

# FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION



RICK SCOTT  
Governor

KEN LAWSON  
Secretary

MELINDA M. MIGUEL  
Chief Inspector General

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Inspector General

## Office of Inspector General

### Annual Report

### Fiscal Year 2014-2015



DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION  
Office of Inspector General

RICK SCOTT  
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Secretary



**MESSAGE FROM THE INSPECTOR GENERAL**

September 29, 2015

It is with immense pride and pleasure that I present the Office of Inspector General's *Annual Report* for Fiscal Year 2014-2015. 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 2014-2015.

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

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Lynne T. Winston".

Lynne T. Winston, Esq., CIG  
Inspector General

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

**ANNUAL REPORT  
Fiscal Year 2014-2015**

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

Office of Inspector General internal audit staff are also governed by the *Code of Ethics* of The Institute of Internal Auditors, Inc. This code establishes the values and expectations governing the behavior of individuals and organizations in the conduct of internal auditing. The *Code of Ethics* requires internal auditors to apply and uphold the principles of integrity, objectivity, confidentiality, and competency.

## **RESPONSIBILITIES OF THE INSPECTOR GENERAL**

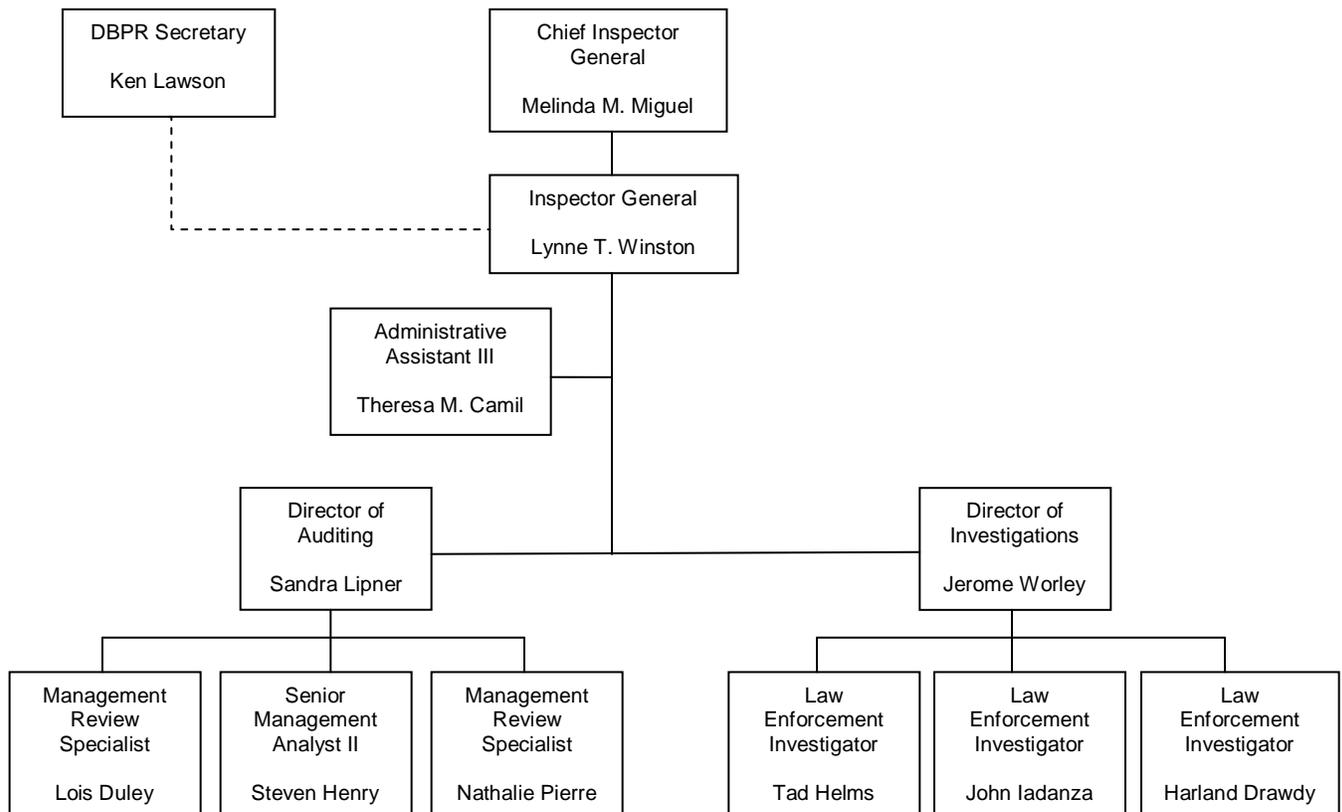
Section 20.055, Florida Statutes, directs the Inspector General to accomplish the following duties and responsibilities:

- Provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to the agency's programs and operations.
- Conduct, supervise, or coordinate other activities carried out or financed by the agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, agency programs and operations.
- Keep the agency head informed concerning fraud, abuses, and deficiencies relating to programs and operations administered or financed by the agency; recommend corrective action concerning fraud, abuses, and deficiencies; and report on the progress made in implementing corrective action.
- Review the actions taken by the state agency to improve program performance and meet program standards and make recommendations for improvement, if necessary.
- Advise in the development of performance measures, standards, and procedures for the evaluation of agency programs; assess the reliability and validity of the information provided by the agency on performance measures and standards, and make recommendations for improvement, if necessary.

- Ensure effective coordination and cooperation between the Office of the Auditor General, federal auditors, and other governmental bodies with a view toward avoiding duplication.
- Maintain an appropriate balance between audit, investigative, and other accountability activities.
- Comply with the *General Principles and Standards for Offices of 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 which do not meet the criteria for an investigation under the Whistle-blower's Act and conduct such inquiries, investigations, or reviews as the Inspector General deems appropriate.
- Conduct investigations and other inquiries free of actual or perceived impairment to the independence of the Inspector General's office. This shall include freedom from any interference with investigations and timely access to records and other sources of information.

## ORGANIZATION, STAFFING, AND TRAINING

The Inspector General is appointed by 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:



### Professional Designations

Collectively, OIG staff maintained the following professional designations and/or qualifications during Fiscal Year 2014-2015:

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

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

In addition, members of the Office held bachelor's degrees in criminology, criminal justice, and political science, held three master's degrees in business administration, and held 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 who are 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 2014-2015 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, the Pat Thomas Law Enforcement Academy, and the Florida Governmental Technology Conference.

## **OIG OUTREACH AND EDUCATION**

During Fiscal Year 2014-2015, 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 2015-2016.

## **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; and
- 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 2015. 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. Internal audit staff also administered a risk assessment survey of management of each of the department's auditable entities and conducted risk assessment interviews with senior and executive management.

The OIG's 2015 Risk Assessment Survey assessed the department's exposure to risk across a number of risk factors, including fraud potential, the department's control framework, operational stability/change, the regulatory environment, reputational sensitivity, and operational complexity. Internal audit staff also evaluated risks related to security of the department's data, information, and information technology resources. Staff conducted risk assessment interviews with the director of each division/office and with executive management and the Secretary. 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 2015-16 and Long-Term Audit Plans for Fiscal Years 2016-2018*. The Secretary approved these plans on June 18, 2015.

The Internal Audit Section 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 2014-2015

**Confidential Report**  
**Information Technology Audit:**  
**Agency Access Controls For Contractors**  
Internal Audit Report Number A-1415BPR-010  
January 12, 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.

**Interim Report**  
**Fleet Management Review: Vehicle Classification, Assignment, and Use**  
Internal Audit Report Number A-1415BPR-021  
May 27, 2015

The overall objective of this ongoing audit is to evaluate whether the department's fleet management policies and procedures have resulted in the effective and efficient use of department fleet. In keeping with internal auditing standards, the IAS issued an interim report to bring two compliance issues to management's immediate attention. The interim report provided information regarding compliance with certain rule provisions on the appropriate use of pool and limited use assignment vehicles. The report also provided information on compliance with statutory reporting requirements. The purpose of the interim report was to provide management with the information needed to take corrective action prior to release of the final audit report.

## Summaries of Management Reviews Completed in Fiscal Year 2014-2015

**Performance Measure Assessment:**  
**Long-Range Program Plan for Fiscal Year 2015-16**  
Report Number S-1415BPR-002  
September 3, 2014

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 14 (34%) of the department's 41 legislatively approved performance measures as reported by the Division of Alcoholic Beverages and Tobacco (6 measures); the Division of Pari-Mutuel Wagering (4 measures); and the Division of Regulation (4 measures). A separate

performance measurement report was prepared for each division. However, internal audit staff met frequently with division management during the course of the review and many of the recommendations discussed below were implemented prior to report publication.

Our assessment showed that for a number of the performance measures, the information provided in the Long-Range Program Plan (LRPP) did not accurately describe the data sources and/or methodology used to calculate the performance result. However, our testing showed the data sources and methodology did provide reliable results. We therefore recommended that management revise the information provided in the LRPP to reflect the data sources and calculation methodology used in practice. We also determined that management could improve the reliability of certain measures by enhancing internal controls over the accuracy of source data. In these cases, we recommended that management establish additional procedures for verifying and ensuring data accuracy. One measure we reviewed was no longer valid due to a regulatory change, and in another instance, we recommended that management revise the performance measure statement to reflect what the division was, in fact, measuring.

### ***Internal Quality Assessment Review***

Project Number P-1415BPR-001

October 28, 2014

The purpose of this review was to evaluate the internal audit activity's conformance with the International Professional Practices Framework (IPPF) of The Institute for Internal Auditors, Inc., to include the *Definition of Internal Auditing*, the *Code of Ethics*, and the *International Standards for the Professional Practice of Internal Auditing (Standards)*. These *Standards* require the Chief Audit Executive to maintain a quality assurance and improvement program that covers all aspects of the internal audit activity and that provides for periodic self-assessments.

A member of the internal audit staff performed an internal Quality Assessment Review of internal audit activity accomplished in Fiscal Year 2013-14. The reviewer assessed conformity to requirements of the IPPF and Section 20.055, Florida Statutes, including an assessment of the policies, procedures, and practices for accomplishing professional standards. The review found that the internal audit activity generally conforms to the *Definition of Internal Auditing*, the *Code of Ethics*, and the *Standards*. The reviewer recommended that the internal audit activity undertake the following improvements:

- Establish a consistent mission statement.
- Develop specific goals and objectives.
- Conduct a post-engagement meeting with audit staff to discuss ways to improve future engagements.

- Update the *Internal Audit Manual* and *Internal Audit Desk Reference* to incorporate 2014 revisions to Section 20.055, Florida Statutes.

**Confidential Report**  
**Information Technology Risk Assessment**  
**2015 Florida Risk Assessment Survey**  
Project Number S-1415BPR-013  
March 17, 2015

Section 282.318, Florida Statutes, requires state agencies to conduct, and update every three years, a comprehensive risk assessment to determine the security threats to the data, information, and information technology resources of the agency. The results of this risk assessment are confidential and exempt from Section 119.07(1), Florida Statutes.

The department's Information Security Manager (ISM) was responsible for completing the self-assessment and compiling supporting documentation for each response. The OIG was responsible for verifying the reasonableness of each response. Internal audit staff evaluated the self-assessment responses and supporting documentation, obtained additional supporting documentation and clarifying information, and met with the Information Security Manager and Division of Technology management to discuss the basis for specific responses. Internal audit staff then provided the results of their review to the Inspector General, who signed the risk assessment survey on March 17, 2015.

**Summaries of External Audits Coordinated in Fiscal Year 2014-2015**

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 2014-15, internal audit staff provided liaison and coordination services for the following four external reviews.

***Surplus Computer Hard Drive Disposal Processes  
at Selected State Agencies***

Auditor General Report Number 2015-052

December 1, 2014

This audit focused on evaluating selected information technology (IT) controls applicable to the storage and safeguarding of surplus computer hard drives awaiting disposal at three state agencies, including the Department of Business and Professional Regulation. The audit recommended that management improve certain security controls and improve the documentation of surplus computer hard drive sanitization and disposition. The IAS assisted in preparing the department's response to the preliminary and tentative audit findings and recommendations. The IAS also conducted a six-month follow-up review in June 2015 to determine the status of the department's corrective action (see following report section).

***Department of Business and Professional Regulation  
Selected Inspection Programs: Operational Audit***

Auditor General Report Number 2015-066

December 18, 2014

This audit focused on selected inspection programs administered by the Division of Alcoholic Beverages and Tobacco; Division of Drugs, Devices, and Cosmetics; Division of Hotels and Restaurants; and Division of Regulation. The audit also included an evaluation of the department's cost allocation methodology and a follow-up on findings noted in Auditor General Report Number 2012-017.

The audit included four findings and recommendations regarding the department's inspection programs. The auditors had no findings related to the department's cost allocation methodology and found the department had taken corrective actions for the findings included in Auditor General Report Number 2012-017. The IAS assisted in preparing the department's response to the preliminary and tentative audit findings and recommendations. The IAS also conducted a six-month follow-up review in June 2015 to determine the status of the department's corrective action (see following report section).

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

Auditor General Report Number 2015-166

March 30, 2015

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 ended, June 30, 2014. IAS staff coordinated the department's responses to the Auditor

General's information requests. The audit had no findings related to the Department of Business and Professional Regulation.

***Audit of Selected Department of Business and Professional Regulation  
Grants and Contracts, and Related Management Activities***

Florida Department of Financial Services  
June 22, 2015

The auditors reviewed the contract management files for 10 contractual services agreements. The auditors also reviewed 7 of these agreements for compliance with statutory provisions. The auditors identified contract deficiencies related to scope of work/deliverables (2 contracts), financial consequences (1 contract), and cost analysis (2 contracts). The auditors also found deficiencies in the contract/grant management files of 6 of the agreements. IAS staff assisted in preparing the department's response to the audit report. The Secretary submitted a Corrective Action Plan to the Department of Financial Services in July of Fiscal Year 2015-16.

**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 2014-15, the Internal Audit Section conducted 7 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**

***Final Follow-up Review: Enterprise Audit of the  
Contract Monitoring Process***

Report Number F-1415BPR-003  
August 5, 2014

As of our prior follow-up review of March 13, 2014, Finding 1 of the audit report remained open pending revision of department Policy 1.17 on *Contract Administration, Processing, and Approvals*, and completion of a contracting, procurement, and contract management manual. Our follow-up review of August 5, 2014 showed that management

had been highly responsive to the audit findings and recommendations and had taken extensive action to improve the department's contract monitoring practices. However, due to staffing constraints, management reported that additional time was needed to implement the remaining planned corrective actions. In consideration of management's stated commitment to ongoing improvement of the department's contracting program, and in consideration of the time elapsed since the report's publication in February 2012, we administratively closed the remaining audit finding and recommendation.

***Third Follow-up Review:***  
***Fleet Management Review: Motor Vehicle Crashes and Loss Mitigation***  
Report Number F-1415BPR-018  
January 12, 2015

Our second follow-up review of June 17, 2014 found that management had made significant progress in addressing the findings and recommendations made in this October 2013 audit. However, initiatives regarding driver safety training and establishment of a Motor Vehicle Crash Review Board were ongoing. In our third follow-up review of January 12, 2015, we determined these initiatives were still in progress. The OIG has scheduled a final review of implementation of the related findings and recommendations for Fiscal Year 2015-16.

***Initial Follow-up Review:***  
***Audit of the Electronic Data Submission (EDS) System***  
Report Number F-1415BPR-019  
February 24, 2015

The objectives of this audit were to evaluate development and use of the EDS system within the Division of Alcoholic Beverages and Tobacco and to identify potential internal control weaknesses and risks associated with use of a partially completed system. The audit included three findings and five recommendations. Results of our initial follow-up review showed that management had made substantive progress in addressing the audit findings and recommendations, including completion of an analysis of the technical requirements for achieving full system production and performance capabilities. Accordingly, the department's Fiscal Year 2015-16 Legislative Budget Request included a request for the resources needed to address the audit findings and recommendations regarding system enhancement and completion. We therefore concluded management had taken sufficient corrective action to close all findings and recommendations.

***Final Follow-up Review:  
Follow-up Audit of Secondary Employment***

Report Number F-1314BPR-006

March 18, 2015

We determined the Division of Administration had not fully implemented audit recommendations. However, given the length of time since the report's publication in August 2013, we did not believe it useful to continue monitoring implementation status and we administratively closed the Division of Administration's remaining open issue. We determined the Division of Alcoholic Beverages and Tobacco had taken appropriate and effective corrective action and concluded that management's actions were sufficient to close the related issue and recommendations.

**Follow-up Reviews of External Audits**

***Follow-up Review: FDLE Audit of User Agreements for  
Criminal History Background Checks within the  
Division of Service Operations***

Report Number G-1415BPR-015

November 10, 2014

On April 25, 2014, the Florida Department of Law Enforcement (FDLE) issued reports of its audits of eight of the department's user agreements with FDLE. The reports cited one area of concern related to the storage of criminal history results. Our follow-up review found the Division of Service Operations had successfully remediated FDLE's area of concern.

***Six-Month Follow-up Response to  
Auditor General Report Number 2015-052  
Surplus Computer Hard Drive Disposal Processes at  
Selected State Agencies***

Report Number G-1415BPR-023

May 19, 2015

Based on our review of information and supporting documentation provided by the Division of Technology, we concluded that management had taken sufficient corrective action to close all audit issues and recommendations.

***Six-Month Follow-up Response to  
Auditor General Report Number 2015-066  
Department of Business and Professional Regulation—  
Selected Inspection Programs***  
Report Number G-1415BPR-024  
June 16, 2015

Our review showed that management had taken sufficient corrective action to close or partially close two of the four findings and was actively working to address the remaining issues. The IAS has scheduled a Twelve-Month Follow-up Review for Fiscal Year 2015-16 to determine the status of corrective action regarding: 1) adoption and implementation of revisions to the department's existing conflict of interest policies; 2) enhancement of applicable inspection policies and procedures; and 3) development of a technological means for ensuring that inspectors schedule required follow-up inspections (two divisions).

#### **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. Section staff also provided technical assistance to improve provisions in the department's core contract related to FSAA requirements and information technology security.

## **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 the deficiency 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 process, which is 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 communications, 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 normally referred to the appropriate division director for handling. Capturing and classifying each complaint enables the OIG to analyze and provide feedback to management where consistent public miscommunication, policy failure, or poor performance may exist within a division.

### 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.

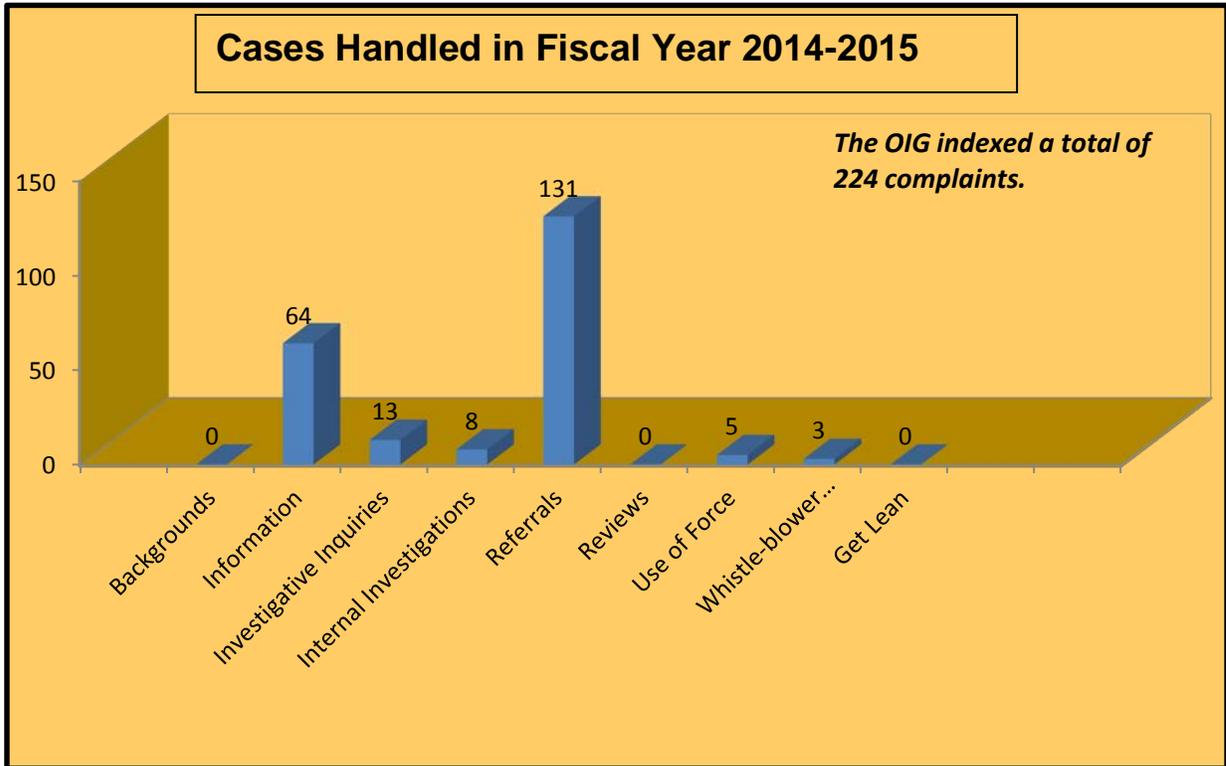
**Referrals** – The forwarding of complaints, typically of minor misconduct, to the appropriate division within the department or to the applicable external department for review and response to the complainant.

**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.

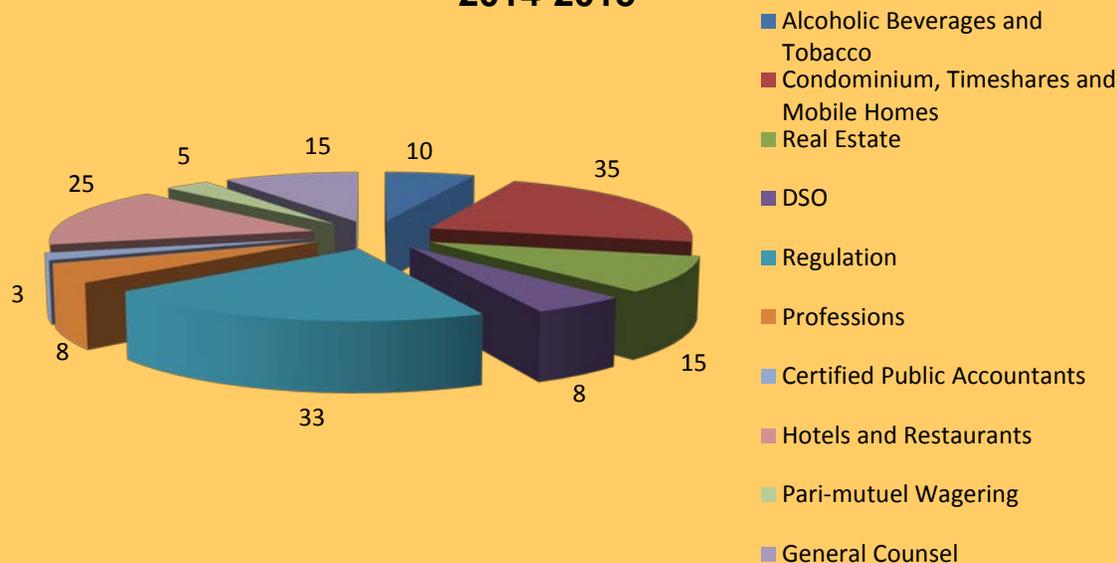
**Use of Force** - Investigations into the circumstances that involve a law enforcement officer's use of force when performing his or her duties.

**Whistle-blower Determination** – Receipt 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.



## Percentage of Referrals by Division in Fiscal Year 2014-2015



## Summaries of Internal Investigations Completed in Fiscal Year 2014-2015

### ***Case Number 2014-138-IA***

Division employees reported the recurring theft of personal cash from their offices. The assigned investigator, utilizing a concealed recording system, supplied a cooperative employee with cash to place in her desk. Approximately one week after initiating the investigation, the recording system captured an employee who entered the cooperative employee's desk, removed the cash, and then exited the office. The assigned investigator reviewed the video recording with the suspect employee, who admitted to the thefts and resigned.

### ***Case Number 2014-164-IA***

An investigation was initiated for the complaint of Conduct Unbecoming a Public Employee. The employee, a law enforcement officer, was alleged to have threatened the owners of a business during an inspection and to have exceeded his authority by closing the business after discovering an electrical code violation. The investigation determined that the business was the subject of investigations by state, local, and

federal authorities and that the enforcement of the electrical code violation was initiated by non-agency officials. The complainant provided witnesses to the employee's alleged threats. The witnesses' statements were inconsistent in describing the alleged threats. State, local, and federal authorities also provided consistent testimony contrary to the complaint. As a result of the investigation, the allegations against the employee were NOT SUSTAINED.

### ***Case Number 2014-198-IA***

The OIG received a detailed anonymous complaint, comprised of multiple allegations and inferences of policy violations against current and former employees of the Division of Alcoholic Beverages & Tobacco (Division or AB&T).

The OIG performed an analysis of the complaint to identify any allegations and inferences that, if proven true, would represent a violation of Law or Agency Rule. The analysis identified multiple allegations with sufficiency to initiate an OIG internal investigation, as defined in Sections 112.531-112.535, Florida Statutes, involving three current AB&T employees.

The allegations investigated included:

It was alleged that a law enforcement major routinely used a state vehicle for personal business and failed to take appropriate supervisory action against subordinate employees who used their assigned state vehicles for non-state business. It was further alleged that the major openly displayed favoritism to selected employees and failed to report a domestic violence incident of which the major had ostensible knowledge. Finally, it was alleged the major failed to report an incident that the major was involved in, which occurred in a social setting.

It was alleged that a law enforcement lieutenant routinely used his assigned state vehicle for personal use without management approval and falsely reported alcohol compliance inspections, which he did not perform. Further, it was alleged that the lieutenant was involved in a personal incident in a social setting, which was not reported.

It was alleged that a law enforcement captain routinely used his assigned state vehicle for personal business without approval of management.

The analysis identified additional allegations which represented a potential violation of DBPR Administrative Policy No. 2.19, Unlawful Discrimination (Including Sexual Harassment), involving one of the subject employees. In compliance with DBPR Administrative Policy No. 2.19.09(A), Unlawful Discrimination or Harassment Complaint Filing Procedure, the OIG referred the allegations of Discrimination (Including Sexual

Harassment) to the Bureau of Human Resources, Division of Administration, for review and appropriate action.

The OIG reviewed all available known documents and records pertaining to the allegations and also performed sworn subject interviews. Absent a known complainant and/or independent witnesses, no evidence was identified to refute or challenge the testimony of the subject employees, who rebutted the allegations against them.

As a result of this investigation, allegations of misconduct against the employees were classified as UNFOUNDED.

#### ***Case Number 2014-209-IA***

The OIG received a detailed anonymous complaint, which alleged violations by a central Florida employee. According to the complainant, the employee used his department-issued vehicle for personal use, including transporting his daughter to and from school. It was also alleged that the employee spent an inordinate amount of time in a local coffee shop during working hours, used his department-issued credit card to purchase gas for personal use, and displayed his department-issued badge to receive discounted meals from restaurants.

The assigned investigator conducted surveillance on the employee during separate workweeks where he observed the employee spending several hours each morning in a local coffee shop and transporting his daughter to and from school on a daily basis in his state vehicle.

In his interview, the employee admitted to the investigator that he used his state vehicle to transport his daughter to and from school and he patronized the coffee shop on a daily basis. The employee denied the allegations related to purchasing fuel for personal use and using his badge to receive discounted food. The investigator found no evidence contrary to the employee's denials. As a result of this investigation, allegations of conduct unbecoming a state employee and misuse of a state owned vehicle were classified as SUSTAINED.

#### ***Case Number 2014-211-IA***

The OIG was asked to review allegations of Conduct Unbecoming a Public Employee and Violation of Agency Law or Rule made against two employees. The complainant alleged that the actions and demeanor of two inspectors were unprofessional during the inspection of the complainant's restaurant. The assigned investigator interviewed the restaurant staff who were present during the inspection and determined the restaurant's closed circuit video system captured the inspection. The assigned investigator reviewed the video and dispelled the complaint. As a result of the investigation, the allegations against the inspectors were NOT SUSTAINED.

### ***Case Number 2015-034-IA***

The OIG investigated the origin of inappropriate images discovered on a shared drive used by department employees. The assigned investigator utilized Division of Technology resources to determine the images were copied to a shared drive from the personal electronic mail of a department employee. The employee was interviewed and admitted using his department-issued computer to access his personal electronic mail account; he then mistakenly saved the images to the shared drive instead of the computer's hard drive, where he intended to transfer the images to a personal flash drive. The investigation resulted in a SUSTAINED finding for the allegation of Conduct Unbecoming a Public Employee.

### ***Case Number 2015-046-IA***

The OIG was asked to review an alleged conflict of interest related to the complaint that an employee accepted a free lunch from a licensee in exchange for expedited licensing services. The assigned investigator interviewed all identified parties related to the complaint and determined that the employee, who is responsible for the issuance of restaurant licenses and permits, accepted a free lunch delivered to the employee by a restaurant owner, who visited the employee's office to receive a temporary alcohol license that had been processed and approved by the employee. As a result of the investigation, the allegation against the employee was SUSTAINED.

### ***Case Number 2015-082-IA***

The OIG was asked to review an alleged violation regarding potentially negligent handling of found property. The assigned investigator determined that a customer left his electronic tablet in the lobby of a field office. The investigation determined that the subject employee was the last employee in possession of the tablet. This employee reported that a citizen (who was not the actual owner) came to the lobby and claimed possession of the tablet. The customer testified that he did not give anyone permission to collect the tablet on his behalf and did not know the person named by the employee as collecting the tablet. The investigator's review determined that the department did not have a policy governing lost and found property in field offices. The Office of Inspector General recommended that department management adopt a policy to govern the handling of lost and found property. The case is active with local law enforcement. The allegation of negligently handling found property was SUSTAINED.

## Summaries of Investigative Inquiries Completed in Fiscal Year 2014-2015

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 of complaints to management that do not contain the elements of waste, fraud, abuse, or serious misconduct. The process also allows the OIG to evaluate complaints, collect relevant data or testimony, and determine if a complaint should be reassigned as an internal investigation. While investigative inquiries are not published, they do absorb a large part of our investigative resources. The following are summaries of several of the (13) thirteen investigative inquiries completed in FY 2014 -2015.

### ***Case Number 2014-166-INQ Alleged Inflation of Statistics***

This investigative inquiry was initiated on the complaint of a former employee, who alleged that his former division generated multiple case numbers for actions that occurred in a single inspection. According to the complaint, the inflation of case numbers was driven by employee performance ratings being measured on the number of case numbers generated.

The complainant stated inflating case numbers created the appearance of a licensee receiving multiple fines or administrative actions instead of a single case number and could have caused an increase in a licensee's insurance.

The assigned investigator determined that a similar complaint was filed in 2010. Based on the complaint, in 2011, the division implemented strict standards for the initiation and indexing of case numbers and their correlating case files. The inquiry determined that oversight is ensured through recurring meetings between the local division supervisor and the division's senior managers.

The OIG closed the case with no further action.

### ***Case Number 2014-221-INQ Conduct Unbecoming a Public Employee***

This investigative inquiry was initiated after the OIG received a division request to review the circumstances of the arrest of a non-sworn employee. The inquiry determined that the employee was arrested for failing to appear for a court date. The division reported to the OIG that the employee's photograph was not published on the online booking report pursuant to Chapter 119, Florida Statutes. The OIG reviewed the aforementioned statute and could not determine which public record exempted the employee's photograph. The assigned investigator interviewed the booking correctional

officer (CO) at the local county jail, who stated the reason the photograph had been omitted was because the employee requested that his arrest photo be withheld from the daily report. According to the CO, the employee informed him that he worked for the Division of Alcoholic Beverages & Tobacco (AB&T), thereby exempting his photo from being posted on the daily booking report. The CO provided a copy of the “Request For Redaction of Confidential Personal Information From Public Records (F.S. 119.071).” This form is used by the Sheriff’s Office to adhere to Chapter 119, Florida Statutes, which exempts the release of certain public records. The CO stated that the form is not routinely given out to individuals being booked, but must be requested by the person under arrest. He confirmed that the employee did, in fact, request that his photo be exempt per Florida Statute based upon his employment with AB&T.

A copy of the request reflected that the employee indicated that he is a “current/former government agency employee in the category checked below.” However, the portion of the form that identified specific individuals exempt from chapter 119 was not indicated or checked. The employee did complete the required bottom portion of the form, which reflected his name, personal telephone number, and e-mail address. The inquiry findings were forwarded to division management for action.

#### ***Case Number 2014-240-INQ Conduct Unbecoming a Public Employee***

This investigative inquiry was initiated after an anonymous complaint alleged that a Department employee’s social media pages contained inappropriate postings “for someone in her position.”

According to the complaint, the employee “joked” about needing more time off for an injury allegedly received at a concert and some of the out of town concerts the employee attended were “in the car and hotel rooms rented by the department.”

The assigned investigator initiated a social media review and no “inappropriate” postings were observed. An analysis of the employee’s time and attendance revealed nothing extraordinary. The employee provided documentation that demonstrated the injury occurred on a specific weekend. An analysis of the employee’s department travel proved the employee was not on department business on the same weekend. The assigned investigator further determined that the employee’s supervisor was aware of the injury and approved all requested leave.

The OIG closed the case with no further action.

#### ***Case Number 2014-243-INQ Conduct Unbecoming a Public Employee***

This investigative inquiry was initiated based on the complaint that a department employee purposely conducted substandard inspections of his friend’s business. The

assigned investigator, in consultation with division experts, reviewed the inspection histories of the business and determined that the employee's inspections did not demonstrate any outliers when compared to other inspectors' work. The assigned investigator interviewed the business owner who stated that his relationship with the employee was only professional. Based on the preliminary findings, the complaint was closed.

#### ***Case Number 2014-245-INQ Conduct Unbecoming a Public Employee***

This investigative inquiry was initiated based on the complaint that after the completion of an inspection on a licensed premise, the inspector referred a training company which offered paid training services to the licensee. The complaint alleged that the training company owner was a former department employee who used his friendship with the current employee to receive information on licensees who had training needs. The assigned investigator interviewed the licensee, who stated that he was not told that the referral for training came from a department employee. The owner of the training company stated that he tracks the online inspections of licensees and offers to train the licensee and staff to ensure they come into compliance during future inspections. Based on these findings, the complaint was closed.

#### ***Case Number 2015-093-INQ Retaliation for Reporting Protected Information***

The OIG initiated this investigative inquiry after an employee complained that she was demoted to a non-supervisory position because she reported to her chain of command that a subordinate employee had created a hostile work environment. The OIG completed a Whistle-blower complaint analysis, which included interviewing the complainant and reviewing the complainant's similar filings with the Florida Commission on Human Relations (FCHR) and the United States Equal Employment Opportunity Commission (EEOC). The OIG determined that the complainant did not disclose protected activity as defined in Florida's Whistle-blower Act. The OIG closed the complaint. The EEOC and FCHR cases are active with pending investigations.

### **Referrals to Law Enforcement in Fiscal Year 2014-2015**

Pursuant to Department policy, all matters requiring law enforcement intervention are referred through the Office of Inspector General, which expedites complaint information to the appropriate law enforcement agency.

The following are examples of OIG case referrals made during this reporting period to law enforcement for consideration.

### ***Case Number 2015-230-IA***

An audit identified an employee's computer as using extraordinarily high internet bandwidth. Further analysis identified the computer was running a peer-to-peer protocol used to distribute large amounts of data over the internet, commonly associated with pirated movies and music. The OIG was able to identify the titles of known movies located in files associated with the employee's computer. The Florida Department of Law Enforcement was notified and conducted a preliminary investigation that determined the employee was downloading a minimal number of movies; as a result they referred the case back to the department for administrative action, which resulted in the employee's termination.

### ***Case Number 2015-074-INQ***

The department received a copy of a video that possibly depicted the sexual assault of an unknown female at a gentlemen's club in south Florida. Following a referral from the OIG, the Florida Department of Law Enforcement accepted the video to distribute to the south Florida law enforcement intelligence community for further investigation.

## **Use of Force Reviews in Fiscal Year 2014-2015**

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 is able to determine if agents are employing force in a manner consistent with their training. The review also serves to provide the OIG with an opportunity to examine the effectiveness of department and Bureau of Law Enforcement policies and procedures regarding use of force. The following are summaries of the Use of Force reviews conducted by the office:

### ***Case Number 2014-147-UF***

An agent arrived at licensed premises to conduct an inspection. The owner of the licensed premises refused the agent access by attempting to shut the door. The agent was struck across the chest by the owner's elbow, bending the agent's glasses in his pocket. The agent also received a minor cut to his finger. The owner was subdued and arrested for battery on a law enforcement officer and obstructing a division employee in the performance of duty.

Based on the subject physically obstructing and injuring the agent when he attempted to enter the licensed premises, the OIG concurred that the level of force used to subdue the subject was within reason, departmental guidelines, and use of force continuums.

### ***Case Number 2014-148-UF***

An agent working an off-duty security detail at a business was approached by the store manager, who reported that an irate subject inside the store had been previously told not to return. The agent walked the subject outside and told him not to return. The subject wished to file a police report regarding his complaint with the store and the agent provided him local law enforcement's contact information. The subject, still irate, returned to the store screaming and attempted to reenter. The agent stopped the subject at the door and ordered him to leave. The subject then attempted to continue to enter and the agent attempted to restrain the subject. The subject continued to try and pull away from the agent. The agent placed the subject in a one-arm restraint and escorted him outside the business. The agent arrested the subject for resisting an officer without violence.

Based on the subject's failure to obey repeated lawful commands to leave and not reenter the store and his physical resistance of the agent, the OIG concurred that the level of force used to subdue the subject was within reason, departmental guidelines, and use of force continuums.

### ***Case Number 2014-200-UF***

During an undercover operation, agents purchased a moonshine still from a suspect. During the purchase, the subject was observed in possession of a firearm beneath his shirt and on his right hip. While transporting the still to the agents' vehicle, the cover team moved in wearing vests displaying the word "POLICE." The cover team was not aware that the subject was armed, causing concern for the undercover agents, who drew their firearms on the subject. The cover team disarmed and arrested the subject without incident.

Based on the agents observing the firearm during the commission of the felony and concern for agent safety, the OIG concurred that the level of force used to subdue the subject was within reason, departmental guidelines, and use of force continuums.

***Case Number 2014-201-UF***

An agent was working an off duty security detail on a college campus wearing a uniform that clearly identified him as a law enforcement officer. The agent observed an intoxicated subject within a large crowd refusing to obey a local law enforcement officer's commands to leave a closed area. A mounted horse unit arrived and attempted to disburse the crowd. As the officer passed, the subject struck the horse with his fist causing the horse to spin left. The subject was immediately restrained on the ground and placed under arrest for disorderly intoxication and striking a police horse.

Based on the agent observing the criminal act of striking a police horse and the subject's failure to obey lawful commands, the OIG concurred that the level of force used to subdue the subject was within reason, departmental guidelines, and use of force continuums.

***Case Number 2015-060-UF***

A subject refused to leave licensed premises after he was ordered off the property numerous times. Agents then observed the subject striking a second person in the face. The agents ordered the subject to back away from the person and walk toward the agents. The subject continued to strike the person and then quickly walked away. Agents caught the subject and attempted to handcuff him. The subject physically resisted the agents. The subject refused to comply with verbal commands to stop resisting and was eventually restrained. Agents charged the subject with disorderly intoxication.

Based on the aggressive actions of the subject and the statements of the agents, the OIG concurred that the level of force used to subdue the subject was within reason, departmental guidelines, and use of force continuums.

**Additional Assistance to the Agency in Fiscal Year 2014-2015**

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 class 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.

The Inspector General and a member of the investigative team provided interagency training on Florida's Whistle-blower's Act and revised protocols to members of the Office of Inspector General, Office of the General Counsel, and Division of Administration.

The Office of Inspector General's investigative team hosted a half-day training on the Florida Law Enforcement Officers' Bill of Rights. The participants included the Division of Administration, Office of the General Counsel, and the Bureau of Law Enforcement.

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 what types of complaints are accepted by the office.

### **Investigative Plan of Supplementary Activities for Fiscal Year 2015-2016**

**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.