

What to Do If Government Agents Come to Your Business

December 30, 2011

Who Are Government Agents? Government agents refer to any law enforcement or regulatory agent, including the FBI, the Florida State Medicaid Fraud Unit, the Florida Attorney General's Office, and the Florida Agency for Health Care Administration (AHCA). **What Is a Search Warrant?** A search warrant is an order that is entered by a judge or magistrate authorizing a representative, agent, or officer of the government (state or federal) to enter upon the premises and to search for and seize certain specified documents or records. A search warrant does not signify or indicate that any act of misconduct has taken place at the premises to be searched, but rather is a required mechanism by which documents and records in the hands of a private enterprise can be seized. A search warrant is the government's most extreme method of obtaining information. During a search, the agents arrive unannounced to serve the search warrant. The individuals executing the search warrant may or may not be in uniform. However, they will identify themselves and the agency they work for. The lead agent is required to bring a copy of the warrant and to serve a copy of the warrant at the time of the search. The warrant is important because it identifies the area or areas that are allowed to be searched as well as the objects that are allowed to be seized. Additionally, the agents may try to interview key corporate witnesses before they have an opportunity to consult with counsel or otherwise prepare for an interview. Outside counsel should be immediately contacted if government agents arrive at your place of business with a search warrant. You can request that the government agents delay the execution of the search warrant pending arrival of outside counsel. However, the agents do not have to agree to such a request. It is important to obtain a copy of the warrant, obtain appropriate identification from the individual in charge of the search, the phone number of the prosecuting attorney, inquire as to the nature of the investigation, and inventory all items and areas searched and seized. Please note it is illegal to destroy documents once an investigation has begun. Accordingly, if government agents serve your business with a search warrant, all routine retention policies must be suspended. **What Is a Subpoena?** A subpoena is simply an order directed to an individual commanding him/her to appear in court on a certain day to testify or produce documents. A subpoena does not signify or indicate that any act of misconduct has taken place, but rather is a mechanism by which parties may obtain documents and records. Note that the issuance of a federal

grand jury subpoena is indicative of a criminal investigation. A government subpoena will likely contain very broad language and specify a due date only a few weeks away. The government may be willing to negotiate the scope of the subpoena and the return date. When a government agent appears at your business with a subpoena, it is best to introduce yourself to the person serving the subpoena and request their business card. You should also request a copy of the subpoena and advise that outside counsel will be in touch. You do not have to produce anything to the agent upon service of the subpoena. Most important, you do not have to permit the agent to inspect your business premises upon service of a subpoena. **What To Do If Government Agents Arrive at Your Business Without a Search Warrant or Subpoena** If government agents arrive at your business without a search warrant or subpoena, you do not have to speak to them or permit them to inspect your business. Introduce yourself to the government agents and request their business cards and advise that outside counsel will get in touch with the agent. Please note that employees have a right to speak with a government agent if contacted, absent a subpoena or search warrant, however, they also have the right to decline to speak to an agent. An employee has a right to be accompanied by an attorney to any government interview. **Conclusion** Government investigations must be taken seriously and handled properly. If your company becomes the subject or target of a government investigation, the first and most important step should be to retain outside counsel.

Related Practices

[White Collar Crime & Government Investigations](#)

©2024 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.