



Dealing with Government Investigations



INTRODUCTION

It is important for TTUHSC EP faculty and staff to know how to respond when TTUHSC EP may be the subject of a federal or state investigation. This pamphlet provides general information on how to respond to government investigations, including investigative searches, interviews, search warrants, subpoenas and other investigative documents.

WHO ARE GOVERNMENT INVESTIGATORS?

Federal and state agencies include, but are not limited to, the FBI, Justice Department, EPA, Department of Transportation, Department of Health and Human Services Office of Inspector General, Texas Health and Human Services Commission and Texas Attorney General's Office. This does NOT apply to audits or investigations by the State Auditor's Office.

WHAT IS A GOVERNMENT INVESTIGATION?

A government investigation takes various forms. Common investigative tools used by government agents include search warrants, civil investigative demands (CID), authorized investigative demands (AID), subpoenas, congressional letters, and interviews by phone or in person.

WHO TO CONTACT



IMMEDIATELY CALL THE OFFICE OF GENERAL COUNSEL (915) 215-4556 or (915) 215-4744

Next, **NOTIFY** your immediate supervisor.

WHAT TO DO DURING A SEARCH

DO NOT PANIC! If possible, wait until someone from the Office of General Counsel or its designee arrives or is available by telephone. Until then, the following information will help you deal with a search warrant until someone from the Office of General Counsel or a designee is available.

SEARCH WARRANTS

A search warrant is a court order that allows law enforcement the right to search for and remove or take certain items. You should be familiar with these steps in those cases where the government agents will not wait for Texas Tech University System (TTUS) legal counsel to arrive. Until legal counsel is available, designate who is in charge (person-in-charge).



IDENTIFY THE AGENT-IN-CHARGE AND ASK FOR IDENTIFICATION (ID).

Ask the investigative agent-in-charge for each agents' government ID and business card. Look up the number of their local/regional office and verify their identity - **DO NOT** call a number given to you by the agent. Ask that all questions go through legal counsel or the person-in-charge.



ASK THE AGENT-IN-CHARGE TO **WAIT** UNTIL LEGAL COUNSEL IS AVAILABLE.

If the agents agree, escort him/her to a private area to minimize disruption to operations. If he/she does not agree, designate a high-level person in the area to monitor the search.



DO NOT AGREE TO THE SEARCH IF NO SEARCH WARRANT.

If the agents do not have a search warrant, do not sign any forms or agree to the search. Tell faculty and staff that they do not have authority to consent to any search of TTUHSC EP.



OBTAIN A COPY OF THE SEARCH WARRANT AND AFFIDAVIT

Ask to make a copy of the search warrant and affidavit. Although you have a right to a copy of the warrant, the agent can deny your request for a copy of the affidavit. Email any copies to the Office of General Counsel at frank.gonzales@ttuhsc.edu, diana.flores@ttuhsc.edu, or william.webster@ttuhsc.edu. If legal counsel is not available, the person in charge shall review the warrant to determine if it is signed by a judge or verify that the date is correct. Object if the agents search any area not identified in the warrant or take documents marked “attorney/client privilege” or “work product”. Write down all of your objections.



REMIND FACULTY & STAFF OF THEIR RIGHTS.

Tell faculty and staff that they are not required to speak with agents, BUT DO NOT tell them that they cannot talk to the agents. If possible, have all non-essential personnel leave the area during the search.



DO NOT INTERFERE WITH THE SEARCH.

Tell faculty and staff not to remove, discard, destroy, amend, deface or hide anything that might be subject to the search or otherwise interfere with the search.



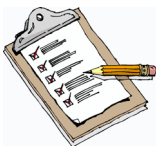
OBSERVE THE SEARCH AND TAKE NOTES.

If legal counsel is not present, appoint persons to observe the search. Write down each place that is searched and the items or documents taken. Write down how the search was conducted, questions asked and anything said to investigators. Write down the time and date of the search.



COPY DOCUMENTS AND ELECTRONIC DATA TAKEN.

Ask to make copies of any documents to be taken. Make back-up copies of any electronic data removed from TTUHSC EP.



MAKE AN INVENTORY AND GET A RECEIPT.

Make a list of all documents and items taken, with sufficient detail to properly identify them. Before the agents leave ask them to sign the list and ask for a copy of the agents’ inventory list. DO NOT sign anything made by the agents verifying the contents or accuracy of their inventory.

WHAT TO DO AFTER A SEARCH

All persons present during the search are to remain on site until dismissed by legal counsel. Do Not Talk about the search until legal counsel is present.

WHAT TO DO IF THEY COME TO YOUR HOME

TTUHSC EP Employees have the same rights at home as they do at TTUHSC EP. You have the right to an attorney. A search warrant is required to search your house without your consent. You do not have to consent to a search and you do not have to talk to the agents. Call the Office of General Counsel as soon as possible.

COMMON SEARCH INSTRUMENTS

Civil Investigative Demand (CID): The U.S. Attorney General's Office uses a CID to obtain documents or information relevant to an investigation of a false claim. A CID can demand one or more of the following: (i) documents; (ii) written answers to questions (interrogatories); and/or (iii) oral testimony. Immediately contact the Office of General Counsel if you receive a CID.

Authorized Investigative Demand (AID):

The U.S. Attorney General's Office is authorized to issue an AID to investigate health care offenses. An AID can require that documents be produced and that the custodian of record testify regarding production and authentication of records requested. Immediately contact the Office of General Counsel if you receive an AID.

OIG Subpoenas: The Office of Inspector General (OIG) has the power to issue subpoenas for the production of records, reports, answers and other data and documents to conduct its investigations. Immediately contact the Office of General Counsel if you receive an OIG subpoena.

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