



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
National Policy

ORDER
1600.38F

Effective Date:
03/15/2010

SUBJ: Employee and Other Internal Security Investigations

1. Purpose of This Order. This order prescribes policies and responsibilities for the Federal Aviation Administration (FAA) investigations program. This order carries out Department of Transportation (DOT) Order 8000.5, Office of the Inspector General (OIG) Investigative Procedures, and DOT Order 8000.8, Office of Inspector General Investigative Responsibilities.

2. Audience. All FAA executives, managers, employees, contractors, and regulated parties.

3. Where Can I Find This Order. You can find this order on the Directives Management System (DMS) Website: https://employees.faa.gov/tools_resources/orders_notices/

4. What This Order Cancels. FAA Order 1600.38E, Employee and Other Internal Security Investigations, dated May 30, 2007.

5. Explanation of Policy Changes. This revision updates the policy for providing computer and digital forensics to support management investigations and inquiries of conduct and discipline matters.

6. Policy. The Office of Security and Hazardous Materials (ASH) conducts investigations and inquiries under this order, and

a. FAA Order 1110.125A, Accountability Board;

b. FAA Order 1600.20B, Investigations Handbook; and

c. Guidelines issued by the Office of Emergency Operations, (AEO-1) for regularly recurring investigative processes to ensure that ASH special agents carry out the processes correctly and consistently.

7. Investigative Responsibilities.

a. Assistant Administrator for Security and Hazardous Materials, (ASH-1). Safeguards FAA's critical infrastructure by managing a comprehensive investigations program; and

(1) Oversees the investigations program.

(2) Develops and issues an investigative handbook, FAA Order 1600.20B, and other guidelines for investigative processes and procedures.

(3) Evaluates issues reported to ASH to decide whether they fall within the ASH investigative jurisdiction.

(4) Refers issues that are not within the ASH investigative jurisdiction to agencies with jurisdiction.

(5) Ensures ASH Special Agents conduct only non-criminal investigations and refers criminal matters to the investigative agency with jurisdiction over the crime.

(6) Ensures FAA managers use ASH Special Agents and investigative resources properly and not:

(a) As a substitute for employee counseling or other suitable personnel management actions;

(b) In matters where managers have enough facts to take proper actions;

(c) In matters susceptible to or more properly dealt with by administrative solutions, such as, formal inquiry or investigation authorized by management, survey, or audit; and

(d) On minor incidents or issues of on-the-job accidents, negligence, incompetence, routine personnel matters, improper supervision, failure to comply with general work regulations, and insubordination. These incidents and issues fall within the category of matters that a supervisor should normally handle and resolve internally.

(7) Conducts administrative, civil, and regulatory investigations when appropriate.

(8) Conducts liaison with law enforcement agencies at the international, Federal, State, local, and tribal levels.

(9) Conducts liaison with the DOT/OIG.

(10) Handles requests for access to classified information under FAA Order 1600.2, Safeguarding Classified National Security Information.

b. Director, Office of Field Operations, AHS-1:

(1) Through region and center Servicing Security Elements (SSE) carries out the FAA's investigations program under this order, FAA Order 1600.20B, and all applicable FAA and DOT orders.

(2) Provides direction on the use of available resources to conduct investigations covered by this order.

c. Director, Office of Emergency Operations, Communications and Investigations, AEO-1:

(1) Provides direction, oversight and guidance for the FAA investigations program, including the Law Enforcement Assistance Program (LEAP) and Airmen DUI/DWI Program.

(2) Directs the development of FAA investigative policy and develops and issues procedural guidance needed to carry out this order.

d. Director, Office of Security, AIN-1:

(1) Oversees the Computer/Digital Forensics Program and provides direction, oversight and guidance for the computer and digital forensic support during the conduct of investigations and management inquiries.

(2) Directs the development of national policy and training standards for the conduct of computer and digital forensic support for the FAA. Provides authorized software and equipment for forensic analysis within designated SSE's.

e. Manager, Investigations Division, AEO-500:

(1) Manages the investigations program and provides procedural guidance and oversight for regions and centers investigative operations, including the LEAP and Airmen DUI/DWI Program.

(2) Coordinates LEAP support to Federal, State, local, and tribal law enforcement programs in matters of organized crime, drug trafficking, and criminal violations and threats to the national security involving U.S.-registered aircraft and FAA-certificate holders.

(3) Develops, revises, and coordinates national policies and guidance for the FAA's investigations program.

(4) Serves as the FAA national liaison with all Federal, State, local, tribal, and international law enforcement agencies on all matters covered by this order, and makes investigative referrals as appropriate.

(5) Evaluates all issues reported to ASH to determine if they fall within ASH jurisdiction, and refers issues *not* within ASH investigative jurisdiction to the agencies with jurisdiction.

(6) Evaluates all complaints and other information, decides proper action, and assigns action to the appropriate regions or centers SSE or line of business. *Note: In the regions and centers, the SSE is the Division Managers (700). At FAA Headquarters, the SSE for investigations is AEO-500.*

(7) Serves as the ASH focal point for all Accountability Board issues and directs all preliminary inquiries and investigations referred to ASH into Accountability Board complaints and allegations.

f. Regions and Center Security Division Managers, (700s):

(1) Assign available resources and oversee special agents who conduct investigations and preliminary inquiries under this order.

(2) Refer all matters involving criminal activity to the DOT/OIG or the investigative agency with jurisdiction over the crime.

(3) Refer all matters that fall within the jurisdiction of the Accountability Board to AEO-500 and the Accountable Official *before* taking any investigative action unless the action is time sensitive, such as actions to prevent loss or destruction of evidence.

(4) Provide guidance and support to FAA managers during their review of regulatory and administrative violations, i.e. management inquiry, to include interviewing, analyzing information, obtaining statements, and conducting forensic analysis.

(5) For investigative issues, serve as the official liaison with the regional DOT/OIG field office; and set up and maintain effective liaison and working relationships with appropriate investigative agencies at Federal, State, local, and tribal levels of government.

g. ASH Special Agents:

(1) Conduct administrative, civil, and regulatory investigations and other special inquiries covered by this order, FAA Order 1600.20B, and legal standards.

(2) Collect and receive evidence, examine witnesses, and administer oaths or affirmations.

(3) Obtain relevant facts available to support or refute allegations under investigation.

(4) Consult and coordinate as necessary with the Office of Chief Counsel, Regional Counsel and Center Counsel personnel, servicing Labor/Employee Relations offices, and others with responsibility in the investigative process.

(5) Maintain and protect information under the Privacy Act of 1974 and FAA orders for safeguarding information.

(6) Open investigations on alleged regulatory violations.

(7) Conduct liaison with Federal, State, local, and tribal law enforcement agencies.

(8) Assist law enforcement agencies that interdict and investigate aviation-related drug smuggling, acts of terrorism, or violations of aviation law that affect the National Airspace System (NAS).

(9) Refer matters involving drug violations, Title 21, United States Code (U.S.C.), to the appropriate Federal agency.

(10) Serve as technical advisers to Federal, State, local, and tribal law enforcement agencies.

(11) Comply with FAA and labor union agreements.

(12) Perform other duties imposed by laws and regulations.

h. ASH Computer/Digital Forensic Specialists:

(1) Upon the request from a SSE, ASH Computer/Digital Forensic Specialists will conduct forensic examinations in support of management inquiries, internal investigations and other special inquiries as requested.

(2) Collect, receive, and maintain evidence associated with computer/digital forensic examinations

(3) Maintain and protect information under the Privacy Act of 1974 and FAA orders for safeguarding information.

8. Types of FAA Investigations.

a. FAA Employee and Contractor Investigations. Most employee and contractor investigations apply to the hiring and continued employment of FAA employees and contractors. See Appendix A, Examples of Employee and Contractor Investigations.

b. Accountability Board Investigations. These investigations involve allegations of harassment based on race, color, religion, gender, sexual orientation, national origin, age, or disability. Lines of business (LOB) and staff offices (SO) with matters before the Accountability Board can request a formal security investigation by following the guidelines in FAA Order 1110.125, Accountability Board. ASH also investigates allegations of reprisal for taking part in the Accountability Board process.

c. Civil and Regulatory Investigations. ASH conducts investigations into matters that involve claims filed by or against the FAA in the appropriate Federal court for the recovery of money, or for monetary or non monetary relief. ASH also conducts investigations into suspected violations of relevant sections of Title 49, United States Code, and Titles 14 and 49 of the Code of Federal Regulations. See Appendix B, Examples of Civil and Regulatory Investigations.

d. Special Inquiries and Investigations. These are inquiries and investigations involving critical or sensitive FAA matters in response to senior management requests, congressional inquiries, and audits of FAA programs or activities conducted by other agencies. There are two types of special inquiries:

(1) Internal. Used for inquiries or investigations involving an official matter internal to the FAA.

(2) External. Used for inquiries or investigations involving an official matter external to the FAA which affects aviation safety or other regulatory issues.

e. Joint Investigation. This is an investigation conducted with another Federal, State, local, or tribal law enforcement agency when there is overlapping jurisdiction to represent FAA interests or to provide technical support.

f. Monitor Investigations. This starts with assigning a case file number to a matter under investigation by another Federal, State, local, or tribal law enforcement agency when there is overlapping jurisdiction and the SSE decides that:

(1) It is not possible to assign the investigation to ASH Special Agents in a timely fashion, or

(2) The investigation could be more speedily handled by the other agency.

g. Parallel proceedings. Specific matters investigated by the FAA often have safety implications needing speedy action whether before an administrative forum, such as the National Transportation Safety Board or FAA Decisionmaker. Some of these matters may also involve criminal violations that require the SSE to advise the DOT/OIG or other criminal justice agencies of any administrative or enforcement matters that ASH intends to pursue. These agencies may ask the FAA to suspend any adjudication before an administrative forum or the Federal courts until the conclusion of criminal proceedings. However, these agencies usually allow the FAA to pursue remedial actions, such as actions involving either the lack of qualifications to hold an FAA-issued certificate (emergency order revocation) or a reasonable basis to question whether the holder of an FAA-issued certificate has qualifications to hold such a certificate (emergency order of suspension).

9. Reporting Suspected Violations.

a. FAA employee responsibilities. You must report suspected violations of agency orders, regulations, or laws as described in this order and preserve information and evidence you have about those violations. You should report known or suspected violations to your manager or appropriate officials as soon as you become aware of the violation. Also, you must comply with requests from appropriate officials to preserve or release evidence. However, all such requests must go through your SSE. If you receive a direct request from an outside investigative agency for evidence, then refer that investigative agency to your SSE.

(1) Referral to managers. Employees must immediately report suspected violations to your manager. If your manager is the one suspected of a violation, report the matter to the next managerial level or directly to your SSE when:

- (a) You suspect your management's involvement in a violation;
- (b) You fear reprisal;
- (c) You have concerns that management may not take action on the information; or
- (d) You otherwise feel uncomfortable reporting the matter to the next higher level.

(2) Employees who become aware of any obvious violation should take reasonable efforts to preserve any evidence they have about the violation. Employees will not take any actions on their own initiative that may interfere with any investigation. Employees will comply with requests from appropriate officials to preserve or release evidence. The SSE or the DOT/OIG will normally make such requests. It may be useful to write down as much information as you can recall about the suspected violation, such as, date, time, people involved, and location.

(3) Use of hotlines. You can also refer information about a suspected violation to the FAA Administrator's Hotline on 866-TELLFAA (866-835-5322), and DOT Inspector General Hotline on 800-424-9071 or by mail to one of the addresses below.

Federal Aviation Administration	Department of Transportation
ATTN: Administrator's Hotline	Inspector General
800 Independence Avenue SW	P.O. Box 708
Washington, DC 20591	Fredericksburg, VA 22404

b. FAA management responsibilities. As an FAA manager, you will support the ASH Investigations program as requested by ASH Special Agents by:

- (1) Granting ASH Special Agents access to FAA records, information, and witnesses.
- (2) Reporting and confirming in writing to your SSE:
 - (a) Any known or suspected violations of law;
 - (b) Any known or suspected employee misconduct that is gross or egregious (See FAA Human Resources Operating Instructions - FAA Table of Disciplinary Offenses and Penalties);
 - (c) Any matter affecting national security.

(3) Under Human Resource Policy Manual, Standards of Conduct, ER-4.1, understand your responsibilities and your employees' obligations for cooperating with official investigations. Ensure your employees know that:

(a) They have a duty to give complete and truthful information and testimony, oral or written, to any DOT official conducting an investigation or inquiry for the agency; and

(b) Their refusal or failure to give oral or written statements or testimony about any official inquiry or investigation could result in disciplinary action, including removal.

(4) Provide information to your SSE on suspected criminal violations resulting from an inspection or investigation on an activity for which you have regulatory responsibility.

(5) Coordinate with your SSE before making any contact with Federal, State, local, and tribal law enforcement or investigative agencies on matters covered by this order. If urgent circumstances warrant immediate contact with such outside agencies, notify your SSE as soon as possible after contact.

(6) Notify your SSE as soon as possible if any Federal, State, local, or tribal law enforcement or investigative agency contacts you directly on any matters covered by this order.

(7) Consult with your SSE to find out if a situation warrants investigation.

(8) Upon receipt of a Report of Investigation (ROI), apply required protective measures as identified on the report cover. Comply with distribution restrictions and ensure return of ROI after action is completed. Notify SSE of what action, if any, taken. Action taken can be either formal or informal, to include such action as counseling, etc.

(9) Refer requests for computer or digital forensic support on issues that fall under the Standards of Conduct, ER-4.1, to your SSE.

10. Requesting and Initiating Investigations. Within the FAA, only division managers or equivalent, or director level managers or higher authorities may request investigations using these guidelines:

a. In Writing. Send a written request to your SSE, except when matters fall within the jurisdiction of the Accountability Board (See Paragraph 10d).

b. Form of Request. The request must be in the form of a written memorandum containing all the information that prompted the request, including the sources of the information. This includes electronic forms of submission such as e-mail and scanned documents.

c. Time Sensitive Requests. Managers may request SSE investigative support verbally, when circumstances are time sensitive, such as, reporting illegal activity or to protect and preserve evidence and property. Managers must follow-up a verbal request in writing within 5 business days.

d. Requests for Investigations Involving Matters That Fall Under the Scope of the Accountability Board. The Accountable Official or appropriate manager must submit requests

for investigation or forensic support regarding allegations that fall within the scope of the Accountability Board directly to the Accountability Board. The Accountability Board forwards requests to AEO-500 for evaluation, and if accepted, then AEO-500 refers the matter to the appropriate region or center SSE manager for action. SSEs may not act on requests they receive direct from a manager or Accountable Official. All Accountability Board matters accepted by ASH for investigation or forensic support are controlled by AEO-500.

e. Other Sources of Investigative Requests. SSEs may receive information through means other than formal requests from managers or the Accountability Board. When the information concerns suspected violations that fall within ASH jurisdiction, ASH may open a preliminary inquiry or investigation. Other means of receiving information may include, but not limited to:

- (1) Employees who choose not to go through their managers because of fear of retribution or suspected management involvement.
- (2) Various Department or FAA hotlines.
- (3) Other Government agencies.
- (4) Law enforcement agencies.

11. Investigative Priority. Aviation safety and security-related matters will receive investigative priority. Matters that fall under the scope of the Accountability Board will receive priority after aviation safety and security-related matters.

12. Investigative Process.

a. Evaluation of Requests and Information.

(1) SSEs will evaluate all information to determine whether the matter falls within ASH jurisdiction and to assess its priority.

(2) AEO-500 will evaluate all information received from the Accountability Board or provided by the LOB or Staff Office about allegations that fall within the jurisdiction of the Accountability Board.

(3) When there is doubt about jurisdiction, SSEs will refer the matter to the Office of the Chief Counsel or to their Region or Center Counsel for a determination.

b. Technical Review and Support. SSE managers will ensure that all investigations and inquiries have a defined objective and scope. It may become necessary to consult with other FAA elements for technical support and to get all facts and evidence needed to support or refute an allegation.

c. Declination of Requests. If a request does not contain enough information, the SSE may decline the request or start a preliminary inquiry to clarify jurisdiction or find out if the request warrants investigation. When declining a request, the SSE will provide written notice to the requesting official explaining the basis for the declination.

d. Referrals to Other Agencies. When an SSE receives information about a suspected violation that is outside FAA jurisdiction, it will refer the information in writing to the appropriate investigative agency. Referrals to the DOT/OIG will include notification that ASH will proceed with an employee or contractor investigation unless otherwise requested in writing by the appropriate DOT/OIG Special Agent-In-Charge. If an FAA manager provided the information, the SSE will advise the official of the referral. If the DOT/IG declines the referral, and the SSE discovers more facts that may change the DOT/OIG's decision, the SSE will send a new referral.

e. Protecting Information. All information handled by ASH Special Agents that pertains to wrongdoing, irregularities, or suspected violations, and the sources of such information, is considered sensitive unclassified information. At a minimum, investigative information will be marked *For Official Use Only*. ASH discloses such information under FAA Order 1600.75, Protecting Sensitive Unclassified Information (SUI), or as provided for by law.

13. FAA Special Agents as Subjects of Investigation. When allegations of wrongdoing that fall within ASH jurisdiction involve ASH Special Agents, or other ASH employees, the following procedures apply:

a. Region Special Agents. When an investigation involves ASH special agents or employees, AEO-1 in coordination with the Office of Field Operations (AHS-1) will assign the investigation to AEO-500 or to an SSE from a different region. Under urgent circumstances and with AHS-1's concurrence, AEO-500 can assign or refer the investigation to:

(1) A special agent from the same region provided the agent has no conflict of interest and the Region or Center Security Division Manager will oversee the investigation to ensure the special agent stays unbiased; or

(2) An outside agency.

b. Washington Headquarters Special Agents. When an investigation involves special agents assigned to headquarters, AEO-500 in coordination with AHS-1 will assign the investigation to special agents from another region or refer it to an outside investigative agency if appropriate. AEO-500 special agents may conduct investigations involving other ASH Headquarters personnel at the discretion of AEO-500 and with AEO-1's concurrence, provided the agent has no conflict of interest and AEO-500 oversees the investigation to ensure the special agent stays unbiased.

14. FAA Executives and Senior Managers as Subjects of Investigation. When allegations of wrongdoing involve FAA executives or senior managers (See HRPMS MSC-10.4), these procedures apply:

- a. AEO-500, through ASH-1 channels, will notify the Administrator, AOA-1.
- b. AEO-1 and ASH-1 decide who will investigate the allegations.
- c. Where ASH involvement may create an appearance of a conflict of interest, ASH will make alternative investigative arrangements.
- d. ASH-1 will promptly advise the DOT/OIG Deputy Inspector General for Investigations (JI-2) when FAA executives are the subjects of an investigation.

15. Forensics Support: Forensics applies science and technology to collecting and examining evidence for proving facts in a judicial or administrative proceeding.

a. Computer Forensics.

(1) Only ASH computer forensic examiners may conduct computer or digital forensics in support of internal investigation covered by this order and management inquiries. The Office of Security, AIN-1, oversees these examiners to ensure they handle digital evidence in a forensically sound manner and to ensure the evidence's admissibility in a judicial or administrative proceeding. Where ASH computer forensic examiners are unavailable or when their participation in an investigation or inquiry gives the appearance of a conflict of interest, AIN-1 will make arrangements for independent forensic support.

(2) The FAA's Cyber Security Management Center (CSMC) uses its hardware, initiatives, and policy enforcement to protect, detect, respond to, and recover from cyber events on the FAA network. A cyber event is any observable occurrence in a network or information system that violates information system security policy. See FAA Order 1370.82. When a cyber event implies criminal misconduct, the CSMC collects information on the event and concurrently reports it to the DOT/OIG for criminal investigation and to AEO-500 for monitoring. When a cyber event implies noncriminal misconduct by an employee or contractor, the CSMC collects information on the event and reports it to AEO-500 for investigation.

b. Other Forensic Support. ASH draws on other forensic sciences or technologies to provide independent scientific evidence in a judicial or administrative proceeding.

c. Requesting Forensic Support. SSEs and AEO-500 are the ASH focal points for forensic support. By paragraph 7f (4), SSEs provide guidance and support to managers who personally look into allegations of employee and contractor misconduct. This help can include computer forensics. When a manager needs computer forensics support to look into an allegation of employee or contractor misconduct, they can ask for the support by the procedures of paragraph 10. When limited computer forensic support is provided for a managerial inquiry, such support must be provided according to the professional standards and within ASH guidelines. Accordingly, all such support for management inquiries which are not conducted as ASH investigations must be coordinated with the local SSE for approval.

16. Preparation and Distribution of Reports of Investigation (ROI).

a. Preparation. FAA Order 1600.20B addresses ROI preparation. Special Agents will mark ROIs *For Official Use Only*, at a minimum, and protect ROIs under FAA Order 1600.75, Protecting Sensitive Unclassified Information. For employee investigations, special agents will prepare the ROI, and the requestor may use portions of the ROI as the material relied upon in support of a proposed disciplinary or adverse action.

b. Distribution and Retention.

(1) Pending final action, the investigating SSE maintains the original ROI.

(2) Following final action, the original ROI goes to the employee's personnel security file or contractor security file.

(3) Copies of ROIs will be provided to the requesting office. ROIs may be provided to the office with jurisdiction and to other concerned offices, such as servicing Labor/Employee Relations offices for employee misconduct cases, on a need-to-know basis.

(4) For ROIs about Accountability Board allegations, a copy of the ROI goes to the LOB or SO with jurisdiction over the matter, to the applicable Human Resource point of contact, and to AEO-500. These reports will not be sent to the Accountability Board by regions or centers SSEs. AEO-500 will provide a copy of the ROI to the Accountability Board.

(5) ROIs containing suitability issues about contractor employees will not be distributed outside ASH. When a contractor employee is the subject of an ROI, the SSE will notify the contracting office, real estate contracting office, or logistics division in writing of the adjudicative determination under FAA Order 1600.72, Contractor and Industrial Security Program.

(6) No further reproduction of any ROI is allowed.

(7) Excluding AEO-500, all offices will return their copies to the SSE when no longer needed.

(8) Any unauthorized disclosure of the ROI or information contained in it (see also paragraph 17 below), to anyone inside or outside the agency, may constitute a violation of the Privacy Act and of applicable agency rules of conduct. Holders of ROIs must store them in an approved security container and must never leave them unattended where others may view them without authorization. SSEs must approve further release or transfer of an ROI or any part of it.

c. Record of Third-party Disclosures. The ROI is part of the FAA Investigative Record System. The Privacy Act requires that individuals whose names are indexed in a system of records must be provided with information about third-party disclosures. All FAA employees who read an ROI will comply with the instructions for investigative record review printed on the

back of the ROI front cover sheet, FAA Form 1600-12, Report of Investigation, or with any future, approved electronic distribution system.

17. Preparation and Distribution of Enforcement Investigative Reports (EIR). When an SSE investigates a regulatory violation, it documents the investigation using the EIR format under FAA Order 2150.3, Compliance and Enforcement Program.

18. Release of Investigative Information.

a. Privacy Act. SSEs may release or withhold investigative information about individuals only as allowed under the Privacy Act under FAA Order 1280.1, Protecting Personally Identifiable Information (PII).

b. Freedom of Information Act (FOIA). The Freedom of Information Act generally makes Government records available to the public. However, certain investigative records compiled for civil or criminal enforcement purposes or that contain personal information about individuals may be withheld from disclosure under 5 U.S.C. 552 (b) (2), (b) (3), (b) (6) and (b) (7). Other FOIA exemptions as prescribed in FAA Order 1270.1, Freedom of Information Act Program, may apply to certain investigatory materials. SSEs should seek advice from their Region or Center Counsel about the applicability of FOIA exemptions.

c. Media Inquiries. The FAA Office of Communications handles media inquiries about investigations covered by this order. Releases will be coordinated with the investigating SSE and appropriate managers. Information that must be withheld under the Privacy Act, Freedom of Information Act, or about an ongoing investigation will not be released.

d. Employees may request a copy of a ROI when they are the subject under the policy of paragraph 18a.

e. DOT/OIG Access to ASH Records. ASH-1 makes available all records, reports, audits, documents, and recommendations to the DOT/OIG on request.

19. Administrative Information.

a. Distribution. This order is available electronically at https://employees.faa.gov/tools_resources/orders_notices/.

b. Delegation of Authority. The Assistant Administrator for Security and Hazardous Materials (ASH-1) has the authority to serve as the designated liaison official between FAA and the DOT/OIG for employee and other internal security investigations. ASH-1 and the Director, Office of Emergency Operations, Communications and Investigations, AEO-1, have the authority to develop and issue an Investigations Handbook, and special investigative notices.

c. Definitions.

(1) Accountable Official. This person is responsible for ensuring appropriate and timely processing of allegations within his organization under FAA Order 1110.125, Accountability Board.

(2) Enforcement Investigative Report (EIR). This is the official documentation format for regulatory investigations.

(3) Investigation. An investigation is a planned, systematic search for facts and evidence collected through interviews, record examinations, and by applying other approved investigative techniques to prove or refute allegations or issues.

(4) Preliminary Inquiry. This is a series of logical steps taken to discover the reliability and credibility of information to determine if the information warrants a formal investigation.

(5) Report of Investigation (ROI). This is the official format ASH special agents use to document employee and other internal security investigations.

(6) Servicing Security Element (SSE). This term refers to the ASH entities with investigative jurisdiction and program management control over matters covered by this order for Washington Headquarters and the regions and centers. The Investigations Division, AEO-500, Office of Emergency Operations, Communications, and Investigations, at FAA Headquarters in Washington, DC, is the SSE for all headquarters matters and has national program oversight of the Investigations Program. The Security and Investigations Divisions, AXX-700s, in the regions and centers carry out the requirements of this order.

(7) Special Agent (SA). An official title held by ASH employees who have the training and credentials to conduct, monitor, and coordinate sensitive and complex investigations using specialized investigative techniques and methods.

d. Related Publications.

(1) The Federal Aviation Administration's authorizing statute, formerly known as the Federal Aviation Act of 1958, as amended;

(2) Title 14 CFR, Aeronautics and Space;

(3) Federal Aviation Reauthorization Act of 1996;

(4) Transportation Safety Act of 1974;

(5) FAA Drug Enforcement Assistance Act of 1988;

(6) Title 5 U.S.C. Section 301;

(7) Title 49 U.S.C. Sections 1155(a), 40113, 44710, 44711, 44901-44936, 46308, 46309-46315, 46501, 46504-46507, 5121, 5122, and 5123, as amended;

(8) Federal hazardous material law formerly known as the Hazardous Materials Transportation Act, as amended;

(9) Office of Management and Budget Circular A-130, Management of Federal Information Resources;

(10) Executive Order 10450, Security Requirements for Government Employment, as amended;

(11) FAA Order 1110.125A, Accountability Board;

(12) FAA Order 1600.1, Personnel Security Program;

(13) FAA Order 1600.2E, Safeguarding Classified National Security Information;

(14) FAA Order 1600.20B, Civil Aviation Security Investigations Handbook;

(15) FAA Order 1600.75, Protecting Sensitive Unclassified Information;

(16) DOT Order 8000.5, Office of the Inspector General Investigative Procedures;

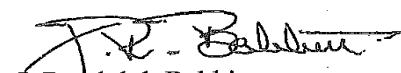
(17) DOT Order 8000.8, Office of Inspector General Investigative Responsibilities That Impact the FAA;

(18) The FAA Manager's Guide to Discipline; and

(19) HRPMP EMP-1.24 Suitability, Human Resources Policy Manual (HRPM), Volume 1.

(20) Standards of Conduct ER-4.1

(21) Human Resources Operating Instructions (HROI)



J. Randolph Babbitt
Administrator

Appendix A. Examples Of Employee And Contractor Investigations

This is a partial list of the areas for which the FAA conducts employee and contractor investigations:

1. Background Investigations.

a. The Office of Personnel Management (OPM) conducts background investigations on persons who are newly hired or applying for FAA employment. The extent of an investigation, and whether it is conducted before or after hire, depends on the position involved. OPM also conducts background investigations under other circumstances, such as when an employee needs a higher level investigation for a security clearance or for placement in a position with a higher risk or sensitivity level.

b. Persons in high-risk positions and positions involving access to classified information must be reinvestigated periodically. FAA Order 1600.1, Personnel Security Program, contains the background investigation requirements and procedures.

c. OPM conducts background investigations on certain FAA contractor employees and applicants for contractor employment. FAA Order 1600.72, Contractor and Industrial Security Program, contains the investigative requirements and implementation procedures SSEs use to determine the suitability of contractor employees for employment under an FAA contract or agreement.

d. The Defense Security Service conducts background investigations on consultants and contractor employees who require security clearances for access to classified information. Department of Defense Directive 5220.22-M, National Industrial Security Program Operating Manual, govern these investigations. SSEs do not generally have a role in these investigations.

e. ASH often conducts supplemental investigations to follow up on information that OPM has obtained and reported to FAA about FAA employees and contractors. The FAA conducts these investigations under 5 U.S.C. FAA Orders 1600.1 and 1600.72 specify when SSEs will conduct these investigations.

2. Employee Investigations. Individuals employed by the FAA must conduct themselves at work and off duty in a manner that is consistent with Federal, State, local, and tribal laws and agency regulations. Information obtained by ASH that indicates these requirements are not being met may subject the employee to investigation under FAA Order 1600.1 and the current standards of conduct. Also, ASH investigates allegations of sexual harassment or sexual misconduct and incidents of verbal, written, graphic, or physical harassment and other misconduct that create, or that may reasonably be expected to create, an intimidating, hostile, or offensive work environment based on race, color, religion, gender, sexual orientation, national origin, age, or disability. ASH conducts these investigations under FAA Order 1110.125A, Accountability Board.

3. Designated Representative Investigations. Non-FAA employees designated by the various FAA offices may be investigated about their continued suitability or qualifications to carry out responsibilities delegated to them. The Office of Aerospace Medicine, the Flight Standards Service, and other offices having the authority to allow non-FAA persons to carry out some FAA tasks in their respective fields, may request these investigations.

Appendix B. Examples Of Civil And Regulatory Investigations

Civil and regulatory investigations involve alleged violations of Title 14 of the Code of Federal Regulations (CFR), or Title 49 United States Code (USC). The following are the most common areas addressed by ASH in the conduct of regulatory investigations and are not all-inclusive. The DOT/OIG will have investigative responsibility over criminal violations provided for in any of these Titles.

- 1. Airmen.** The Office of Aerospace Medicine and other sources often refer allegations of drug or alcohol abuse by airmen to ASH to determine if any violation exists or if an allegation warrants other action.
- 2. Aircraft.** The following are examples of some of the potential violations that other Federal, State, local, and tribal agencies may find and report to ASH.
 - a.** Aircraft registration irregularities.
 - b.** Unapproved aircraft fuel system.
- 3. 49 USC 44710(b).** The SSEs are specifically responsible for regulations about the carriage or transport of drugs aboard aircraft and drug-related convictions of airmen. The FAA Administrator has the authority to revoke the airman certificate of any person after a conviction related to a controlled substance (except a law related to simple possession of a controlled substance), of an offense punishable by death or imprisonment for more than one year.