

# FLORIDA 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 2015-2016

**Ken Lawson**, Secretary

**Rick Scott**, Governor

## MESSAGE FROM THE INSPECTOR GENERAL

September 28, 2016

It is with immense pride and pleasure that I present the Office of Inspector General's *Annual Report* for Fiscal Year 2015-2016. This report, which has been prepared in accordance with Section 20.055(8)(a), 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 2015-2016.

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 of DBPR's executive staff, senior managers, division directors, and employees has 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 vigilance.

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,



Lynne T. Winston, Esq., CIG  
Inspector General

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

**ANNUAL REPORT  
Fiscal Year 2015-2016**

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**FLORIDA 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 General 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 and 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 task. We are guided in the ethical performance of our duty not only by Florida's ethics laws, but also 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**

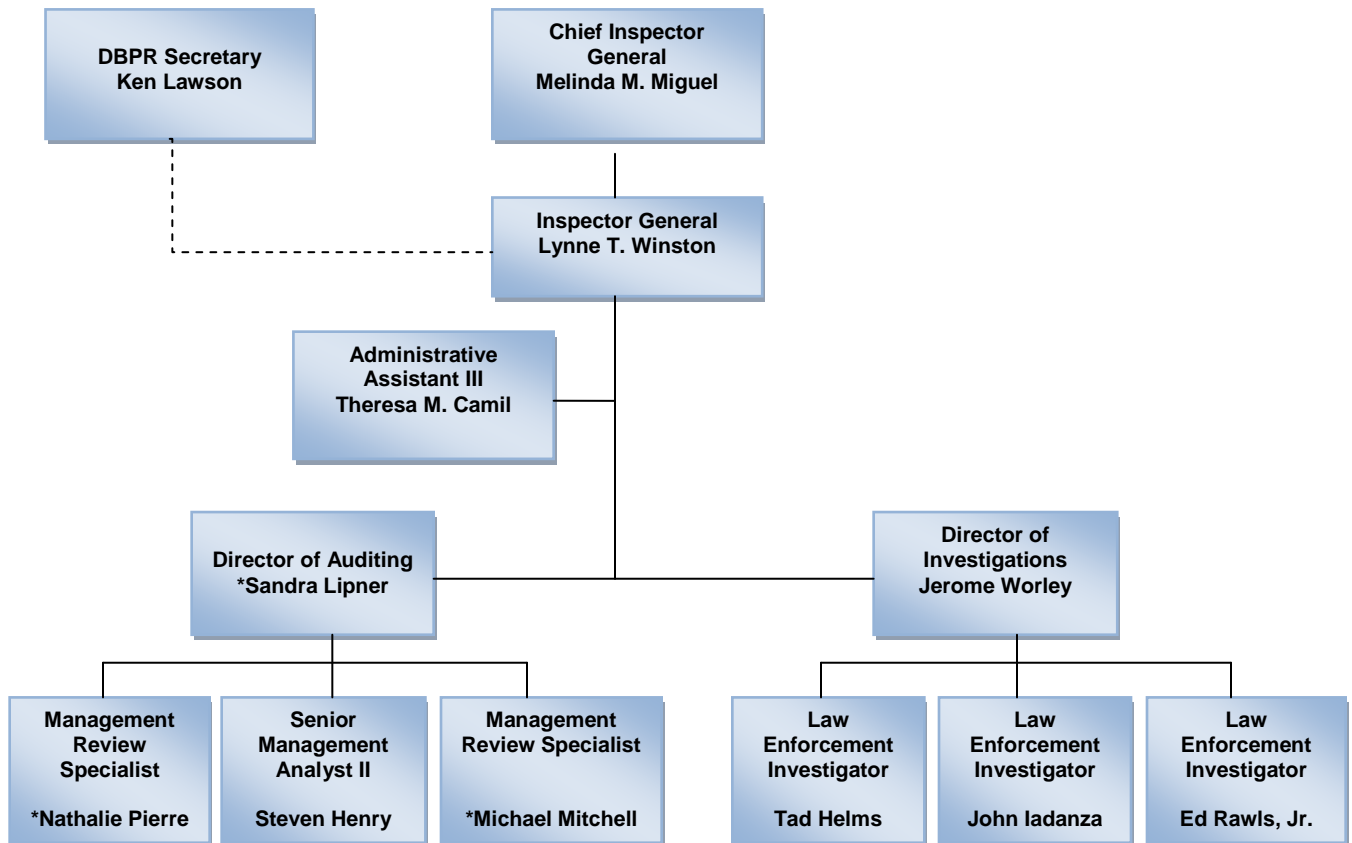
Section 20.055, Florida Statutes, directs the Inspector General to accomplish the following duties and responsibilities:

- 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, 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, 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 Inspector 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 that 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 the Chief Inspector General and is under the general supervision of the department Secretary for administrative purposes. The Office of Inspector General (OIG) is organized as shown in the following chart:



\*No longer employed with the OIG

### Professional Designations

Collectively, OIG staff maintained the following professional designations and/or qualifications during Fiscal Year 2015-2016:

- Certified Inspector General (1)
- Certified Inspector General Investigator (4)
- Certified Inspector General Auditor (1)
- Certified Government Auditing Professional (1)

- Certified Fraud Examiner (1)
- Certified Law Enforcement Officer (3)
- Florida Crime Information Center/National Crime Information Center certified staff members (2)
- Employees who provide Notary Public services (2)
- Member of the Florida Bar

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

### **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.

Staff certified as an inspector general, investigator, or auditor through the Association of Inspectors General are required to complete 40 continuing professional education credits every two years.

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 2015-2016, 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 Tallahassee Chapter of the Institute of Internal Auditors, 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, and the Pat Thomas Law Enforcement Academy.

## **OIG OUTREACH AND EDUCATION**

During Fiscal Year 2015-2016, investigative and audit staff from this Office provided monthly training 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 2016-2017.

## **INTERNAL AUDIT SECTION**

The goal of the Internal Audit Section (IAS) is to bring a systematic, disciplined approach to evaluate and improve the adequacy and effectiveness of the department's governance, risk management, and control processes. To accomplish this goal, the IAS conducts internal audits of department programs, activities, and functions. These audits evaluate the department's exposure to fraud, risk, and the adequacy and effectiveness of internal controls established to:

- Achieve the department's strategic objectives.
- Maintain the reliability and integrity of financial and operational data and information.
- Optimize operational effectiveness and efficiency.
- Safeguard assets, including information and information technology resources.
- Ensure compliance with laws, rules, regulations, policies, procedures, and contracts.

The IAS also conducts consulting engagements at management's request and provides advisory/technical assistance services to management on issues that do not require more extensive audit or consulting services. The IAS serves as the liaison between the department and external review entities and monitors and reports to the Secretary on the status of action taken to correct deficiencies reported in external and internal audits. The IAS carries out the OIG's statutory responsibilities regarding performance measure

development and assessment, and provides technical assistance and administrative guidance on state single audit act matters.

The IAS performs audits and consulting engagements in conformance with the *International Standards for the Professional Practice of Internal Auditing (Standards)*, as published by The Institute of Internal Auditors, Inc. Follow-up reviews, management advisory services, and other projects are conducted in accordance with the *Standards* or other applicable professional internal auditing standards. 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, Florida Statutes, requires the Inspector General to develop annual and long-term audit plans based on findings of periodic risk assessments. Internal audit staff conducted a formal, department-wide risk assessment from April through June 2016. The risk assessment was designed to identify areas of higher risk and to obtain input on issues of concern from senior and executive management. The risk assessment included internal audit staff evaluation of the department's long-range plans, operational goals and objectives, budget and staff resources, performance measure results, and other relevant data and information.

Staff conducted risk assessment interviews with the director of each division/office and with executive management and the Secretary. Areas of focus during these interviews included risks pertaining to fraud, operational changes, information technology, proper financial and performance reporting, and other governance issues. Results of the risk assessment surveys and interviews, coupled with internal auditors' professional judgment, provided the basis for development of the OIG's *Annual Audit Plan for Fiscal Year 2016-17 and Long-Term Audit Plans for Fiscal Years 2017-2019*.

The Fiscal Year 2016-17 Audit Plan includes projects pertaining to department cash management procedures within both the Division of Alcoholic Beverages and Tobacco and the Division of Pari-Mutuel Wagering; an assessment of performance measure validity and reliability; and risk-based inspection processes performed within the Division of Drugs, Devices, and Cosmetics. The Annual Audit Plan also includes participation in multi-agency enterprise-wide audit projects. The Secretary approved the Annual and Long-Term plans on June 8, 2016.

The IAS also carries out on-going risk assessment activities during the fiscal year to identify and evaluate emergent issues. The *Annual Audit Plan* is revised as necessary to address changes in the department's risk exposure.

## Summaries of Internal Audits Completed in Fiscal Year 2015-2016

**Final Report**  
**Performance Measure Review:**  
**Division of Florida Condominiums, Timeshares, and Mobile Homes**  
Internal Audit Report Number A-1516BPR-003  
December 4, 2015

Section 20.055, Florida Statutes, requires the Office of Inspector General to assess the validity and reliability of agency performance measures and to make recommendations for improvement, if necessary. The Internal Audit Section reviewed the department's four legislatively approved performance measures as reported by the Division of Condominiums, Timeshares, and Mobile Homes. We concluded the division's measures are both valid and reliable indicators of the division's performance in achieving operational objectives. However, we found the division could enhance internal controls over the accuracy of the source data used to calculate performance outcomes.

Our office recommended that on a monthly basis, division supervisors compare data entered into Versa: Regulation with the source documentation in OnBase for a sample of arbitration cases and consumer complaint investigations. We further recommended that the division establish a cutoff date for entering of data into Versa: Regulation for arbitration cases and complaint investigations that are disposed at or near fiscal year end. We also recommended that division staff review performance measurement data for outliers and other anomalies prior to calculating performance results and document the basis for any corrections or modifications to the compiled data.

**Final Report**  
**Audit of Processor Approved Applications**  
**Within the Division of Certified Public Accounting**  
Internal Audit Report Number A-1415BPR-020  
December 18, 2015

This audit was initiated when the director of the Division of Certified Public Accounting requested that we evaluate division procedures for the approval of applications for licensure by division processors. The director's primary concern was that division processors exercise broad approval authority with limited supervisory review. Accordingly, our overall audit objective was to evaluate the sufficiency and effectiveness of the internal controls governing the approval process. We sought to determine whether processors obtained and appropriately evaluated all required documentation for a sample of approved applications and whether the approval decision appeared to be accurate based on the supporting documentation in OnBase and Versa: Regulation.

While we did not identify any applications approved in error, we did identify processing errors and instances in which the approval decision was not clearly substantiated. We identified similar processing errors in our analysis of issues escalated to the division for response during the period from January 1 to June 30, 2015. We also reviewed results of quality assurance reviews performed by the Division of Service Operations and found that such reviews are useful in identifying applications approved in error and other processing errors. We concluded the division could enhance its internal controls by establishing a similar quality assurance process.

To help ensure consistency and accuracy in the processing and approval of accountancy applications, we recommended that the Division of Certified Public Accounting conduct quarterly quality assurance reviews of a sample of processor-approved applications.

**Confidential Report**  
**Information Technology Audit:**  
**Agency Access Controls for Separating Users**  
Internal Audit Report Number A-1516BPR-013  
April 29, 2016

Our audit objective was to evaluate whether the Department of Business and Professional Regulation's logical access controls for separating users were adequately designed and operating as intended. We evaluated department policies, procedures, and practices for removing network access for employees, contractors, and other users who separated from the department during the period July 1, 2013 through October 31, 2015.

This audit is classified as a confidential report pursuant to Section 282.318, Florida Statutes. The results of this audit are confidential and exempt from the provisions of Section 119.07(1), Florida Statutes, and are not available for public distribution.

**Final Report**  
**Audit of Accurint Use**  
**Within the Division of Regulation**  
Internal Audit Report Number A-1516BPR-015  
May 27, 2016

The purpose of this audit was to provide assurance regarding the Division of Regulation's compliance with its agreement with LexisNexis Risk Solutions FL, Inc. (LexisNexis) for use of the vendor's Accurint database. Our office found that the agreement with LexisNexis obligates the division to comply with detailed terms and conditions regarding the security of the Accurint database and the results of Accurint searches.

Our review of division practices showed that, in general, the division had complied with these provisions. However, the division did not timely deactivate the user ID of an employee who no longer needed database access. Additionally, the division did not routinely conduct the required quarterly monitoring reviews to ensure that Accurint searches were conducted for legitimate business purposes. Although staff with access to the Accurint database received initial training on Accurint use, we found that existing users did not receive the required annual training.

We recommended the division enhance its existing control framework and require that all staff with access to Accurint data and information review department Policy 2.3, *Information Systems Security Policy*, and sign the policy's Acceptable Use and Confidentiality Agreement. We also recommended the division monitor Accurint use and timely deactivate the user IDs of employees who no longer require access to the database. We further recommended the division conduct quarterly monitoring reviews, as required by its agreement with LexisNexis, and that the division provides Accurint users with the required annual training.

## Summaries of Enterprise Audits Completed in Fiscal Year 2015-2016

***Final Report***  
***Enterprise Assessment of Single Audit Act***  
***Activities Across Selected Agencies***  
Report Number 2016-02  
June 17, 2016

The Executive Office of the Governor, Office of the Chief Inspector General, identified Single Audit as an enterprise project in its Audit Plan for Fiscal Year 2015-2016 and initiated an enterprise project to assess Single Audit activities. Selected state agencies, including the Department of Business and Professional Regulation, were surveyed to gather information about the processes and procedures related to Single Audit activities.

The purpose of the engagement was to analyze the current processes and procedures used by Governor's agencies' to review Single Audit Act financial reporting for compliance with laws and rules and to determine potential process improvements.

The report identified the following areas for improvement for agencies that provide financial assistance to recipients/sub-recipients:

- Single Audit processes and procedures should be developed.

- Procedures should clearly define how the deficiencies identified by the Single Audit reviews are to be communicated to the Grant Managers for appropriate follow-up.
- Methods used to determine recipients/sub-recipients that may be required to submit Single Audit Reports should be standardized among agencies that provide financial assistance to recipients/sub-recipients.
- Electronic submission of Single Audit Reports should be required.
- Single Audit checklists should be standardized and contain elements required by the Florida Auditor General.
- A reporting form similar to the Federal Data Collection Form (Form SF-SAC) should be developed and required;
- A central repository to collect Single Audit Reports from recipients/sub-recipients and to maintain a public database of completed audits should be established.
- Section 215.97(6), Florida Statutes, should be evaluated to determine if any efficiencies or other benefits would be gained by statutory changes.

The enterprise audit recommended that a team be assembled to review the findings, conclusions, and recommendations of this report and develop solutions to address these concerns, including whether Section 215.97(6), Florida Statutes, needs to be revised.

**Final Report**  
***Enterprise Assessment of the Computer Security Incident  
 Response Teams in Selected Agencies***

Report Number 2016-03  
 June 24, 2016

In accordance with the Chief Inspector General's Enterprise Audit Plan for Fiscal Year 2015-2016, a multi-agency team was assembled to conduct an enterprise assessment of Information Technology security. Included as part of that team was the Department of Business and Professional Regulation. The primary objective of the project was to identify Governor's agencies' level of readiness to detect and respond to cybersecurity incidents. The scope of the project was limited to the requirements of Rule 74-2.005, Florida Administrative Code, which establishes the 'respond' function of the Florida Cybersecurity Standards.

This audit is classified as a confidential report pursuant to Section 282.318, Florida Statutes. The results of this audit are confidential and exempt from the provisions of Section 119.07(1), Florida Statutes, and are not available for public distribution.

## Summaries of Management Reviews Completed in Fiscal Year 2015-2016

**Consulting Report**  
**Best Practices for**  
**Continuity of Operations Plans**  
Report Number C-1516BPR-005  
July 13, 2015

The Secretary tasked the Office of Inspector General to produce a Memorandum that outlines Best Practices for Continuity of Operations Plans (COOP). Our review found that, at a minimum, agency COOP plans must include the following elements:

- Identification of essential functions, programs, and personnel.
- Procedures to implement the plan and personnel notification and accountability.
- Delegations of authority and lines of succession.
- Identification of alternative facilities and related infrastructure, including those for communications.
- Identification and protection of vital records and databases.
- Schedules and procedures for periodic tests, training, and exercises.

COOP plans should provide for:

- The capability to implement the COOP plan, both with and without warning.
- Operation of mission critical functions within 12 hours of plan activation.
- The capability to maintain sustained operations for up to 30 days.

The state's requirements for agency COOP plans are consistent with, and mirror the best practices for COOP plan development and maintenance. Our review of federal and state guidance and of literature on continuity of operations indicates that well-maintained COOP plans generally incorporate the following 10 overarching elements:

1. Essential Functions
2. Orders of Succession
3. Delegations of Authority
4. Continuity Facilities
5. Interoperable Communications
6. Vital Records Management
7. Human Resources
8. Tests, Training, and Exercises
9. Devolution of Control and Direction
10. Reconstitution

COOP plans provide a roadmap for ensuring the continuity of mission critical functions when an emergency or other event disrupts normal operations. The plans are living documents. They require ongoing maintenance to retain currency and must undergo periodic testing to ensure their viability. Agency staff must receive training in COOP procedures prior to an incident and they rely on these plans for information and guidance during a continuity event. Governments must continue to perform essential functions despite the occurrence of natural and man-made disasters. COOP plans provide the framework to preserve and maintain basic governmental functions. COOP plans thus promote public confidence in the government's ability to maintain order, minimize loss, and save lives during such times.

**Advisory Report**  
***Commuting Use of Agency-Owned Motor Vehicles***  
Report Number A-1415BPR-021  
February 4, 2016

As part of our role and responsibility to inform and advise management of deficiencies or other substantive issues noted in the course of internal audit activities, our office determined the department is not fully complying with state laws and rules governing the use of state-owned motor vehicles for commuting purposes. The purpose of this advisory report was to provide department management with information and guidance on statutory and rule provisions regarding commuting use of agency-owned vehicles.

The report noted that some divisions permit employees to take agency-owned vehicles home on a regular, ongoing basis even though the employee does not require use of a vehicle after normal duty hours to perform duties of their position or work from home. With some limited exceptions, vehicles classified as A-Pool or B-Limited Use Assignment vehicles may not be driven to an employee's home or used during non-working hours. These exceptions, however, are not intended to provide employees with the means to travel directly from home to a field assignment. Use of a Pool or Limited Use Assignment vehicle for commuting purposes is a taxable fringe benefit.

Our office recommended that division management ensure agency-owned vehicles are used for commuting purposes in accordance with the provisions of Section 287.17, Florida Statutes; the classification, assignment, and use provisions of Chapter 60B-1, Florida Administrative Code; and Department of Management Services FLEET policies and procedures. Should division management continue to permit employees to use Pool or Limited Use Assignment vehicles for commuting purposes, we recommended that management coordinate with the Division of Administration and Financial Management concerning appropriate reporting of the value of this taxable fringe benefit. Given that employees may need to take a Pool or Limited Use Assignment vehicle home under the circumstances provided for in rule, we recommended that division management



establish procedures for supervisors to approve such de minimis commuting use in writing.

We further recommended that where appropriate, management request approval from the Department of Management Services to classify vehicles as Special Security vehicles. Permitting employees to drive vehicles home for security purposes would result in increased operating costs and place extra mileage on the vehicles. We, therefore, urged management to consider other means of securing the vehicles. However, should divisions pursue this option; we recommended they establish additional internal controls over the use of the vehicles. For example, management should require employees to complete a detailed monthly vehicle usage log for supervisory review and approval. Assigned employees should also receive instruction on the appropriate use of Special Security vehicles, including prohibitions on using the vehicles for personal, non-business purposes.

### **Summaries of External Audits Coordinated in Fiscal Year 2015-2016**

The OIG's Internal Audit Section serves as the central point of contact between the department and external agencies engaged in audits of department operations. This liaison role helps ensure effective coordination and cooperation between the Office of the Auditor General and other state and federal review entities and minimizes duplication of audit effort. Internal audit staff coordinate information requests and responses, facilitate the scheduling of meetings, and coordinate the department's response to preliminary and tentative findings issued by the Office of the Auditor General and other oversight agencies. In Fiscal Year 2015-16, internal audit staff provided liaison and coordination services for the following four external reviews.

***Department of Financial Services***  
***Division of Risk Management***  
***Report from an Evaluation of the Department of Business and Professional***  
***Regulation's Loss Prevention Program***  
Report Number SFLPP-28-15-16-DBPR  
February 1, 2016

Pursuant to the requirements of Section 284.50(4), Florida Statutes, the Division of Risk Management, Florida Department of Financial Services, conducted an agency review of the department's loss prevention program based on the requirements set forth by statute and State Loss Prevention Standards.

The Division of Risk Management recommended the department recognize offices and programs that make effective and significant contribution to the agency's safety culture.

The department should establish and administer a safety committee that meets quarterly with documented minutes, with an agenda to include program updates and discussion, review and discussion of first reports of injury and lost-time claims, and examination of trends, causation factors, and return-to-work efforts.

The division also recommended the department develop and implement a process for managing and documenting job-specific safety training for employees on an agency-wide basis. The department should also develop and implement a process whereby formal job safety analyses are conducted on new, complex, and high-risk tasks, and that these analyses be used to provide training on these tasks.

It was also recommended the agency develop and implement a process for employees to report on hazards in the workplace and on public premises. All information concerning hazards and related corrective actions should be reported to the Safety Coordinator. Finally, the Division of Risk Management recommended the department implement a process to regularly communicate safety awareness and accident prevention information to all employees throughout the agency.

***Florida Department of Law Enforcement  
Audits of Selected Division User Agreements***

February 15, 2016

The objective of this audit was for the Florida Department of Law Enforcement (FDLE) to evaluate division compliance with selected user agreements between FDLE and the department for non-criminal justice criminal history background checks. Divisions selected for audit included the Division of Service Operations; the Division of Pari-Mutuel Wagering; the Florida State Boxing Commission; the Division of Administration and Financial Management; the Division of Condominiums, Timeshares, and Mobile Homes; and the Division of Alcoholic Beverages and Tobacco. The audits found the department to be operating in compliance with the user agreements. No deficiencies were found or recommendations for corrective action made.

***State of Florida – Compliance and Internal Controls over  
Financial Reporting and Federal Awards***

Auditor General Report Number 2016-159

March 29, 2016

Pursuant to Section 11.45, Florida Statutes, the Auditor General conducted an audit of the basic financial statements of the State of Florida, as of and for the fiscal year that ended June 30, 2015. Audit staff coordinated the department's response to the Auditor General's information requests. The audit had no findings related to the Department of Business and Professional Regulation.

**Information Technology Operational Audit**  
**Department of Business and Professional Regulation**

**Versa: Regulation**

Auditor General Report Number 2016-198

June 21, 2016

This IT operational audit focused on evaluating selected IT controls applicable to Versa: Regulation during the period November 2015 through January 2016 and selected actions prior and subsequent thereto. The audit included selected business process application controls over transaction data input, processing, and output and selected application-level general controls over logical access to programs and data, configuration management, and contingency planning. The overall objectives of the audit were: to determine the effectiveness of selected IT controls in achieving management's control objectives in the categories of compliance with controlling laws, administrative rules, and other guidelines; the confidentiality, integrity, availability, relevance, and reliability of data; and the safeguarding of IT resources. This audit was designed to identify, for the IT system and controls included within the scope of the audit, deficiencies in management's internal controls; instances of noncompliance with applicable governing laws, rules, or contracts; and instances of inefficient or ineffective operational policies, procedures, or practices.

The audit disclosed that change management controls related to Versa: Regulation program changes need improvement to ensure that only authorized, tested, and approved program changes are implemented into the production environment. The Auditor General recommended that department management establish controls to ensure that only authorized, tested, and approved program changes are implemented into the production environment.

Access privileges for some Department employees did not promote an appropriate separation of duties and did not restrict users to only those functions appropriate and necessary for their assigned job duties. It was recommended that department management limit user access privileges to Versa: Regulation and the production database to promote an appropriate segregation of duties and restrict users to only those functions necessary for the users' assigned job duties.

The department did not timely deactivate the Versa: Regulation accounts for one former and one transferred employee. The Auditor General recommended that department management ensure that the Versa: Regulation accounts of former and transferred employees are timely deactivated.

In addition, contrary to the retention requirements set forth in the State of Florida *General Records Schedule GS1-SL for State and Local Government Agencies*, the Department did not retain relevant Versa: Regulation access control records related to

the deactivation of employee access privileges. It was recommended that department management ensure that relevant Versa: Regulation access control records are retained as required by the General Records Schedule.

Finally, the audit disclosed that certain security controls related to user authentication, logging, and monitoring for Versa: Regulation and related IT resources need improvement to ensure the confidentiality, integrity, and availability of Versa: Regulation data and related IT resources. The Auditor General recommended that department management improve certain security controls related to user authentication, logging, and monitoring for Versa: Regulation data and related IT resources.

### **Monitoring of Corrective Action and Status of Audit Recommendations Reported in Prior Annual Reports**

The Internal Audit Section actively monitors management's actions 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. In Fiscal Year 2015-16, the Internal Audit Section conducted two follow-up reviews of internal and external audits, including reviews of outstanding corrective actions from prior annual reports. The results of these follow-up reviews are summarized below.

### **Follow-up Reviews of Internal Audits**

#### ***Initial Follow-up Review: Information Technology Audit of Agency Access Controls for Contractors***

Report Number F-15165BPR-001

August 12, 2015

The objectives of this audit were to evaluate the actions taken by the Division of Technology and the Division of Administration and Financial Management to correct issues noted in our *Information Technology Audit: Agency Access Controls for Contractors*.

Based upon the status reports prepared by these divisions, our review of supporting information and documentation, and testing of relevant processes and records, our

office concluded that management has taken sufficient action to close all audit issues and recommendations.

This audit is classified as a confidential report pursuant to Section 282.318, Florida Statutes. The results of this audit are confidential and exempt from the provisions of Section 119.07(1), Florida Statutes, and are not available for public distribution.

## Follow-up Reviews of External Audits

***Twelve-Month Follow-up Response to  
Auditor General Report Number 2015-066  
Department of Business and Professional Regulation—  
Selected Inspection Programs  
Report Number G-1516BPR-012  
December 7, 2015***

Our review showed that management had taken sufficient corrective action to close or partially close all findings and recommendations made in the initial audit.

With respect to Conflicts of Interest, the initial Auditor General review had found that department policies and procedures did not require employees to report the existence of potential conflicts of interest related to inspection assignments. The Auditor General recommended the department enhance policies and procedures to require employees with inspection and related enforcement responsibilities to timely report potential conflicts of interest and to annually submit a written statement disclosing any potential conflicts of interest. Our follow-up review determined the department has revised Policy 1.14, *Conflict of Interest/Employment Outside State Government*. This revised policy requires current employees with inspection and/or enforcement related responsibilities to immediately report a potential conflict of interest. Relevant forms disclosing any potential conflicts of interest are also now required and must be submitted at the beginning of each fiscal year. Management also uses these forms when making inspection assignments.

The Auditor General also found that the department did not always timely conduct or adequately document the conducting of follow-up inspections. It was recommended that department management ensure that follow-up inspections are appropriately conducted and documented in accordance with established guidelines. Our office found that enhancements had been made within the Division of Regulation to ensure that inspectors schedule follow-up inspections. Enhancements were also scheduled for the Division of Alcoholic Beverages and Tobacco. Our office determined that this finding

was partially closed and will monitor implementing action within the Division of Alcoholic Beverages and Tobacco.

## Office of Inspector General's Quality Assessment Review

### ***Department of Business and Professional Regulation Office of Inspector General's Internal Audit Activity***

Auditor General Report Number 2016-041

November 19, 2015

Section 11.45(2)(i), Florida Statutes, requires that the Auditor General, once every 3 years, review a sample of internal audit reports to determine compliance by the Office of Inspector General with the current *International Standards for the Professional Practice of Internal Auditing*.

The objective of this review was to evaluate the extent to which the Office of Inspector General's internal audit activity's charter, policies, and procedures, quality assurance and improvement program, and work products conform to applicable professional auditing standards. Further objectives included the determination of compliance with those provisions of Section 20.055, Florida Statutes, which relate to the operation of offices of inspectors general internal audit activities; and the identification of opportunities to enhance the Office of Inspector General's internal audit activity's management and work processes, as well as its value to department management. The review period of this engagement was July 2014 through June 2015.

The review found that the quality assurance program related to the Office of Inspector General's internal audit activity was adequately designed and complied with during the review period to provide reasonable assurance of conformance to applicable professional auditing standards. The Office of Inspector General also complied with those provisions of Section 20.055, Florida Statutes, governing the operation of state agencies' offices of inspectors general internal audit activities.

### Other IAS Activities

- The IAS prepares the *Schedule IX: Major Audit Findings and Recommendations* for the department's Legislative Budget Request on an annual basis. The *Schedule IX* informs decision-makers about major findings and recommendations made in Auditor General and OIG audit reports issued during the current and previous fiscal

years. The *Schedule IX* also provides information on the status of action taken to correct reported deficiencies and is cross-referenced to any budget issues for funding to implement audit findings and recommendations.

- The IAS continued to provide technical assistance and guidance regarding compliance with Florida Single Audit Act (FSAA) requirements. The IAS tracked the receipt and review of required Financial Reporting Packages (FRPs), reviewed all FRPs, and coordinated with the appropriate program offices to ensure timely and appropriate action was taken to correct reported deficiencies. IAS staff serves as the FSAA liaison and coordinates the annual certification of the department's FSAA projects to the Department of Financial Services.
- Section staff reviewed and provided input to management on new departmental operating policies and on proposed revisions to existing policies.

## INVESTIGATIONS SECTION

The Investigations Section of the OIG is comprised of one (1) investigations director and three (3) sworn investigators. Staff within this section are primarily responsible for conducting internal investigations and inquiries into allegations of employee misconduct and allegations that department employees have violated law, rule, policy, procedure or regulation. This unit accomplishes its mission through both reactive and proactive investigative efforts based on the authority specified in Section 20.055, Florida Statutes, and in accordance with the Principles and Standards for Offices of Inspector General (the "green book"), which is published by the Association of Inspectors General.

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 them and thereby reduce the likelihood of future occurrences of fraud, waste, mismanagement, misconduct, or other abuses. OIG findings are reported to the department's Secretary, Human Resources and, as appropriate, to the respective division directors, immediate supervisors, and the Office of the General Counsel. Recommendations for improved processes, policies, or procedures are made when warranted by the findings.

The majority of complaints referred to the investigations section are received via the OIG's telephonic and online complaint reporting processes, which are available not only to department employees, but also to the citizens of Florida. Many of the complaints reported to the OIG are referred to the department's various division directors, since

they are more appropriate for management review and response, rather than for investigation.

### Statewide Complaint Intake Process

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

Each complaint is thoroughly 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 statutes, complaints are typically 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.

### Description of Cases Typically Handled by the Investigations Section

**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 an internal investigation. The determination as to whether the allegation remains an inquiry 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.



**Referrals** – The forwarding of complaints, typically of minor misconduct, to the appropriate division within the department or to the applicable external department for review and response to the complainant.

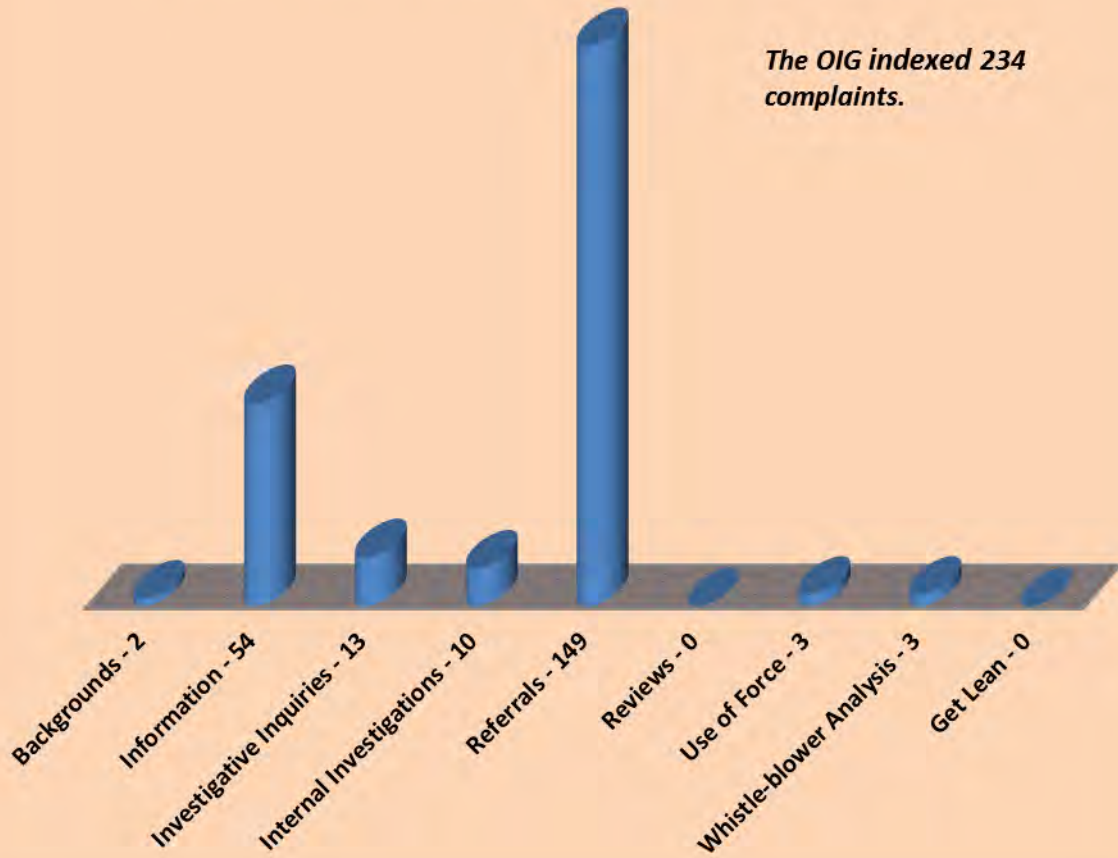
**Reviews** – Reviews are conducted in order to examine the actions of the department and/or its members and to ensure that the actions were adequate, accurate, or correct.

**Use of Force** – Reviews into the circumstances that involve a law enforcement officer's use of force when performing his or her duties.

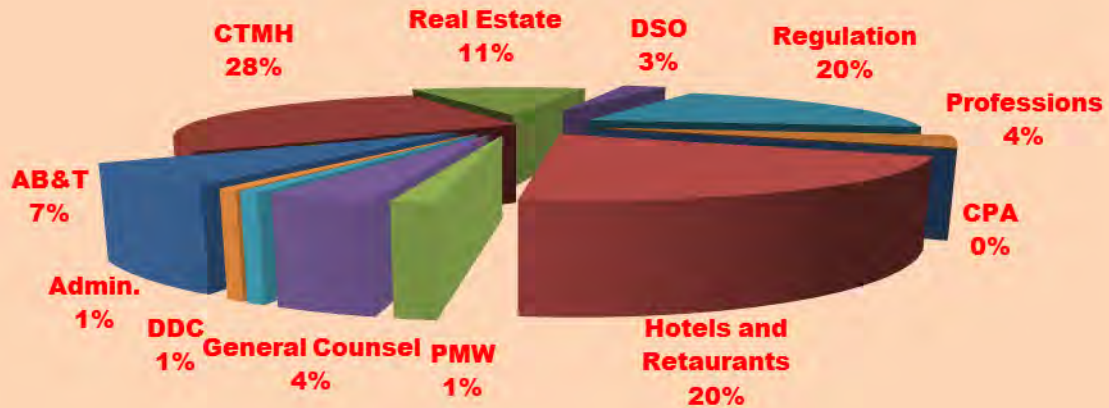
**Whistle-blower Analysis** – Receipt and review of complaints filed by a state agency employee/contractor, former state agency employee/contractor, or applicant for state employment, of serious allegations of wrongdoing on the part of a public employer or independent contractor and coordination of all 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 Handled in Fiscal Year 2015-2016



## Percentage of Referrals by Division in Fiscal Year 2015-2016



### Summaries of Internal Investigations Completed in Fiscal Year 2015-2016

#### *Case Number 2015-126-IA*

A Division of Alcoholic Beverages & Tobacco (AB&T) Law Enforcement Investigator II (complainant) submitted complaints to the Office of Inspector General (OIG) against his district supervisor (supervisor).

The agent stated that while he was on temporary duty, the supervisor denied his request to participate in firearms training. Complainant grieved the supervisor's decision. Complainant alleged that in response to his grievance, the supervisor reported that he conferred with two firearms instructors regarding complainant's range safety. According to complainant, one of the instructors would testify that he never discussed complainant's range safety with the supervisor, which would constitute a false statement on the supervisor's part.

Additionally, complainant alleged that the supervisor committed a criminal violation of Section 110.227 (4) (a), Florida Statutes, by not meeting with him to discuss the decision and response to complainant's first step-one grievance. Pursuant to Section 20.055, Florida Statutes, OIG staff presented the alleged criminal violation to a law enforcement agency, which declined to investigate the complaint.

Complainant also alleged that the supervisor made an additional false statement in his written response to a second grievance filed by complainant one month later regarding his participation in firearms qualifications. Specifically, complainant alleged that the supervisor falsified the number of work restrictions related to complainant's temporary duty status.

The OIG reviewed all known documents and records pertaining to the complaint and interviewed pertinent witnesses and the subject employee.

The investigation determined that the supervisor and the firearms instructor's testimonies contrasted and there were no witnesses to prove or disprove the conversation occurred.

The investigation determined that while complainant was on temporary duty, the supervisor received notifications by email from AB&T staff as complainant's work restrictions changed. The updated restrictions provided to the supervisor were in summary form, as the actual medical forms were confidential. The supervisor always responded to management that he could accommodate complainant based on the listed restrictions.

The OIG found that the supervisor's response to complainant's second step-one grievance was inaccurate as it related to complainant's specific work restrictions. The number of work restrictions had changed from seven to three restrictions. The supervisor received the summary of changes in an email from his supervisors and confirmed that he could accommodate complainant.

The supervisor testified that he believed the work restrictions and accommodation requests provided to him in the email from his supervisors were paraphrased lists of restrictions rather than the specific list. The supervisor stated that he did not intentionally provide the inaccurate restrictions as part of the grievance response and stated that the pertinent part of the information was that complainant was on temporary duty; therefore, he would not have allowed him to participate in firearms re-qualifications regardless of the number of restrictions.

As a result of this investigation, the allegation in complaint #1 against the supervisor of violation of DBPR Administrative Policy No. 3.7.06, D, 6, *Conduct Unbecoming a Public Employee*, was determined to be *not sustained*.

The allegation in complaint #2 against the supervisor of violation of DBPR Administrative Policy No. 3.7.06, D, 6, *Conduct Unbecoming a Public Employee*, was determined to be *unfounded*.

### **Case Number 2015-162-IA**

A law enforcement lieutenant in the Division of Alcoholic Beverages & Tobacco (AB&T) reported his concern of a suspected false inspection report submitted by an AB&T Law Enforcement Investigator II (Agent), to the Office of Inspector General (OIG). A non-sworn inspector reported to the lieutenant potential leads regarding the operation of illegal gambling machines at several licensed premises. The lieutenant recognized one of the licensed premises as having been recently inspected by the agent and the case subsequently closed after the agent reported the licensed premises had come into compliance with applicable Florida Statutes.

The lieutenant initiated a preliminary inquiry into four licensed premises in which the agent conducted follow-up inspections on a certain date in August 2015. The lieutenant determined, through interviews with on duty staff at three of the licensed premises, that the agent had conducted the follow-up inspections. The lieutenant found the fourth licensed premises, a package store and lounge, in possession of two gambling machines, contrary to the agent's reports, which indicated the agent conducted a follow-up inspection of the package store and lounge in August 2015 and found it in compliance. The employees of the package store told the lieutenant that the agent never returned for a follow-up inspection and they had not removed the gambling machines as he had directed them to in his initial inspection.

The OIG interviewed the package store and lounge's employees and the owner of the gambling machines. One of the aforementioned employees testified that she received the Record of Inspection (Official Notice) regarding the gambling machines from the agent in August 2015. This employee and a co-worker gave consistent testimony that the agent did not return to the licensed premises approximately a day later, as he had reported.

According to one witness, the agent told her that he would return to the licensed premises on a certain date to ensure their compliance.

Two employees testified that they were anticipating the agent's return, but the agent never returned.

The owner of the gambling machines testified that she removed the gambling machines from the licensed premises only after the lieutenant's visit.

One employee testified that on the date of the follow-up inspection, she worked in the area where the gambling machines were located. She stated that she worked from 9:00 a.m. (the licensed premises' opening) until 5:00 p.m., and never left the bar area. The witness stated that the entry door to the lounge has an audible alert that is triggered when the door is opened and she would have known if anyone entered the lounge if she had stepped away. The witness testified that she never saw the agent. Records demonstrate that the agent's workday ended at 4:30 p.m.

The lieutenant testified that the gambling machines were present during his inquiry and provided photographs to support his statement.

The agent testified that as he had indicated in his inspection report and Daily Activity Sheet, the gambling machines were not present when he conducted a follow-up inspection.

Because of this investigation, the allegation against the agent of violation of DBPR Administrative Policy 3.7.06, D, 6, b. (2), (k) – *Conduct Unbecoming a Public Employee*, was determined to be *sustained*.

#### ***Case Number 2015-170-IA***

The OIG received a complaint of employee misconduct from a restaurant owner through a Division of Hotels & Restaurants (H&R) District Manager.

The complaint alleged that while conducting a Food Service Inspection of the restaurant, a Sanitation and Safety Specialist (Inspector) made sexually explicit and vulgar comments while initially speaking with the complainant and her staff after entering the establishment.

The complainant alleged that the inspector approached her and her staff, which consisted of two service providers and two kitchen workers, while they were seated in the rear portion of the restaurant having a morning meeting. The complainant asserted, which was supported by witness testimony, that after she greeted the inspector upon his arrival at the restaurant, he made sexually charged comments.

The OIG reviewed the information submitted by the district manager and determined that the case would be classified as an internal affairs investigation (IA).

On October 13, 2015, the OIG interviewed the complainant, two restaurant employees, and the inspector.

The inspector testified that he only made one sexually charged comment and it was in response to the greeting he received from the complainant. Additionally, the inspector

admitted that he attempted to engage an employee of the restaurant with the intent of initiating a personal relationship.

Because of this investigation, allegations of *Conduct Unbecoming a Public Employee* and *Violation of Law or Agency Rule* were classified as *sustained*.

#### **Case Number 2015-187-IA**

The OIG investigated the theft, altering, and uttering of two licensees' checks. Both checks were originally made payable to DBPR for licensing application fees and transacted at a Division of Pari-Mutuel Wagering (PMW) field office. Both checks' "Pay To" designations were altered from "DBPR" to a person's name and the amounts payable were increased; they were then cashed at a check cashing business.

The OIG determined that the two checks were part of a financial document package to be mailed at the end of an employee's workday. The package and its contents never reached its destination at headquarters.

At the initiation of the investigation, the OIG required the field office to file criminal complaints with local law enforcement and subsequently with the U.S. Postal Service (USPS).

The employee responsible for mailing the deposit stated that after work, she picked up two acquaintances and then dropped off the envelope at a USPS facility.

The USPS confirmed that there was an active criminal investigation related to the thefts of mail from stand-alone postboxes in the area where the employee mailed the package.

As a result of this investigation, allegations of *Conduct Unbecoming a Public Employee* and *Violation of Law or Agency Rule* were classified as *unfounded*.

#### **Case Number 2015-225-IA**

This investigation was predicated upon an anonymous complaint received by the Chief of Law Enforcement, Department of Business & Professional Regulation (DBPR), Division of Alcoholic Beverages & Tobacco (AB&T), Bureau of Law Enforcement, on December 7, 2015. On the same date, the chief delivered the complaint to the Office of Inspector General (OIG) for investigatory consideration.

The complaint contained inferences and allegations of policy violations against two supervisors in an AB&T district office, later identified as the captain and a lieutenant. The chief conveyed to the OIG that collectively, the complaint and photographs

potentially demonstrated the misuse of AB&T vehicles and potential violations related to time and attendance and daily activity reporting.

The complaint consisted of a single page, typed letter and eleven pages of printed color photographs, depicting AB&T vehicles parked near a travel trailer that the OIG determined to be the residence of the captain. Further, the OIG determined that the AB&T vehicles identified in the photographs were issued to either the captain or the lieutenant or were being temporarily operated by the lieutenant.

The OIG completed an analysis of the complaint to identify any allegations and inferences that, if proven true, would represent a violation of Law or Agency Rule. In compliance with Department Policy - 1.2, *Complaint Policy*, governing anonymous complaints, the analysis determined that the complaint was independently sufficient to initiate an OIG internal investigation, as defined in Section 112.531-112.535, Florida Statutes, involving the captain and the lieutenant.

The OIG reviewed the lieutenant's time and attendance submissions, daily activity reports, and vehicle usage logs. Further, the OIG reviewed the lieutenant and the captain's AB&T issued cellular telephone records and electronic mail history for the investigative period and conducted sworn interviews of the lieutenant and captain.

The OIG sustained the following violations against the lieutenant:

- The lieutenant used state vehicles while not in her official capacity.
- The lieutenant failed to reimburse the department for her off-duty employment use of AB&T vehicles within the time period defined in policy. Further, the evidence demonstrated that contrary to policy, the lieutenant approved her own reimbursement form to the department for the use of AB&T vehicles for off-duty employment on two occasions. In addition, since the lieutenant was in arrears on her reimbursement, she was prohibited from continuing to use her state vehicle for secondary employment.

The OIG sustained the following violations against the captain:

- The evidence demonstrated that the captain failed to act or address the lieutenant's unauthorized personal use of AB&T vehicles, failed to thoroughly review and compare the lieutenant's daily activity sheets, radio log entries, and reimbursement forms for consistency and accuracy of entries. In particular, none of the purported business meetings between the lieutenant and the captain at the captain's residence were recorded on the lieutenant's daily activity sheets.



The OIG recommended management take action as deemed appropriate.

### ***Case Number 2016-10-IA***

This investigation was predicated upon a complaint filed with the Office of Inspector General (OIG) on January 15, 2016, against the Florida State Boxing Commission (FSBC).

The OIG identified thirteen allegations within the complaint that alleged the following: FSBC executive direction did not address reported safety issues with a certain fight cage. FSBC executive direction's use of a volunteer and event officials' assignments created conflicts of interest. FSBC executive direction violated "weigh-in" and fighter safety equipment rules. Certain event officials were compensated for unearned per diem. FSBC executive direction allowed an unlicensed referee to officiate a bout. FSBC executive direction allowed a volunteer to access personal confidential information through a department laptop. FSBC executive direction failed to protect the integrity of competitor urine samples.

A determination was made that the complaint met the statutory criteria for the protections afforded by the Whistle-blower's Act.<sup>1</sup>

The OIG determined the following allegations were *not sustained*:

- The Assistant Executive Director (AED) allowed his wife to access the department's licensing system and view confidential information.
- The FSBC Executive Director (ED) stated that field issues are handled by the AED and he (ED) does not get involved in what goes on in the field.
- The AED allowed his wife to access participants' confidential medical information.

The OIG determined the following allegations were *unfounded*:

- The FSBC executive direction endangers fighters by allowing same day weigh-ins.
- The FSBC Assistant Executive Director (AED) allowed the use of an unsafe cage.
- The AED created a conflict of interest by allowing a married couple to work the same events, one as a referee and one as a judge.

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<sup>1</sup> The Whistle-blower Law, Sections 112.3187-112.31895, Florida Statutes (F.S.), was intended to provide protection for employees, former employees and applicants for positions who voluntarily report, in the prescribed manner, certain unlawful or improper activity.

- The FSBC allows the use of cages with inward swinging doors that could create a safety hazard.
- The AED created a conflict of interest by allowing his wife to work events and train district coordinators.
- A licensed referee repeatedly told the AED about unsafe, inward swinging cage doors without the AED acting upon the concerns.
- The FSBC compromised the integrity of urine samples by collecting them before fights instead of after.
- The AED allowed an unlicensed person to referee a bout.
- The AED allowed two female fighters to compete without their required safety equipment.

The OIG *sustained* the allegation that FSBC executive direction authorized the payment of unearned mileage per diem to a husband and wife who traveled and worked events together as a licensed judge and a licensed referee.

As a result of this investigation, the OIG recommended:

- DBPR create a department-wide volunteer policy.
- FSBC executive direction discontinue the use of relatives working the same bout to avoid the appearance of impropriety.
- FSBC executive direction institute written policies to define its internal operating procedures.

### **Case Number 2016-033-IA**

On February 10, 2016, the Office of Inspector General (OIG), through its online portal, received an anonymous complaint that alleged potential misconduct against a Division of Regulation (division) Labor, Employment, and Training Specialist (Inspector). The anonymous complainant purported that the inspector operated a personal computer repair business during his Department of Business and Professional Regulation (department or DBPR) work time and spent inordinate amounts of work time in a local coffee shop. The anonymous complainant referenced a similar complaint from 2014 against the same inspector, which resulted in the OIG sustaining policy violations against the inspector.

In April 2016, OIG staff conducted surveillance on the inspector. On one day, the inspector patronized a coffee shop for approximately one and one half hours after 8:00 a.m., and for approximately 35 minutes on the next day. This was the same coffee shop OIG observed the inspector frequenting during the previous investigation.

The inspector testified that he offset his times in the coffee shop by not taking lunch breaks. OIG determined that contrary to policy, the inspector never sought or received

supervisory approval to modify his work schedule. Further, the inspector confirmed that he owned and operated a computer repair business from home, but only performed computer repairs during evenings and weekends and not during his DBPR work hours. Conversely, the inspector admitted to answering computer repair emails on his personal phone during the workday. The inspector testified that he did not seek authorization to obtain employment outside of state government because he did not realize his computer repair business required authorization. The inspector's supervisor confirmed that the inspector did not seek authorization for the computer repair business.

Because of this investigation, the allegation that the inspector was in violation of DBPR Administrative Policy 1002-0009, VI, C, (1), (2), (3), (4), *Attendance and Leave*, was *sustained*. The facts demonstrated that the inspector altered his work schedule without seeking supervisory permission or approval.

The allegation that the inspector violated DBPR Administrative Policy 1.14.06, F, *Employment Outside State Government*, was *unfounded*. The OIG, using a fictitious account, discussed computer purchases and repairs with the inspector. The inspector only responded one time during his scheduled work hours and it could not be determined if the inspector was on break. Further, the conversation was made from his personal phone. Further, no evidence was found to indicate the inspector used state resources or time to conduct his personal computer repair business.

The allegation that the inspector violated DBPR Administrative Policy 1.14.06, B, H, 1, *Employment Outside of State Government*, was *sustained*, as it was determined the inspector never sought or received approval to have employment outside of state government.

The OIG recommended that management take action as deemed appropriate. Management was also advised to address the fact that the inspector admittedly drives his state vehicle after having taken medication that makes him lightheaded.

### **Case Number 2016-050-IA**

On March 8, 2016, the Office of Inspector General (OIG) received a complaint from an employee (complainant) in the Division of Real Estate (Division or DRE). Complainant alleged that her co-worker was complicit in the theft of her personal credit card information and that the co-worker's husband was under criminal investigation for the use of the credit card number.

Complainant and the co-worker attended a DBPR training class from February 22, 2016 until February 26, 2016, with other DRE staff members and Office of the General Counsel (OGC) staff responsible for prosecuting Division administrative cases.

At approximately 8:40 p.m., February 26, 2016, complainant received notification from her bank of a charge on her personal credit card at a Publix Supermarket in Palm Coast, Florida.

Complainant then received notification on February 28, 2016, of three additional charges. Two of the charges occurred at the Fort Drum Service Plaza on Florida's Turnpike at 1:45 a.m. and 1:46 a.m. The third charge occurred at approximately 3:59 a.m. at a Mobil gas station in Ft. Lauderdale, Florida.

While accompanied by law enforcement, complainant viewed video surveillance footage depicting the unauthorized Publix credit card charge. Complainant *tentatively* identified the subject in the footage as the co-worker's husband, whom she had met and with whom she was familiar.

The co-worker testified that she had no knowledge of the theft of the credit card and had no knowledge of her husband having involvement with the credit card theft or unauthorized use.

The co-worker testified that she and her husband were with other family members on a casino cruise on February 26, 2016, that departed at approximately 7:00 pm. The cruise line provided the OIG a passenger manifest corroborating the co-worker's testimony. Cruise line staff said passengers had to provide photographic identification upon entering the terminal and again when claiming their boarding pass. The co-worker provided screen prints of the receipt from the redemption of the cruise ticket. The co-worker also provided a photo of her with her husband on the cruise with time and location stamps showing they were on the cruise ship at the time of the credit card charges at Publix.

The co-worker's husband was arrested for the use of the credit card based on a local law enforcement officer's comparison of the video and social media photographs of the co-worker's husband. The Office of the State Attorney dismissed the charges.

Because of this investigation, the allegation against the co-worker of Violation of DBPR Administrative Policy 3.7.06, D, 5 b. (1) - *Violation of Law or Agency Rule*, was determined to be *unfounded*. The OIG determined that insufficient evidence existed to determine that the co-worker participated in or had knowledge of the theft and unauthorized use of complainant's personal credit card number.

#### **Case Number 2016-077-IA**

On April 14, 2016, Division of Hotels & Restaurants (H&R) forwarded a citizen's complaint of alleged employee misconduct to the Office of Inspector General (OIG).

According to the complaint and division records, on April 6, 2016, a district Sanitation & Safety Specialist (Inspector) conducted an H&R Lodging Inspection of a hotel located in Kissimmee, Florida. The inspection was in response to a complaint lodged by a guest concerning a water leak and a possible mold issue. On April 8, 2016, the inspector returned to the hotel and issued a Change Record Form, as the hotel was closing to remodel. During the issuance of the Change Record Form, the inspector encountered the complainant, whose adult daughter resided at the hotel. Complainant reported that she did not like the manner in which the inspector spoke with the hotel management and that the inspector coached the hotel staff with their responses to questions that complainant was asking regarding a dispute over complainant's daughter's hotel bill. Complainant stated that the inspector identified herself as being from the "health department." Complainant stated that the inspector made comments about turning off the hotel's electricity in front of other people. Complainant stated she felt the inspector improperly posted the operational status of the hotel. Finally, Complainant stated that the inspector was "scaring" people over the condition of the facility.

On April 11, 2016, when complainant filed her complaint with H&R, a supervisor overheard the conversation and reported concerns provided to her in December 2015, from another H&R Sanitation & Safety Specialist, that the inspector had accepted gratuities from the owner of a restaurant and had acted unprofessionally.

The OIG reviewed the information submitted and determined that the case would be classified as an internal affairs investigation (IA).

On May 18, 2016, the OIG interviewed the complainant, known witnesses, and the inspector. The testimony of the hotel staff and the inspector contradicted complainant's allegation of unprofessionalism. Additionally, the restaurant owner denied telling anyone that the inspector accepted gratuities from him and that she was unprofessional. The restaurant owner also stated that the inspector had never accepted gratuities from him.

As a result of this investigation, the allegation that the inspector conducted herself in an improper or unprofessional manner while conducting her duties at the hotel, in violation of DBPR Administrative Policy No. 3.7.06, D, 6, *Conduct Unbecoming a Public Employee*, was *unfounded*.

The allegations that the inspector accepted gratuities from a licensee and extended special treatment [specifically during Food Service Inspections] to a licensee for providing her with free drinks at his restaurant while she was off-duty, in violation of DBPR Administrative Policy No.3.7.06, (5), 2, 5, *Violation of Law or Agency Rule*, were *unfounded*.

## Summaries of Investigative Inquiries Completed in Fiscal Year 2015-2016

The preliminary assessment of a complaint's merits to determine its validity, gravity, and category of violation ensures compliance with the Principles and Standards for Offices of Inspector General. This process often results in the referral to management of complaints 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 investigative resources. The following are summaries of several examples of the (13) thirteen investigative inquiries completed in FY 2015 -2016.

### ***Case Number 2015-142-INQ***

The above referenced case refers to a complaint received by the Division of Hotels & Restaurants (H&R) through the Division's online complaint registry. The complainant, a former employee of the restaurant in question, alleged unsanitary conditions at the restaurant, located in Orlando, Florida, and referenced rumors of "pay offs" to "whoever comes to check for health code violations."

The complaint consisted of an email message from the complainant regarding the restaurant's operating condition that included the statement, "I heard while I was there that they pay off who ever (sic) comes to check for health code violations and that's (sic) the only reason that place is still running."

The H&R Orlando District Manager provided this office with a copy of the most recent 'Food Service Inspection Report' for the business in question. The report indicated that a certain Sanitation and Safety Specialist had recently inspected the restaurant. A review of the inspection report revealed that the inspector had recommended an administrative complaint in addition to a "Stop-Sale Order<sup>2</sup>"

Further review of the past inspections revealed that the restaurant was inspected five times dating back to September 17, 2014. The establishment "Met Inspection Standards" one time and received two warnings [not to include the most recent one]. Four separate inspectors performed the inspections. According to District Manager Freeman, the inspections all appeared routine in nature.

On August 13, 2015, OIG interviewed the complainant. The complainant related that:

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<sup>2</sup> The division issues a Stop-Sale Order when it discovers food items that are an immediate danger to the public.

- She was a former employee of the restaurant.
- She resigned based on a disagreement with restaurant management.
- She could not identify the inspector(s) alleged to have been 'paid off.'
- She never witnessed any improper action by a division employee and was present during one Food Service Inspection during her employment.
- She could not provide pertinent information such as date(s) or the location of the alleged misconduct.
- She discussed the possibility of a pay-off with another employee, but did not remember him or her by name.
- The business in question, during its most recent inspection, received a Stop-Sale Order as well as an administrative complaint.

No independent evidence was available to support the allegation and further investigation of this matter was not likely to identify any corroborating evidence to sustain the allegation. Due to insufficient specificity relating to the allegations, the absence of employee names, or other potential identifiers, the OIG determined this inquiry does not warrant further investigative activity.

#### ***Case Number 2015-158-INQ***

On September 11, 2015, the Chief of Human Resources (Chief) requested the OIG conduct an inquiry into two pieces of mail. One piece of mail was addressed to a Tax Auditor II, employed in a Division of Alcoholic Beverages and Tobacco (AB&T) field office and the other was addressed to the employee's mother [who is not a division employee] at the same location. The address at which the auditor received the letter was the physical address of the AB&T field office, as was the one addressed to his mother. The letter addressed to the auditor's mother at the AB&T Office was from the City of Miami Intersection Safety Program, PO Box 22091, Tempe, AZ 85285-2091.

The auditor's supervisor, who initially discovered the mail, reported concerns that her employees were using the office address to receive personal mail in violation of departmental policy.

The OIG reviewed the documents and confirmed the address of record for the auditor through the State of Florida's employee management system. The data confirmed his home address was in Miami, Florida. The People's First Contact Information section confirmed that the additional mail was addressed to the auditor's mother. Both names were queried through the State of Florida Driver and Vehicle Information Database (D.A.V.I.D) as this was an official inquiry into possible misconduct. The D.A.V.I.D report reflected the auditor's current home address as his official address provided to the state. The auditor's mother, who was issued a Florida Identification Card, changed her 'Driver's License and Motor Vehicle Record' address on February 2, 2015 to reflect the address of the AB&T field office.

On September 15, 2015, OIG spoke with the auditor's supervisor, who stated that several of her employees routinely receive personal mail addressed to them at the AB&T field office. On the same date, she issued a memo to her staff reiterating that no personal mail would be accepted at the office facility. On the same day, this directive was provided to all AB&T Auditing employees statewide.

OIG forwarded the case file [with specific attention to the record of the auditor's mother] to the Florida Highway Patrol Investigations Section in Tallahassee for investigative review.

#### ***Case Number 2015-159-INQ***

On September 14, 2015, the Office of Inspector General received an envelope containing several legal documents and a website business page from a law office located in Miami, Florida. The documents contained in the anonymous letter were identified as an Affidavit of Service (Summons in the Circuit of the 9<sup>th</sup> Judicial Circuit in and for Orange County, Florida) addressed and delivered to a Florida Department of Business & Professional Regulation (department or DBPR), Division of Alcoholic Beverages & Tobacco (AB&T), Senior Management Analyst II. The service was delivered to the analyst's home address. The anonymous sender raised no issues, nor did the sender clarify the intent of the correspondence. The OIG requested the Department's Ethics Officer review the information for a possible violation of Department Policy Number 1.13, which addresses "*Conflict of Interest: Gifts and Gratuities*," specifically whether it was unprofessional, illegal, or unethical for the specific law firm to represent the analyst in a civil court case outside of her duties with the DBPR.

The Ethics Officer determined that it was not unprofessional, illegal, or unethical for the law firm to represent the analyst in a civil court case not associated with her position with the department. According to Florida Statute 112.312, a 'Conflict of Interest' is defined as follows: A situation in which regard for private interest tends to lead to disregard of a public duty or interest. This review obtained or revealed no evidence to support the assertion that a conflict existed or currently exists.

This complaint was closed with no further action.

#### ***Case Number 2015-165-INQ***

The above referenced case refers to a complaint received by the Division of Hotels & Restaurants (H&R) through the Division's online complaint registry. The complainant alleged unsanitary and unsafe conditions at a motel in Miami, Florida, where he is a resident. In addition, he complained of the mistreatment of employees by motel



management concerning wages. He also alleged that he suspected motel management was “paying off certain Inspectors.”

On September 24, 2015, a Division of Hotels & Restaurants Bureau Chief forwarded a copy of the complaint, via email, to the OIG due to the allegations and insinuations of improper conduct by unnamed inspector(s).

The complaint consisted of an email message from complainant regarding the motel’s operating condition, which included the statement, “You will find that someone is paying off certain inspectors to pass inspection.” The email did not contain a physical description of the inspector, date of inspection, or an inspector’s name.

The bureau chief provided the OIG with a copy of the most recent ‘Lodging Inspection Report’ for the business in question. The report dated September 25, 2015, indicated that a certain Sanitation and Safety Supervisor had recently inspected the motel. The inspection was conducted based upon the receipt of the complaint. Prior to the inspection, records indicated that another Sanitation & Safety Specialist inspected the motel. This inspector inspected the motel on January 26, 2015. The report reflected four “High Priority” and two “Basic” violations observed.

On September 25, 2015, OIG telephoned the complainant and conducted an interview concerning his allegations. The following is a summary of the conversation:

- Complainant stated he has been a resident of the motel for approximately one month and feels the facility is in very poor condition.
- He could not identify the inspector(s) alleged to have been ‘paid off.’ He confirmed that the inspector in question had inspected the motel just days before he submitted his complaint to H&R on September 22, 2015.
- He described him as a male inspector from the “City building and zoning.”
- The complainant stated he has *never* witnessed any improper action by a division employee and was not present during the past two inspections conducted by H&R Sanitation & Safety Inspectors.
- The Lodging Inspection conducted on January 26, 2015, was conducted prior to complainant residing at the motel; a female inspector conducted the inspection.
- He stated he felt something might have been inappropriate between the city inspector and the motel’s management based solely on his perception of the inspector’s demeanor during the inspection process.
- By the complainant’s own admission, there is no supportive evidence of misconduct by any division employee.
- The complainant was provided the latest contact information for the US Department of Labor, Wage & Hour Division, in Orlando, Florida.
- He was informed that the OIG had no jurisdiction over city employees and he would have to lodge a complaint with the city if he were so inclined.

The OIG determined this inquiry did not warrant further investigative activity. Accordingly, this matter was closed.

#### ***Case Number 2015-174-INQ***

The OIG initiated this inquiry based on a citizen's complaint to the Chief Inspector General that a pharmaceutical company failed to report discipline taken against them by the United States Food and Drug Administration on their licensure renewal application to DBPR.

The OIG, in consultation with the director of the Division of Drugs, Devices, and Cosmetics, which is responsible for licensing pharmaceutical companies in Florida, determined the company was properly licensed and the application contained no false or deceptive responses. The findings were conveyed to the complainant.

#### ***Case Number 2015-186-INQ***

The OIG received a complaint from Department of Business & Professional Regulation (DBPR or department) Human Relations Manager regarding nude images of an unknown male found on the department-owned computer of a Division of Service Operations (DSO) Administrative Assistant II. Upon receiving the information, OIG opened an investigation and met with the Systems Programming Administrator (SPA), who serves as the CSIRT<sup>3</sup> Information Security Manager (ISM). The meeting focused on the SPA's involvement related to potential network security breaches due to the images being received on the employee's department email account. Prior to submitting the complaint to the OIG, the Human Relations Manager had requested that Information Technology (IT) review the received e-mail. According to IT, the e-mail appeared to be spam or at least an unrequested e-mail.

The administrative assistant reported that she did not know the source of the email or the person in the images, but was concerned that the nude person in the images might be a minor. Based upon these concerns, the OIG hand-delivered copies of the images to the Florida Department of Law Enforcement (FDLE) for review and consideration pursuant to Section 20.055 (6) (c), Florida Statutes. FDLE determined that the photo images did not depict a minor and declined to initiate a criminal investigation.

On October 23, 2015, the ISM informed OIG that the department IT Section verified that no other employees received the e-mail. The ISM confirmed that the unsolicited e-mail did not pose a threat to the department's network.

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<sup>3</sup> The Computer Security Incident Response Team is an objective body with the required technical and procedural skills and resources to appropriately handle computer security incidents. The CSIRT is responsible for identifying and controlling the incidents, notifying designated CSIRT responders, and reporting findings to management.

On October 23, 2015, the administrative assistant was interviewed by OIG. She informed the OIG that on the morning of October 22, 2015, upon logging on to her computer she observed the three images depicting a frontal view of an unknown male posing nude and immediately notified her supervisor. She confirmed that she did not know the subject in the images. She stated she has not received these types of images prior to the one received on October 21, 2015.

This complaint was closed with no further action.

### ***Case Number 2015-206-INQ***

This inquiry was initiated after a condominium owner mailed a complaint to the OIG. The complaint consisted of a written letter and numerous attachments. OIG staff completed a comprehensive initial complaint review and extracted 22 allegations for review and determination of sufficiency for further action related to the Division of Condominiums, Timeshares, and Mobile Homes (CTMH). The allegations included, but were not limited to, a public official, whose spouse's law firm represented the association, that influenced CTMH staff.

At the conclusion of the inquiry, the OIG, in a letter to the complainant, provided him the contact information for the Florida Commission on Ethics regarding his complaint of alleged breaches of public trust by a public officer and public employees. Regarding his allegations against the private attorney, the complainant was provided the contact information for the Florida Bar. Finally, the complainant was directed to his local State Attorney's Office to file his complaint alleging violations of Florida's public records law.

### ***Case Number 2016-064-INQ***

On March 30, 2016, this office received a web complaint from a private citizen (complainant) concerning an email received by her employer from a Department of Business & Professional Regulation (DBPR) employee. The complainant requested an investigation be conducted into the conduct of the employee for sending the email with a "Bogus Criminal History" and two attachments.

Complainant alleged that her employer's Information Technology (IT) section had confirmed to her that the DBPR employee had maliciously sent the emails from an email Internet Protocol address (IP address) at DBPR.

On March 31, 2016, after receiving a copy of the email from complainant, OIG requested DBPR IT search for any emails sent from the employee's state-issued computer to complainant or her employer. IT reported that the employee did not use the DBPR IP address to send the message or email. OIG requested complainant provide a representative or contact in her employer's IT section that could assist in identifying the

alleged DBPR IP address. Complainant informed OIG that she would forward a request to her manager.

At the manager's request, the OIG contacted the employer's in-house counsel and requested that the person in the IT department who discovered the DBPR IP address provide OIG with a copy of that record for the complaint investigation.

Several days later, in-house counsel responded to the OIG by email, stating that the employer did not file the complaint with the OIG and that complainant was a licensee that is affiliated with their company, not an employee, and had lodged the complaint in her personal capacity. In-house counsel stated that there was nobody within the employer who had performed any search or reviewed any IP Address. It was his understanding that any information relating to the IP Address came from complainant. He offered to provide the OIG with contact information for complainant, so the issues addressed in the complaint against the employee and any of the computer-related issues could be discussed with her directly. In-house counsel stated their IT department had no information regarding this matter and did not review the email in question.

On April 13, 2016, OIG contacted complainant and informed her that the OIG needed the information that she described in her complaint concerning the DBPR IP information during the initial complaint. Complainant told OIG that she would send the information as requested.

On April 15, 2016, OIG interviewed the DBPR employee, who readily admitted that she sent the correspondence to complainant's employer. The employee stated that she did so out of frustration concerning a civil matter between herself and the complainant's brother. The employee also stated that she did not utilize her state computer to send the email to complainant's employer. She stated that she accessed division records through the public portal for persons who are licensed by the department and then, when she was off work, sent the information from her personal cell phone. She stressed she has not communicated with complainant in the past and does not know her personally. The employee stated that personal frustration led her to send the correspondence and she will have no further contact with complainant.

OIG repeatedly sought additional information from complainant to sufficiently support her allegations. Complainant never responded to these requests and her complaint was subsequently closed on April 15, 2016.

After reviewing the complaint submission to this office, this inquiry revealed no evidence suggesting employee misconduct or non-conformance with agency policy, rule, or regulation. Absent other relevant issues within the purview of this office, this inquiry was closed with no further action required.

### **Case Number 2016-089-INQ**

Complainant alleged to the Florida Commission on Human Relations (FCHR) that beginning in January 2016, complainant disclosed alleged protected activity by filing multiple internal complaints against the Department of Business and Professional Regulation (DBPR). According to complainant, these disclosures were "...specifically but not limited to a violation of his Bill of Rights and failure to report and or investigate wrongdoing" by his district captain of the Division of Alcoholic Beverages & Tobacco (AB&T). Complainant alleged that in March of 2016, he received a written response by electronic mail from the DBPR Inspector General (IG) regarding his disclosure(s) and in-turn responded to the IG by electronic mail on March 28, 2016. Complainant alleged that because of his response, he was terminated from his position as a Law Enforcement Investigator three days later.

The OIG determined that complainant asserted a causal connection between his reporting of alleged protected information and his termination. Contrary to complainant's assertion and pursuant to DBPR Policy 2.1, the OIG does not make recommendations regarding discipline.

The DBPR OIG determined that in 2016, complainant filed 19 (nineteen) individual complaints with the DBPR OIG.

Pursuant to DBPR policy, the OIG conducted either formal or informal *Whistle-blower's Act* reviews of each complaint and determined that complainant's disclosures did not meet the statutory criteria for the protections afforded by the *Whistle-blower's Act* (sections 112.3187 – 112.31895, F.S.)

Absent the complainant's full cooperation, the OIG appropriately assessed, addressed, and closed the above-described disclosures by:

- Completing one formal and comprehensive *Whistle-blower's Act* review and subsequent denial of Whistle-blower status to complainant.
- Providing a comprehensive OIG review and written response to complainant, regarding his allegations that his law enforcement rights were violated, that AB&T failed to conduct a proper background investigation on a captain, and that AB&T failed to report or investigate allegations made by one staff member against another.
- Making four (4) referrals to AB&T management for action as deemed appropriate.
- Referring complainant to the Florida Commission on Human Relations regarding complainant's allegation of retaliation.
- Making one (1) referral to the Office of the General Counsel and AB&T for action as deemed appropriate.

Based on the inquiry's findings, the complaint was closed with no further action.

### ***Case Number 2016-092-INQ***

On May 9, 2016, the Department of Business and Professional Regulation (Department or DBPR) Office of Inspector General received a web-based complaint from an employee wishing to remain anonymous. The complaint was against a Real Estate Development Specialist in the Division of Condominiums, Timeshares, and Mobile Homes (Division or CTMH). The complainant alleged the employee had been out of the office since April 2016 and the employee's co-workers were notified the employee was "apparently sick and will not be returning to the office until after the relocation to the Blair Stone office." [Sic] The complainant stated the employee's timesheet reflected four hours of time worked on the 28<sup>th</sup> and regular work hours each day for the period April 29 through May 5, 2016. The complainant proffered that the employee's supervisor had allowed misrepresentation of the employee's work hours and suspected falsified records and wrongdoing by managers.

During this inquiry, OIG confirmed the information related to timesheet entries recorded in People First. Additionally, OIG reviewed leave balances and approvals and generated a timesheet summary report for the April 22 to May 5, 2016 pay period. OIG also conducted a review of timesheets for the previous one-year period and found nothing remarkable. A review of the employee's timesheet and People First records was completed.

OIG met with the Chief of Human Resources and her Senior Management Analyst to discuss the situation and determine if any unusual circumstances applied in this instance. The analyst recognized the employee by name as one of several employees authorized to telecommute. OIG obtained documentation as such regarding the employee.

This inquiry revealed no evidence suggesting employee misconduct or non-conformance with agency policy, rule, or regulation. To the contrary, the inquiry revealed that while the employee was not physically reporting to work or observed by the complainant or co-workers, she was working from home in an approved, authorized, and supervised telecommuting status. This inquiry was closed with no further action required.

### ***Case Number 2016-119-INQ***

The OIG received complaints from several employees reporting the theft of personal items from their offices at headquarters. An analysis of the thefts determined that they were occurring between Friday afternoons and Monday mornings. The OIG initiated an inquiry that resulted in capturing a contracted cleaning company employee on video

removing personal items from a table and walking out of the office while emptying the trash from the office. The OIG provided the cleaning company's owner with a copy of the video, who in turn, terminated the employee.

### **Use of Force Reviews in Fiscal Year 2015-2016**

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), which states:

The OIG will conduct, supervise, coordinate, or assist in investigations involving:

(3) ABT "Use of Force" incident reports. The division director will submit a completed original Use of Force Report to the OIG for logging, review, and retention.

The purpose of the OIG review of Use of Force Reports is to ensure compliance with policy and procedure on the part of AB&T 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 must 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 summaries of the Use of Force reviews conducted by the office:

#### ***Case Number 2015-147-UF***

While working off-duty employment, an agent was advised by a citizen that a physical disturbance was occurring at a gas station near his location. The agent drove to the gas station and observed a female physically battering a male. The agent gave the female several verbal commands to stop the battery. The female stopped briefly and then began to batter the man again. The agent attempted to restrain the female, who grabbed the agent's portable radio and threw it to the ground. As the agent struggled to subdue the female, she physically struck the agent in the face. The agent noted that the female had a strong smell of an alcoholic beverage on her breath. The agent subdued the female on the ground and held her until additional officers arrived to assist. The agent arrested the female for Battery on a Law Enforcement Officer, Resisting an Officer with Violence, Domestic Battery, Possession of Drug Paraphernalia, and Violation of Domestic Injunction.

Based on the aggressive actions of the female as described in the agents' statements, the OIG concurred that the level of force used to subdue the woman was within reason, departmental guidelines, and use of force continuums.

***Case Number 2015-171-UF***

Agents working an underage drinking detail on a college campus observed a youthful appearing female in possession of a can of beer. The female failed to respond to an agent, who had called out to her several times. The agent then approached the female and tapped her on the shoulder; she then stopped and turned around. The agents asked the female if she had any identification at which time the female produced a Florida Driver's License. The agents determined that the person on the license was not the producer of the license. The female then provided the agents her actual identity that proved she was twenty years old. While the agents began preparing a notice to appear for possession of an alcoholic beverage by a person under the age of twenty-one, the female attempted to flee. The agents caught the female, who escalated her resistance by pulling away from the agents and stiffening her arms to avoid handcuffs. The agents reported that during this time, the female was given numerous verbal commands to stop resisting arrest.

Based on the female's attempt to flee, her subsequent aggressive actions, and the statements of the agents, the OIG concurred that the level of force used to subdue the woman was within reason, departmental guidelines, and use of force continuums.

***Case Number 2015-198-UF***

While participating in a law enforcement operation, an agent observed a young male in possession of an alcoholic beverage. The agent approached the male, who confirmed that he was 17 years old. The agent reported that the male appeared intoxicated and the odor of an alcoholic beverage was detected on his breath. The male then ran away from the agent despite verbal commands to stop. The agent was able to catch the male and restrain him by grabbing his arms and placing him on the ground. While being taken down, the male sustained a cut on his bottom and abrasions on his chin and left leg.

Based on the male's attempt to flee, his subsequent aggressive actions, and the statements of the agents, the OIG concurred that the level of force used to subdue the woman was within reason, departmental guidelines, and use of force continuums.



### **Additional Assistance to the Agency in Fiscal Year 2015-2016**

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

The Inspector General and Director of Investigations provided ethics training to newly hired Bureau of Law Enforcement sworn and non-sworn employees.

Members also co-presented monthly with members of the audit team during new employee orientation for department employees in the headquarters office. The members, through a PowerPoint demonstration, educated new employees on the role of the Inspector General, the laws governing the Inspector General, and the types of complaints accepted by the office.

### **Investigative Plan of Supplementary Activities for Fiscal Year 2016-2017**

**Training/Outreach Initiative** – Continue assisting with the new employee orientation program to familiarize new employees with the role and responsibilities of the Office of Inspector General. Additionally, this program will continue to familiarize department supervisors and managers with the role and responsibilities of the Office of Inspector General, as well as the importance of their positions relative to prompt and appropriate supervisory intervention regarding employee performance issues and customer complaints.

**Policy Review** – Conduct periodic reviews and training sessions with division directors in regard to internal affairs investigations to ensure that all laws, rules, policies, and procedures are followed and that the rights of employees are not violated.

**Florida Inspector General Accreditation** – Continue updating its policies and procedures in preparation for the initiation of the accreditation process for the investigative function.