitchell would follow his predecessors and let the director have his way, Sullivan quietly notified the FBI that he was indeed retired.

A Justice official summed up the Sullivan affair: "The Attorney General decided this was neither the time nor the place to take on Hoover."

A former FBI official who was familiar with both sides of the Justice Department building said he has seen Attorneys General squirm but draw back from overruling the director.

"It was not so much whether you won or lost on a single issue," he said. "The core question was what other embarrassing issues could Hoover raise in the future in retaliation.



THE WASHINGTON POST Thursday, Oct. 28, 1971

Ken W. Clawson

Tangling With Hoover