



U.S. Department of  
Transportation  
Office of the Secretary  
of Transportation

## ORDER

DOT 8000.8

January 9, 2001

Subject: OFFICE OF INSPECTOR GENERAL INVESTIGATIVE RESPONSIBILITIES

1. PURPOSE. To provide a summary of the investigative responsibilities of the Office of Inspector General (OIG) and to delineate the respective roles of the OIG and DOT operating administrations (OAs) in criminal investigations.
2. CANCELLATION. This order cancels Chapter II, Investigations, of DOT Order 8000.4, Office of Inspector General Audit and Investigative Responsibilities, dated 3/8/84.
3. APPLICABILITY. This order applies to OIG criminal investigations relating to all OAs except for the Coast Guard. For the Coast Guard, see paragraph 8.
4. OIG INVESTIGATIVE RESPONSIBILITIES. The OIG—
  - a. Provides policy direction for and conducts, supervises, and coordinates investigations relating to the programs and operations of the Department that fall within the purview of the Inspector General Act of 1978, as amended (IG Act). In general, these investigations involve fraud, waste, mismanagement, or abuse in any of the Department's programs, activities, or operations. Investigations may be conducted in support of criminal, civil, or administrative proceedings. OIG investigative authority includes authority to conduct, pursuant to Federal criminal statutes, investigations of allegations that a person or entity has engaged in fraudulent or other criminal activity relating to DOT programs and operations. This authority extends to any person or entity subject to the laws and regulations administered by DOT, whether or not that person or entity is a recipient of DOT funds. See Public Law 106-159, § 228 (Dec. 9, 1999).
  - b. Performs joint audit/investigative activities such as Fraud Prevention and Detection Surveys. OIG conducts these surveys to combat fraud, waste, and mismanagement in DOT program areas that OIG selects by identifying and evaluating various risk factors.
  - c. Coordinates with management officials to ensure that appropriate and timely action is taken by such officials in response to investigation reports.
  - d. Recommends policies for and conducts, supervises, or coordinates relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department, or the identification and prosecution of participants in such fraud and abuse.

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Office of the General Counsel

- e. Reports expeditiously to the Attorney General whenever there are reasonable grounds to believe that a violation of Federal criminal law has been committed.
  - f. Manages a system whereby all complaints to OIG concerning fraud, waste, or program abuse in DOT programs or operations receive appropriate action.
5. ORGANIZATIONAL LOCATION OF DOT CRIMINAL INVESTIGATORS. Except as provided below, as authorized by the IG Act and to promote uniform training, supervision, and investigation quality, OIG is the only organization in DOT that shall employ criminal investigators (GS-1811s) or perform criminal investigative functions that require the skills, knowledge, and abilities of criminal investigators. Such functions include, but are not limited to, carrying firearms, executing search warrants, making arrests, and having frequent and direct contact with criminal suspects. Except as provided below, this order relieves OAs of responsibility to perform criminal investigations, which shall be performed by the OIG.
- a. This order does not restrict the employment of criminal investigators or the performance of criminal investigations by the Coast Guard or the National Highway Traffic Safety Administration's odometer fraud program. In addition, this order does not restrict DOT programs that use employees or contractors to protect persons and property or exercise police powers at DOT or DOT-leased facilities, e.g., the U.S. Merchant Marine Academy.
  - b. This order does not restrict the designation of DOT employees as Special Assistant United States Attorneys by the Department of Justice (DOJ).
6. MATTERS TO BE REFERRED TO OIG.
- a. Examples of Matters To Be Referred to OIG. The OIG has the statutory authority to investigate a wide range of activities involving DOT programs or operations that constitute fraud, waste, mismanagement, or abuse. As indicated in paragraph 4.a, this authority extends to conducting criminal investigations of regulated entities. Examples of suspected violations generally within this range of activities that OAs must refer to the OIG for evaluation or investigation are:
    - (1) False or fraudulent claims, statements or certifications by employees, contractors, borrowers, grantees or others in connection with DOT programs.
    - (2) False or fraudulent claims for payment involving goods and services not delivered or involving the delivery of nonconforming goods.
    - (3) Unlawful manipulation of the competitive bidding process.
    - (4) Unauthorized concealment, removal, obliteration, alteration or destruction of official documents.

DOT 8000.8  
January 9, 2001

Page 3

- (5) Misappropriation or embezzlement of Government funds or conversion of Government property or Government-funded property.
  - (6) Bribery or corruption of Government employees or officials.
  - (7) Conflicts of interest that violate either criminal statutes or the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. Part 2635). (For relationship to Agency Ethics Program, see paragraph 9.a.)
  - (8) Willful violations of any rule, regulation, or requirement respecting the transportation of hazardous materials by air.
- b. Other Acts. The examples listed above are illustrative as opposed to limiting. OAs must report to the OIG any other improprieties or any illegal acts in connection with DOT funds, committed by concealment, fraud, or deceit, to obtain money or property, to avoid payment of money, or to gain a business or personal advantage.
- c. Matters Generally Not Referred to OIG. Generally, the following should be resolved by supervisory or management officials and not the OIG: misuse of Government vehicles, property or equipment; violations of personnel or security regulations; minor employee misconduct; discrimination; **sexual harassment**; and incidents that require investigations solely for security suitability determinations. When there is doubt concerning jurisdiction or responsibility for action or when multiple allegations are alleged which may overlap, the matter should be discussed with the OIG for resolution.

## 7. OIG CRIMINAL INVESTIGATIONS OF REGULATED ENTITIES.

- a. The OAs perform administrative and regulatory investigations. When it appears to an OA that circumstances may warrant a criminal investigation, the OA must notify the OIG. **If the OA decides to continue regulatory or civil enforcement proceedings, it will keep the OIG informed. The OIG will notify the relevant OA or OAs if the OIG initiates an investigation and will keep the OA or OAs informed of the progress and outcome of its investigation. The OIG may request the OA to hold any regulatory compliance activity in abeyance should continuation impact the viability of criminal enforcement efforts.**
- b. If an OA and the OIG disagree with regard to the initiation of a criminal investigation, referral of a matter to DOJ, or whether regulatory compliance proceedings should be held in abeyance, the matter shall be raised to the headquarters level of each organization for resolution. In reaching resolution within the Department, the OA or the OIG may request participation by the Office of the General Counsel, and/or they may jointly inform and seek advice from DOJ.



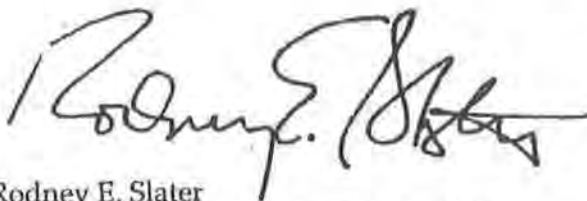
- c. OIG criminal investigations of parties whose only connection to DOT is that they are subject to DOT regulation ("regulated entities") closely relate to and may impact upon the mission, operations, and policies of the relevant DOT OA or OAs. For these investigations, OA officials have technical expertise and training in relevant areas covered by statutes and regulations administered by the OA, background in the historical interpretation and established agency policy concerning interpretation of the statutes and regulations, and knowledge of the entire range of enforcement tools available to the OA and their likely impact in a given situation, which can be of significant value to an investigation.
  - d. OIG shall immediately notify the appropriate OA or OAs when the OIG obtains information that may justify immediate OA regulatory action to protect public safety. In all investigations, protecting public safety shall be the paramount consideration.
  - e. OAs and the OIG shall work cooperatively in identifying the categories of possible criminal offenses by regulated entities that OAs should refer to the OIG and the types of investigations about which the OIG should notify OAs.
  - f. To facilitate mutual cooperation, the OIG and OAs shall designate points of contact for **coordinating investigations**, referrals, and witnesses, and for notifications to OAs when regulatory actions may be required or public safety may be at risk.
  - g. OAs may support OIG criminal investigations by such activities as advising OIG about evidence to be seized during the execution of a search warrant, advising OIG about the interpretation of statutes and regulations administered by the OA, providing technical information concerning the mode of transportation in question, and providing information in the OA's possession concerning the persons or matters under investigation.
8. SEPARATE MEMORANDUM OF UNDERSTANDING ON OIG AND U.S. COAST GUARD ROLES AND RELATIONSHIP. Per paragraph 3, this order applies to OIG criminal investigations relating to all OAs except for the Coast Guard. The Coast Guard has broad statutory law enforcement authority as part of its program operating responsibilities, and law enforcement authority under the Uniform Code of Military Justice (UCMJ). As such, significant overlap exists in the respective law enforcement authority of the OIG and the Coast Guard. The Coast Guard and the OIG shall coordinate and cooperate whenever possible in the conduct of criminal investigations of mutual interest pursuant to a memorandum of understanding (MOU) that addresses their relative roles and relationship. In the event that the terms of the MOU differ from the terms of this order, the MOU is the controlling document.
9. RELATIONSHIPS.
- a. Agency Ethics Program. Nothing in this order is intended to supersede the jurisdiction and responsibilities of and required coordination with the Designated

DOT 8000.8  
January 9, 2001

Page 5

Agency Ethics Official under the various employee ethics and conflict of interest laws, executive orders, and regulations, which include the Ethics in Government Act of 1978, 5 U.S.C. Appendix; 5 U.S.C. §§ 7351, 7353; 18 U.S.C., Chapter 11; E.O. 12674, as modified by E.O. 12731; 5 C.F.R. Parts 2634, 2635, and 6001; and 49 C.F.R. Part 99. The Office of the General Counsel and the OIG will coordinate on matters that fall within this jurisdiction and responsibility and will consult, as appropriate, on matters other than ethics that involve alleged violations, the existence of which depends upon statutory construction and legal interpretation, before referral to DOJ or other appropriate authority for prosecution.

- b. Security Programs. Nothing in this order is intended to supersede the jurisdiction and responsibility of and required coordination with the OST Security staff or other security elements within the Department incidental to the administration of the security programs under their cognizance in accordance with applicable laws, orders, and regulations.
  - c. Other Agencies. The OIG will refer matters of investigative interest to other Offices of Inspector General, investigative or law enforcement agencies that have jurisdiction over the matter.
  - d. Labor Relations. In implementing this order, OAs shall comply with applicable labor relations obligations.
10. JUDICIAL REVIEW. This order is intended only to improve the internal management of DOT and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any other person.



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SECRETARY OF TRANSPORTATION