
Puerto Rico

Financial Institution Fraud

Memorandum of Understanding

FY 2000

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) constitutes an agreement voluntarily entered into between the Office of the Commissioner of Financial Institutions (CFI) and the Federal Bureau of Investigation (FBI).

Purpose & Mission

The purpose of this MOU is to establish policy for the FBI and CFI regarding referral and investigation of criminal matters of mutual interest in regard to financial institution fraud, investment fraud and mortgage fraud. Furthermore, to delineate the responsibilities of the participants, maximize inter-agency cooperation, and formalize relationships between the participating agencies for policy guidance, planning, training, public and media relations.

It is mutually agreed that an MOU should be established to effectively combat financial institution fraud, investment fraud and mortgage fraud to maximize the cooperation between the FBI and the CFI. It is further agreed that the participating agencies will coordinate their respective investigations and audits to assist each agency in fulfilling its own mission and responsibilities by combining expertise and investigative resources to combat financial institution fraud, investment fraud and mortgage fraud in Puerto Rico. However, each agency will retain all rights and obligations under existing statutes and regulations and this agreement will not restrict the legal prerogatives of either agency.

Administration & Procedure

In accordance with the terms of this MOU, the FBI will establish and develop a case referral program with the CFI for the benefit of each agency. The establishment of policy, program involvement, and direction will be the responsibility of the FBI Special Agent in Charge (SAC) and CFI Commissioner, respectively.

A. *Supervision*

Each participating agency will designate a coordinator who will maintain liaison and coordinate investigative efforts and activities of their agency's assigned personnel.

B. *Case Referral*

It is agreed that the CFI will, within thirty (30) days after detection, refer to the FBI all cases where a reasonable suspicion of a violation of federal law arises involving investment fraud, (or) financial institution fraud, *or mortgage fraud*. In addition, the CFI will fully assist the FBI in any case that has been referred.

C. *Investigative Exclusivity*

It is agreed that all matters of federal jurisdiction, designated to be handled by the FBI, will not knowingly be subject to non-FBI law enforcement efforts. It is incumbent on each agency to make proper internal notification regarding the existence of referred matters and areas of concern. It is agreed that there is to be no unilateral action taken on the part of the FBI or the CFI relating to investment fraud, (or) financial institution fraud, *or mortgage fraud* investigations or areas of concern. All law enforcement actions will be coordinated and cooperatively carried out.

D. *Reports and Records*

All investigative records related to matters of federal jurisdiction will be maintained at an approved FBI location. All joint interviews of subjects or witnesses will be reported in FBI format. Placement of all or part of said information into participating agency files rests with the discretion of supervisory personnel of the concerned agencies. Classified information and/or documents containing information that identifies or tends to identify an FBI informant will not be placed in the files of participating agencies unless appropriate FBI policy has been satisfied.

E. *Prosecutions*

All investigative procedures are to conform to the requirements for federal prosecution. A determination will be made on a case-by-case basis whether the prosecution of referred cases will be at the state or federal level. This determination will be based on the evidence obtained and a consideration of which level of prosecution would be of the greatest benefit to the overall objectives of this MOU. It is agreed that in the event that an investigation is developed in a matter not within the jurisdiction of the FBI, the FBI agrees to provide all relevant information to state and local authorities. Whether to continue and/or conduct additional investigation of the state or local crimes involved will be at the sole discretion of the respective state and local authorities.

F. *Investigative Methods/Evidence*

For cases assigned to an FBI Special Agent or in which FBI informants or cooperating witnesses are utilized, the parties agree to conform to federal standards concerning interview reporting, evidence collection, processing, storage, and electronic surveillance. In all cases, the parties agree to utilize federal standards pertaining to evidence handling and electronic surveillance activities to the greatest extent possible. All evidence acquired during any joint

investigation will be secured in the evidence room at the San Juan FBI Field Office. The federal rules and policies governing the submission, retrieval, and chain of custody of evidence will be strictly followed. The use of other investigative methods (search warrants, interceptions of oral communications, etc.) and reporting procedures in connection therewith will be consistent with the policy and procedures of the FBI. CFI personnel will have access to the evidence in joint cases at the FBI office in accordance with federal rules and policies.

G. *Dispute Resolution*

In cases of overlapping jurisdiction, the participating agencies agree to work in concert to achieve the objectives herein. It is expected that operational disputes, controversies, or problems will be addressed and resolved through the cooperation of assigned personnel. The parties agree to attempt to resolve any disputes at the field level first before referring the matter to supervisory personnel for resolution.

H. *Security of Investigations*

It is recognized that investigations regarding investment fraud, (and) financial institution fraud, *and mortgage fraud* are inherently sensitive, inasmuch as they involve the reputation and credibility of public and/or financial officials. Further, the security of such investigations is often vital to the case's success. For these reasons, the participating agencies agree that discussion of its cases must be restricted to a need-to-know basis.

Equipment

A. *Vehicles and Radios*

Each participating agency will be responsible for the transportation and cost of its respective assigned representative(s). The FBI agrees and authorizes CFI representative(s) to this MOU to travel as passengers in FBI vehicles for surveillance, investigative, and undercover activities in connection with joint operations. The CFI similarly agrees and authorizes FBI representative(s) to travel as passengers in CFI vehicles for surveillance, investigative, and undercover activities in connection with joint operations.

B. *Equipment*

Property of the FBI and CFI may be provided on a case-by-case basis when needed to conduct joint investigations and operations.

Liability

Each agency acknowledges that its liability, if any, for the negligent or wrongful acts or omissions committed by its employees is governed by applicable local law. The parties agree that they will not be responsible or liable for acts performed by personnel of other member

agencies during the duration of this MOU.

Each agency further acknowledges that the federal government does not contract or promise to consider indemnifying the individual member, substituting the United States as a party defendant in civil litigation, or providing representation to state and local law enforcement officers who cooperate with the FBI on an informal basis as part of their state or local duties unless they have been deputized as a federal law enforcement officer or have been detailed to a federal agency under the Intergovernmental Personnel Act (IPA), 5 U.S.C. § 3374(c)(2).

Media

All media releases and statements will be mutually agreed upon and jointly handled according to FBI and participating agency guidelines. The parties agree that information will only be disseminated to the media in accordance with the terms of this MOU.

Duration & Terms of Agreement

This MOU is executed for the sole purpose of documenting the understandings and agreements between and among the parties hereto in an effort to achieve a more effective and efficient cooperative inter-agency law enforcement body. Nothing in this MOU is intended to create, nor does it create, an enforceable legal right or private right of action.

This MOU constitutes the complete agreement between and among the participants hereto and will remain in effect for as long as the participants determine that the investigative needs exist. The duration of this Agreement begins June 1, 2000 and is indefinite, contingent upon Congressional approval of necessary funding, and the continued desire of each agency to participate. This Agreement may be modified at any time by written consent of each participating agency; however, modifications will have no force and effect unless reduced to writing and signed by an authorized representative of each of the participating agencies. A participating agency may terminate its involvement at any time by providing a written notice to that effect to the other participating agency with at least thirty (30) days prior notice.

Signatories

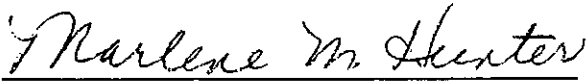
The undersigned parties represent that they have authority to execute this Agreement on behalf of their respective agencies. By subscription of signatures below, the parties herewith acknowledge that they have read, understand, concur with, and will abide by the foregoing.



CONTRACTING OFFICER
Office of the Contractor
Federal Bureau of Investigation

8-24-2000

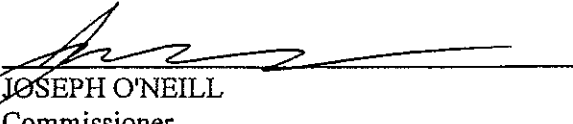
Date



MARLENE M. HUNTER
Special Agent in Charge, San Juan Division
Federal Bureau of Investigation

9/14/00

Date



JOSEPH O'NEILL
Commissioner
Commission of Financial Institutions

9/14/2000

Date

