



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

Office of Inspector General
Washington, D.C. 20590

April 16, 2013

RE: FOIA No: FI-2013-0044

This letter is in response to your Freedom of Information Act (FOIA) request received January 13, 2013, sent to the U.S. Department of Transportation (DOT), Office of the Inspector General (OIG). You requested a copy of documents describing or regarding the policy on use of polygraph examinations by the Office of Inspector General.

There are 29 pages of documents responsive to your request. You will note that some information was redacted or withheld pursuant to exemptions provided by the Freedom of Information Act (5 U.S.C. § 552(b) (7)(E)).¹ We are producing these 29 pages, with redactions. The redactions and the exemptions they are based on are clearly marked.

We consider this matter closed. The FOIA gives you the right to appeal adverse determinations to the appeal official for the agency. The appeal official for the OIG is the Assistant Inspector General, Brian A. Dettelbach. Any appeal must be submitted within 30 days after you receive this letter.

It should contain all facts and arguments that you propose warrant a more favorable determination. Please reference the file number above in any correspondence. Appeals to Mr. Dettelbach should be prominently marked as a "FOIA Appeal" addressed to: U.S. Department of Transportation, Office of Inspector General, 7th Floor West (J3), 1200 New Jersey Avenue, SE, Washington, DC 20590.

¹ Exemption 7(E) protects techniques/procedures used in law enforcement investigations or prosecutions from disclosure. It prevents the disclosure of guidelines for law enforcement investigations or prosecutions if disclosure could reasonably be expected to risk circumvention of the law.

If you have any questions regarding your request, please contact me at Barbara.Hines@oig.dot.gov or (202) 366-1406 and/or contact Angel Simmons at angel.simmons@oig.dot.gov or (202) 366-6131. Any written correspondence should reference the above FOIA number.

Sincerely,

A handwritten signature in cursive script, appearing to read "Barbara A. Hines".

Barbara A. Hines
OIG FOIA/Privacy Act Attorney

Enclosure



Office of Inspector General

INVESTIGATIONS POLICY CHAPTER

Organization
DOT OIG JI
Policy Update
08-015

Date: 8/14/08

Chapter 3020

1. **Purpose.** The purpose of this section is to provide policy and procedures for the use of special investigative techniques.
2. **Applicability and Scope.** These requirements apply to all DOT/OIG JI employees.
3. **Expiration.** The provisions of this policy chapter are effective until further notice.

Theodore P. Alves
Deputy Inspector General

A handwritten signature in black ink, appearing to read "T. Alves", is written over the typed name.

Attachment

CHAPTER 3020

Special Investigative Techniques

Paragraph	1	Purpose
	2	Surveillance
	3	Video Surveillance
	4	Mail Cover
	5	Polygraph Examination
	6	Financial Crimes Enforcement Network
	7	Criminal Justice Information
	8	Photographic Arrays
	9	Arrest Warrant
	10	Audit Assistance
Exhibit	A	U.S. Postal Inspection Request for Mail Cover
	B	Sample transmittal letter to U.S. Postal Inspection
	C	Financial Crimes Enforcement Network Request Form
	D	DCAA Request Form

1. **PURPOSE.** This section includes information about enforcement activities and special investigative techniques used by U.S. Department of Transportation (DOT), Office of Inspector General (OIG), Office of Investigations (JI). Special Agents¹ are expected to be knowledgeable about the instructions and procedures contained in this section.
2. **SURVEILLANCE.** The covert observation of places, persons and vehicles for the purpose of obtaining information concerning the identities or activities of subjects and/or providing cover to undercover agents during covert operations, including electronic surveillance. This investigative technique can be unusually productive in appropriate circumstances. DOT/OIG policy on electronic surveillance, including video surveillance, can be found in OPM Chapter 3019 Electronic Monitoring.
 - a. **Surveillance Reports.** An activity log or surveillance notes should be maintained contemporaneously with the surveillance. Entries should include date and place

¹ The references in this Chapter to Special Agents are also pertinent to Investigators to the extent that the provisions are applicable to their casework.

of surveillance, identity of participating Special Agents, times of arrival and departure, descriptions of individuals or identities if known, license numbers, make, model, description of vehicles, and reference to photographs, if taken. Notes can be written or in the form of an audio recording of the Special Agent's observations (Audio recordings should be handled in the same manner of notes). A Memorandum of Activity (MOA) should be created summarizing the surveillance.

3. **VIDEO SURVEILLANCE.**

- a. **Equipment.** Use new recording media. Mark the media "MASTER" and place other case identifiers on the label before insertion into the camera. Decide if sound is to be recorded or if the microphone is to be disabled during the surveillance. If audio is desired, place an audio preamble on the beginning of the tape. Please see OPM chapter 3019 for further information on Electronic Monitoring. For evidentiary purposes please refer to OPM Chapter 3004.
- b. **Reasonable Expectation of Privacy.** The legality of using closed circuit television and/or video equipment for monitoring depends on the subject's reasonable expectation of privacy. For example, a person does not have a reasonable expectation of privacy in a public place such as an open field, street, parking lot or in a place where the public has unrestricted access. Where there is reasonable expectation of privacy a search warrant should be obtained. Any doubt as to the necessity for judicial authorization should be resolved via consultation with the appropriate U.S. Attorney's Office (USAO) or the Special Agent-in-Charge (SAC).
- c. **Documentation.** An MOA documenting the activity will be prepared following final use of the video equipment.

4. **MAIL COVER.** A "mail cover" is the process by which the U.S. Postal Service records any data appearing on the outside cover of any class of mail, sealed or unsealed, or by which a record is made of the contents of unsealed (second-, third-, or fourth-class) mail matter as allowed by law. This "mail cover" is done to obtain information in the interest of protecting national security, locating a fugitive, or obtaining evidence of commission or attempted commission of a felony crime, or assist in the identification of property, proceeds, or assets forfeitable under law. Mail covers on sealed mail, including First-Class Mail, Express Mail, International Letter Mail and Parcel Post, are restricted to recording data appearing on the outside cover. The U.S. Postal Service maintains rigid controls and supervision with respect to the use of mail covers as an investigative or law enforcement technique. The complete regulations on mail covers are contained in 39 C.F.R. 233.3.

- a. Written Request. Requests for mail covers should be made using the U.S. Postal Inspection Service (USPIS) External Law Enforcement Agency Request for Mail Cover form, and submitted with a cover letter signed by the region SAC or ASAC to the Postal Inspector-in-Charge of the region where the mail cover will be in operation or to USPIS, Criminal Investigation Service Center Manager (CISC) at the following address:

CISC Manager
Attn: MC Specialist
222 South Riverside Plaza, Suite 1265
Chicago, IL 60606-6117.

- (1) In emergency situations, i.e., a set of circumstances that requires the immediate release of information to prevent the loss of evidence or when there is potential for immediate physical harm to persons or property, the Postal Inspector in Charge, or his designee, may act upon an oral request, to be confirmed in writing within three business days.
- b. Contents of Request. The request must specify reasonable grounds that demonstrate the mail cover is necessary to obtain information regarding the commission or attempted commission of a felony crime, etc. The request must be factually sufficient. It should concisely specify how information from the mail cover will assist the criminal investigation and explain the need to obtain this information from the mail. Grand jury information should not be provided. The specific applicable statute should be cited, e.g., 18 USC 666. Mail covers are need-based and not to be used for general exploratory purposes. The request will include (Exhibits A & B):
- (1) Identification of the mail cover subject: addressee name and any known alias, address, and zip code.
- (2) The type of request – new request, extension (renewal), fugitive, forfeiture, etc.
- (3) Duration of cover – the number of days requested. The standard period is 30 days at a time (except for fugitive and national security cases). Adequate justification must be provided for any period longer than 30 days. A mail cover cannot remain in effect for more than 120 days without the approval of the Chief Postal Inspector.
- (4) Class of mail to be covered. Usually only sealed mail will be covered; if it is necessary to add unsealed mail, specify reasons for doing so.

- (5) If the mail cover subject is not the subject of the investigation, explain the affiliation/connection.
- (6) Whether all mail delivered to this address is intended for the cover subject.
- (7) Information regarding the persons residing at or receiving mail at the same address who are not a subject of the investigation (i.e., persons who should be excluded from the mail cover).
- (8) Whether the subject is an attorney, and if so, a member of the judiciary.
- (9) Provide the name and address of any known attorney for the mail cover subject or indicate the subject's attorney, if any is known.
- (10) Any other special circumstances, such as particular mail the subject receives, or the name of the local Postal Inspector if liaison has been established.
- (11) Requests for extension should indicate the mail cover reference number, whether the original cover assisted the investigation, the anticipated benefits to be derived from extension, and whether the subject's indictment status or legal representation status has changed.

c. Prohibitions and Limitations.

- (1) No mail cover report shall include matter mailed between the cover subject and his/her known attorney. If the subject's attorney is discovered during the cover, immediately notify the CISC Manager.
- (2) No mail cover may remain in force after the subject has been indicted or formally charged by information except when the purpose of the mail cover is to obtain information on further criminal violations or to assist in the location of a fugitive (these require a new request). If the subject is indicted or formally charged by information during the cover, immediately notify the CISC Manager. If the indictment is sealed, the CISC Manager will be requested to cancel the mail cover but there should be no mention of an indictment.

d. Evidentiary Value. While generally used for case development, the results of a mail cover may be used as evidence in criminal proceedings.

e. Handling of Mail Cover Documents. The results of a mail cover will be documented daily by USPS on Form 2009 "Information Concerning Mail Matter." All Forms 2009 with photocopy attachments, if any, are the property of

the USPIS and must be returned to the USPIS official from the recipient. Mail cover documents are loaned by USPIS with the understanding they will be treated confidentially and reproduction of mail cover documents is prohibited.

5. **POLYGRAPH EXAMINATION.** A polygraph examination is a procedure used to determine whether an individual examined during a polygraph shows physiological reactions that are believed to accompany intentional attempts to deceive the examiner. Despite the appeal of a mechanical device to measure a person's veracity, and as a "last resort" technique to solve a criminal investigation, the results of a polygraph examination are generally inadmissible in court. The polygraph is useful for supporting truthful testimony as well as detecting deceptive testimony. The polygraph can be helpful in corroborating the testimony of witnesses, and in exonerating persons wrongfully accused of criminal acts; therefore, it should be considered as an investigative tool to complement, not replace, more traditional investigative techniques.

a. Policy.

- (1) The polygraph may be used to supplement, not replace, traditional investigative techniques.
- (2) Subjects of investigation, including DOT employees, cannot be compelled to submit to a polygraph examination.
- (3) JI staff anticipating the need to administer a polygraph examination during the course of a criminal investigation shall obtain prior approval from the SAC, ASAC or appropriate office supervisor and concurrence of the prosecutor. The Special Agent is responsible for documenting the prior approval and concurrence and retaining that documentation in the case file.
- (4) Polygraph questions must be limited to relevant investigative issues except for those utilized as part of standard polygraph practice to establish normative responses.
- (5) When utilized, it should be made clear to the examinee the limited purpose for which the results are to be used.

- b. Procedure. A certified polygraph examiner will conduct the polygraph examination. Various federal law enforcement agencies (e.g., FBI, USSS, and USPIS) have certified examiners on staff. Special Agents should attempt to obtain the assistance of those agencies or of a certified examiner of another law enforcement agency. Requests for assistance to provide an examiner should be made through the SAC. Requests to hire a certified polygraph examiner from

the private sector must be approved by the SAC.

- c. Reporting Results. Details of the polygraph examination (including the polygraph charts, if they have been made available) should be retained in the investigative case file. When appropriate, MOA should include information about when and where the polygraph examination took place; who conducted the examination; the key questions/issues addressed by the examination; and the examiner's opinion as to whether deception was indicated as to those questions/issues.
- d. Procurement of Services. If there is a cost associated with obtaining a polygraph, the regional office requesting a polygraph shall use the following methods to procure the services:
 - (1) If the cost is \$3,000 or less, the regional office can use funds from the regional office budget if available.
 - (2) If the cost is \$3,000 or less, and the regional office does not have funds available from the regional office budget, the regional office purchase card should be used once additional funds are received sufficient to cover the purchase.
 - (3) If the cost is \$3,000 or less, and the provider does not accept purchase cards, then the regional office shall obtain approval and processing from JM-30 and JM-10.
 - (4) If the cost is more than \$3,000 the regional office shall obtain approval and processing from JM-30 and JM-10.

- 6. **FINANCIAL CRIMES ENFORCEMENT NETWORK (FinCEN).** FinCEN information can assist Special Agents in providing leads on individuals and criminal organizations by accessing commercially maintained databases, which can help to locate and determine asset ownership and establish links between entities. FinCEN was established by the U.S. Department of Treasury to collect, analyze, and disseminate intelligence on financial crimes. FinCEN's mission is to provide a government-wide, multi-source intelligence and analytical network to support law enforcement and regulatory agencies in the detection, investigation, and prosecution of financial crimes. Information obtained from FinCEN is for **Official Use Only** and should be maintained, disseminated, and disposed of in accordance with all applicable laws, rules, and regulations.

a. Procedures. Requests for access to FinCEN will be submitted on the FinCEN Request form and approved by SAC or ASAC before forwarding to JI Headquarters for processing. JI Headquarters will interact with FinCEN to accomplish the requested queries. Requests will ideally contain the following:

- (1) Subject information (name, DOB, address, telephone number, SSN, sex, race, height, weight, FBI #, OLN etc.);
- (2) Business information (bank account #(s), businesses, and associates);
- (3) Summary of criminal activity and type of potential violations; and
- (4) Purpose of query (criminal investigation, forfeiture action or both).

7. **CRIMINAL JUSTICE INFORMATION.** All criminal justice and other information from the Justice Telecommunications System (JUST), National Crime Information Center (NCIC), National Law Enforcement Telecommunication System (NLETS), or other federal, state, regional, or local criminal justice information systems is for **Official Use Only** and should be maintained, disseminated, and disposed of in accordance with all applicable laws, rules, and regulations.

a. Introduction. NCIC is a nationwide computerized information system established to provide and maintain criminal justice information for use by federal, state, and local agencies. NCIC maintains the Interstate Identification Index (III), an index of computerized criminal history records from participating state repositories and from federal records. Additional information is maintained by individual states and can be accessed through NLETS. Information available through NLETS includes state criminal history files, motor vehicle files, and driver's license files. DOT/OIG accesses NCIC and NLETS through JUST.

b. Authority. The Department of Justice (DOJ), Computerized Criminal History (CCH) Regulations, 28 C.F.R. 20, Subparts A and C, establish guidelines for access to and dissemination of criminal history record information. Additionally, those who access the JUST system are expected to follow the JUST Policies and Procedures, NCIC 2000 Operating Manual, the NLETS Users Guide, the Criminal Justice Information Services Security Policy and other related policies and guidelines. Access to state, regional or local systems will likewise be governed by the laws, regulations, rules and procedures pertinent to those systems. Generally, access to NCIC/NLETS is limited to criminal justice agencies and its use is limited to criminal justice purposes (i.e., criminal investigations or criminal justice pre-employment checks). As the DOT/OIG has a dual role as a criminal and administrative investigative agency, note that CCH information may only be requested in investigations/inquiries undertaken in

good faith for purposes leading to criminal prosecutions, officer safety considerations, or criminal justice pre-employment checks.

c. Policy.

- (1) Office Security. The office where a JUST (or state, regional or local criminal justice information) terminal, is located must have sufficient security to prevent unauthorized individuals from viewing or accessing the terminal and/or printed information from the terminal. The JUST terminal shall not be kept in an area that is shared (accessible) by both DOT/OIG Office of Audit (JA) and JI personnel.
- (2) Disposal of Media. All fixed storage media (i.e., hard disks, RAM disks) that have been used for JUST (or similar state/regional/local) transactions or contains related law enforcement sensitive information (i.e., JUST/NCIC manuals on CD-ROM) shall be properly disposed of in a manner that precludes unauthorized reconstruction of the data.
- (3) Passwords. Each user of JUST must take the initial and recurrent training provided by DOJ or a JUST trainer. After the initial and/or refresher training, a JUST user identification and password may be requested from DOJ. User identification and passwords are assigned to individuals and are not to be shared with others.
- (4) Criminal History Log. Each office with a JUST terminal shall maintain a log of all criminal history transactions. A copy of the log shall be maintained for a minimum of one year. The log should include, at a minimum, the following information: the name of the operator and requestor, any secondary dissemination, the date of transaction, type of inquiry (QH/QR), purpose code, subject's name, FBI/SID number, and DOT/OIG case number.
- (5) JUST Queries. Authorized JI personnel are responsible for conducting criminal history, driver's license and automobile registration inquiries through JUST or their respective state-based data system(s). Prior to interviewing the subject of a DOT/OIG criminal investigation, Special Agents should take reasonable steps to query the criminal history of the subject.

Regions without direct access to JUST may make inquiry requests through a region with a JUST terminal. All regions, regardless of whether they have a JUST terminal, are expected to comply with the provisions of this OPM chapter and the policies and guidance issued by DOJ as they relate to access, use and dissemination of criminal justice information. Criminal

justice information obtained from JUST is not to be disclosed to unauthorized personnel and is not to be requested for other than lawful purposes. In addition to other penalties, unauthorized use of JUST, NCIC, NLETS, or other criminal justice information systems could result in the termination of DOT/OIG's eligibility to access those systems.

- (6) Use of Information. The results of criminal history inquiries may only be used for the purpose for which they were requested. All users/requesters must be able to provide a valid reason for all criminal history inquiries when requested by DOJ. Operators may not perform criminal history checks of any sort for non-official purposes.
- (7) Dissemination of Criminal History Information. JI Staff who conduct criminal history inquiries for other agency personnel and/or other criminal justice or law enforcement agencies will be responsible for verifying that the recipient is authorized to receive the data. Criminal history information may not be shared with non-criminal justice agencies, or sections within OIG that are not criminal justice in nature. All secondary dissemination (i.e., to other than the operator) must be recorded in the log maintained by the region. The requestor's name should be placed in the attention field of the inquiry and the name of the agency should also be included if the inquiry is conducted for someone outside DOT/OIG.
- (8) Storage and Disposal. Criminal history information obtained through JUST is considered sensitive information and should be afforded the appropriate security. Criminal history records must be stored in a secure area. When hard copies of the information are no longer needed, they should be destroyed in a manner in which unauthorized individuals may not view, access or use the information.
- (9) Fax/Voice/Mail/Email Dissemination. Transmission of criminal history information via telephone, radio or fax is permissible in the event of officer/public safety or an immediate need to further an investigation. Prior to faxing criminal history information the JUST user should ensure that the individual requesting the information is notified by telephone. Criminal history information can be mailed provided a signature is required upon delivery. Criminal history information can be emailed only on closed systems (i.e. OIG email system). Emailing criminal history information over the Internet is permitted if the email is consistent with CJIS security policy.

8. **PHOTOGRAPHIC ARRAY (SPREADS)**. The following guidelines should be adhered to when presenting a photographic array, also known as a photo lineup or photo spread:

- (1) Use at least six photographs depicting similar looking individuals;
- (2) If practical, the photos should be unmarked. Notations (names, dates, and other information) should not be visible to witnesses. If block out is necessary to cover a notation on one photograph, then similar block out or covering marks must be placed on all photos in order that all will appear alike;
- (3) If there are two or more suspects, no two shall be presented together in a single photo spread;
- (4) If there are two or more witnesses, each witness should view the photo array separately and individually. Do not allow witnesses to talk to one another during the photo lineup procedure. Witnesses must not be permitted to consult with one another regarding their identification before, during, or after this procedure;
- (5) Each witness should initial and date a photocopy of the photo spread for the record, indicating whether or not any identification was made. The photo spread and copies shall be maintained in the case file for possible later use in court proceedings.
- (6) Before showing the photo lineup, the witness should be informed that the group of photographs may or may not contain a photograph of the suspect;
- (7) The photo display folder containing all photos and or initialed photocopies used in the photo line-up, following use, must be maintained in the case file or processed as evidence, in accordance with the procedures outlined in OPM Chapter 3004 Evidence;
- (8) The presentation of a photo line-up to a witness, and the results, should be documented in an MOA;
- (9) In a case that is presented for prosecution the prosecutor should be advised of any photo line-ups and shown any photo display folders as the defense is generally entitled to this information in discovery.

9. **ARREST WARRANTS.** An arrest warrant is signed by a Federal magistrate and contains the name of the defendant or description by which the defendant can be identified with reasonable certainty. It also contains a description of the offense charged in the complaint, and commands that the defendant be taken into custody and brought before the nearest available magistrate.

- a. Service and Return. According to Rule 4(d)(1) of the Federal Rules of Criminal Procedure (FRC), an arrest warrant can be executed by a Federal marshal or by an officer authorized by law. Special Agents as case agents generally should execute their own arrest warrants. The arrest warrant can be executed, and the summons served, at any place within the jurisdiction of the U.S.

The arrest warrant is executed by the arrest of the defendant; the warrant does not have to be in the possession of the arresting Special Agent(s) at the time of arrest. Upon arrest an officer possessing the warrant must show it to the defendant. If the officer does not possess the warrant, the officer must inform the defendant of the warrant's existence and of the offense charged and, at the defendant's request, must show the warrant to the defendant as soon as is possible. The Special Agent who executed the arrest warrant returns it to the magistrate who issued the warrant or the nearest available magistrate.

- b. Arrest. An arrest is the taking into custody of a person accused of a crime. Arrests are made:

- (1) On an arrest warrant for a past crime;
- (2) On probable cause that the person to be arrested has committed a felony; or
- (3) For a crime being committed in the Special Agent's presence.

- c. False Arrest. An arresting Special Agent may incur a penalty of monetary damages if found liable in a tort action for false arrest, false imprisonment, or assault and battery, depending on the circumstances surrounding the false arrest.

- d. Planning and Executing Arrests. Prior to executing an arrest warrant, Special Agents shall prepare an Operational Plan unless exigencies preclude a written plan, or the arrest merely involves a pre-arranged surrender at a controlled location such as a processing facility at a courthouse or detention facility. It is the responsibility of the case agent to ensure there is an operational plan in place. The plan should be reviewed by a supervisor prior to execution.

- e. Entry of Suspects Residence When making an Arrest. Courts have held that warrantless arrests in suspects' dwellings are presumptively unreasonable. Special Agents are not authorized to enter a suspect's residence in order to make an arrest unless an arrest warrant has been issued or the entry is justified by exigent circumstance such as: fear of imminent destruction of evidence; immediate threats to the safety of the public or law enforcement agents, or hot pursuit.

(1) Enter a suspect's home to effect an arrest only if there is reasonable belief that the suspect is present. Prior to entry, give, or make a reasonable effort to give, notice and purpose for entry otherwise justified by exigent circumstances.

(2) Do not enter the residence of a third-party not named in the arrest warrant without one of these circumstances:

(a) The third-party's consent;

(b) A search warrant; or

(c) exigent circumstance such as: fear of imminent destruction of evidence; immediate threats to the safety of the public or law enforcement agents, or hot pursuit.

f. Arrest Precautions. In accordance with the DOT/OIG Use of Force Policy, Special Agents may use a reasonable level of force necessary to effect an arrest. Special Agents may also notify and seek assistance from local law enforcement agencies in potentially dangerous arrest situations. (b)(7)e

(b)(7)e

(1)

(2)

(b)(7)e

(3)

g. Effecting the Arrest. Plan the arrest to minimize opportunities for the subject to either resist or flee. When making an arrest the Special Agent should, at a minimum, follow the below procedures:

(1) Arresting Special Agents must promptly identify themselves (as Federal law enforcement agents), and clearly advise the subject that he/she is under arrest;

- (2) Use only reasonable and necessary force, but do not hesitate to use such force as necessary to effectively and expeditiously bring under control a person who initiates action to cause physical harm;
 - (3) After arresting, handcuffing and searching the subject, apprise the subject of his/her rights as afforded under the *Miranda* decision and transport the subject to a predetermined site for processing; and
 - (4) Inventory the subject's personal property.
- h. Summons in Lieu of Arrest. At the request of an attorney for the government, a summons may be issued by a judge, instead of an arrest warrant. A summons requires the defendant to appear before a magistrate judge at a stated time and place. A summons may be served by any person authorized to serve a summons in a civil action. If the defendant fails to appear in response to a summons, a judge may issue a warrant.

10. AUDIT ASSISTANCE.

- a. External Assistance – Defense Contract Audit Agency (DCAA). DCAA provides audit services, under contract, for not only U.S. Department of Defense (DOD) but also other Government agencies responsible for procurement and contract administration, as well as accounting and financial advisory services in connection with negotiation, administration, and settlement of contracts and subcontracts. DCAA's major areas of emphasis include:
- (1) internal control systems,
 - (2) management policies,
 - (3) accuracy and reasonableness of cost representations,
 - (4) adequacy and reliability of records and accounting systems,
 - (5) financial capability, and
 - (6) contractor compliance with contractual provisions having accounting or financial significance.

DCAA also provides investigative audit support in non-DOD related matters on a reimbursable basis. This service entails the use of a specially trained auditor who provides accounting and auditing expertise, who can work as a member of the investigative team with special agents and DOJ attorneys. The auditor provides support to substantiate allegations, develop evidence, and identify

damages. The support may continue until the case is resolved criminally and/or civilly. DCAA investigative support can provide:

- Expert help from auditors who specialize in performing investigative reviews.
- Auditors who can assist agents in determining the financial direction of the case.
- Auditors who have access to Information Technology expertise and equipment for data analysis, mining, conversions, and other customized services.
- Court testimony as expert witnesses

(1) Request for DCAA Assistance. To obtain DCAA assistance, the case agent should prepare a DCAA request form addressed from the SAC to the AIGI and a draft request letter from the SAC to the regional DCAA office. In crafting the request, the case agent should be mindful that DCAA's services are billed by the hour and the tasking should be clear and its scope well-defined. The letter of request should provide a suitable background of the case, the pertinent matter(s) at issue giving rise to the request, and clearly define the task(s) that DCAA is to perform. If there is more than one task or issue, the request should prioritize the issues. The request should provide an estimate of the time (number of hours) needed, and provide a point of contact.

- (a) Additionally, it is strongly recommended that prior to submission of a formal request, the case agent and/or supervisor should meet with local DCAA representatives to discuss the potential engagement. Discussion would include the type of service needed, decision as to the level of detail needed to prove the case, resource requirements, and decision on a timeline. A meeting with the prosecutor or trial attorney may also be advisable.
- (b) The case agent will process the request through his/her SAC for approval, who shall forward the request to JI headquarters.
- (c) The Desk Officer will review and forward to the AIGI for approval.

(d) After AIGI approval, the signed request is forwarded to the requesting regional office with a copy forwarded to the JM-30 and JM-10 to set up an inter-agency billing agreement and handling of procurement services. The SAC, ASAC or case agent then coordinates the assistance with the assigned local DCAA office.

(e) SAC duties. The SAC shall maintain and monitor DCAA services by:

(1) Keeping track of the hours DCAA is spending on the audit.

(2) Verifying DCAA timesheets.

(3) Ensuring DCAA is conducting the work requested in accordance with the services requested in the request letterform.

(4) Interfacing with JM-10 and JM-30 on procurement issues.

b. DOT/OIG Office of Audit (JA) Assistance. Investigations may reveal indicators of weaknesses in controls and procedures that point to the need for audit analysis, or there may be instances in which audit assistance is desired in furtherance of an investigation for the skills, resources and/or programmatic knowledge that JA may be able to provide. Effective resource sharing between JI and JA maximizes OIG efforts to reduce fraud, waste, and abuse in DOT programs and operations, leverages in-house expertise and minimizes duplicate activities. Provide any other assistance as needed.

(1) Referrals for JA Assistance. A memorandum addressed to the AIGI will be prepared by the case agent, describing the background of the investigation, the issue(s) to be resolved and the type of assistance sought. The agent will submit the request through his/her SAC for approval, who shall forward the request to JI headquarters. The Desk Officer will review and forward to the AIGI for approval. The AIGI is responsible for transmitting the request to the Principle Assistant Inspector General for Audit.

Exhibit A

U.S. Postal Inspection Request for Mail Cover



External Law Enforcement Agency

a. **REQUEST FOR MAIL COVER**

Complete all sections of the mail cover template below and attach a cover letter on your agency letterhead with an original signature by your immediate supervisor. These should be placed in an envelope endorsed **RESTRICTED INFORMATION**. Seal the request in the envelope, place it in a second envelope, and mail to the CISC. The mail cover request should be addressed as follows:

**CISC Manager
Attn: MC Specialist
222 South Riverside Plaza, Suite 1265
Chicago, IL 60606-6117**

For further instructions on mail cover requests submitted by external law enforcement agencies, please see **Publication 55, USPS Procedures for Mail Cover Requests**. This publication may be requested by contacting our Mail Covers Unit at 312-669-5673.

1. <u>DATE OF REQUEST</u>	2. <u>TYPE OF REQUEST:</u> New Request: <input type="checkbox"/> Extension: <input type="checkbox"/> (Complete only Item 13) Fugitive: <input type="checkbox"/> (Refer to Item 7) Forfeiture: <input type="checkbox"/> (Refer to Item 8)	3. <u>NUMBER OF DAYS:</u> Indicate the number of days requested: 30 days <input type="checkbox"/> Fugitive only: 30 days <input type="checkbox"/> 60 days <input type="checkbox"/>
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4. SUBJECT OF MAIL COVER NAME & ADDRESS: Only one subject address may be requested on each mail cover template. Identify the individual(s) or business(es) to be covered by indicating full name(s), address, and ZIP+4 Code:

Name(s):
Address:
City:
State & Zip+4:

If coverage of "All Other Names" receiving mail at the subject address listed above is needed, provide justification. Also, indicate any names that should be excluded from this request.

All Names at Subject Address: Yes (provide justification below) No

Justification:

5. INDICTMENT: Has the subject been formally charged, i.e. indictment or information with the offense that is the basis of this mail cover request? Yes No

6. ATTORNEY:

a) Does the subject(s) of the investigation have a known attorney? Yes No
If so, state the attorney's name and address.

b) If this request involves a fugitive, does the fugitive have a known attorney? Yes No
If so, state the attorney's name and address.

c) Is the mail cover subject a judicial officer (e.g. attorney, judge, etc.)? Yes No

7. **FUGITIVE:** If the cover involves a fugitive, state the fugitive's name, aliases, and any relationship between the fugitive and the mail cover subject.

8. **FORFEITURE:** If the only purpose of the mail cover is to identify property for forfeiture, state the legal basis for the forfeiture investigation, including the applicable forfeiture statute.

9. **VIOLATION:** State the applicable violation description, statute number, and penalty. If this involves a fugitive and the statute for the warrant is Unlawful Flight or Failure to Appear, also state the original charge.

Violation Description, e.g. *Wire Fraud*:
 Statute, e.g. *Title 18 USC 1343*:
 Penalty, e.g. *Ten Years*:
 Is this violation a felony with imprisonment more than one year? Yes No

10. **REASONABLE GROUNDS:**

a) **Basis** - How has the mail cover subject violated, or is suspected of violating, the criminal statute? Make a definite statement that an official investigation into the possible violation of this criminal statute, fugitive search, or asset forfeiture is being conducted and cite the applicable section(s) of the United States Code or applicable State or Local law. Explain in detail your justification.

b) **Purpose** - What information do you expect to obtain from the mail cover? How will the mail cover facilitate the investigation, including the location of property or assets for forfeiture, or the location of a fugitive, e.g. banking information, co-conspirators, etc.?

c) **Connection** - If the mail cover subject is not the subject of the investigation, describe the affiliation of the mail cover subject to the subject of the investigation.

11. **CLASS OF MAIL:** Indicate the class of mail requested. Justification must be included for other than First Class.

- First-Class Mail (Personal or business correspondence: Includes Priority Mail [generally over 11 oz.] and Express Mail)
- Standard Mail (Bulk Business Mail)

Provide further justification for these classes of mail:

- Package Services (Parcel Post, bound printed materials, media mail and library mail)

Justification:

- Periodicals (Magazines, newspapers)
- Foreign Mail

Justification:

Justification:

12. **SPECIAL INSTRUCTIONS:** State any special instructions or concerns about this particular request.

13. **REQUEST FOR EXTENSION:** *(For an extension request, complete only the section below.)*

At the expiration of the mail cover period, or prior thereto, the requesting authority may request and be granted additional 30-day periods (60-day periods for fugitives). To ensure there is no gap in the mail cover, the extension request should be submitted a minimum of 10 days prior to the end of the mail cover. The requesting authority must provide a statement of the investigative benefits of the mail cover and the anticipated benefits to be derived from its extension. The request for an extension must state whether the subject has been indicted or an information filed and if the subject is represented by an attorney.

Per Postal Regulations, no mail cover shall remain in force longer than 120 continuous days unless personally approved for further extension by the Chief Postal Inspector.

(a) MAIL COVER REFERENCE NO.:

(b) State, in detail, how the results of the prior mail cover assisted, or did not assist, the investigation.

(c) Describe the anticipated benefits to be derived from this mail cover extension.

(d) Regarding the violation under investigation, has the subject's indictment status changed since the previous mail cover approval? Yes No

(e) Has the subject's legal representation status changed since the last mail cover approval? If so, state the nature of the change, including attorney's name and address. Yes No

Mail covers are issued only to law enforcement agencies empowered by statute or regulation to conduct criminal investigations and are strictly controlled to assure proper use.

Mail Covers are an investigative tool, and are not to be used as an initial investigative step.

14. AGENCY NAME, REQUESTOR NAME, ADDRESS WHERE MAIL COVER RESULTS SHOULD BE MAILED (with Zip +4 code), TELEPHONE NUMBER, FAX NUMBER AND E-MAIL ADDRESS:

In order to process this request, all fields below are required to be completed (fax and e-mail are optional fields)

Agency Name:

Is this a law enforcement agency? Yes No

Requestor's First Name:

Requestor's Last Name:

Requestor's Title:

Address:

City/State/Zip+4:

Telephone Number:

Fax Number:

E-Mail Address:

15. NAME, TITLE, AND SIGNATURE OF SUPERVISOR AUTHORIZING MAIL COVER REQUEST:

Supervisor's First Name

Supervisor's Last Name

Supervisor's Title

Supervisor's Address:

Supervisor's City/State/Zip+4:

Supervisor's Telephone Number:

Supervisor's Signature and Date: _____

AN ELECTRONIC VERSION OF THIS FORM IS AVAILABLE UPON REQUEST BY CONTACTING THE MAIL COVERS UNIT AT 312-669-5673.

AS INFORMATION, ALL COMPLETED MAIL COVER REQUESTS WILL NEED TO BE SENT VIA THE UNITED STATES MAIL TO THE CRIMINAL INVESTIGATIONS SERVICE CENTER PER INSTRUCTIONS AT THE TOP OF THE FIRST PAGE OF THIS TEMPLATE.

(For CISC Internal Use Only)

Reviewer's Initials & Date: _____

Exhibit B

SAMPLE TRANSMITTAL LETTER

AGENCY LETTERHEAD

DATE

Manager
Criminal Investigations Service Center
U. S. Postal Inspection Service
222 S. Riverside Plaza, Suite 1265
Chicago, IL 60606-6117

Restricted Information

Dear Manager:

Attached for approval are two mail cover requests for the following individuals:

**Requestor: (One template for each addressee)
(One cover letter for multiple addressees)**

Jerry L. Doe
1845 K. St.
Anywhere, USA 012333

Donna Lee
1956 Denver Lane
Anywhere, USA 85621

If you have any questions, please contact (requestor's name, title and telephone number).

Sincerely,

(Original Signature of manager/supervisor)

K. T. Smith
Title

Exhibit C

Financial Crimes Enforcement Network Request Form



OFFICIAL USE ONLY

FINANCIAL CRIMES ENFORCEMENT NETWORK

P.O. Box 39, Vienna, VA 22183-0039

1-800-SOS-BUCK
FAX: 703-905-3526



(FAX request will be accepted in lieu of original.)

REQUEST FOR RESEARCH

A. REQUESTOR

Foreign

U.S. Federal

U.S. State/Local

Name: _____ Requesting Agency: _____

Title: _____ Operation/Project Name: _____

Address: _____

Telephone: _____ Agency Case Number: _____

Fax: _____ E-mail Address: _____

B. CERTIFYING OFFICIAL (Supervisor)

I hereby certify, on behalf of the agency listed above, that this request for research is being submitted in support of a law enforcement, regulatory, or tax investigation or proceeding, or a national security matter, including the conduct of intelligence or counterintelligence activities to protect against international terrorism.

Name: _____ Title: _____

Address: _____

Telephone: _____ Fax: _____ Email Address: _____

Signature/Date: _____

C. NETWORKING WAIVER

It is FinCEN's policy to network (i.e., notify) different requestors that have submitted requests for information to FinCEN on the same subject. Networking gives the requestors the opportunity to coordinate their efforts with other FinCEN requestors, both domestic and international, on matters of mutual interest. FinCEN will disclose only the identity of your agency, your telephone number, your case number, and the common subject(s).

Are you interested in networking with domestic requestors? Yes No
Are you interested in networking with international requestors? Yes No

D. INVESTIGATIVE INFORMATION

Criminal

Civil

Regulatory

1. Are other Agencies participating in this investigation? Yes No

If so, please identify the agencies here: _____

2. In order to help us respond to your request, please provide a detailed overview/purpose (e.g., asset identification) of this investigation and the principal violation(s) and what type of information you need from FinCEN. Use a separate page if needed.

SUBJECT INFORMATION

Total Number of Subjects in Request: _____

Primary Subject(s) of Investigation (individual or business):

Name: _____
Last First Middle

A.K.A.s: _____

Address _____
Number Street Apt. or Suite #

_____ City State Zip Country

Telephone #: _____ **FBI # / SID #:** _____

DOB: _____ **SSN/EIN:** _____

POB: _____ **Gender:** _____ **Race:** _____

Passport #: _____ **Country:** _____

Alien Reg. #: _____ **Driver's License # / State:** _____

Other information or comments:

Additional Subject(s) of Investigation (individual or business):

Name: _____
Last First Middle

A.K.A.s: _____

Address _____
Number Street Apt. or Suite #

_____ City State Zip Country

Telephone #: _____ **FBI # / SID #:** _____

DOB: _____ **SSN/EIN:** _____

POB: _____ **Gender:** _____ **Race:** _____

Passport #: _____ **Country:** _____

Alien Reg. #: _____ **Driver's License # / State:** _____

Other information or comments:

Attach additional sheets as needed. Number of additional sheets: _____

SUBJECT INFORMATION

Additional Subject(s) of Investigation (individual or business):

Name: _____
Last First Middle

A.K.A.s: _____

Address _____
Number Street Apt. or Suite #

City State Zip Country

Telephone #: _____ FBI # / SID #: _____

DOB: _____ SSN/EIN: _____

POB: _____ Gender: _____ Race: _____

Passport #: _____ Country: _____

Alien Reg. #: _____ Driver's License # / State: _____

Other information or comments:

Additional Subject(s) of Investigation (individual or business):

Name: _____
Last First Middle

A.K.A.s: _____

Address _____
Number Street Apt. or Suite #

City State Zip Country

Telephone #: _____ FBI # / SID #: _____

DOB: _____ SSN/EIN: _____

POB: _____ Gender: _____ Race: _____

Passport #: _____ Country: _____

Alien Reg. #: _____ Driver's License # / State: _____

Other information or comments:

Exhibit D

DCAA Audit Request Form

Request Form DCAA Forensic Audit Services

Case No.	Case Title:	DOT Mode: ,
Case Opening Date:	Case Agent:	
Subject: Request for DCAA support in an on-going joint DOT investigation.		
Allegation: (Describe what is involved, type of fraud scheme, estimated loss to DOT.)		
Describe Type of Forensic Audit Services Needed:		
Estimated Number of Audit Hours/Costs/Approval		
New Estimate:	1st Adjustment:	2nd Adjustment:
Number of Hours:	Number of Hours:	Number of Hours:
Cost per Hour:	Cost per Hour:	Cost per Hour:
Total Estimated Cost:	Total Estimated Cost:	Total Estimated Cost:
Requested By:	Requested By:	Requested By:
Date Requested:	Date Requested:	Date Requested:
Number of Hours Approved:	Number of Hours Approved:	Number of Hours Approved:
Approved by :	Approved by :	Approved by :
Date Approved:	Date Approved:	Date Approved: