

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION



OFFICE OF INSPECTOR GENERAL 2008-2009 ANNUAL REPORT



GENERAL INFORMATION

The Florida Fish and Wildlife Conservation Commission (FWC), Office of Inspector General (OIG), is located in the Farris Bryant Building in Tallahassee, Florida. The Inspector General Act of 1994 created an Office of Inspector General in each state agency. The purpose of the OIG is to act as a central point for coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government. Section 20.055, Florida Statutes, defines the duties and responsibilities of each Inspector General.

The FWC OIG actively participates in the Florida Inspectors General (FIG) network, which was established by the Office of the Chief Inspector General. This organization is composed of Office of Inspectors General throughout Florida government. The Mission of the FIG is to provide leadership in the promotion of accountability and integrity of state government. The Vision of the FIG is enhancing public trust in government.

The FWC OIG has adopted the generally accepted principles and quality standards approved by the Association of Inspectors General (formally approved on May 16, 2001). These principles and standards have been adopted insofar as they do not conflict with statute, regulation, executive order, or other policy of the office.

STATUTORY REQUIREMENT

Section 20.055, F.S., requires that each state agency Office of Inspector General submit an annual report of significant activities during the preceding state fiscal year to the agency head. The report must include, but is not limited to, the following:

- A description of significant abuses and deficiencies relating to the administration of programs and operations of the agency disclosed by investigations, audits, reviews, or other activities during the reporting period.
- A description of recommendations for corrective action made by the Inspector General during the reporting period with respect to problems, abuses, or deficiencies identified.
- The identification of each significant recommendation described in previous annual reports on which corrective action has not been completed.
- A summary of each audit and investigation completed during the reporting period.



OIG STAFF INFORMATION

The FWC OIG prides itself on maintaining a highly trained and motivated staff. The professional staff of the FWC OIG includes the inspector general, a director of investigations, two investigative captains, a management analyst, two administrative assistants, the director of auditing, and an internal auditor/computer forensic examiner.

The staff members of the OIG are active in professional organizations including the National Association of Inspectors General, the Institute of Internal Auditors, the Association of Certified Fraud Examiners, the National Internal Affairs Investigators Association, the Florida Internal Affairs Investigators Association, the Florida Bar, Infragard, The American Institute of Certified Public Accountants, and the Florida Association of Police Attorneys. Staff members also possess the following professional certifications: Certified Internal Auditor, Certified Government Auditing Professional, Certified Fraud Examiner, State of Florida Sworn Law Enforcement Officer, Certified Inspector General, Certified Inspector General Investigator, and member of the Florida Bar.

Our Investigations staff hold years of investigative experience and possess extensive training credentials to include John Reid & Associates Interviews & Interrogations and other Internal Affairs training programs.

Our internal audit staff has years of accounting and auditing experience, as well as Information Technology and computer forensic experience. They possess extensive training accomplishments in the fields of accounting, auditing, fraud, risk assessment, financial management, and computer forensics.

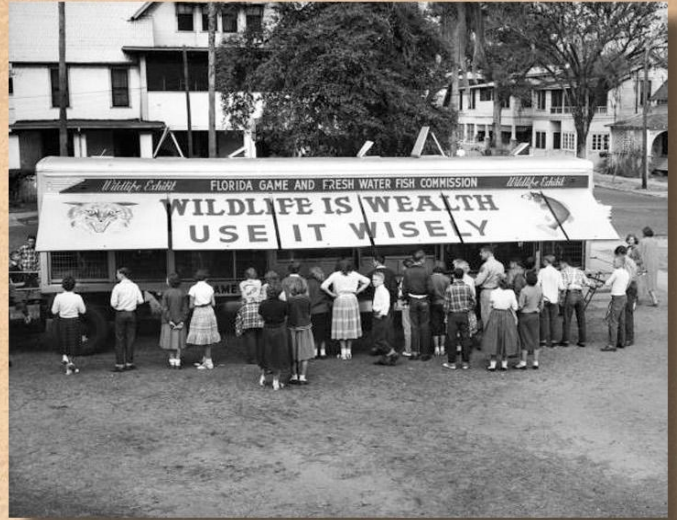


From Left to Right: Sarah Bajoczky, Donna Helm, Jim Knight, Cindy Johnson, Mike Villa, Shannon Wright, Trevor Phillips, Magen Naret, Amanda Beck

REVIEW OF AUDIT ACTIVITIES

The Audit Section of OIG exists to promote accountability, integrity, and efficiency in the Commission by performing internal financial, compliance and performance audits. The auditors also provide fraud detection and consulting/advisory services, sometimes after the receipt of complaints from staff personnel or the public. The primary objective of the internal audit function is to assist management in the effective discharge of their responsibilities, providing them with analysis, recommendations, counsel and information concerning activities reviewed. The Audit Section consists of two full-time employees, the Director of Auditing and an Internal Auditor II. A part-time OPS Administrative Assistant is shared with the Investigations Section.

In the Fiscal Year 2008-09, the Audit Section completed two audits, four Information Technology Resource (ITR) Compliance reviews, and three audit advisory or management reviews. One audit remains incomplete, and two ITR compliance reviews were terminated prior to project completion. A brief summary of each project follows:



INFORMATION TECHNOLOGY RESOURCE COMPLIANCE AUDIT IA-0810

At the request of management, we performed a forensic examination of an employee's computer hard drive, internet history, and e-mail archive. We concluded that the employee misused ITR by accessing and viewing objectionable material in violation of agency computer policy.

INFORMATION TECHNOLOGY RESOURCE COMPLIANCE AUDIT IA-0811

In coordination with an ongoing investigation, we performed a forensic examination of an employee's computer hard drive and e-mail archive. We concluded that the employee misused ITR by using an FWC e-mail account to send e-mails containing objectionable material in violation of agency computer policy.

INFORMATION TECHNOLOGY RESOURCE COMPLIANCE AUDIT IA-0901

In coordination with an ongoing investigation, we performed a forensic examination of an employee's e-mail archive. We concluded that the employee misused ITR by using an FWC e-mail account to send e-mails containing objectionable material in violation of agency computer policy.

INFORMATION TECHNOLOGY RESOURCE COMPLIANCE AUDIT IA-0902

In coordination with an ongoing investigation, we performed a forensic examination of an employee's e-mail archive. We concluded that the employee misused ITR by using an FWC e-mail account to send e-mails containing objectionable material in violation of agency computer policy.



PURCHASING CARD AUDIT IA-0903

This audit remains active and the scope has been expanded considerably. We are currently coordinating audit and investigative activities with the Florida Department of Law Enforcement and a final report will be issued upon completion of these activities.

FLORIDA SINGLE AUDIT ACT (FSAA) – ANNUAL CERTIFICATION REVIEW IA-0904

At the request of the Department of Financial Services (DFS), we reviewed all FWC state projects included in the Catalog of State Financial Assistance for accuracy and completeness. We coordinated proposed changes with DFS for inclusion on the FSAA website.



INFORMATION TECHNOLOGY RISK ASSESSMENT – DATA VALIDATION IA-0905

The 2008 Risk Assessment Survey was developed by the Agency for Enterprise Information Technology (AEIT) to gather baseline information across the enterprise and to assist agencies in satisfying the 2008 risk assessment requirement as defined by section 282.318, Florida Statutes. Each agency Inspector General was responsible for reviewing the agency's completed survey package for accuracy and reasonableness prior to the final approval of the agency head.

Our validation review process found that the final survey answers were reasonable, and to the best of our knowledge could be relied upon as accurate. We recommended that the survey be signed by the Executive Director and forwarded to AEIT.



INFORMATION TECHNOLOGY RESOURCE COMPLIANCE AUDIT IA-0906 AND IA-0907

These audits both progressed through the planning stages, but were cancelled because of changing audit priorities.

OPERATIONAL AUDIT - FOLLOW UP IA-0908

The purpose of this follow-up review was to report on the implementation of the recommendations specified in the Auditor General's Operational Audit, Expenditures and Prior Audit Follow-Up (Report No. 2009-021). Our overall opinion was that the FWC Finance & Budget Office had taken appropriate actions to implement the Auditor General's recommendations.



INFORMATION TECHNOLOGY AUDIT FOLLOW UP IA-0909

The purpose of this follow-up review was to report on the implementation of the recommendations specified in the Auditor General's Information Technology Audit Selected State Agencies' Surplus Information Technology Property Controls (Report No. 2009-083). Our overall opinion was that the FWC Office of Information Technology had taken appropriate actions to begin implementation of the Auditor General's recommendations. However, we noted a lack of written procedures at the agency level that would ensure all surplus computer hard drives be properly wiped by an authorized technician. We recommended that the Commission's Internal Management Policies and Procedures Manual (IMPP) be updated to provide property disposal procedures that include the mandatory erasure of all surplus computer hard drives, and provide a methodology to document such erasure.

AUDIT PLAN AND RISK ASSESSMENT IA-0910

The Audit Section prepared an audit plan and risk assessment for Fiscal Year 2009/2010, and a long term audit plan through Fiscal Year 2012/2013. The main purpose and benefit of conducting this report was to plan audit activities (through a risk-based process and in consultation with management) to provide the most effective audit coverage of the Commission's programs given the resources allocated. The report was also to inform Commission management, staff and stakeholders of our mission, activities and planned audit coverage.



OTHER AUDIT SECTION ACTIVITIES

Some of the advisory services undertaken by the Audit Section are ongoing projects where no reports are issued. These activities include the review of certain proposed contracts to identify risks and insure compliance with both the state and federal Single Audit Act requirements. We also provide consulting services where necessary, assist in the design of internal controls, and review proposed fiscal policy relating to such areas as trust fund management, new system development, financial accounting, and the IMPP. The Director of Auditing also coordinates with external auditors, where appropriate, during their review of Commission programs.

REVIEW OF OUTSTANDING CORRECTIVE ACTIONS

With the exception of the following listed issues, all of the major internal audit findings over the past three fiscal years have either been appropriately addressed by management in their corrective action plans, or management has considered our recommendation and elected to accept the identified risks. We consider those findings to be closed.

One major issue remains incomplete from the IA-0702 report, and we will continue to follow-up during the new fiscal year.

Finding: FWC had not established procedures for response strategies to be followed if personal identification information was compromised in a security breach.

Recommendation: FWC should establish and maintain a management approved written response strategy, consistent with the requirements of Florida law, to be followed if the security over confidential information is breached.

Status: FWC-OIT has drafted a response strategy regarding the protection of personal information, but to date this strategy has not been formally adopted as policy.



REVIEW OF INVESTIGATIVE ACTIVITIES

The Investigations Section of the Office of Inspector General (OIG) investigates allegations of misconduct by Commission employees, monitors field investigations and reviews Use of Force Reports. The OIG also investigates alleged violations of Florida's Whistle-Blower Act and serves as the Commission's Ombudsman to address concerns of employees that cannot be resolved through the normal chain of command. The OIG supervises investigations of sexual harassment allegations in coordination with the Commission's Human Resources Office.

Allegations of employee misconduct constitute major or minor complaints depending on established criteria, and the OIG will decide the appropriate level of investigation. Minor misconduct complaints include allegations of rudeness, use of obscene or profane language, personal appearance, improper operation of a state vehicle or vessel; a citizen complaint that can be resolved in the initial contact; and routine disciplinary actions by a supervisor which result in an oral or written reprimand. The originating Division/Office/Institute (DOI) can conduct the field investigation of a minor complaint after notifying the OIG of the complaint. The OIG will provide supervisory investigative assistance to the DOI throughout the investigation and completion of the investigative report.

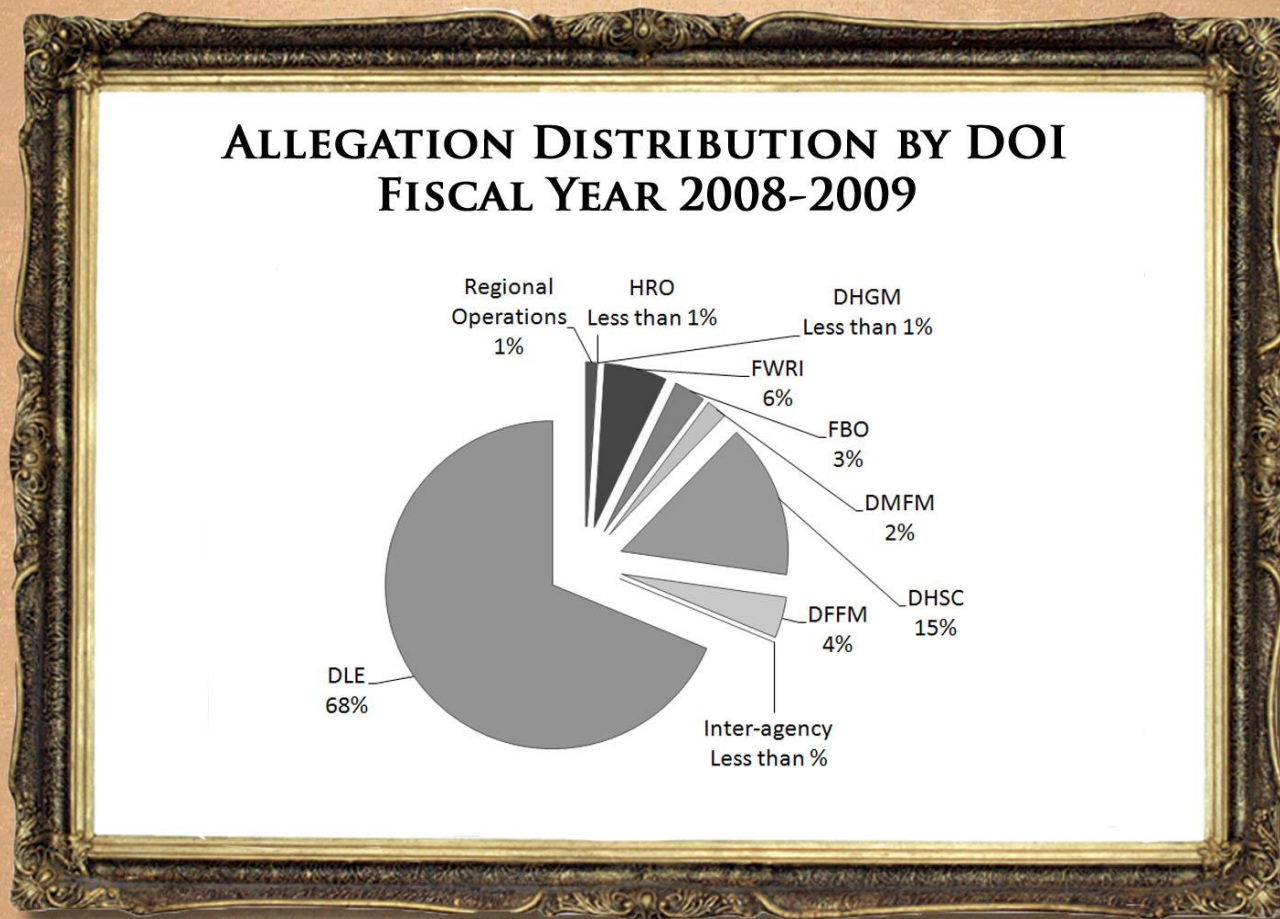
The OIG Investigations Section will conduct investigations of all major complaints. Major complaints are allegations of criminal misconduct by an employee, misconduct that will result in suspension or dismissal, violation of the Florida Whistle-Blower Act, misconduct that crosses DOI lines; or the Commission's Executive Director or Inspector General determines that an investigation is warranted.

The Investigations Section consists of three full-time law enforcement investigative Captains, one full-time Analyst and one part-time Administrative Assistant. The Inspector General is James T. Knight III.



INVESTIGATIVE FINDINGS FOR FISCAL YEAR 2008 - 2009

The Investigations Section closed 171 investigations of employee misconduct and reviewed 40 Use of Force Incident Reports during the Fiscal Year 2008 – 2009. Investigations included in this study closed between the dates of July 1, 2008, through June 30, 2009. The information was obtained from the OIG Master Case Log. The following charts illustrate investigation activity during the reporting period.



DFFM- Division of Freshwater Fisheries Management

DHGM-Division of Hunting and Game Management

DLE - Division of Law Enforcement (Not Use of Force Reviews)

DHSC- Division of Habitat and Species Conservation

DMFM- Division of Marine Fisheries Management

FBO - Finance and Budget Office

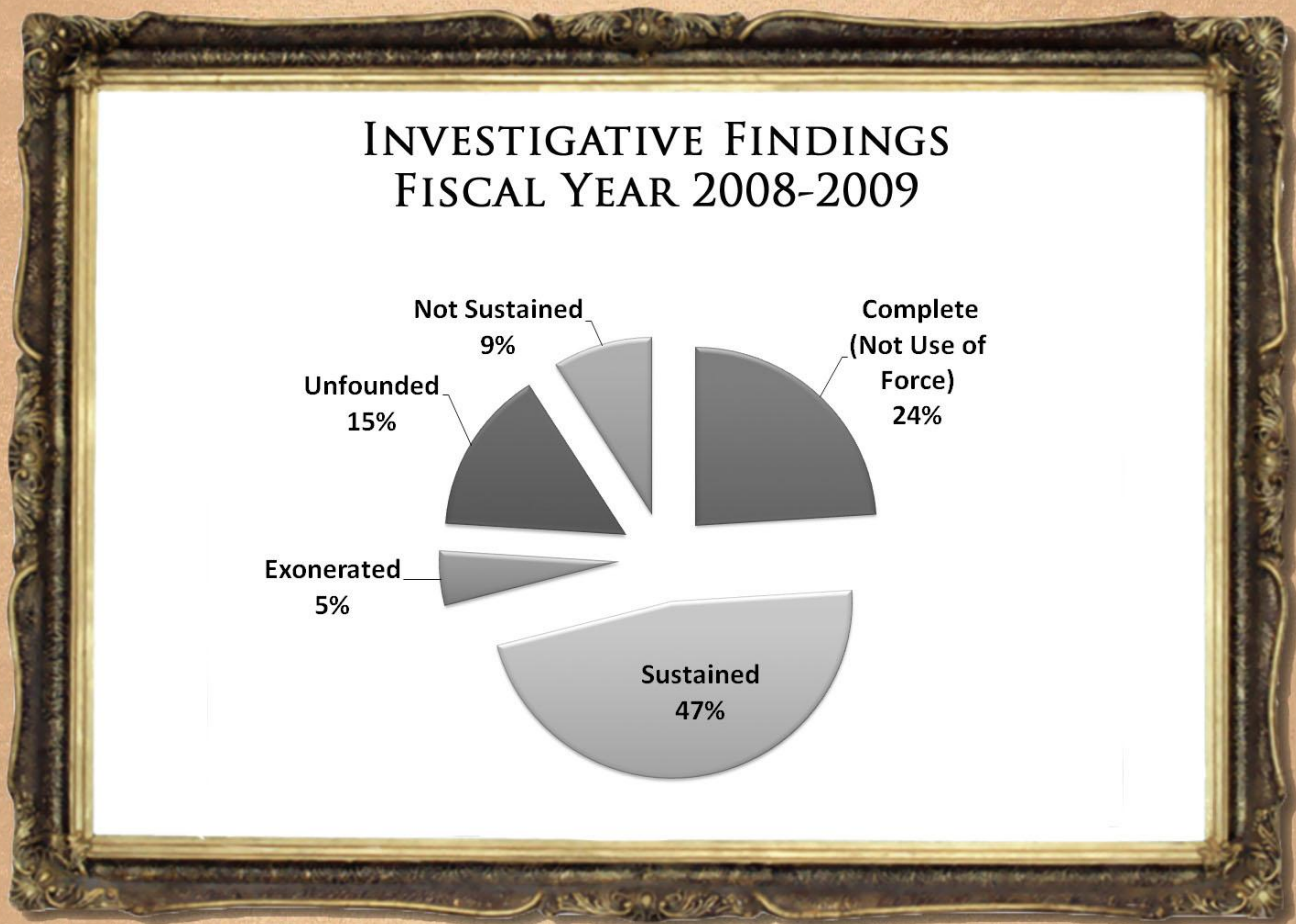
FWRI - Fish and Wildlife Research Institute

HRO - Human Resources Office

INVESTIGATIVE FINDINGS FOR FISCAL YEAR 2008 - 2009

The vast majority of investigations involved complaints against law enforcement officers.

It can be expected that DLE employees are the subjects of most complaints given their visibility and duty. Law enforcement officers are patrolling the land, waters and air of the State of Florida twenty-four hours a day, seven days a week, every day of the year. The duty of DLE employees requires the issuance of citations, investigative detentions, and arrests when necessary. Although most encounters between DLE employees and the public are positive, these types of negative encounters with the public frequently result in complaints being made against the officers involved.



Classifications of Closed Cases

- Exonerated:** The alleged conduct occurred, but was lawful and proper.
- Unfounded:** There was no evidence identified in the investigation to support the allegation in the complaint.
- Not Sustained:** There was insufficient evidence to prove or disprove the allegation.
- Sustained:** The allegation was supported by proper and sufficient evidence.
- Complete:** Used for instances where no specific wrongdoing was alleged (i.e. information reports, Critical Incident Reviews, etc.)

INVESTIGATIVE SUMMARIES

Case Number	Summary	Finding
09-109	Continuing problem with work performance	Sustained
09-108	Not completing assignments in a timely manner	Sustained
09-107	Failure to meet job performance expectations	Sustained
09-106	Failure to meet job performance expectations	Sustained
09-24	Officer may be issuing citations more frequently to commercial fishermen not affiliated with his family fishing business	Unfounded
08-93	Request for assistance from Office of Chief Inspector General	Complete
09-40	Complainant's bow hunt was interrupted by an officer checking licenses	Complete (Officer not identified)
09-49	Employee using agency issued cellular telephone for personal calls	Complete (referred to DOI)
09-86	Employee was critical of agency partners in an e-mail to staff about the cost of the Vandenberg reef project	Sustained
09-65	Anonymous complainant alleged driver of FWC vehicle was reckless in a parking lot.	Complete (referred to DOI)
09-26	Officer was rude to a citizen at a boat ramp after dark.	Not Sustained
09-45	Officer with a history of vehicle and vessel accidents hit a car while on duty.	Sustained
09-37	Officer's division-issued weapon was damaged by his dog	Sustained
09-28	Employee received a citation for trespass.	Sustained
09-05	Complainant alleged officer offered beer to his son and later stopped him for DUI.	Exonerated
09-19	Complainant felt threatened and that officers who stopped him were arrogant.	Complete (no policy violation)
09-19	Complainant felt threatened and that officers who stopped him were arrogant.	Complete (no policy violation)
09-85	In the process of cleaning his weapon, an officer pointed weapon at another.	Sustained
09-64	Complainant alleges his vessel was wrongfully boarded when he refused a safety inspection.	Complete (no policy violation)
09-32	Officer was disruptive during a squad meeting.	Unfounded
09-07	Officer failed to seize a deer in a suspected trespass-hunting incident and failed to submit an incident report.	Sustained

INVESTIGATIVE SUMMARIES

09-18	Officer used profanity toward a citizen while trying to interrogate him.	Sustained
09-62	Officer suspected of committing federal crimes.	Sustained
09-36	Officer violated fourth amendment rights of citizen.	Complete (no policy violation)
09-82	An officer was rude to complainant at state park in Key West.	Complete (not an FWC employee)
09-38	FWC property (uniforms, portable radios, etc.) was found in a vacant townhouse.	Sustained
09-38	FWC property (uniforms, portable radios, etc.) was found in a vacant townhouse.	Sustained
09-47	An officer damaged assigned patrol vehicle.	Sustained
09-17	An employee filed a civil lawsuit w/out notifying chain-of-command, and failed to get approval for dual employment.	Sustained
09-16	Remarks made by one employee made another employee fear for their safety.	Unfounded
09-73	Employee expressed significant anger toward a supervisor to coworkers.	Sustained
09-72	An employee left work area in disarray to constitute a safety hazard.	Sustained
09-71	An employee drove an FWC truck aggressively and unsafely.	Sustained
09-66	Failure to meet job performance expectations	Sustained
09-06	An employee's long distance calling card was fraudulently used.	Complete (no policy violation)
09-25	An officer failed to follow a written directive.	Sustained
09-63	An employee damaged an agency vehicle.	Sustained
09-29	An employee showed excessive tardiness.	Sustained
09-03	An employee used abusive language toward another.	Sustained
09-58	Complainant alleged officers were rude and failed to follow up on a complaint about another boater.	Exonerated
09-58	Complainant alleged officers were rude and failed to follow up on a complaint about another boater.	Exonerated
08-197	Report of cabbage palms being cut and the filling of two canals at Three Lakes WMA	Unfounded
08-168	Report of vehicle being searched w/out permission	Exonerated
09-50	Employee failed to document work times.	Exonerated

INVESTIGATIVE SUMMARIES

09-30	Employee failed to report DUI incident w/in 24 hours to a supervisor.	Sustained
09-23	Salvage of beached vessel not handled in a timely manner.	Complete (no policy violation)
08-195	Offensive comments were made by an employee in public.	Sustained
09-31	Report of speeding and reckless driving by employee in an FWC truck	Sustained
08-185	Officer was unprofessional during issuance of citations.	Not Sustained
09-11	Officer was rude when complainant was confronted about trespassing incident.	Unfounded
09-53	Biologist was issued a citation in an FWC vehicle.	Sustained
09-34	Commercial fisherman alleged harassment by FWC officers.	Complete (no policy violation)
09-39	Report of wakeboarding ramps doing damage to protected area in Whale Harbor	Complete (referred to DOI)
08-114	Report of sexual harassment	Sustained
09-46	Officer damaged assigned patrol vehicle.	Sustained
08-166	Officers entered private property w/out explanation or notice.	Exonerated
08-166	Officers entered private property w/out explanation or notice.	Exonerated
08-174	Employee used FWC computer to play internet game and failed to meet job performance expectations	Sustained
09-33	Report of employee converting FWC property to personal use	Sustained
09-44	Allegation of employee theft	Complete (termination)
09-43	Allegation of employee theft	Complete (resignation)
09-42	Allegation of employee theft	Complete (termination)
09-57	Complaint of waste of funds by DLE for keeping patrol on the ground and by helicopter	Complete (referred to DOI)
09-15	Violation of agency computer use policy	Sustained
08-77	Employee utilized sick leave and workers compensation leave concurrently	Sustained
09-02	Report of DLE helicopter flying too low, causing livestock to flee	Unfounded
08-196	Officer was rude during issuance of citation	Unfounded
08-167	Report of officer receiving free membership in a hunt club, in return for enforcement	Unfounded

INVESTIGATIVE SUMMARIES

08-177	Allegation of excessive force used by an officer while issuing a citation	Unfounded
09-22	Officer stopped complainant on a jet ski during a thunderstorm w/out regard for complainant's safety	Complete (no policy violation)
08-130	Officer was disrespectful and disregarded safety of complainant during arrest for possible BUI	Sustained
08-130	Officer failed to complete Incident Summary Report during arrest	Sustained
08-164	Allegation of officer harassment and false statements	Not Sustained
08-198	Allegation of speeding FWC vehicle	Complete (subject not identified)
08-188	Allegation of FWC vehicle speeding through construction zone	Unfounded
08-178	Report of improper use of Intoxilyzer	Sustained
08-170	Officer was unprofessional during speeding stop of complainant	Unfounded
08-200	Report of FWC vehicle picking up a teenager on Apalachee Parkway, in Tallahassee	Exonerated
08-199	Report of employee allowing other employees to use assigned GPS system	Not Sustained
08-153	Officer's inefficient investigation led to arrest and officer disclosed investigation to the media before arrest.	Unfounded
08-138	Allegation of unlawful arrest	Not Sustained
09-10	Excessive absenteeism	Sustained
08-187	Employee agreed to clean a deer for a hunter, and then kept the head for mounting	Sustained
09-04	Allegation that employee was intoxicated	Exonerated
08-169	FWC officer did not issue citations for fishing violations by MDPD officers	Unfounded
08-118	Officer made derogatory remarks to complainant	Not Sustained
08-163	Report of reckless driving by FWC vehicle	Not Sustained
08-144	Officer was unprofessional during issuance of citation	Not Sustained
08-128	Supervisor directed subordinate to place evidence in an unauthorized location	Sustained
08-125	Work hours not accurately recorded in People First and activity sheets	Sustained
09-01	Officer involved in traffic accident in an FWC vehicle refused FSTs and BRAC	Complete (resignation)

INVESTIGATIVE SUMMARIES

08-151	Failure to meet job performance expectations	Complete (no interview of subject during supervisory investigation)
08-157	Report of scanner stolen from Koger Bldg.	Complete (subject not identified; report filed w/TPD)
08-142	Miccosukee Indians were offended by officers' actions in Big Cypress	Unfounded
08-115	Officer gave false location during radio transmission	Sustained
08-172	Officer was unprofessional	Complete (no policy violation)
08-131	Violation of agency computer use policy	Sustained
08-193	Employee made divisive remarks in front of supervisors and subordinates	Sustained
08-192	Failure to complete paperwork in a timely manner, and improper use of agency equipment	Sustained
08-165	Report of agency vehicle speeding and reckless driving	Not Sustained
08-121	Miccosukee Indians were treated rudely at Everglades Safari Park	Unfounded
08-148	Employee did not seek prior approval before purchasing tires for an FWC vehicle	Sustained
08-159	Violation of agency computer use policy	Sustained
08-159	Violation of agency computer use policy	Sustained
08-159	Violation of agency computer use policy	Complete (resignation)
08-159	Violation of agency computer use policy	Complete (resignation)
08-171	Accident investigation report for hit and run boating accident not completed in a timely manner	Complete (no policy violation)
08-191	Officer did not complete a property receipt and Incident Summary Report for wallet found in management area	Sustained
08-190	Officer collided with a brick sign while driving his patrol vehicle with sneak light on and headlights/brake lights off	Sustained
08-176	Allegation of employees in FWC vehicle fishing in a private lake	Complete (no policy violation)
08-175	Report of FWC employee reckless driving	Complete (not an FWC employee)

INVESTIGATIVE SUMMARIES

08-116	Officer was unprofessional and rude during issuance of citation	Unfounded
08-149	Allegation of threats by an FWC employee	Complete (no policy violation)
08-143	Report of speeding by an FWC vehicle	Not Sustained
08-129	Report of reckless driving by an FWC vehicle	Not Sustained
08-165	Report of agency vehicle speeding and reckless driving	Not Sustained
08-116	Officer was unprofessional and rude during issuance of citation	Unfounded
08-149	Allegation of threats by an FWC employee	Complete (no policy violation)
08-143	Report of speeding by an FWC vehicle	Not Sustained
08-129	Report of reckless driving by an FWC vehicle	Not Sustained
08-110	Officer violated citizen's rights during investigation for out of season deer hunt	Not Sustained
08-64	Employee is using agency cell phone for personal use	Sustained
08-64	Employee used agency cell phone for personal use	Sustained
08-64	Employee used agency cell phone for personal use	Sustained



INVESTIGATIVE SUMMARIES

08-194	Officer's vehicle rolled forward at a stop light and damaged another vehicle	Sustained
08-173	Excessive tardiness and failure to communicate with chain-of-command	Sustained
08-155	Report of officer claiming work hours while off-duty	Complete (no evidence to support allegation)
08-74	Report of officer placing narcotics in vehicle belonging to complainant's husband	Unfounded
08-156	Two FWC biologists testified in federal court that their concerns about wildlife impacts of a proposed power plant were ignored by senior Commission officials	Complete (no policy violation)
08-156	Two FWC biologists testified in federal court that their concerns about wildlife impacts of a proposed power plant were ignored by senior Commission officials	Complete (no policy violation)
08-162	Employee was absent w/out authorized leave	Sustained
08-161	Employee passed on a rumor that caused concern and confusion among employees	Sustained
08-160	Failure to meet job performance expectations	Sustained
08-158	Complainant believes agency acted on incorrect information to require his purchase of a permit before accessing his property	Complete (no policy violation)
08-139	Officer did not properly secure weapon in his vehicle, and the weapon went missing	Sustained
08-112	Officer was speeding, talking on a cell phone and ran a red light at a school crosswalk	Sustained
08-140	Supervisor made offensive remark to subordinate in the field	Sustained
08-154	Employee used offensive language, speaks badly about another employee to coworkers and is hostile	Sustained
08-122	Employee is antagonistic toward management and is disrespectful to coworkers	Sustained
08-150	Report of reckless driving by FWC vehicle	Sustained
08-91	Report of officer rudeness and lack of knowledge of the boating laws	Unfounded
08-117	Officer inappropriately touched complainant during search and yelled at him	Unfounded
08-152	Complainant felt officer should have provided the address or instruction on where to make a payment for his citation	Complete (no policy violation)

INVESTIGATIVE SUMMARIES

08-147	Allegation of harassment by an officer	Complete (not an FWC employee)
08-146	Allegation of drug use by an employee prior to employment w/FWC.	Complete (no policy violation)
08-106	Two DLE employees may have disclosed information from a confidential meeting	Complete (no policy violation)
08-106	Two DLE employees may have disclosed information from a confidential meeting	Complete (no policy violation)
08-83	Complainant's daughter was physically abused and illegally arrested for disorderly intoxication	Unfounded
08-83	Complainant's daughter was physically abused and illegally arrested for disorderly intoxication	Unfounded
08-145	Allegation that FWC discriminates in the hiring of veterans	Complete (no policy violation)
08-104	Complainant alleged officer violated a no trespass order	Unfounded
08-127	Report of aggressive driving by FWC vehicle	Not Sustained
08-119	Report of additional information regarding an employee facing termination	Complete
08-141	Employee deflated the tires of a vehicle he found in his assigned parking space	Sustained
08-126	Officer was rude while issuing citation	Unfounded
08-109	Someone is fraudulently using agency gas card	Complete (subject not identified)
08-84	Officer wrongfully cited complainant for bogus trap tags and have subsequently targeted complainant's sons	Unfounded
08-72	DLE employee used his FWC address when he wrote a letter to a federal judge in support of the defendant in a fraud case	Sustained
08-120	Report of FWC vehicle speeding in a construction zone	Not Sustained
08-137	Employee worked off-duty while claiming sick leave	Sustained
08-136	Officer's rifle was not property secured in his vehicle and was stolen during an auto burglary	Sustained
08-135	Employee was antagonistic and hostile toward a supervisor	Sustained
08-134	Officer used a patrol vehicle to run personal errands while off-duty	Sustained

INVESTIGATIVE SUMMARIES

08-113	An employee was disrespectful during a telephone call about travel reimbursement	Sustained
08-82	Violation of agency computer use policy	Sustained
08-124	Violation of agency computer use policy	Sustained
08-123	Violation of agency computer use policy	Sustained
08-111	Report of reckless driving by FWC vehicle	Not Sustained
08-70	Employee falsely recording work hours	Sustained
08-108	Report of pranks and petty theft	Complete (subject not identified)
08-107	Failure to meet job performance expectations	Sustained
08-92	Report of speeding by an FWC vehicle	Not Sustained
08-90	Two employees tape recorded coworkers' conversation w/out their consent or knowledge	Sustained
08-90	Two employees tape recorded coworkers' conversation w/out their consent or knowledge	Sustained
08-73	Complainant alleged officers profiled his son because of his age during a vessel stop. One officer made sarcastic comments to the son.	Unfounded
08-78	Former DLE employee was denied due process	Unfounded
08-75	Officer was arrested for DUI	Sustained
08-105	Failure to observe established work times	Sustained
08-99	Failure to meet job performance expectations	Sustained
08-98	Failure to observe established work times	Sustained
08-97	Failure to meet job performance expectations	Sustained
08-96	Failure to meet job performance expectations	Sustained
08-102	Employee used abusive language during two year employment w/FWC	Sustained
08-101	Employee drove agency vehicle while off-duty and not in travel status	Sustained
08-100	Failure to meet job performance expectations	Sustained
08-95	Excessive absenteeism	Sustained
08-94	Critical Incident Review	Complete
08-69	Employee was rude to citizen at a boat ramp	Not Sustained

RECOMMENDATIONS RESULTING FROM OIG INVESTIGATIONS

OIG CASE NO. 08-84

The complainant in this case, a commercial fisherman, alleged that an FWC officer had seized Stone crab claws from him as evidence in a 2006 arrest, and then had taken the claws home to consume. The allegation, if true, would be a violation DLE General Order 16.

DLE General Order 16 provides policy for the collection, preservation and documentation of evidence and property. The General Order allows for the destruction of seized claws in a case when permitted by the court. General Order 16 also states, "Discretion should be used in the method of destruction for fish and wildlife. Seized dead fish or wildlife shall not be destroyed or disposed of in front of the defendant(s). They shall be returned to the food chain out of the view of the public..."

The investigation disclosed an error was made by an FWC officer when the witness to destruction portion of the citation was not completed. The recommendation of the OIG investigation was that the review process of the citation be evaluated and that steps be taken to insure compliance with current policies.

During the investigation, the regional commander confirmed authorization from the court to destroy evidence. The commander also said that when he was assigned to supervise the region in 2007 there were existing problems with documentation of seized and destroyed evidence, and that he had since resolved those problems and brought the area into compliance with General Order 16.

OIG CASE NO. 09-06

An FWC employee's state calling card was fraudulently used to place calls outside the United States.

An investigation in OIG case number 04-45 recommended practices that were intended to prevent any future incident of calling card abuse. Because of the similarities of OIG 04-45 and OIG 09-06, the OIG reiterates its previous recommendation. An individual cardholder should be provided with a monthly statement of charges/invoices for purposes of call verification and evidence of fraudulent use. It was also recommended that cardholders be contacted on occasion to verify possession of the cards and to determine whether they still have a need to use or retain the card.

Evidence from this investigation and the identity of the abusing party (former girlfriend of the employee) was turned over to the Miami-Dade Police Department and resulted in the recovery of approximately \$800 to the agency for call charges.

RECOMMENDATIONS RESULTING FROM OIG INVESTIGATIONS

OIG CASE NO. 08-156

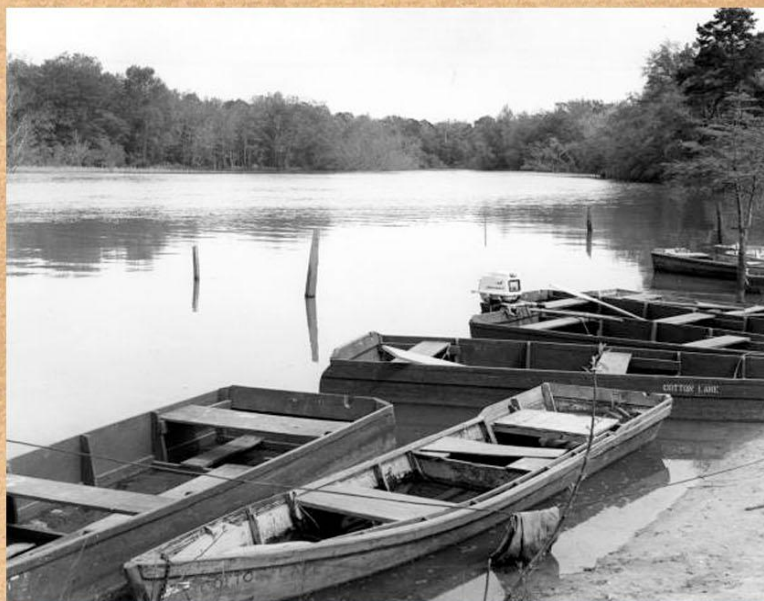
Two FWC biologists testified in federal court that their concerns about the wildlife impacts of a proposed power plant were ignored by senior Commission officials.

The FWC Office of the General Counsel issued a memorandum in 2003 that addresses employees receiving subpoenas and court testimony. This memorandum is posted on the FWC SharePoint website. It is meant to provide guidance as to the legal requirements and consequences when a Commission employee gives testimony related to official action of the agency. It also states that it should primarily be relied upon for guidance when the Commission is not directly involved in the litigation and an attorney is not representing the agency. Additionally, the memorandum provides that except when the testimony does not have any broad impact, the Commission's Office of External Relations should be consulted regarding giving testimony.

This memorandum further states that an employee should only testify about the Commission's official position or recommendations if that employee is knowledgeable of the Commission's position. It states, "An employee generally should not provide a personal opinion about an issue that the employee is not a qualified expert." It goes on to say that, an employee cannot be required to give a personal opinion at a trial or hearing, and if the employee does give his personal opinion, he should be aware of the potential consequences if that testimony causes significant injury to the agency's position.

This memorandum is advisory at most and does not require that employees and/or their chain of command consult the legal office when they receive a subpoena. It is recommended by this review that this memorandum be reviewed and consideration be made whether to mandate legal consultation, at least in circumstances similar to this case. FWC was not a party to this federal lawsuit.

However, the agency was very much involved in issues concerning the power plant and the Gulfstream pipeline, such as the documents referenced in this review. What our employees, in their official capacity, had to say in this court case was significant. It is also recommended reference in this memorandum to the Office of External Relations be amended to reflect that the office is now the Office of Community Relations.



RECOMMENDATIONS RESULTING FROM OIG INVESTIGATIONS

OIG CASE NO. 08-168

The complainant alleged that while he was fishing at Black Point Marina, his vehicle was searched without him giving permission.

The OIG investigator confirmed with Pat Thomas Law Enforcement Academy that officers conducting a fisheries inspection are not provided with any written guidelines or instructions on how to conduct such an inspection; they are taught by the Field Training Officer.

The OIG recommended that officers be provided with a written guideline in order to distinguish the difference between a probable cause search and an administrative inspection, and to know their limitations in each instance.

OIG CASE NO. 09-11

The complainant alleged an FWC officer was rude and had a bad attitude when he confronted the complainant's party during a trespassing incident.

The officer who was the subject of this complaint advised that officers had been recently taught by a training lieutenant, "You do not have to be nice to the public, only professional."

The OIG recommended that DLE review the lesson plan for the course taught by the lieutenant because the comment contradicts General Order 7 (Human Relations).

OIG CASE NO. 08-167

The complainant alleged an FWC officer had pressured landowners to allow him access to hunting areas in exchange for enforcing laws on their properties. The complainant also alleged the FWC officer was operating a personal business while on-duty.

Although no policy violations were uncovered during the investigation, there were a couple of issues worth noting. The officer's Request for Approval of Dual Non-Law Enforcement Employment forms for fiscal years 2007-2008 and 2008-2009 were approved for self-employment; however, one of the business types listed was "etc." which is vague.

The Division should consider requiring the officer to resubmit forms that specify exactly what type of work he intends to pursue.

In addition, DLE may want to clarify General Order 6 – Off-Duty and Extra Duty Employment, specifically Section 1B(1) to incorporate language that would provide additional clarification as to what is considered self-employment; for example, employment in which monetary and/or other compensation (i.e. gifts, special privileges, etc) is received for services rendered.

RECOMMENDATIONS RESULTING FROM OIG INVESTIGATIONS

OIG CASE NO. 08-138

An anonymous letter to the OIG alleged an FWC officer ordered a Monroe County Sheriff's Office deputy to arrest a subject without law authority.

Although the OIG investigation determined that there was insufficient evidence to support any misconduct on the FWC officer's behalf, it is suggested that officers be reminded of the importance of keeping in constant communication with dispatch relating to an on-going incident.

It is recommended that General Order 26 be updated in order to prevent any further miscommunication between officers in the field.

In addition, it is also suggested that officers be conscientious of the time in which individuals are temporarily held, although these detentions are permissible under the "Florida Stop and Frisk Law." The amount of time in which an individual is held must be reasonable under the circumstances. Officers must be mindful regarding this issue to avoid placing themselves in a situation that could potentially hold them and the agency liable for civil actions related to unlawful arrest.

OIG CASE NO. 08-110

The complainant alleged his son's rights were violated during the investigation of an out-of-season deer hunt.

The OIG investigation determined that there was insufficient evidence to prove the officer's actions during his investigation violated neither the Constitutional Rights of the individuals involved nor a law or agency policy.

It is suggested that officers be conscientious of the times in which individuals are temporarily detained. Officers should also be mindful of the issues associated with the relocation of subjects who are temporarily detained.



SUPERVISORY INVESTIGATIONS VS INVESTIGATIONS BY AN OIG INVESTIGATOR



The OIG investigates all major complaints. Supervisory investigations are completed by the Division/Office/Institute while being monitored by an OIG investigator.

Routine disciplinary actions from the Division/Office/Institute are also supervisory investigations. There were 37 cases of routine discipline in fiscal year 2008-2009.