

Guide to Judiciary Policy

Vol. 1: Governance and Authorities

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§ 1410 Overview

- (a) This chapter provides requirements for the investigation of, reporting, and response to allegations of fraud, waste, and abuse within the

Administrative Office of the U.S. Courts (AO) and the judiciary organizations identified in § 1410.10.

- (b) The judiciary is committed to detecting and preventing fraud, waste, abuse, and other violations of the law, and to promoting economy, efficiency, and effectiveness of operations within the judicial branch.
- (c) Judiciary organizations identified in § 1410.20(a) may establish separate procedures for investigating, reporting, and responding to allegations of fraud, waste, and abuse. These procedures can supplement but must not diminish or limit the requirements outlined in this chapter.

§ 1410.05 Definitions of Conduct	
Abuse	Improper use of judiciary resources or misuse of one's position, title, or authority to secure a personal or private benefit for oneself or another, or to deny a legitimate benefit to another.
Fraud	Intentional deception designed to deprive the judiciary of something of value or to secure from the judiciary a benefit, privilege, allowance, or consideration to which an individual or entity is not entitled.
Waste	Thoughtless or careless expenditure, or mismanagement of resources to the detriment (or potential detriment) of the judiciary resulting from deficient practices, systems, or controls. (Note: Waste does not include the reasonable exercise of management discretion in the ordinary course of judiciary operations.)

§ 1410.10 Other Definitions	
Allegation	A claim of conduct that is believed to have resulted in fraud, waste, or abuse. The person who is alleged to have engaged in the conduct resulting in fraud, waste, or abuse is the subject of the allegation/investigation.
Community defender organizations (CDOs)	Defender organizations that operate as a grantee of the judiciary, but are independent, nonprofit organizations.
Complainant	A person submitting an allegation of fraud, waste, or abuse.
Court unit executives	Heads of circuit or court units, including circuit executives, district court executives, clerks of court, chief probation officers, chief pretrial services officers, senior staff attorneys, chief circuit mediators, bankruptcy administrators, and circuit librarians.
Court units	All U.S. courts and their units, including circuit offices and bankruptcy administrator offices.
Federal public defender organizations (FPDOs)	A Federal Public Defender (FPD) and all staff in the FPD's office.

§ 1410.10 Other Definitions	
Judiciary employees	Employees of the organizations listed in § 1410.20(a).
Responsible judiciary official	The person or entity responsible for overseeing the appointment and conduct of an investigator. Depending on the type of organization and the subject of the allegation, this may be the chief judge, circuit judicial council, FPD, bankruptcy administrator, or the AO Deputy Director (see: § 1445.10(a) (Referral of Allegations to the Responsible Judiciary Official)). The responsible judiciary official may delegate this responsibility to another appropriate person or entity.

§ 1410.20 Applicability

- (a) Except as provided in paragraph (c), this policy applies to all judiciary organizations, including:
 - all court units (**see:** § 1410.10);
 - FPDs; and
 - the AO.
- (b) CDOs are independent organizations that receive grants to provide representation under the Criminal Justice Act. The AO, as the grantor, has the authority to address allegations of fraud, waste, or abuse regarding CDOs, their staff, and activities within the scope of the annual grant and conditions agreement. If the AO receives allegations concerning a CDO or its staff, they are referred to the Deputy Director.
- (c) This policy does **not** apply to the Supreme Court of the United States.

§ 1410.30 Addressing Allegations Outside the Scope of This Chapter

- (a) Complaints naming a judge as the subject are governed by Guide, Vol. 2E, Ch. 3 (Rules for Judicial-Conduct and Judicial-Disability Proceedings).
- (b) For allegations related to a judicial decision in a case, **see:** 28 U.S.C. § 1291.
- (c) For allegations of sexual harassment, discriminatory harassment, abusive conduct, discrimination, whistleblower retaliation, and retaliation for engaging in fair employment practices (FEP) protected activity, **see:** Guide, Vol. 12, Ch. 2 (Workplace Conduct and Protections), § 220.10.

(Note: The Office of Judicial Integrity, circuit Directors of Workplace Relations, and Employment Dispute Resolution (EDR) Coordinators assist in addressing workplace conduct concerns within the judiciary. The Office of Judicial Integrity assists AO employees with similar concerns.)

- (1) Court unit and FPDO employees should consult the relevant employment dispute resolution plan applicable to their court unit or FPDO (Guide, Vol. 12, Appx. 2A (Model Employment Dispute Resolution Plan) and Appx. 2B (Model Federal Public Defender Organization EDR Plan)).
- (2) AO employees should consult the workplace conduct and protections and employee grievances policies provided in the *AO Manual*.
- (d) Allegations that fall outside of the above categories should be reported to the appropriate member of the employee's management chain.
- (e) The procedures in this chapter do not limit a judiciary organization's authority under existing law or policy to address employee misconduct, including the judiciary organization's authority to take adverse employment action against an employee due to misconduct meeting the definition of fraud, waste, or abuse. **See:** Guide, Vol. 12, Ch. 3 (Employee Relations), § 320 (Adverse Actions).

§ 1415 Confidentiality and Whistleblower Protection

It is the policy of the judiciary to maintain confidentiality in the investigation of allegations of fraud, waste, or abuse and to protect complainants from retaliation. Confidentiality safeguards the integrity of investigations and protects the reputations of those involved pending final resolution. Whistleblower protection encourages reporting by reducing fear of retaliation.

§ 1415.10 Confidentiality

- (a) All individuals involved with the investigation and resolution of allegations of fraud, waste, or abuse must maintain the confidentiality of the complainants and allegations, unless:
 - (1) a complainant has informed the investigator that the complainant is not requesting confidentiality, in which case the complainant's identity—but no other information—may be disclosed;
 - (2) disclosure is necessary to complete the investigation; or
 - (3) disclosure is necessary to preserve the safety of the complainant or others.
- (b) An investigator's decision to disclose a complaint or a complainant's identity, in whole or in part, must be reviewed and approved by the responsible judiciary official before disclosing any confidential information.

- (c) If disclosure of the identity of a complainant who has requested confidentiality becomes unavoidable during an investigation, the complainant must be notified before any disclosure unless such notice would be contrary to law or may be detrimental to the safety of the complainant or others.

§ 1415.20 Whistleblower Protection

- (a) It is the policy of the judiciary to protect complainants from retaliation. Any judiciary personnel with authority to take, direct others to take, recommend, or approve any personnel action may not use such authority to take or threaten to take an adverse employment action against a complainant who is a judiciary employee because of any disclosure of information:
 - (1) by the complainant to:
 - (A) the appropriate federal law enforcement authority,
 - (B) the Office of Judicial Integrity,
 - (C) a circuit Director of Workplace Relations,
 - (D) a human resources official,
 - (E) an EDR coordinator, or
 - (F) any official listed in § 1445.10(a) or (b)(1);
 - (2) that the complainant reasonably and in good faith believes constitutes fraud, waste, or abuse as defined in this chapter; and
 - (3) where such disclosure:
 - (A) is not specifically prohibited by law,
 - (B) does not reveal case-sensitive information, sealed material, or the deliberative processes of the federal judiciary, and
 - (C) does not reveal information that would endanger the security of any judge or other judiciary employee.
- (b) For complainants employed by a court unit or FPDO, the process for addressing whistleblower retaliation complaints is provided in the relevant court unit or FPDO employment dispute resolution plan.

- (c) For complainants employed by the AO, the process for addressing complaints of whistleblower retaliation is provided under the AO Personnel Act of 1990 (Pub. L. No. 101-474).
- (d) Complainants who are not judiciary employees should direct complaints of whistleblower retaliation to the AO Deputy Director.
- (e) The Office of Judicial Integrity, circuit Directors of Workplace Relations, and Employment Dispute Resolution (EDR) Coordinators assist in addressing workplace conduct concerns within the judiciary. The Office of Judicial Integrity assists AO employees with similar concerns.

§ 1415.30 Anonymous Reporting

The judiciary treats all allegations seriously, including anonymous allegations. However, names and other contact information assist the judiciary in following up on allegations and investigating them thoroughly.

§ 1420 Authorities and Responsibilities

§ 1420.10 Administrative Office

- (a) Director
 - (1) The Director serves as the chief administrative officer of the United States courts. 28 U.S.C. § 604(a).
 - (2) The Director has assigned responsibility to the Deputy Director for:
 - (A) coordination of and referral to the responsible judiciary official, as defined in § 1410.10, any allegations reported to or brought to the attention of the AO; and
 - (B) oversight of the fraud, waste, or abuse investigation program.
- (b) Deputy Director
 - (1) The AO Deputy Director is responsible for advising the Judicial Conference Committee on Audits and Administrative Office Accountability (AAOA Committee) on the status of fraud, waste, or abuse allegations reported to the AO until they are closed.
 - (2) The Deputy Director's staff is responsible for tracking and conducting investigations and fact-finding activities for all allegations of fraud, waste, or abuse involving:

- (A) the AO;
- (B) anyone doing business with the federal judiciary; or
- (C) a court unit or FPDO, as applicable, upon request of the chief judge. **See:** § 1410.20(a) (Applicability).

§ 1420.15 Court Units and FPDOs

- (a) Each court unit and FPDO must adhere to the policies and procedures provided in this chapter when addressing fraud, waste or abuse allegations.
- (b) Each court unit and FPDO must report allegations of fraud, waste and abuse upon receipt of the allegation. **See:** § 1445.10 (Referral of Allegations to the Responsible Judiciary Official).
- (c) Court or FPDO employees must report potential fraud, waste, or abuse allegations locally or to the AO. **See:** § 1435.10(a).

§ 1420.20 Circuit Judicial Councils

Each circuit judicial council is responsible for — and has the authority to make all orders necessary and appropriate to — the effective and expeditious administration of justice within its circuit. 28 U.S.C. § 332.

§ 1420.30 [Reserved]

§ 1420.40 Judicial Conference AAOA Committee

The Committee on Audits and AO Accountability (AAOA Committee) oversees the investigative assistance activities performed by the AO and recommends actions to address recurring issues. Its duties include:

- (a) sending an annual reminder to all judicial officers regarding the reporting of fraud, waste, and abuse allegations;
- (b) receiving confidential status reports twice yearly on new and open allegations of fraud, waste, and abuse, including:
 - (1) a summary of all allegations;
 - (2) investigative outcomes reported by the AO, court units, and FPDOs;
 - (3) corrective actions for recommendations made regarding the AO; and

- (4) other matters which do not fall within the definitions of fraud, waste, and abuse; and
- (c) corresponding with chief judges for timely responses to allegations received by the AO for the respective court unit and FPDOs.

§ 1430 [Reserved]

§ 1435 Reporting Allegations of Fraud, Waste, or Abuse

§ 1435.10 Judiciary Employees

- (a) A judiciary employee who becomes aware of potential fraud, waste, or abuse occurring in the judiciary must promptly report the allegation to one or more of the following officials, as applicable:
 - (1) the court unit executive or FPD;
 - (2) the chief judge;
 - (3) the circuit judicial council via the circuit executive; or
 - (4) AO staff, through the web-based JNet form or an email to the AO Deputy Director's office.
- (b) Judiciary employees must:
 - (1) cooperate with investigations and other fact-finding activities; and
 - (2) refrain from interfering with or hindering an investigation.
- (c) **See also:** Code of Conduct for Judicial Employees, Canon 3; Code of Conduct for Federal Public Defender Employees, Canon 3.

§ 1435.20 Reminders on How to Report Allegations

- (a) Court units and FPDOs must annually promote local fraud, waste, or abuse reporting.
- (b) Annual local reporting reminders must:
 - (1) provide the name and contact information for:
 - (A) the court unit executive or FPD;
 - (B) where applicable, the chief judge;

- (C) the circuit judicial council via the circuit executive; and
- (D) the AO Deputy Director; and
- (2) include information on the protections described in § 1415 (Confidentiality and Whistleblower Protection).

§ 1440 [Reserved]

§ 1445 Investigating and Resolving Allegations of Fraud, Waste, or Abuse

§ 1445.10 Referral of Allegations to the Responsible Judiciary Official

- (a) Allegations of fraud, waste, or abuse must be promptly referred to the responsible judiciary official, as defined below:
 - (1) the chief judge of the responsible court when the allegation concerns a court unit or its activities, including an allegation involving a judge of that court;
 - (2) the chief judge of the responsible court of appeals when the allegation involves a chief judge of a district or bankruptcy court, FPD, or bankruptcy administrator;
 - (3) the circuit council when the allegation involves a circuit chief judge;
 - (4) the FPD when the allegation concerns the FPDO or its staff, other than the FPD;
 - (5) the bankruptcy administrator when the allegation concerns the bankruptcy administrator office or its staff, other than the bankruptcy administrator; or
 - (6) the AO Deputy Director when the allegation concerns a CDO or its staff.

(Note: Complaints naming a judge as the subject are governed by Guide, Vol. 2E, Ch. 3 (Rules for Judicial-Conduct and Judicial-Disability Proceedings) and fall outside the scope of this chapter.)

- (b) Referrals from Other Government Agencies
 - (1) A complainant may direct allegations about the judiciary to another government agency, such as the Office of the Inspector General at the Department of Justice (DOJ) or the Government Accountability

Office (GAO). Those agencies may forward such allegations to the AO or directly to the identified judiciary organization.

- (2) If the AO receives an allegation regarding a court unit or FPDO that appears not to have been forwarded to the responsible judiciary official (as defined above in paragraph (a)), the AO will forward the allegation to that official.

§ 1445.20 Assigning an Investigator

- (a) Upon receipt of an allegation the responsible judiciary official must promptly assign an investigator according to the following criteria:
 - (1) The investigator must be independent and outside the chain of command of the subject(s) of the investigation.
 - (2) The subject(s) of the investigation may not conduct, oversee, or otherwise participate in the investigation.
 - (3) The investigator should be chosen to avoid potential bias due to familiarity with the subject(s) of the investigation.
- (b) To ensure an independent and objective investigation, the responsible judiciary official should consider assigning an investigator from outside the subject court unit, FPDO, or CDO.

§ 1445.30 Initial Screening of Allegations

- (a) Each element of a fraud, waste, or abuse allegation must be screened by the investigator to determine whether to:
 - initiate investigative activity,
 - refer the allegation to another appropriate authority, or
 - take no further investigative action.
- (b) The screening of an allegation should consider:
 - (1) whether the activity described in the allegation, if true, meets the definition of fraud, waste, or abuse; or
 - (2) whether a review of readily available information clearly indicates that the allegation is based on false information.
- (c) A decision not to investigate (refer to another entity or take no action) must be documented.

§ 1445.40 Investigative Assistance from the AO

The Judicial Conference has authorized the Director to provide investigative assistance related to an allegation of fraud, waste, or abuse if requested by a chief judge, circuit judicial council, federal public defender, or bankruptcy administrator, consistent with the authorities described in § 1420.10 (Administrative Office). JCUS-SEP 1988, p. 57; JCUS-SEP 2019, pp. 5-6.

§ 1445.50 Investigating Allegations

- (a) Each investigation into allegations of fraud, waste, or abuse must adhere to the following minimum standards relating to planning, execution, and information management. The responsible judiciary official must ensure adherence to these investigative standards.
 - (1) Planning

If the investigator decides to initiate an investigation, the investigator should establish, if appropriate, an investigative plan of action as soon as possible.
 - (2) Execution
 - (A) Interviews

A review of known information should precede a planned interview. Interviews should be properly documented.
 - (B) Collecting Evidence

Evidence should be collected in such a way as to ensure that all known or obviously relevant material is obtained, and the chain of custody is preserved. The validity of information and evidence obtained during an investigation should be verified.
 - (C) Documenting Activities

The results of the investigation should be accurately and completely documented in the case file.
 - (D) Timeliness

The investigation should proceed without unnecessary delay and be concluded as soon as possible.
 - (3) Investigative Report

- (A) The investigator should prepare and submit to the responsible judiciary official a full investigative report upon conclusion of the investigation.
 - (B) The report should include:
 - (i) a description of the investigation's scope, including witnesses interviewed and evidence reviewed;
 - (ii) a summary of factual findings;
 - (iii) an analysis of any potential violation of judiciary policy, regulation, or law; and
 - (iv) any recommended changes to local policy or procedures to minimize the risk of recurrence.
 - (C) Evidence outlined in the report should be supported by documentation in the investigative case file.
- (4) Information Management
- (A) All investigative activity should be recorded in an official case file.
 - (B) The responsible judiciary official should provide clear instructions regarding the custody, maintenance, and disposition of the case file.
 - (C) The investigator must maintain confidentiality in the investigation. **See:** § 1415.10 (Confidentiality).
- (b) The responsible judiciary official should conduct periodic supervisory reviews of investigative activities to ensure adherence to these investigative standards.

§ 1450 Reporting Requirements

§ 1450.05 Reporting the Initiation of an Investigation

- (a) Upon the decision to initiate an investigation (**see:** § 1445.30 (Initial Screening of Allegations)), the responsible judiciary official or designee must report the allegation to the AO.
- (b) The report should be made to the AO Deputy Director's Office and should include:

- (1) a copy of the complaint; and
- (2) a local point of contact for information about the status of the investigation.

§ 1450.10 [Reserved]

§ 1450.15 Reporting the Outcome of Investigations

The outcome of any fraud, waste, or abuse investigation of or by a court unit or FPDO must be reported by the responsible judiciary official to the AO Deputy Director's Office, including:

- (a) a description of the allegation(s);
- (b) whether indicators of fraud, waste, or abuse were found for each allegation;
- (c) any personnel action taken;
- (d) any policies or procedures that have been adopted or amended to minimize the risk of recurrence;
- (e) any referral to DOJ, U.S. Treasury, or other law enforcement organization;
- (f) the amount of any losses; and
- (g) recovery efforts for any losses, including the initiation of debt collection activities and the results of those activities.

§ 1450.20 Administrative Office Reporting Requirements

- (a) AAOA Committee

The AO must provide the AAOA Committee with:

- (1) a confidential summary of the status of new and ongoing allegations of fraud, waste, or abuse; and
- (2) the final investigative reports from all completed investigations, including the findings, outcomes, and corrective actions taken as the result of an investigation.

- (b) AO's Office of Audit

The AO's Office of the Deputy Director must report allegations and investigations to the AO's Office of Audit if they result in identification of:

- (1) noncompliance with judiciary policy;
 - (2) internal control weaknesses; or
 - (3) potential improper payments.
- (c) Due to the sensitive nature of allegations and investigations, the AO provides status reports only to the AAOA Committee and responsible judiciary officials.

§ 1450.30 Losses Due to Fraud

- (a) Upon a determination that an amount of money, funds, or property is due or owed to the United States as a result of fraud, presentation of a false claim, or misrepresentation on the part of a debtor or any party having an interest in the claim, the responsible judiciary official must promptly notify DOJ. **See:** 31 CFR 900.3 and 31 CFR 900.2. The AO's Office of the General Counsel can assist with reporting to DOJ.
- (b) DOJ has sole authority to initiate criminal prosecution regarding such loss, unless the agency returns the claim to the judiciary for further handling. If returned for action, the judiciary must seek to resolve the loss under the standards in 31 CFR 900-904. For debt collection policy, **see:** Guide, Vol. 13, Ch. 14 (Debt Collection).
- (c) Upon identification of a loss of government resources (e.g., funds, information, property) believed to have resulted from fraud or the fraudulent actions of an employee, the court unit executive or FPD must take action to satisfy applicable reporting requirements in Guide, Vol. 13 (Finance and Budget), § 1320.30 (Responsibility to Report Losses Due to Fraud) or Vol. 16 (Space and Facilities), § 590 (Theft).