

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION



RICK SCOTT
Governor

KEN LAWSON
Secretary

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Chief Inspector General

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Inspector General

Office of Inspector General

Annual Report

Fiscal Year 2013-2014



DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION
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MESSAGE FROM THE INSPECTOR GENERAL

It is with great pride and pleasure that I present the Office of Inspector General's *Annual Report* for Fiscal Year 2013-2014. This report, which has been prepared in accordance with Section 20.055(7), Florida Statutes, describes and summarizes the activities carried out and performed by the Office of Inspector General (OIG) based on its statutory obligations and responsibilities. This report highlights the accomplishments, findings, and recommendations of significant audit and investigative activities completed during Fiscal Year 2013-2014.

Much gratitude is extended by the staff of this office to Secretary Lawson, who has continued to support and foster the mission of the OIG in his ongoing efforts to ensure the Department of Business and Professional Regulation (DBPR) operates effectively, efficiently, with integrity, and with greater accountability. The collaboration and cooperation of DBPR's executive staff, senior managers, division directors, and employees have also been instrumental in facilitating the OIG's efforts to detect and deter fraud, waste, abuse, and mismanagement. Finally, the OIG could not have successfully accomplished its goals during the previous fiscal year without its dedicated and diligent staff members, who are to be commended for their professionalism, expertise, and persistence.

We eagerly anticipate the opportunities the new fiscal year will present to us as we continue to move forward with our department partners in ensuring greater accountability, integrity, efficiency, and effectiveness in fulfilling the department's vision, mission, values, and strategic goals.

Sincerely,

A handwritten signature in blue ink that reads "Lynne T. Winston".

Lynne T. Winston, Esq., CIG

**State of Florida
Department of Business and Professional Regulation
Office of Inspector General**

**ANNUAL REPORT
Fiscal Year 2013-2014**

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**DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION**

OFFICE OF INSPECTOR GENERAL

OVERVIEW

Section 20.055, Florida Statutes, establishes the Office of Inspector General (OIG) to provide a central point for coordination of, and responsibility for activities that promote accountability, integrity, and efficiency within the Department of Business and Professional Regulation. The section defines the duties and responsibilities of agency inspectors general, and requires inspectors general to submit an annual report to their respective agency heads by September 30 of each year. The purpose of this report is to provide the Secretary of the Department of Business and Professional Regulation and other interested parties with a summary of the accountability activities of the Office of Inspector during the preceding fiscal year.

OIG MISSION STATEMENT

The mission of the Office of Inspector General is to be a valuable partner in conducting independent, objective internal audits, reviews, and investigations of department activities and programs. Our services add value to department management by assisting the department in providing greater accountability, integrity, efficiency and effectiveness in fulfilling the department's overall vision, mission, values, and strategic goals.

EMPLOYEE CODE OF ETHICS

Office of Inspector General staff function as a team. We succeed by assisting each other to raise the level of our performance every day. Each of us has an obligation to make known our observations and suggestions for improving how we carry out our tasks and procedures. Our performance of duty, our dedication to our mission and our daily attitude reflect upon how we are perceived by the other members of our department.

Every day we represent the Secretary and our department in each and every task. We are guided in the ethical performance of our duty not only by Florida's ethics laws, but most especially by our adherence to the ethical standards enunciated by Governor Rick Scott. As such, we are held to a higher standard for moral behavior, faithful obedience to the law, and the principles of integrity, objectivity, and independence.

Office of Inspector General internal audit staff are also governed by the *Code of Ethics* of The Institute of Internal Auditors, Inc. This code establishes the values and expectations governing the behavior of individuals and organizations in the conduct of internal auditing. The *Code of*

Ethics requires internal auditors to apply and uphold the principles of integrity, objectivity, confidentiality, and competency.

RESPONSIBILITIES OF THE INSPECTOR GENERAL

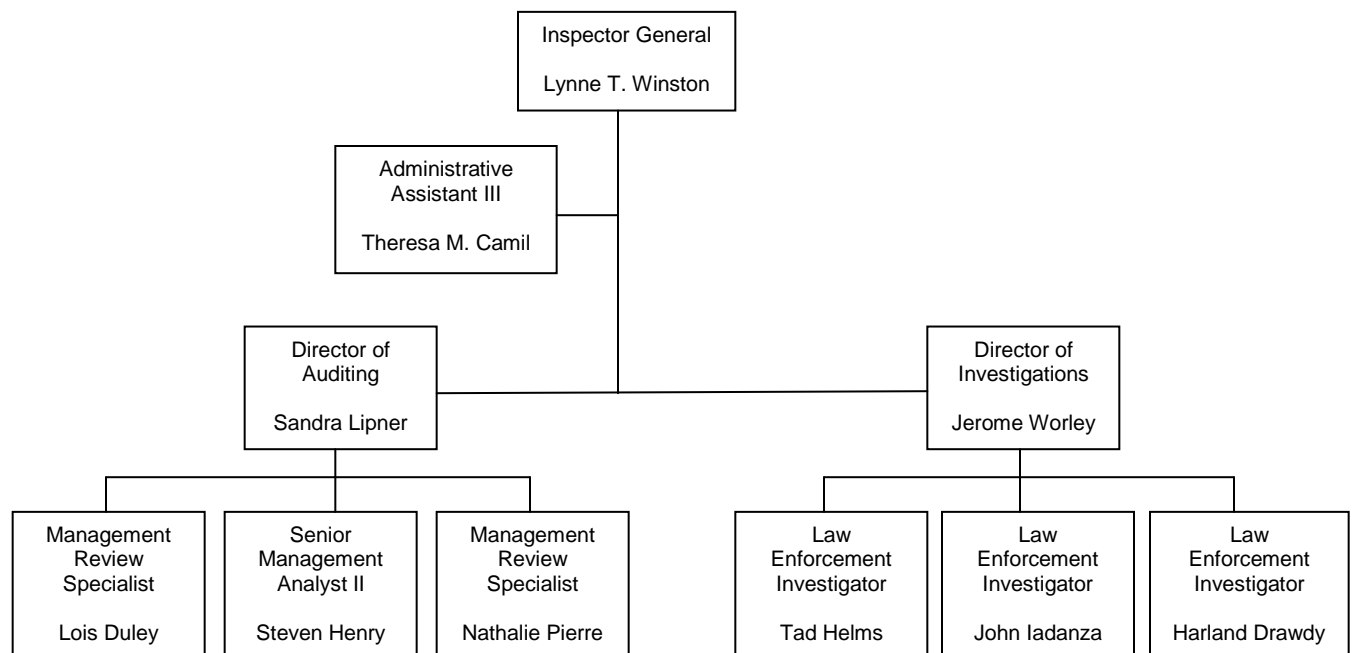
Section 20.055, Florida Statutes, directs the Inspector General to accomplish the following duties and responsibilities:

- Provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to the agency's programs and operations.
- Conduct, supervise, or coordinate other activities carried out or financed by the agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in agency programs and operations.
- Keep the agency head informed concerning fraud, abuses, and deficiencies relating to programs and operations administered or financed by the agency; recommend corrective action concerning fraud, abuses, and deficiencies; and report on the progress made in implementing corrective action.
- Review the actions taken by the state agency to improve program performance and meet program standards, and make recommendations for improvement, if necessary.
- Advise in the development of performance measures, standards, and procedures for the evaluation of agency programs; assess the reliability and validity of the information provided by the agency on performance measures and standards, and make recommendations for improvement, if necessary.
- Ensure effective coordination and cooperation between the Office of the Auditor General, federal auditors, and other governmental bodies with a view toward avoiding duplication.
- Maintain an appropriate balance between audit, investigative, and other accountability activities.
- Comply with the *General Principles and Standards for Offices of Inspectors General* as published and revised by the Association of Inspectors General.
- Initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government.

- Receive complaints and coordinate all activities of the Department as required by the Whistle-blower’s Act pursuant to Sections 112.3187 - 112.31895, Florida Statutes.
- Receive and consider the complaints which do not meet the criteria for an investigation under the Whistle-blower’s Act and conduct such inquiries, investigations, or reviews as the Inspector General deems appropriate.
- Conduct investigations and other inquiries free of actual or perceived impairment to the independence of the Inspector General’s office. This shall include freedom from any interference with investigations and timely access to records and other sources of information.

ORGANIZATION, STAFFING, AND TRAINING

The Inspector General is appointed by, and reports directly to the department Secretary. The Office of Inspector General (OIG) is organized as shown in the following chart:



Professional Designations

Collectively, OIG staff maintains the following professional designations and/or qualifications:

- Certified Inspector General (1)
- Certified Inspector General Investigator (3)
- Certified Internal Auditor (1)

- Certified Fraud Examiner (1)
- Certified Government Auditing Professional (2)
- Certified Law Enforcement Officer (3)
- Florida Crime Information Center/National Crime Information Center certified staff members (3)
- Employees who provide Notary Public services (4)

In addition, members of the Office hold degrees in criminology, criminal justice, business administration, accounting, political science, finance, sociology and two juris doctorates.

Professional Affiliations

OIG staff belongs to a variety of professional associations to maintain professional competence, establish and advance professional networks, and participate in professional community activities. Staff are affiliated with the following professional associations:

- Association of Inspectors General (AIG)
- The Institute of Internal Auditors (IIA)
- Association of Government Accountants (AGA)
- Association of Certified Fraud Examiners (ACFE)

Continuing Professional Education and Staff Development

Each OIG staff member has a personal responsibility to achieve and maintain the level of competence required to perform their respective duties and responsibilities. The OIG encourages staff members to remain informed about improvements and current developments in internal auditing and investigations.

As required by statute, the OIG performs internal audits in accordance with the *International Standards for the Professional Practice of Internal Auditing* published by The Institute of Internal Auditors, Inc. or government auditing standards, as appropriate. These standards require internal audit staff to maintain proficiency through continuing professional education and training. Pursuant to these standards, each internal auditor must receive at least 80 hours of continuing professional education every two years.

In Fiscal Year 2013-2014 OIG staff participated in training sponsored by the Association of Inspectors General, Institute of Internal Auditors, Association of Government Accountants, Florida Department of Law Enforcement, the Florida Chapter of the Association of Inspectors General, the Chief Inspector General's Office, the Federal Bureau of Investigation/The Department of Homeland Security, I-Sight, The Institute of Police Technology and Management, the Pat Thomas Law Enforcement Academy, and the Florida Governmental Technology Conference.

OIG OUTREACH AND EDUCATION

During Fiscal Year 2013-2014, investigative and audit staff from this Office provided training ten times at New Employee Orientation. This training outlines the OIG's role in audits and investigations. OIG staff will continue to participate in this program in Fiscal Year 2014-2015. In addition, the Inspector General participated in a statewide videoconference on April 17, 2014, with the Secretary and the Director of the Division of Administration. This videoconference was held in conjunction with DBPR's "State of the State Agency" series and was broadcast live to conference rooms in Tallahassee and to the agency's satellite offices.

The primary purpose of the videoconference was to explain the roles of the OIG and the Division of Administration with respect to employee internal complaints. Both offices were able to provide clarification and give examples as to what types of complaints should be referred to them to help ensure employees do not lose any time or become frustrated by filing their complaints with the wrong office. The specific types of complaints that would normally be investigated by the OIG were also detailed. This videoconference has been archived and is accessible by employees via the department's intranet site at any time.

INTERNAL AUDIT SECTION

The Internal Audit Section performs independent, objective audits and consulting engagements to provide management with information on the adequacy and effectiveness of the department's internal controls, and the economy, efficiency, and effectiveness of department programs, activities, and functions. The OIG also provides advisory/technical assistance services to assist management with issues that do not require extensive audit or consulting services.

The OIG performs audits and consulting engagements in conformance with the *International Standards for the Professional Practice of Internal Auditing*, as published by The Institute of Internal Auditors, Inc. These standards provide a framework for ensuring independence, objectivity, and due professional care in the performance of internal audit work.

Risk-Based Audit Planning

Section 20.055, F.S., requires the Inspector General to develop annual and long-term audit plans based on findings of periodic risk assessments. On April 30, 2014, Internal Audit Section staff made a presentation to the Secretary and senior management on risk and internal controls, and an overview of the annual risk assessment and audit planning process. The OIG's 2014 annual Risk Assessment Survey was completed by each of the department's 50 auditable entities. Responses were analyzed for various risk factors, such as opportunity for fraudulent activity within entity operations; operational complexity; recent changes in the regulatory environment; appropriate segregation of duties; etc. Additional management input was obtained through follow-up risk assessment interviews with the director of each

division/office, with each member of executive management, and with the department's Secretary. The Secretary approved the OIG's *Annual Audit Plan for Fiscal Year 2014-2015 and Long-Term Audit Plans for Fiscal Years 2015-2017* on June 24, 2014.

Internal Audit Section staff will also carry out on-going risk assessment activities during Fiscal Year 2014-2015 to identify and assess areas of emergent risk. The *Audit Plan* will be revised, as necessary, to address exigent circumstances.

Summary of Internal Audits Completed in Fiscal Year 2013-2014

Follow-up Audit of Secondary Employment

Internal Audit Report Number F-1213BPR-043

August 26, 2013

This audit was conducted to evaluate the adequacy and effectiveness of actions taken by management to address the findings and recommendations made in Audit Report A-1011BPR-006, *Audit of Secondary Employment* (released April 19, 2011). As of the twelve-month follow-up review of the initial audit, we determined that while some progress had been made, management had not taken sufficient corrective action. We therefore administratively closed all findings and recommendations and performed a follow-up audit of issues identified in the initial review.

Results of the *Follow-up Audit of Secondary Employment* found the Division of Administration had established certain recommended procedures; however, these procedures were not fully implemented and, as a result, the Division of Administration did not have complete and current data on employees engaged in secondary employment. Similarly, Division of Alcoholic Beverages and Tobacco (ABT) management had revised its policies and procedures regarding working hours of officers engaged in extra-duty employment and the monitoring of such employment. However, these policies and procedures were not fully implemented and management could not be assured that officers engaged in extra-duty employment were complying with work hour limitations and rest requirements.

We recommended the Division of Administration establish a procedure to periodically notify employees of the need to maintain current information on secondary employment. We also recommended the Division of Administration periodically provide supervisors with People First data on secondary employment for their review. We recommended that ABT supervisors monitor officers' secondary employment and verify the accuracy of reported on-duty and extra-duty hours worked and the accuracy of reimbursements for use of a state vehicle in extra-duty employment.

Fleet Management Review: Motor Vehicle Crashes and Loss Mitigation

Internal Audit Report Number A-1213BPR-031

October 3, 2013

This audit reviewed the effectiveness of department policies, procedures, and practices for managing issues related to motor vehicle crashes and loss mitigation. Audit results showed the department's Safety and Loss Prevention Program did not have the necessary framework to manage issues related to motor vehicle crashes and loss mitigation. The Program offered few driver safety or other initiatives to help reduce the likelihood of future incidents. The department did not have an effective crash reporting and review process to accurately determine the number of incidents or assess the risk of future occurrences. The department lacked the information necessary to identify the underlying causes or costs of incidents, and was thereby missing opportunities to develop effective loss mitigation strategies. The audit also found that disciplinary action taken in response to at-fault motor vehicle crashes was inconsistent across divisions.

The report recommended the Division of Administration establish a fleet safety component within its Safety and Loss Prevention Program to include procedures for reporting incidents. Other recommendations included establishment of a central repository of data and information on motor vehicle crashes, and evaluation and analysis of the data to help formulate loss mitigation initiatives. The audit recommended the Division of Administration establish a Motor Vehicle Crash Review Board responsible for establishing a disciplinary action system related to motor vehicle crashes, reviewing incidents, and making recommendations to management regarding disciplinary action.

Audit of the Electronic Data Submission (EDS) System

Internal Audit Report Number A-1314BPR-002

June 18, 2014

The objectives of this audit were to evaluate current development and use of the Electronic Data Submission (EDS) system within the Division of Alcoholic Beverages and Tobacco, and to identify potential internal control weaknesses and risks associated with use of a partially-completed system.

The audit found that, as currently configured, the system serves primarily as a means to collect and store monthly tax report data and information. Other functionalities were not operational or had not been designed and put into production. Consequently, the Bureau of Auditing within ABT had not realized many of the system's intended benefits. Implementation of a partially-completed system had resulted in inefficiencies in Bureau operations and had negatively impacted the Bureau's audit function. An overriding issue was the lack of an audit function, and although the potential return on investment is high, there were no formal plans to complete the system's audit module.

The audit recommended the Bureau of Auditing coordinate with the Division of Technology to determine the extent of system maintenance needed to address issues with the system's electronic tax reporting functionality. The audit also recommended the Bureau identify the internal controls needed to help assure the integrity of data residing in the system, and include design and implementation of such controls in any plans for system maintenance. The audit further recommended ABT establish a new systems development project to complete the Electronic Data Submission system.

Summary of External Audits Completed in Fiscal Year 2013-2014

Audit of Agency User Agreements

Florida Department of Law Enforcement

April 25, 2014

The Florida Department of Law Enforcement (FDLE) completed audits of eight of the department's user agreements with FDLE. Internal audit staff attended the entrance conference with FDLE reviewers and department representatives, assisted department management during the review process, and participated in the working meetings and exit conference with FDLE staff. FDLE reported the department is operating in compliance with FCIC/NCIC rules, regulations and user agreements. The audit reports cited one area of concern related to the storage of criminal history results. The Internal Audit Section will follow up with appropriate management in Fiscal Year 2014-2015 on action taken to remediate the area of concern.

Summary of Follow-up Reviews Completed in Fiscal Year 2013-2014

The Internal Audit Section actively monitors the actions management takes to correct deficiencies cited in internal audit reports and in reports issued by external review entities. In accordance with state law and internal auditing standards, the Inspector General provides the department Secretary with a written report on the status of corrective action taken in response to each internal audit. In Fiscal Year 2013-2014, the Internal Audit Section conducted seven follow-up reviews of internal audits, including reviews of outstanding corrective actions from prior annual reports. The results of these reviews are summarized below.

Audit of the Florida State Boxing Commission – Process Review

Internal Audit Report Number A-1213BPR-009

November 29, 2012

Initial Follow-up Report Number F-1213BPR-037 (issued September 3, 2013)

Final Follow-up Report Number F-1314BPR-005 (issued March 28, 2014)

In our initial follow-up review of September 3, 2013, we determined the Florida State Boxing Commission had taken substantive action to address audit findings and recommendations.

Our review and analysis of supporting documentation showed the Commission had acted to correct deficiencies related to revenue collection and reconciliation, licensing of officials at Commission-sanctioned events, and security of personal and confidential information. We therefore closed the related three findings.

At the time of our initial follow-up review, the Commission was in the process of revising its Instruction Manual to include procedures for Commission activities and business processes. Our final follow-up review of March 28, 2014 showed the Commission had established an instruction manual for Commission staff to use in carrying out the Commission's duties and responsibilities. The manual provides the policies and procedures needed to help ensure the Commission achieves its business objectives, defines staff roles and responsibilities, and provides for management oversight and monitoring of Commission operations. As a result, we determined further monitoring was not required and closed all audit findings and recommendations.

Audit of the Florida Mobile Home Relocation Program

Internal Audit Report Number A-1112BPR-032

October 4, 2012

Follow-up Report Number F-1213BPR-036 (issued October 11, 2013)

Subsequent to this audit, the 2013 Legislature revised procedures for funding the Florida Mobile Home Relocation Program. Chapter 2013-158, Laws of Florida, establishes procedures for distributing Florida Mobile Home Relocation Trust Funds to the Florida Mobile Home Relocation Corporation. These procedures negate establishment of a Memorandum of Understanding between the department and the Corporation. Because the audit recommendations regarding the Memorandum of Understanding were no longer applicable, we closed the first audit finding and associated recommendations. In September 2013, the Corporation returned over \$1 million to the department for deposit to the Florida Mobile Home Relocation Trust Fund. This action resolved the remaining audit finding and recommendations regarding excess funds available for corporate use.

Division of Alcoholic Beverages and Tobacco Enforcement Management

Internal Audit Report Number A-1112BPR-011

June 15, 2012

Final Follow-up Report Number F-1213BPR-035 (issued December 20, 2013)

Our final follow-up review found that Bureau of Law Enforcement management within ABT had taken substantive action to address deficiencies noted in the audit report. The Bureau had established sufficient complementary internal controls that if used effectively, would continue to improve management of the Bureau's enforcement activities. We therefore closed all audit findings and recommendations.

Enterprise Audit of the Contract Monitoring Process

Internal Audit Report Number A-1112EOG-010

February 2, 2012

Follow-up Review Memorandum of March 26, 2014

As of our follow-up review in February 2014, Finding 1 remained open pending revision of a department policy, and completion of a contracting, procurement, and contract management manual. On March 24, 2014, Division of Administration staff notified us these items were scheduled for completion by June 30, 2014. Given the Division's projected timeframe, we decided to keep Finding 1 open through the end of the current fiscal year. We notified the Director, Division of Administration, of this decision in a memorandum dated March 26, 2014. The Internal Audit Section will follow up on the status of these remaining items in Fiscal Year 2014-2015.

An Evaluation of the Department's Policy Management Process

Internal Audit Report Number A-1011BPR-028

November 2011

Follow-up Review Memorandum of May 2, 2014

Since publication of this audit in 2011, the Internal Audit Section has conducted numerous follow-up reviews of the status of action taken to correct reported deficiencies. The Inspector General and internal audit staff met with the Secretary on May 1, 2014 to discuss unresolved issues regarding the department's policy management process. The Secretary resolved to establish a Policy Review Committee to address these issues. As stated in our May 2, 2014 memorandum to the Secretary of May 2, 2014, the Office of Inspector General fully supports the Secretary's decision to establish a Policy Review Committee to more effectively and efficiently address the policy management issues identified in the audit report. In light of the Secretary's action, and given the change in circumstances and conditions since the report was issued in 2011, we administratively closed the finding and recommendations made in the audit report.

Fleet Management Review: Motor Vehicle Crashes and Loss Mitigation

Internal Audit Report Number A-1213BPR-031

October 3, 2013

Initial Follow-up Report Number F-1314BPR-008 (issued June 17, 2014)

The status update and supporting documentation provided by the Division of Administration showed that management had made some progress in addressing audit findings and recommendations. The Division created and filled a Program Manager position to spearhead the department's Safety and Loss Prevention program. The Program Manager was actively working with division and department staff to address issues identified in the audit. As stated in

our follow-up report, we recognize that implementation of all audit recommendations cannot be accomplished in the short term. The Internal Audit Section will therefore continue to monitor the status of corrective action in Fiscal Year 2014-2015.

Summary of Consulting/Management Advisory Services Completed in Fiscal Year 2013-2014

Department Fleet Matters

Management Advisory Services Memorandum

September 30, 2013

This memorandum summarized our August 29, 2013 discussion with Division of Administration management on matters related to department fleet management. These matters were not included in the fleet management audit that was subsequently released on October 3, 2013.

As stated in the memorandum, the scope of the fleet management audit did not include motor vehicle crashes involving employees who were driving personal vehicles while conducting department business. We reported the department could improve its administrative policies on use of personal vehicles, such as requirements to have a valid driver license and proof of adequate insurance coverage.

We also reported that some vehicles were not correctly classified in the FLEET system, and in some instances vehicles were not assigned to employees in accordance with state law and rule. All of DBPR's divisions did not have procedures to ensure the accuracy of data entered into the FLEET system. We recommended the department revise its administrative policy on Mobile Communication Devices to incorporate provisions of the new law regarding texting while driving. We also recommended the department consider centralizing the collection of damages from third-party insurers.

ABT Inspections and Follow-up Activity

Management Advisory Services Memorandum

June 11, 2014

The Deputy Secretary for Business Regulation requested that we review a sample of inspections conducted by the Division of Alcoholic Beverages and Tobacco, Bureau of Law Enforcement (BLE). The purpose of the review was to evaluate documentation of follow-up action taken in response to deficiencies or violations identified during an inspection.

Our review found that BLE does not require inspectors to conduct follow-up inspections or other follow-up activity to determine whether licensees have corrected deficiencies or violations identified during an inspection. As a result, the same violations resulted in different regulatory responses from BLE inspectors. We recommended that management provide written guidance on the types of violations that should result in a follow-up inspection.

We also found that staff made inconsistent use of the tools offered in Versa: Regulation, the department's licensing system. Inconsistencies in the recording of inspection results in Versa: Regulation makes it difficult to use the system as an accurate source of data on inspections. We also determined BLE would benefit from use of the Versa: Regulation follow-up module to schedule and notify inspectors when follow-up inspections are due. We noted that the recent adoption of iPad technology to record inspection results may have contributed to Versa: Regulation documentation issues. We recommended that management identify and clearly communicate its business requirements for use of the new iPad technology.

Other Services and Activities in Fiscal Year 2013-2014

During Fiscal Year 2013-2014, the Internal Audit Section provided advisory/technical assistance services to management on a variety of matters, including procedures for timely review and assignment of unassigned revenue, and revisions to the department's administrative policy on unassigned revenue. The Section also provided technical review and input on Division of Service Operations procedures for check retention and disposal. Section staff reviewed and provided input on new and revised departmental policies, including policies on State Motor Vehicle Usage, Property Control, Travel, PCard, Interagency Agreements and Memoranda of Understanding, Grant Awards, and Information Systems Security.

The Internal Audit Section continued to coordinate Florida Single Audit Act (FSAA) activities for the department, and to advise management on compliance with FSAA requirements. Section staff spearheaded the development of written guidelines and procedures for compliance with FSAA requirements. The Secretary approved the OIG's proposed FSAA policy on February 12, 2014. In conjunction with this initiative, staff provided the Secretary and senior management with an overview of the FSAA and department procedures for complying with FSAA requirements. FSAA activities also included review of five financial management reporting packages, and coordination with program areas to complete required FSAA documents for new and existing state projects.

The OIG is designated as the central point for coordination of requests from external sources for information and/or documentation related to audits or policy reviews conducted by external review entities. In Fiscal Year 2013-2014, Section staff served as the liaison for audits conducted by the Florida Department of Law Enforcement, the Auditor General's Statewide Financial Statement Audit, and the Auditor General's Operational Audit of the Department of Business and Professional Regulation (on-going).

Other Section activities included assistance to the Investigations Section on matters requiring audit expertise; preparation of the Schedule IX Summary of Major Audit Findings and Recommendations for the Fiscal Year 2014-2015 Legislative Budget Request; and development of a new section on the internal audit function for the OIG's PowerPoint presentation at New Employee Orientation sessions.

INVESTIGATIONS SECTION

The primary function of the Office of Inspector General's investigative staff is to conduct internal investigations based on allegations or evidence of mismanagement or employee misconduct. This is accomplished through both proactive and reactive investigative efforts. These investigations are authorized in accordance with Section 20.055(6), Florida Statutes, which in part states "...each inspector general shall initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government."

Additionally, internal investigations may identify deficiencies in policies and procedures, other internal controls, or business processes that caused or contributed to the situation requiring investigation. By reporting these deficiencies to management, the department has the opportunity to address the deficiency and thereby reduce the likelihood of future occurrences of fraud, waste, mismanagement, misconduct, or other abuses. Our findings are reported to the department's Secretary, the Bureau of Human Resources, and as appropriate, to the respective Division Directors, the immediate supervisors, and the Office of General Counsel. Recommendations for improved processes, policies, or procedures are made when warranted by the findings.

Statewide Complaint Intake Process

Recognizing that not all citizens have access to electronic communication, the Office of Inspector General maintains multi-portal intake capabilities. Citizens may file a complaint by telephone, facsimile, standard mail, electronic mail, in person, or through the department's website. These numerous reporting options ensure that no complainant is deterred from voicing their concerns.

Each complaint is vetted to identify allegations of misconduct, waste, fraud, or abuse. Each complaint is also analyzed to determine if the complaint describes activities as defined in Section 112.3187, Florida Statutes, also known as the "Whistle-blower's Act." Absent the elements of the aforementioned statute, complaints are normally referred to the appropriate division director for handling. Capturing and classifying each complaint enables the OIG to analyze and provide feedback to management where consistent public miscommunication, policy failure, or poor performance may exist within a division.

Types of Cases Handled in Fiscal Year 2013-2014

The Office of Inspector General received the following types of cases during Fiscal Year 2013-2014:

Accident – The report of a motor vehicle crash while on duty or any crash involving a state owned vehicle.

Backgrounds - Investigations and criminal history reviews of individuals who are being considered to fill positions designated as sensitive. This includes Career Service, Senior Management, Selected Exempt Service, and Other Personal Service positions.

Information – Information cases are completed in order to document information and/or actions that otherwise do not meet the criteria for investigative inquiries or investigations.

Investigative Inquiries - Informal investigations conducted to determine the validity of a complaint prior to the initiation of a case investigation. The determination as to whether the allegation remains an Inquiry case is dependent on the evidence obtained during the course of the informal investigation.

Internal Investigations - Investigations conducted by the Office of Inspector General in response to a complaint received by the office, and sometimes from the evidence obtained during an inquiry that warrants a full and formal investigation into the facts surrounding the allegation. Complaints alleging employee misconduct, fraud, waste, abuse, or mismanagement may be made orally, or in writing, by an employee or non-employee. All investigations are conducted in accordance with the Principles and Standards for Offices of Inspector General as published and revised by the Association of Inspectors General.

Referrals - Evaluation of complaints, typically of minor misconduct, to determine whether the complaint should be addressed by the appropriate division within the department or sent to the applicable external department.

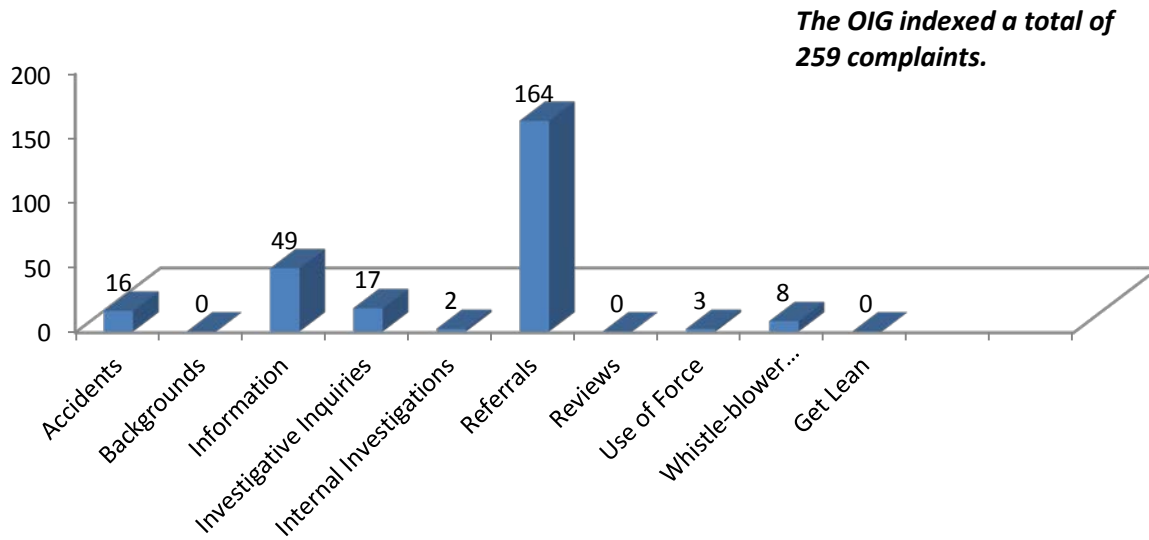
Reviews – Reviews are conducted in order to examine the actions of the department and/or its members, and to ensure that the actions were adequate, accurate, or correct.

Use of Force – Review of the circumstances that surround a law enforcement officer's use of force when performing his or her duties to determine its appropriateness.

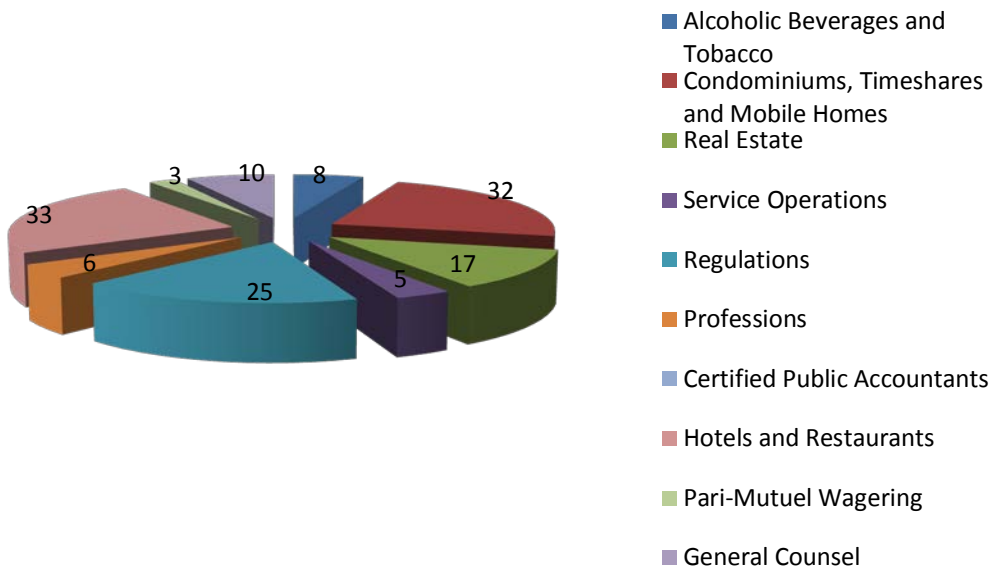
Whistle-blower Determination – Review of complaints submitted by a state employee, former state employee, applicant for state employment, or state agency contract employee or applicant of serious allegations of wrongdoing on the part of a public employer or independent contractor to determine if statutory criteria is met and coordinate all activities of the Agency as required by the Whistle-blower's Act pursuant to Sections 112.3187-112.31895, Florida Statutes.

Get Lean Hotline – Suggestions to improve the efficiency and effectiveness of departmental operations offered by citizens via the Hotline.

Cases Indexed by Type



Percentage of Referrals by Division



Internal Investigations Completed in Fiscal Year 2013-2014

Case Number 2014-117-IA

Our office was requested to review allegations of Conduct Unbecoming a Public Employee and Violation of Agency Law or Rule made against two employees. The investigation determined that one employee, uncompelled, provided a signed affidavit to the attorney for a defendant of an active criminal case by the department. The content of the affidavit was contrary to the investigation conducted by another division within the DBPR and was prepared by the employee without the knowledge or authorization of her supervisor. A second employee was alleged to have notarized an official document without having the signer present at the time of the notarization. As a result of the investigation, the allegations against the first employee were SUSTAINED. The allegation against the second employee was UNFOUNDED.

Case Number 2014-120-IA

Our office was requested to review an allegation of Conduct Unbecoming a Public Employee against an employee. The employee was alleged to have promised a condominium developer that she would close an investigation without completing it after being improperly influenced by the condominium developer, who allegedly used “strong-arm tactics” on residents of the condominium association and had “mafia-style” affiliations. As a result of the investigation, the allegation against the employee was NOT SUSTAINED.

Investigative Inquiries Completed in Fiscal Year 2013-2014

An investigative inquiry is the preliminary appraisal of a complaint’s merits to determine its validity, gravity, and category of violation to ensure compliance with the *Principles and Standards for Offices of Inspector General*. This process often results in the referral of complaints to management that do not contain the elements of waste, fraud, abuse, or serious misconduct. The process also allows the OIG to evaluate complaints, collect relevant data or testimony, and determine if a complaint should be reassigned as an internal investigation. While investigative inquiries are not published, they do absorb a large portion of our investigative resources. The following are detailed synopses of two investigative inquiries followed by summaries of fifteen (15) additional investigative inquiries completed in FY 2013 - 2014.

Case Number 2014-036-INQ Anonymous Complaint of Bribery

This investigative inquiry was initiated after the Office of Inspector General received a telephone complaint from an individual who alleged they had personal knowledge that a division employee received money in exchange for a positive inspection report. The caller alleged that she observed a restaurant employee have a brief conversation with an unidentified caller on his cellular telephone. At the conclusion of the conversation, the restaurant employee

stated to the complainant that he had to meet with the inspector to make a payment. When asked, the complainant stated that it was their presumption that the restaurant employee was referring to the restaurant inspector who had completed an inspection of the restaurant on the previous day. The complainant confirmed that they had not witnessed money or any other form of payment exchanged between the employee and the inspector. The complainant reported that the employee had told them he had formed a relationship with the inspector at one of his previous restaurants and that was the way he did business. The complainant was unable to provide a name or identity of the inspector.

Analyses

Based on the limited information provided by the complainant, an analysis of telephone records, inspection reports, and corporate records associated with the restaurant employee was accomplished to determine if there was an existence of inspection or telephone call outliers.

Inspection Records Analysis

An analysis was conducted on the current and past Food Service Inspection Reports for the restaurant. The analysis confirmed that the restaurant had been inspected on the day before the complaint was filed. Review of the inspection report revealed, 1- High Priority violation, 5- Intermediate violations, and 5- Basic violations. Of the eleven (11) violations noted, three were classified as "Corrected On – Site." The inspection report stated in pertinent part... *"...Violations require further review, but are not an immediate threat to the public."* The inspection report was signed by the restaurant manager and the inspector.

For the period of time from October 2010 through February 2014, OIG staff identified a total of seven Food Service Inspection Reports for the restaurant and of the seven inspections, the four most recent inspections were performed by the above mentioned inspector.

Telephone Records Analysis

In response to an OIG request, the complainant provided the restaurant employee's personal cellular telephone number. The OIG analyzed the inspector's business cellular telephone records for the period of October 2013 through February 2014. The restaurant employee's personal cellular telephone number was not identified during the analysis.

Public Records Analysis

In response to the statement allegedly made by the restaurant employee to the complainant indicating that he had formed a relationship with the inspector at his previous restaurant, the OIG performed a corporate records search. The OIG was unable to locate any files which identified the restaurant employee as an Officer/ Director/Owner of a restaurant in the south Florida area. The OIG identified one request for a Fictitious Name change for a restaurant in 2010, associated with the restaurant employee.

Based on that information, the OIG reviewed past Food Service Inspection Reports for the restaurant. During the time period of October 2010 through September 2013, the OIG identified a total of seven Food Service Inspection Reports. The inspection reports were signed by the restaurant manager and various bureau inspectors; none of the Food Service Inspection Reports were signed by the alleged subject inspector.

Management Consultation

The OIG met with a division manager who reviewed the information contained in the investigation file and informed the OIG that he was unable to identify any information that suggested any wrongdoing or policy violations on the part of the inspector. Additionally, the manager contacted the subject employee's supervisor to discuss the inspector's work performance and to identify any changes that may have been observed in the alleged inspector's demeanor or lifestyle. The supervisor reported no changes in the alleged inspector's demeanor, work performance, or personal lifestyle that would cause suspicion or concern.

Conclusion

This preliminary investigation failed to identify evidence to support possible wrongdoing by a DBPR employee. As a result, this preliminary investigation was closed with no further action needed.

Case Number 2013-222-INQ Anonymous Complaint of Mismanagement and Favoritism

This investigative inquiry was initiated after the Office of Inspector General received an anonymous complaint purportedly written by an employee in the department's south Florida district office. A review of the complaint revealed assertions of mismanagement by staff within the district office related specifically to work assignments, overtime, favoritism, and preferential treatment. As evidence of the supervisor's mismanagement, the complainant referenced and alleged that:

- A supervisor gave preferential treatment to a certain staff member
- The same staff member received special computer software for designing spreadsheets and databases
- Other staff was given "more time consuming work"
- This staff member is solely afforded a "unique" flex schedule, as well as the ability to earn overtime and the opportunity to work from home
- These conditions have brought down the morale of "all" district personnel
- Allegations of harassment, verbal threatening, and dictatorial practices
- When new procedures or policy changes are initiated, the supervisor only communicates them to this staff member

The OIG reviewed work schedules, case assignments, and training information, as well as other pertinent documentation depicting the day to day operations of staff personnel. The

review determined that the supervisor afforded all district personnel the opportunity to “flex” time during their eighty (80) hour work schedule. It was noted by examination that all nine staff within the area where the complaint allegedly derived had approval to flex/offset their work hours.

Analyses

Contrary to the complaint, an OIG analysis of the ‘People First’ individual timesheets revealed that during a nine month period (January 4, 2013 through September 26, 2013) all nine staff members received overtime. The average overtime earned by the nine staff totaled 20.55 hours per month, while the alleged favored employee received a total of 6.25 hours of authorized overtime.

The OIG determined that the supervisor assigned work on a monthly rotation basis. This schedule was provided to staff by electronic mail. Assignments that dealt with walk-in or direct calls for assistance from the public were rotated on an on-call type schedule and received and assigned by a mid-level supervisor.

A personnel action review determined that the supervisor had not taken any disciplinary action against any of the district personnel. One “Area of Concern” meeting was held with an employee the previous year but was not documented in writing. The supervisor stated that all of the employees had been rated as commendable during their past performance appraisal periods and the supervisor had an open door policy with staff.

The OIG determined that changes in policies and procedures were disseminated to the staff personnel through a statewide automated program and that training was currently provided during staff meetings and individually as needed. The training was determined to be tailored to the needs of each staff member.

The OIG’s findings during the data analysis and document review contradicted the allegations contained in the anonymous letter and since the complainant in this case was anonymous, this office was not able to inquire further.

Conclusion

This inquiry determined the complaint to be insufficient to support a formal investigation and no further action was taken in this matter.

Summaries of Additional Inquiries Conducted

Case Number 2013-155-INQ

This investigative inquiry was initiated after a district office employee alleged that a visiting executive staff member pushed him, causing him to fear for his physical safety. The inquiry determined that the employee had alleged a criminal act and he was directed to report his

allegations to local law enforcement. It was also determined that the executive staff member was now a former employee, therefore, the department was without administrative jurisdiction.

Case Number 2013-165-INQ

This investigative inquiry was initiated when a department employee reported that after completing an inspection, a restaurant manager presented her an envelope with unknown content. According to the employee, the manager stated, "This is a gift for you." The employee did not accept the envelope and perceived the manager's actions as a potential bribe. The complaint was forwarded to the Florida Department of Law Enforcement as a criminal referral.

Case Number 2013-183-INQ

This investigative inquiry was initiated when a district employee reported that she had been sexually harassed by her supervisor. As directed by Department policy, this complaint was referred to the Human Relations Manager. The Office of Inspector General assisted with the investigation by participating in and recording the witness and subject interviews.

Case Number 2013-201-INQ

This investigative inquiry was initiated after the Office of Inspector General received a complaint from a district employee through the Office of the Chief Inspector General after DBPR Human Resources sustained a complaint of sexual harassment against the district employee. The district employee counter-claimed that the investigation was insufficient. The OIG reviewed Human Resources' investigation and determined that the investigation was sufficient. The employee then complained that the OIG review was flawed. The complaint was forwarded to the Office of the Chief Inspector General for an independent review and subsequent concurrence.

Case Number 2013-235-INQ

This investigative inquiry was initiated after the OIG received a complaint which alleged discrepancies on an employee's State of Florida Application for Employment. OIG interviewed the employee's former supervisor and reviewed the application on file with the employee's former place of employment. A minor discrepancy was identified and later acknowledged by the employee. The employee was able to articulate how the discrepancy was an oversight. The employee received formal counseling from his immediate supervisor.

Case Number 2013-260-INQ

This investigative inquiry was initiated based upon a complaint received via the Office of the Attorney General, concerning a real estate developer who rented a vacation property to an out of state resident. Prior to moving into the property, the renter decided they no longer wanted

to live in the property and wanted to be released from the lease with a deposit refund. The OIG reviewed the findings of the Division of Real Estate and determined the Division correctly found that there was no misconduct on the part of the developer. The OIG also concluded division employees properly handled the initial investigation.

Case Number 2013-262-INQ

This investigative inquiry was initiated based on the complaint of a former employee who alleged that during his employment with the department, a co-worker made a racially charged statement to him and the OIG investigation wrongfully determined that the event was isolated and, therefore, did not rise to the level of discriminatory or harassing behavior. The Office of the Chief Inspector General requested the OIG review the investigator's findings, as it was alleged they conflicted with the report's conclusions. The review determined that the investigation's findings and conclusions were accurate. The Office of the Chief Inspector General concurred with the OIG's findings.

Case Number 2013-271-INQ

This investigative inquiry was initiated after a former employee complained that a district office employee provided false testimony during an interview conducted by OIG in which the complainant was the subject employee. According to the complainant, the employee provided false testimony when he was asked about evidence that had been submitted by the complainant related to an arrest case in the district in 2011. Specifically, the employee was asked if the evidence placed by the complainant in the temporary storage facility (TSF), located at the district office, had the proper/required documentation accompanying it. According to the complainant, the employee intended to cause "harm" to him (complainant) by providing false testimony.

The investigative inquiry determined that the complaint was based on opinion, not facts or evidence. A review of this complaint revealed no other evidence of misconduct on the part of any individual and no further investigation was warranted.

Case Number 2014-016-INQ

This investigative inquiry was initiated based upon a complaint that the Bureau of Elevator Safety did not properly investigate a complaint concerning the attestation of an affidavit related to the elevator installation approval in the complainant's condominium. It was determined the Bureau did not have statutory authority to investigate the matter and the original complaint was referred to the local county building inspector's office. The OIG concluded the Bureau properly addressed the complaint and no further investigative action was warranted.

Case Number 2014-024-INQ

This investigative inquiry was initiated based upon a complaint of harassment after the complainant was arrested by the Division of Alcoholic Beverages and Tobacco. After analysis of the written complaint and other available documentation provided in this case, in addition to a lack of investigative cooperation from the complainant, the OIG found there to be insufficient evidence to support a formal investigation into the matter.

Case Number 2014-061-INQ

This investigative inquiry was initiated after the Office of the Chief Inspector General requested the OIG review a previous investigation conducted by a division. The review was based on a citizen's complaint, which alleged that the division conducted a flawed investigation of a licensed electrical company for fraud and abandonment. An inquiry was initiated, which consisted of an extensive file review, employee interviews, and review of applicable policies, rules and laws. The inquiry determined that the investigation was sufficient and that the division acted appropriately.

Case Number 2014-075-INQ

This investigative inquiry was initiated after a district employee's spouse received an anonymous letter, which alleged the employee was involved in certain personal activities of which the spouse was unaware. The complainant was referred to local law enforcement, but did not have any evidence at the time to support the claim that a co-worker was the author of the letter. The complainant filed a second complaint, which alleged that the OIG failed to properly investigate the complaint. An inquiry determined that the complainant had subsequently alleged a second co-worker was possibly the author of the letter. It was determined that the OIG investigation was proper and that the employee had suspected co-workers of misconduct without evidence to support the claim.

Case Number 2014-104-INQ

This investigative inquiry was initiated after an anonymous caller reported that he brought sanitation violations to a restaurant manager's attention and the manager dismissed him. According to the caller, the manager then stated, "Go ahead and complain, the inspector is a good friend of mine." The OIG compared the inspector's inspection reports of the restaurant to others that he inspected. Further, the OIG compared inspection reports of the same restaurant that were conducted by other inspectors. The OIG then requested an unannounced inspection of the restaurant by the district supervisor. An analysis of the inspection reports and the district supervisor's unannounced inspection did not reveal any outliers to indicate that the inspectors assigned to the restaurant had been influenced by an alleged friendship with the manager and had given leniency to the business.

Case Number 2014-105-INQ

This investigative inquiry was initiated after an employee alleged that he was being retaliated against by the department after he reported a violation of his federal rights. The employee reported several events that he believed proved his complaint. The inquiry determined that the complainant had filed similar complaints with the Florida Commission on Human Relations and the Federal Equal Employment Opportunity Commission, making any OIG efforts duplicative.

Case Number 2014-110-INQ

This investigative inquiry was initiated based on a district employee's complaint of retaliation. According to the employee, he had previously filed a complaint against his supervisor, and now the supervisor was retaliating against him by writing him a letter of reprimand for a traffic crash and failure to properly submit evidence. The employee complained that the evidence submission was handled as directed by the supervisor, therefore, a violation was not committed.

During the investigative inquiry, the employee acknowledged that he had not received a written reprimand and had only been told by the supervisor that he was considering it. The employee was directed to the Florida Commission on Human Relations to address his complaint of retaliation.

Referrals to Law Enforcement in Fiscal Year 2013-2014

Pursuant to department policy, all matters requiring law enforcement intervention are referred through the Office of Inspector General, which expedites complaint information to the appropriate law enforcement agency. During the fiscal year, the department received four calls from citizens threatening to harm themselves or others. Three of these complaints required the OIG to expeditiously identify and refer the information to the appropriate law enforcement agency. The fourth complaint resulted in a referral to a sheriff's department after two children were reportedly left alone while the parents worked.

Use of Force Reviews in Fiscal Year 2013-2014

The Office of Inspector General is required to review "Use of Force" reports submitted by Division of Alcoholic Beverages and Tobacco Law Enforcement Investigators under Department of Business and Professional Regulation Policy and Procedure 1.2.06 (A)(1)(d)(3). The purpose of the OIG review of Use of Force Reports is to ensure compliance with policy and procedure on the part of ABT agents during the enforcement of statutes and the apprehension of suspected violators. The review determines if the use of force was objectively reasonable given the circumstances of the law enforcement officer's encounter during which the force was employed. The OIG is able to determine if agents are employing force in a

manner consistent with their training. The review also serves to provide the OIG with an opportunity to examine the effectiveness of department and Bureau of Law Enforcement policies and procedures regarding use of force. The following are examples of the Use of Force reviews conducted by the office:

Case Number 2014-080-UF

While affecting the arrest of a person under the age of 21 for the unlawful possession of alcoholic beverages, agents of the ABT Orlando District Office had to use force against the suspect, who was not complying with the agents' lawful commands. The agents used empty hand controls when the suspect attempted to flee after initial contact. The suspect was taken to the ground where he continued to resist, leading to the suspect receiving abrasions to his lower extremities. The report was reviewed up the ABT chain of command, and then by the OIG, and it was determined the agents acted within policy while arresting the subject.

Case Number 2014-081-UF

While affecting the arrest of a person under the age of 21 for the possession of alcoholic beverages in Panama City Beach, an agent and the arrestee fell to the ground after the arrestee fled from the agent. The arrestee refused to place his hands behind his back upon apprehension. The agent applied pressure to the pressure point behind the arrestee's left ear to gain compliance with his commands. The agent was assisted with the arrest by a second agent who placed the handcuffs on the arrestee. The case was reviewed up the ABT chain of command and then by the OIG. All reviews determined the agents acted within policy.

Case Number 2014-082-UF

While affecting the arrest of a person suspected of operating an illegal moonshine still, two undercover ABT agents detected a change in behavior of the subject, leading the agents to believe the subject was about to flee or take aggressive action to avoid arrest. The subject was known to have previous weapons charges and be hostile towards law enforcement. It was unknown at the time if the suspect was armed. To affect the arrest, the agents drew their side arms and pointed them at the subject, giving verbal commands, which the subject then followed. The agents noted that a loaded .45 caliber handgun was located in the subject's nearby vehicle and there was a large dog on the grounds as well that could have become a threat. The agents' reports were reviewed up the ABT chain of command, and then by the OIG, and it was determined the agents acted within policy by displaying their side arms to arrest the subject.

Additional Assistance to the Agency in Fiscal Year 2013-2014

During the fiscal year, sworn members of the investigative team provided their expertise to ABT's Bureau of Law Enforcement by serving as firearms training instructors during three firearms re-certification classes held at a local law enforcement training academy.

Members also presented monthly during New Employee Orientations for department employees. The members, through a PowerPoint demonstration, educated new employees on the role of the Inspector General, the laws governing the Inspector General, and what types of complaints are accepted by the office.