

GROWING OLD TOGETHER: Inspector General and ETHICS COUNSEL – CHANGING ENVIRONMENTS and CHALLENGES

The 18th National Government Ethics Conference

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Orlando, Florida



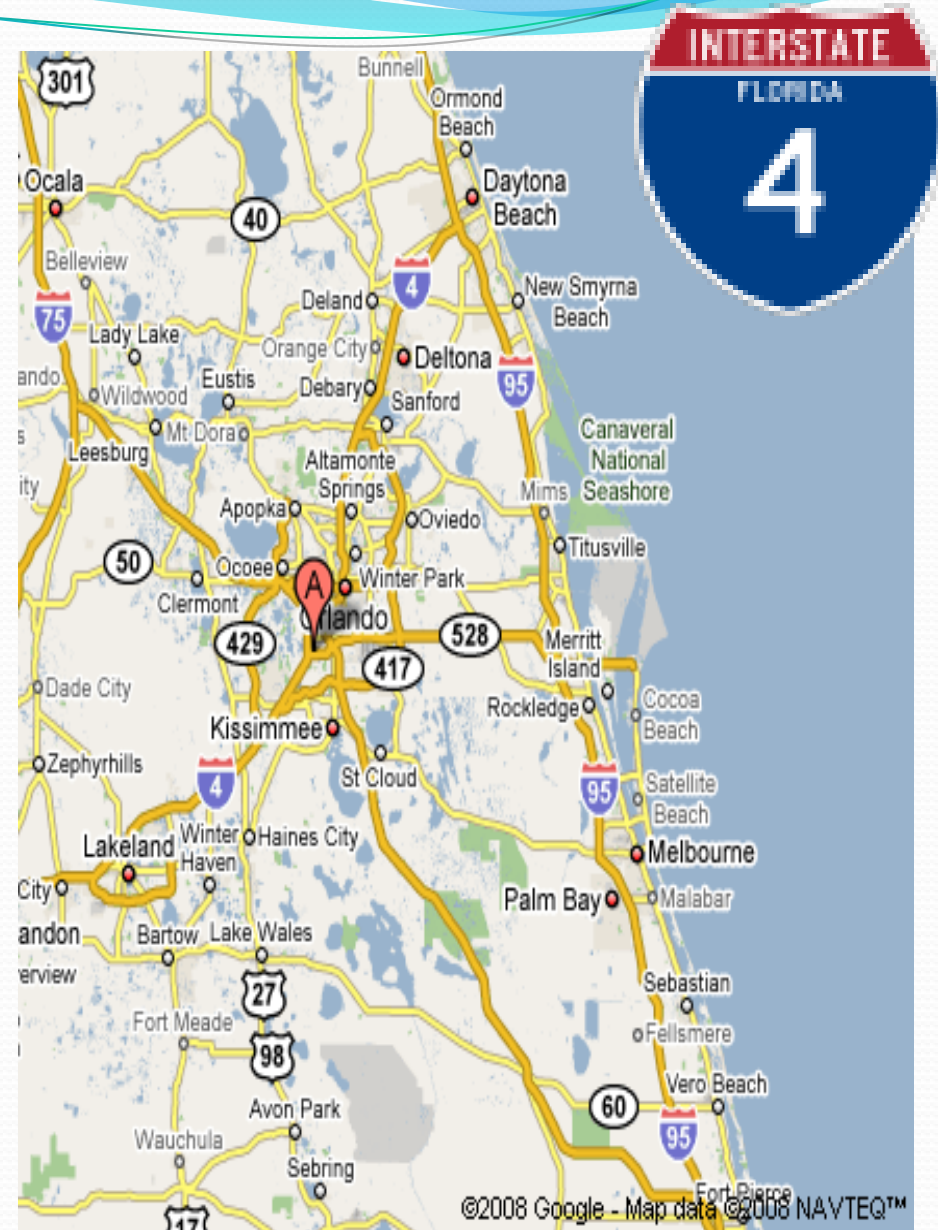
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Roadmap

- Introduction
- Goal of Program
 - DEFINITIONS/AUTHORITY:
 - IG COUNSEL
 - DAEO
- Background:
 - History
 - Growth
- Relationships
- Best Practices
- Discussion – Exercise
 - Real life decisions
 - What could happen
- Questions and Comments



Inspectors General Counsel

- The IG Act of 1978
- 1988 Amendments to the IG Act
- The Federal Acquisition Streamlining Act of 1994
- GAO/OGC 95-15. *Inspectors General: Independence of Legal Services Provided to IGs*
- The Homeland Security Act of 2002
- The IG Reform Act of 2008

Designated Agency Ethics Officials – THE DAEOs

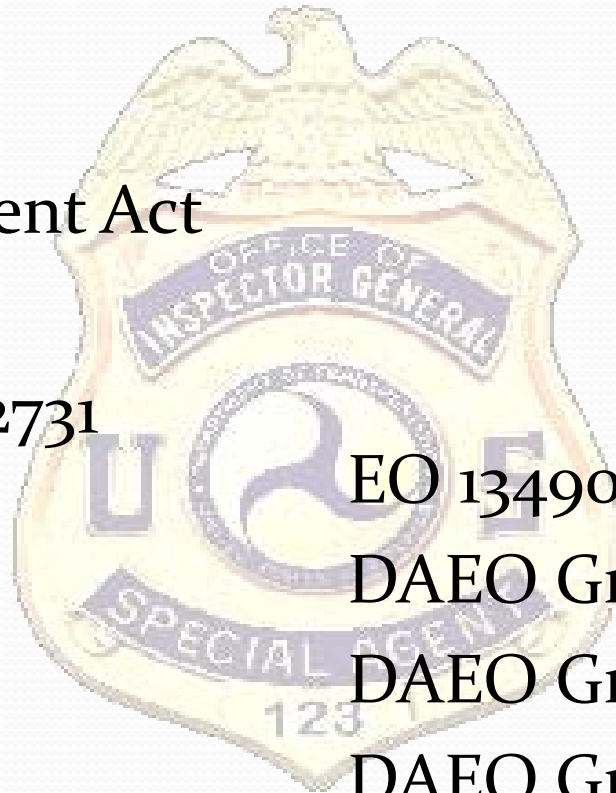
Ethics in Government Act

5 CFR 2638

5 CFR 2635 & EO 12731

18 USC 202-209

5 USC 402



EO 13490

DAEO Gram DO-09-008

DAEO Gram DO -05-019

DAEO Gram DO -08-025

What the Law Requires

- **IG Act (5 USC App.):**
 - Report criminal violations expeditiously to AG
 - Investigate criminal, civil, and administrative violations

- **Ethics in Government Act:**
 - DAEO responsible for all aspects of agency ethics, including OIG program
 - Encourages OIG/DAEO coordination
 - Request assistance from IG to conduct ethics investigations

The OIG Is Here to Help



Inspector General

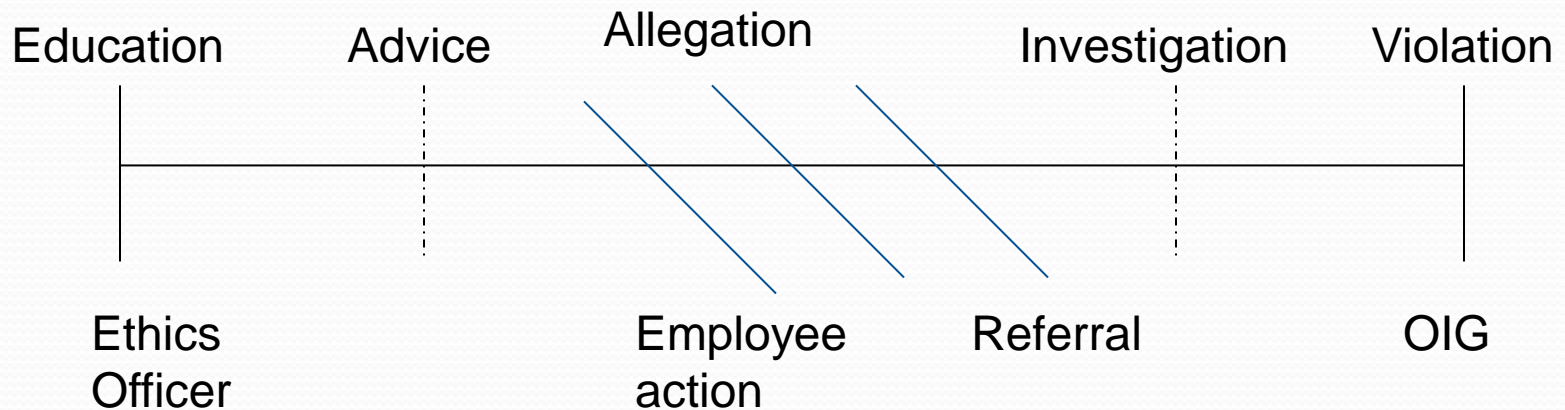


"A typical IG is a man past middle age, spare, wrinkled, cold, passive, non-committal, with eyes of a codfish, polite in contact, but at the same time unresponsive, calm, and damnably composed as a concrete post or a plaster of paris cast, a human petrification with a heart of feldspar and without charm or friendly germ, minus bowels, passion, or a sense of humor. Happily, they never reproduce and all of them finally go to hell."

– Gen George S. Patton, Jr.

IG Counsel / DAEO Roles In The Life and Times of an Ethics Matter

Opportunities to Cooperate



It's hard to be a DAEO

It's Friday, 4 p.m.

- No good deed goes unpunished
- Attorney-client privilege and the DAEO
 - WHO is the client and WHY

The coffee mess mess

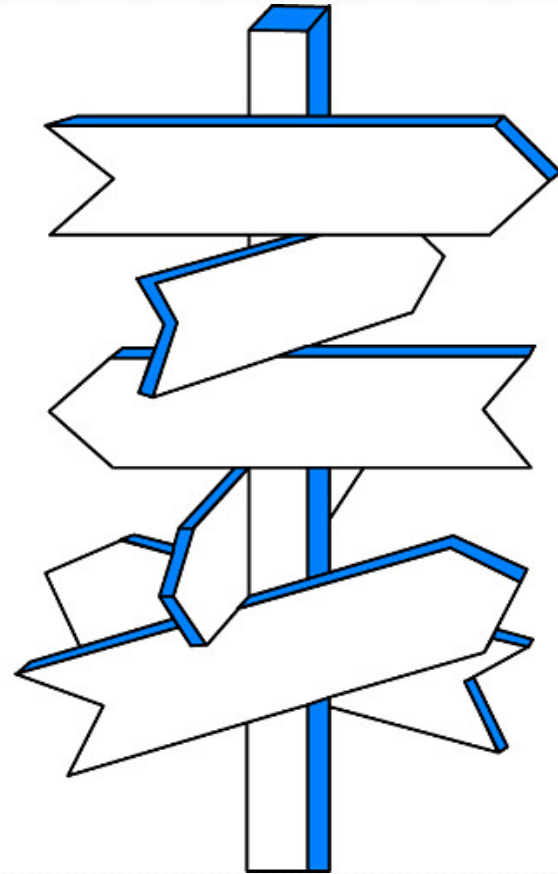
- Cultivate relationships - the OIG needs to respond promptly – if at all

Be Prepared for Unexpected Surprises



Hot Topics— Investigation Referrals

- Many different ways by different Agencies
- Different Practices
- Different Viewpoints

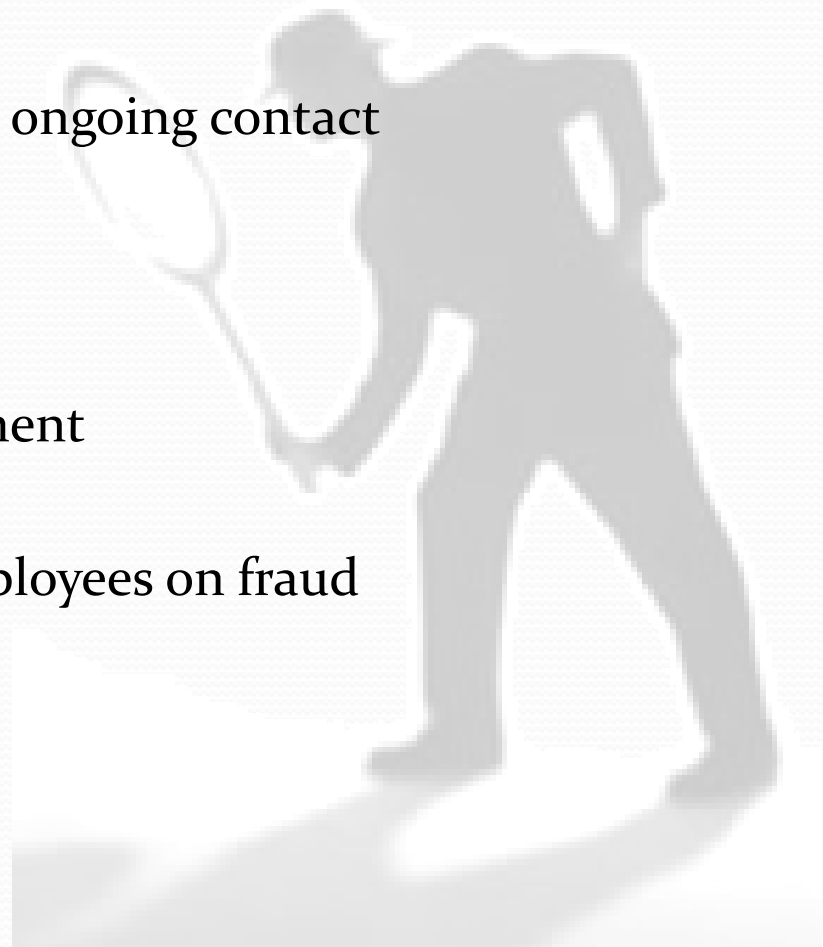


Program Fraud Civil Remedies Act

- Process
- Benefits

BEST PRACTICES - Before a Referral is Made

- I G COUNSEL and DAEO's
 - Build relationship & maintain ongoing contact
 - Communicate expectations
 - Document, document, document
 - Publish guides to educate employees on fraud awareness
 - Joint training



BEST PRACTICES - Before a Referral is Made (*Cont'd*)

- Witnesses – names and details
- Recusal documents (if applicable)
- Counseling information
- Ethics training records
- OGE 450/278 forms
- Background
 - Is anything else going on?



BEST PRACTICES – DURING AND AFTER

- I G COUNSEL?

- Consult with DAEO
- Solution to management
- IMPACT on Agency mission
- Sense of urgency
- Semi-annual report to Congress

- DAEO's?

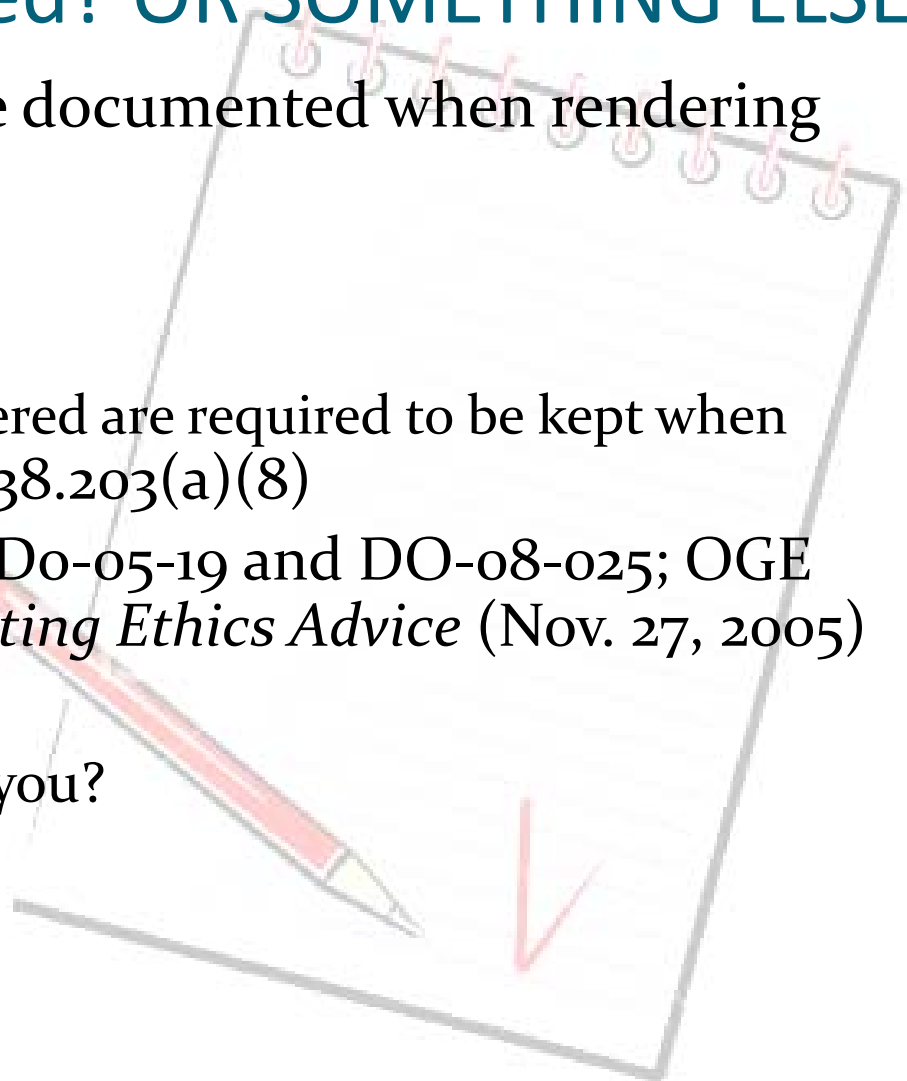
- Recusal
- Investigative Resources
- Is subject aware of investigation?
- Opportunity for interviews
- Nature of the violation may not be known (criminal, administrative, etc.)



EXERCISE QUESTION

What was documented? OR SOMETHING ELSE

- Q: What is required to be documented when rendering ethics advice?
 - A: The rule is as follows:
 - Records on advice rendered are required to be kept when appropriate - 5 CFR 2638.203(a)(8)
 - See DAEOgrams Do-05-19 and DO-08-025; OGE Memo, *Documenting Ethics Advice* (Nov. 27, 2005)
 - What does that mean to you?
 - Case Examples



Discussion Questions

1. Is there an ethics violations reportable to the IG?
2. Not all ethical lapses need to be referred to the IG—
How do you know when to refer and when not to refer?
3. How do we handle potential ethics violations when an employee has left the Agency?
4. Does the DAEO want to investigate? How to make this happen?

Questions and Comments

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