

FEDERAL DEPOSIT INSURANCE CORPORATION
OFFICE OF INSPECTOR GENERAL
Policies and Procedures Manual

PART	IV	Investigations Policies and Procedures
SECTION	OIG-400	Investigative Operations
CHAPTER	400.1	Authorities and Organization

1. Purpose. This chapter provides a consolidated summary of the authorities, responsibilities, and organization of the Office of Investigations (OI).

2. Organization. OI is responsible for carrying out the investigative mission of the OIG. OI conducts investigations of alleged criminal or otherwise prohibited activities that harm or threaten to harm the operations or integrity of the FDIC and its programs. OI operates under a regional structure, consisting of an Eastern Region, with offices in Washington D.C. and Atlanta; and a Western Region, with offices in Dallas and Chicago. The two regional offices are responsible for assigned investigations in their geographic areas. In addition to its regional offices, OI operates the Office of Special Inquiries and Oversight (SIO) in Washington, D.C. and the Electronic Crimes Unit (ECU) and laboratory, also housed in Washington, D.C. SIO specializes in conducting employee and other special investigations that do not involve computer offenses and is responsible for providing oversight and support to the field, including administration and quality assurance review of OI's Investigative Data System (IDS), conducting inspections and peer reviews, and processing of procurement and other field requests. SIO also manages an OIG Hotline, utilized by employees, contractors, and others to report allegations of fraud, waste, abuse, and mismanagement. The ECU is responsible for conducting computer-related investigations impacting FDIC and providing computer forensic support to OI investigations nationwide.

3. Policy. OI will conduct investigations and related operations in accordance with the policies and procedures set forth in this manual, the Inspector General Act of 1978 (the Act), as amended, and the various laws, policies, and rules of procedure pertaining to the conduct and confidentiality of investigations and the exercise of law enforcement authority.

4. Authority for Conducting Investigations
 - a. The Act authorizes the OIG to:
 - (1) conduct investigations relating to the programs and operations of the Corporation;

- (2) conduct other activities for the purpose of preventing and detecting fraud, waste, and abuse in the programs and operations of the Corporation;
- (3) foster relationships between the Corporation and other federal, state, and local government agencies and non-governmental entities;
- (4) report expeditiously to the Attorney General whenever the IG has reasonable grounds to believe there has been a violation of federal criminal law;
- (5) make civil referrals to the Department of Justice (DOJ) for matters involving fraud and abuse; and
- (6) conduct such investigations and make reports relating to the Corporation which are necessary or desirable in the judgment of the Inspector General.

5. Law Enforcement Authority of Special Agents.

a. Section 6(e) of the Act, as amended, authorizes special agents to:

- (1) carry firearms while engaged in official duties or as expressly authorized by the Attorney General,
- (2) make arrests without a warrant while engaged in official duties authorized under the IG Act for offenses committed in the presence of the agent or for felonies under Federal law if reasonable grounds exist to believe that the person to be arrested has committed or is committing such a felony; and
- (3) upon probable cause to believe that a violation has been committed, seek and execute warrants for arrest, search of premises, or seizure of evidence issued by the authority of the United States.

b. Individuals exercising law enforcement authorities under section 6(e) may exercise those powers only for activities authorized under the IG Act or other statute, as expressly authorized by the Attorney General. The exercise of these powers is also subject to guidelines promulgated by the Attorney General (Attachment A). Law enforcement authority may be rescinded should the Attorney General determine that an Office of Inspector General has not complied with those guidelines, or with regard to an individual agent should the Attorney General determine that individual has not complied with those guidelines. A compilation of other

Attorney General Guidelines/directives applicable to OIG law enforcement functions is found at Appendix 1.

c. The Federal Law Enforcement Officers' Good Samaritan Act of 1998 applies to special agents who take reasonable actions to protect individuals from serious bodily injury when confronted with the commission of a crime of violence. Under such circumstances, a special agent will be considered to be acting within the scope of his or her official duty. The Good Samaritan Act does not add to the authority and jurisdiction of special agents, but does enable them to take reasonable action, including the use of force (see Chapter 410.1, Use of Force), when a violent crime is committed in their presence to:

- (1) protect an individual in their presence from a crime of violence;
- (2) provide immediate assistance to an individual who has suffered or is threatened with bodily harm; or
- (3) prevent the escape of any individual whom the officer reasonably believes to have committed in the presence of the officer a crime of violence.

6. Investigative Standards. All investigations will be conducted in accordance with the *Quality Standards for Investigations* issued by the President's Council on Integrity and Efficiency (PCIE) and DOJ Attorney General guidelines.

7. Coordination of Criminal Matters

a. In accordance with Attorney General guidelines (Attachment A), the OIG will notify the FBI within 30 days of the opening of any investigation of a violation of Title 18, United States Code. This notification will be made in writing, SAC to SAC.

b. To preserve clear and effective lines of communication, the OI is responsible for all OIG liaisons with other law enforcement agencies and with prosecutors concerning violations of criminal statutes. All OIG offices must coordinate communications with other law enforcement agencies and with prosecutors on criminal matters through the OI (see Chapter 100.1, par. 8.e.).

8. Memorandums of Understanding. The Inspector General or designee may periodically enter into Memorandums of Understanding (MOU) with other federal, state, and local law enforcement agencies to define responsibilities in matters of mutual interest and shared jurisdiction.

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10. Administration of Oaths. The Act and 5 USC 303(a) provides special agents the authority to administer oaths/affirmations or obtain affidavits.

11. Subpoenas

a. OIG Subpoenas. The Act authorizes the Inspector General to require, by administrative subpoena, the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of functions assigned by the Act. However, this authority does not compel testimony or the production of tangible objects other than records. Chapter 110.6 of this manual contains further details regarding OIG subpoenas including the procedures for requesting and executing such subpoenas.

b. Judicial Subpoenas. Rule 17(d) of the Federal Rules of Criminal Procedure and Rule 45(c) of the Federal Rules of Civil Procedure are the basis of authority for special agents to serve judicial subpoenas. Consistent with Rules 6(e) and 17(d) of the Federal Rules of Criminal Procedure, grand jury subpoenas may be served by any person designated by the U.S. Attorney's Office.

12. Authority to Access FDIC Records and Cooperation of FDIC Personnel and Contractors. The Act authorizes the OIG access to all records, reports, audits, reviews, papers, recommendations, or other material relating to Corporation programs and operations and to request information or assistance from any federal, state or local governmental agency. Additionally, FDIC Circular 1150.2 provides that FDIC employees, contractors, and subcontractors are required to:

a. provide authorized OIG representatives immediate and unrestricted access to all FDIC and receivership personnel, facilities, equipment, records, files, and other sources of information.

b. provide authorized OIG representatives immediate and unrestricted access to any records or material available to any part of the FDIC. Included in this requirement is access to records subject to the Right to Financial Privacy Act (RFPA). However, as described in OIG Manual Chapter 420.2, the RFPA also contains certain restrictions and procedural requirements regarding the subsequent transfer of RFPA records to individuals or entities outside the OIG.

c. promptly report all instances of actual or suspected fraud, waste, abuse, or other wrongdoing in connection with the programs and operations of the FDIC to the OIG and to disclose any information, documents, or other evidence pertaining to such instances.

d. assist and cooperate with OIG personnel in the performance of their duties, including providing signed sworn statements. However, the latter requirement does not preclude employees, contractors, and subcontractors from invoking their protections under the Fifth Amendment to the Constitution. Further, certain procedures must be followed regarding notification of the right to union representation when interviewing FDIC employees (see OIG Manual Chapter 400.3).

e. Maintain the confidentiality of OIG requests for records, files, and information. Employees are also required to refrain from commenting on or discussing an ongoing investigation with anyone either within or outside the FDIC unless authorized by the OIG or unless necessary to the performance of official duties. However, this circular does not restrict communications with an attorney for the purpose of seeking legal advice or, for bargaining unit employees, with a union representative.

13. Special Procedures for Access to Certain FDIC Records

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14. Criminal History Record Information. Title 28 CFR Part 20, addresses the collection, storage and dissemination of criminal history record information. It provides for the dissemination of criminal history record information by DOJ and by state and local agencies to criminal justice agencies, which include the OIG. However, it prohibits disclosure to unauthorized persons.

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