

Oversight Review of the Department
of Homeland Security Federal Law
Enforcement Training Center Office
of Professional Responsibility





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Washington, DC 20528 / www.oig.dhs.gov

OCT 20 2014

MEMORANDUM FOR: The Honorable Connie L. Patrick
Director
Federal Law Enforcement Training Center

FROM: John Roth *John Roth*
Inspector General

SUBJECT: *Oversight Review of the Federal Law Enforcement Training Center
Office of Professional Responsibility*

Attached for your information is our final report, Oversight Review of the Federal Law Enforcement Training Center (FLETC) Office of Professional Responsibility (OPR). We incorporated formal responses from FLETC OPR's Division Chief in the final report. We made 21 recommendations to the Office of Professional Responsibility Division Chief who agreed with them in whole or in part.

We conducted the review from June 2014 to August 2014, as part of a planned periodic review of Department of Homeland Security component internal affairs offices in keeping with our oversight responsibilities mandated by the Inspector General Act of 1978, as amended.

Consistent with our responsibility under the Inspector General Act, we will provide copies of our report to appropriate congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Michael Beard, Assistant Inspector General, Office of Integrity and Quality Oversight, at (202) 254-4208.

Attachment



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Abbreviations

CIGIE	Council of the Inspectors General on Integrity and Efficiency
DHS	Department of Homeland Security
EPF	Employee Personnel File
FLETC	Federal Law Enforcement Training Center
FY	fiscal year
LEAP	Law Enforcement Availability Pay
LMS	Learning Management System
OIG	Office of Inspector General
OPR	Office of Professional Responsibility
ROI	Report of Investigation
SOP	Standard Operating Procedure
U.S.C.	United States Code



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SUMMARY

The Office of Integrity and Quality Oversight, Investigations Quality Assurance Division conducted an oversight review of the Federal Law Enforcement Training Center, Office of Professional Responsibility from June 2014 to August 2014. The review covered OPR activity from October 1, 2011, (FY 2012) to June 1, 2014 (FY 2014). It was conducted as part of the planned periodic review of Department of Homeland Security component internal affairs offices by the Department of Homeland Security Office of Inspector General in keeping with the oversight responsibilities mandated by the Inspector General Act of 1978, as amended.

The review focused on two primary areas: organizational management and investigative management. In conducting the review, we assessed compliance with the DHS Management Directive 0810.1, Office of Professional Responsibility policies, and referenced guidelines established by the Council of the Inspectors General on Integrity and Efficiency, as applicable.

We found that the Office of Professional Responsibility generally complied with applicable directives, policies, guidelines, and investigative standards. We observed commendable practices with the thoroughness of investigations, the quality of reports, and the productive relationships maintained with operational entities within the Federal Law Enforcement Training Center. We found particular issues with the agency's underreporting of complaints to the Office of Inspector General, the absence of annual Law Enforcement Availability Pay documentation and certifications, and weaknesses in safeguarding evidence. We made 21 recommendations to the Office of Professional Responsibility Division Chief who agreed with them in whole or in part. There are no open recommendations in this report.



BACKGROUND

The Federal Law Enforcement Training Center (FLETC) is a component agency within the Department of Homeland Security (DHS) that serves as an interagency law enforcement training organization for 91 Federal agencies and partner organizations. The agency's website notes that FLETC also provides training to state, local, rural, tribal, territorial, and international law enforcement agencies. In fiscal year (FY) 2012, FLETC provided training to nearly 70,000 students.¹

FLETC's Headquarters is in Glynco, Georgia but it also operates training centers in Artesia, New Mexico; Charleston, South Carolina; Cheltenham, Maryland; Botswana; El Salvador; Hungary; and Thailand. The agency's website states that approximately one-third of the instructor staff are permanent FLETC employees while the remainder of the cadre is comprised of Federal officers and investigators who are on short-term assignments from their parent organizations or who recently retired from the field.²

The FLETC Office of Professional Responsibility (OPR) is the office within FLETC that investigates allegations of misconduct involving FLETC and partner organization employees, contractors, and students. OPR's primary mission is to carry out investigations of alleged incidents of criminal acts or serious misconduct by students, staff, and contractors at FLETC.³ OPR operates under the authority granted to the Secretary of DHS by Title 40 United States Code (U.S.C.) §1315.⁴ As such, OPR employees are designated as officers under the section and have both law enforcement and investigative authority under the statute.

OPR is governed by policies delineated in the OPR Standard Operating Procedures (SOP), and several FLETC directives.⁵ Additionally, OPR is required to comply with the provisions of DHS Management Directive 0810.1, which mandate that DHS internal affairs components advise the Office of Inspector General (OIG) of allegations of misconduct by DHS employees, contractors, grantees, and "individuals engaged in the operation of DHS programs or operations."

The Deputy Director of FLETC directly oversees the operation of OPR. The OPR Division Chief manages the OPR office, which is staffed by one permanent criminal investigator, two criminal investigators who are rehired annuitants on 4-year contracts, and a permanent investigative assistant. The permanent criminal investigator also serves as the Chief of Counterintelligence

¹ www.FLETC.gov

² *Ibid.*

³ FLETC Manual 67-35.C, Student Misconduct.

⁴ The information was reported to the inspection team by the FLETC OPR Division Director and not independently verified.

⁵ SOP: OPR-02 (Evidence), SOP: OPR-06 (Investigative Priorities, Procedures, and Policies), SOP: OPR-10, Firearms Qualification by personnel designated law enforcement authority by Title 40, U.S.C., Section 1315, Directive 67-01, Workplace Violence Program Management; Directive 67-31, Fraternalization between Center Staff and Students; Directive 67-35.C, Student Misconduct; Directive 67-35.H, Notification and Assistance for Serious Incidents and Misconduct; and Directive 70-03.A, Personal and Real Property Management Handbook.



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Programs for FLETC. OPR additionally utilizes physical security specialists located at FLETC facilities in Artesia, Cheltenham, and Charleston as needed.

From October 1, 2011, (FY 2012) to June 1, 2014 (FY 2014), OPR received 134 allegations and initiated 106 investigations (figure 1). According to their records, OPR referred only 2 of the 134 allegations to the DHS OIG. The OIG Intake Section documents 33 referrals from the OIG to OPR during the same period.

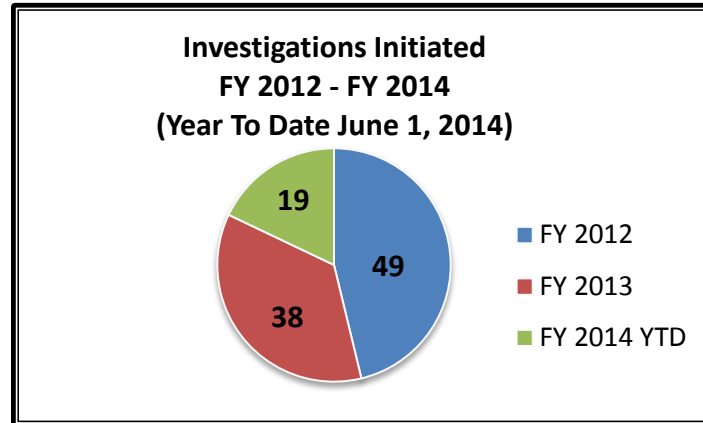


Figure 1: Investigations Initiated⁶

OPR categorizes initial allegations into 75 unique predicated allegation descriptions. Using the allegation descriptions provided by OPR, the inspection team consolidated the OPR descriptions into 58 general descriptions. Table 1 displays the most prevalent allegation descriptions OPR investigated for the period inspected.

MOST PREVALENT ALLEGATIONS INVESTIGATED FY 2012 – FY 2014 (Year To Date 6/1/2014)

ALLEGATION	TOTAL INVESTIGATIONS INITIATED
Employee Misconduct/Disruptive Behavior	9
Student Misconduct/Disruptive Behavior	8
Contractor Misconduct/Criminal Behavior (Arrest)	7
Employee Misconduct/Fraternalization	6
Missing Government Property	5
N/A	4
Student Misconduct/Criminal Behavior (Arrest)	4

⁶ Investigative statistics provided by FLETC OPR



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Contractor Misconduct/Criminal Behavior	3
Employee Misconduct/Criminal Behavior (Arrest)	3
Employee Misconduct/Misuse of Government Computer	3

Table 1: Most Prevalent Allegations Investigated⁷

As of June 1, 2014, OPR had eight investigations open and assigned among their three investigators. For the period inspected, OPR executed no arrests and secured no indictments. They did, however, present nine cases for prosecution to the Assistant United States Attorney, all of which were declined. Table 2 displays OPR’s investigative statistics for the time period we inspected. Their work led to the termination of 4 employees, the suspension of 10 individuals, and the debarment of 34 contractors or associated persons.

FLETC OPR INVESTIGATIVE STATISTICS FY 2012 – FY 2014 (YTD 6/1/2014)				
STATISTIC	FY 2012	FY 2013	FY 2014	TOTAL
Arrests	0	0	0	0
Indictments	0	0	0	0
Conviction	0	0	0	0
Suspensions	4	5	1	10
Debarments	9	13	12	34
Terminations	0	1	3	4
Investigations Accepted For Prosecution	0	0	0	0
Investigations Declined For Prosecution	2	4	3	9

Table 2: Investigative Statistics⁸

⁷ Ibid.

⁸ Ibid.



METHODOLOGY

The OIG Office of Integrity and Quality Oversight, Investigations Quality Assurance Division, in keeping with the oversight responsibilities mandated by the Inspector General Act of 1978, as amended, examined OPR operations to assess overall compliance with relevant DHS and FLETC policies. The OIG previously reviewed OPR in April 2010, and published a report of their findings in February 2011. We conducted our review from June 2014 through August 2014, and the on-site portion of our review took place from July 21-24, 2014. The review covered OPR activity from October 1, 2011, (FY 2012) to June 1, 2014 (FY 2014).

Prior to the site visit, the inspection team sent a pre-inspection survey to the Division Chief asking for background information and his input. The pre-inspection survey is designed to help the inspection team understand the types of investigations initiated, how OPR handles classified information, the complexity of operations, and collateral duty assignments. The survey also allowed the Division Chief to identify any known deficiencies with the office and request a review of particular areas.

Additionally, prior to the site visit, we asked for and obtained policies governing OPR, an explanation of the complaint intake process, the number of employees assigned, and operational statistics.

OPR received 134 allegations of misconduct during the covered period. Of the 134 complaints, they initiated 106 investigations; 98 of which are closed and 8 remain open. Using the IDEA software, we randomly selected 30 of the 98 closed cases to review, representing roughly 30 percent of all closed cases.

During our site visit, we reviewed several administrative areas using checklists based on the DHS Management Directive, OPR SOP's, and the Council of the Inspectors General on Integrity and Efficiency (CIGIE) standards. The full list of areas reviewed is in appendix B. The Division Chief informed us that OPR had no undercover activities and did not use confidential informants or confidential funds during the covered period. Therefore, we did not look at those areas during the review.

During our site visit, we met with each employee individually to give them the opportunity to discuss employee morale, best practices, and any other issues they wished to bring to the attention of the OIG. All of the interviews, with the exception of one, were conducted in-person.

While on site, we also met with the Chief of FLETC's Workforce Relations Branch and the FLETC Chief Counsel. We inquired about their relationship with OPR, perspective on OPR's investigative work, and opinion of investigative reports written by OPR.



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After the site visit, we provided a draft copy of our report to the Division Chief and allowed him the opportunity to comment. We incorporated his final comments into the report as appendix A. We also provided a final copy of the report to the FLETC Director.



RESULTS

Operational Management Review

Employee Personnel Files

The inspection team reviewed Employee Personnel Files (EPF) maintained by OPR for each employee. The EPFs contained FLETC specific training certificates (to include annual ethics training), employment information, and performance ratings. The EPF's were missing current emergency contact information for each employee and one EPF was missing the employee's position description. In addition, the EPF's were missing individual property inventory logs. We learned that the investigative assistant maintains all property inventory logs for the criminal investigators' firearms, credentials, and badges separate from the EPF. In reviewing those records, we observed that the property logs do not contain dates of issue for firearms issued to employees or evidence indicating that an annual verification was conducted.

Recommendations

1. We recommend that the Division Chief ensure each EPF contains current emergency contact information and position descriptions.
2. We recommend that the Division Chief ensure that individual inventory property logs are marked with the issue date and the date when the annual verification was conducted.

Law Enforcement Availability Pay Certification

The inspection team found that OPR criminal investigators do not track Law Enforcement Availability Pay (LEAP) hours nor does the Division Chief certify annually that all employees have worked the mandatory minimum number of LEAP hours as required by the Office of Personnel Management. While on site, we brought this to the attention of the Division Chief, who said he would initiate a system for tracking and certifying LEAP. On July 30, 2014, the inspection team provided him with sample LEAP certification memoranda as examples.

Title 5 U.S.C. § 5545a, *Law Enforcement Availability Pay Act of 1994*, allows for the payment of a 25 percent premium to criminal investigators to ensure their availability for unscheduled duty in excess of the 40 hour basic workweek. The statute explains that a "criminal investigator is eligible for availability pay only if he/she has an annual average of 2 or more hours of unscheduled duty per regular workday."

Section 5545a of the statute require that each "criminal investigator and the designated supervisory officer shall make an initial, and thereafter, annual certification to the head of the agency attesting that the investigator (1) currently meets the "substantial hours requirement"



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(unless it is the initial certification) and (2) is expected to meet the requirement during the upcoming 1-year period.”

Recommendations

3. We recommend that the Division Chief implement a method for OPR criminal investigators to track their LEAP hours. Further, we recommend that the Division Chief certifies at the end of every fiscal year that each criminal investigator has worked the minimum required hours of LEAP in a given fiscal year.

Training

Due to the increased emphasis on using electronic methods for storage, most OPR training records are maintained electronically in the Learning Management System (LMS). OPR is in the process of transitioning from the LMS to the Performance and Learning Management System. Neither training management system was functioning during our site visit and according to OPR staff, had not functioned since June 2014. Therefore, the inspection team could not access training records to verify each employee completed the required DHS mandatory training. The Division Chief assured us that all employees had completed the mandatory training as required. The Division Chief stated that OPR’s training budget was adequate to accomplish all of the agency’s training needs.

The inspection team reviewed records showing that all OPR Special Agents qualified on a quarterly basis with their issued handguns in FY 2012, FY 2013, and FY 2014 as required by SOP: OPR-10, Firearms Qualification by Personnel Designated Law Enforcement Authority by Title 40, U.S.C., section 1315 (SOP-10). We also found records indicating that agents qualified or familiarized themselves with assigned shotguns and rifles in FY 2013. However, we found no records indicating OPR agents qualified or familiarized themselves with assigned shotguns and rifles in FY 2012. We were told that the FY 2014 qualification/familiarization with the shotguns and rifles is scheduled for later in 2014.

The inspection team discovered that OPR does not have a designated firearms instructor. This position is important to the OPR office because the firearms instructor should issue firearms and ammunition, and administer the office’s weapons and use of force programs. Additionally, the firearms instructor should coordinate the dates and times for firearms qualifications and maintain an office file of all qualification scores and any applicable certifications attained by the special agents. The Division Chief explained that they use the FLETC Training Directorates’ Firearms Division for their firearms instruction and qualification. Although this is a good resource for OPR employees, a firearms instructor is still needed to provide oversight of OPR’s firearms training program, to include scheduling training and maintaining training records.

The inspection team also discovered that OPR does not maintain a copy of each criminal investigator’s initial criminal investigator training certificate. The Division Chief informed the



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inspection team that the records were available from the FLETC Mission Support and Readiness Division. This division however only maintains records for training that occurred at the facility. At least one of the agents assigned to OPR received his initial criminal investigator training from an agency not affiliated with FLETC and therefore the Mission Support and Readiness Division would have no record of his training.

The inspection team found no documentation showing that agents received continuing legal training, periodic refresher training on the use of force, defensive tactics training, or Federal Aviation Administration Flying Armed training during the covered period. The Division Chief stated that he understood the various requirements to conduct periodic training and would follow them more closely.

Recommendations

4. We recommend that the Division Chief implement a periodic training schedule that, at a minimum, includes training in law, the use of force, and the Federal Aviation Administration's policy on flying armed.
5. We recommend that the Division Chief require yearly familiarization with the shotgun and rifle.
6. We recommend that the Division Chief designate a Special Agent as the Firearms Instructor and ensure they receive the proper training.
7. We recommend that the Division Chief maintain records showing agents attended an initial criminal investigator training course, documentation showing the completion of continuing legal training, periodic refresher training on the use of force, and the Federal Aviation Administration Flying Armed training.

Other Observation

In reviewing OPR's firearms training program, the inspection team noted the absence of any policy addressing training with assigned shotguns and rifles. SOP-10 only addresses training with assigned handguns.

Recommendations

8. We recommend that the Division Chief of OPR amend SOP-10 to address yearly training requirements with assigned shotguns and rifles.



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Law Enforcement Equipment Inventory

The OPR investigative assistant maintains inventory records for all firearms, credentials, and badges. During our on-site employee interviews, we verified that each employee's firearm, credentials, and badge matched the inventory record.

We found that OPR employees properly secured excess law enforcement equipment in US General Services Administration approved safes. The Division Chief told us that OPR did not dispose of any organizational property during the past year so no records were available for review.

Evidence Review

The inspection team reviewed all 35 pieces of evidence secured in OPR's custody as of July 22, 2014. Two pieces of evidence were stored inside the locked OPR Evidence/File room and the remaining 33 pieces were stored outside, unsecured, along the side of the OPR building. The two pieces of evidence stored inside were properly marked with the case number, time, and date of acquisition, and initials of the person assuming custody, as required by SOP: OPR-02, Evidence (SOP-02), sections 2.1 and 6.1. The evidence stored outside, however, was not marked and its location was not noted on the required Evidence Custody Form.

SOP-02, sections 2.1 and 6.1 states, "OPR Special Agents will use the form (Evidence Custody Form) to document physical evidence collected during the course of the investigation. If marking the evidence itself is not possible because the item is fungible, or not practical due to reasons such as value, size or quantity, the evidence can be put in an evidence container that is sealed and marked for identification. The marking will consist, at a minimum, the case number, if established, the time and date of acquisition and the initials of the person who assumed custody of the evidence." In addition, it states, "an evidence log will be maintained in the evidence room located within Townhouse 402A, Room 102A. The evidence log will be completed by the Evidence Custodian and note the specific article of evidence, storage location and list the submitting person's name."

We found that OPR accounted for all evidence utilizing the Evidence Custody Form (with the exception of the location of the unsecured items) and that the evidence custodian reviewed all Evidence Custody Forms as required by SOP-02, section 3. We also observed that the evidence custodian maintained all Evidence Custody Forms and the Division Chief conducts periodic inspections of the evidence room. We were told that the evidence custodian and Division Chief conduct evidence inventories once per quarter.

The inspection team found that contrary to policy, all OPR employees have keys and access to the evidence room. The Division Chief explained that due to a shortage of available space he stores evidence, case files, and firearms in the same room. This necessitates him giving access to the room to all of the employees in the office. However, the evidence located inside the



room was not locked in a safe or container. This allowed anyone with access to the room to have full access to the evidence.

SOP-02, sections 12.1 and 12.2 states, "The evidence room will be locked at all times when not occupied by the primary or alternate custodian. Personnel not designated in this SOP to have access to the evidence room without an escort will never be left in the evidence room without the custodian. Only primary and alternate custodians and designated OPR special agents will know the combinations of locks, passwords and alarm codes for the evidence room and internal compartment and containers."

Recommendations

9. We recommend that the Division Chief properly secure all evidence and correctly record the location of evidence on the Evidence Custody Form.

10. We recommend that the Division Chief complies with SOP-02, sections 12.1 and 12.2, which restricts all employees, other than the evidence custodian and Division Chief, from having access to the evidence room.

Firearms and Ammunition

The inspection team found that OPR accounted for all firearms and ammunition. Additionally, we found that OPR secures both firearms and ammunition in US General Services Administration approved containers.

The inspection teams also discovered that the OPR office did not have a bullet trap designed to safely clear firearms and minimize the risk of an unintended discharge.

Recommendations

11. We recommend that the Division Chief acquires a suitable firearms bullet trap for the office.

Case Management System

The inspection team found that OPR did not use a case management database. They instead track complaints and investigations using a Microsoft Excel spreadsheet. We made a similar observation when DHS OIG inspected OPR in 2010 and recommended that they acquire a database. The Division Chief reported that he is working with the FLETC Information Technology Division and FLETC management to obtain a suitable database.



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The CIGIE Quality Standards for Investigations provides a good example of the characteristics of an effective case management database. They require information to be stored in a manner that allows effective retrieval, reference, and analysis, while ensuring the protection of data. They also require that, “among other things a proper investigative management system allows for accurate complaint handling, provides workload data, identification data, and investigative results, and helps organize the investigative file.” Although OPR’s spreadsheet captures some of the most basic relevant information, it is missing some necessary information. The Microsoft Excel spreadsheet does not provide contact information for the subject, such as a phone number, address, or email. OPR also does not capture the complainant narrative, appropriate dates (allegation received, case opened, case closed, etc.), uploaded documents, investigative techniques employed, notes, or related cases. While all this information can be entered into an Excel spreadsheet, it is time consuming and not ideal.

Recommendations

12. We recommend that the Division Chief acquires a case management system that allows for accurate complaint handling, allows for the analysis of entered data, and facilitates the retrieval of investigative results.

Complaints

OPR receives allegations through a variety of methods:

- 1) OPR Hotline
- 2) Training Management Division
- 3) Security and Emergency Management Division
- 4) OIG Hotline
- 5) Interoffice mail system
- 6) Federal, state, and local law enforcement
- 7) Cyber Security Division
- 8) Through the eight FLETC directorates

The inspection team observed posters hung in high traffic areas around FLETC with contact information for OPR and the OIG. The Division Chief reported that students receive contact information for OPR and the OIG during their initial orientation to FLETC. The OPR Hotline number is not available on the FLETC website, but when we brought this to the attention of the Division Chief, he said he would address the issue.

From October 1, 2011, through June 1, 2014, OPR received 134 complaints. According to their records, OPR referred only 2 of the 134 allegations to the OIG. The OIG Intake Section documented 33 referrals from the OIG to OPR during the same period. SOP: OPR-06, Investigative Priorities, Procedures, and Policies (SOP-06), section 6-01, states that the OPR Chief or his/her designee will ensure that the DHS OIG is notified in all incidents of misconduct identified in DHS Management Directive 0810.1 and these notifications will be made by email.



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The Division Chief informed us that he understood the Management Directive to only mandate the referral of allegations involving criminal or serious misconduct and not all complaints. He stated that until roughly June 2013, he sent monthly status reports to an OIG desk officer reporting the status of open investigations. He stopped sending the status reports when he received email notification that the employee's email account was no longer active. The Division Chief complained that he has not had contact information for an OIG representative since receiving the email. The inspection team provided the Division Chief with contact information for the Director of OIG Field Operations East, the Special Agent in Charge of the OIG Atlanta Investigations Field Office, and contact information for the OIG Intake Unit staff.

We also found that OPR does not create a case opening record that captures all information related to the receipt of the complaint, the individuals associated, and the substance of the complaint. The complaint was usually documented solely in the first paragraph of the Report of Investigation (ROI) and included only limited information.

Recommendations

13. We recommend that the Division Chief ensures the OPR Hotline telephone number and contact information is available on the FLETC website.

14. We recommend that the Division Chief forwards all complaints to the OIG in accordance with the DHS Management Directive 810.1.

15. We recommend that the Division Chief creates a case opening record for all investigations that captures all available information related to the subject, complainant, complaint narrative, date received, from whom and how it was received, allegation category and when it was referred to the OIG.

Employee Interviews

As part of our review, we interviewed each employee and gave each the opportunity to discuss morale, best practices, and any other issues they wished to bring to the OIG staff's attention. All of the employees reported being satisfied with their positions at OPR. The agents and investigative assistant expressed that the Division Chief was doing a good job in managing the office. They credited him with restoring OPR's reputation with the FLETC community, improving relationships with external entities, and improving the office by developing SOPs.

External Relationships

In our 2011 inspection report, we noted conflicts between FLETC management and OPR. While conducting the on-site inspection, the inspection team learned that prior to the current Division



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Chief taking charge of the office in 2011, OPR had an adversarial reputation with the various directorates within FLETC. In an effort to ascertain the status of OPR's current relationship with the FLETC community, we interviewed the FLETC Chief Counsel and the Chief of the FLETC Workforce Relations Branch.

Both individuals provided very positive feedback on the current OPR staff and work they produce. The Chief of the Workforce Relations Branch reported that he is extremely pleased with the level of cooperation and the quality of investigative reports he receives from OPR. He reported that OPR is very responsive to his requests for additional information. The Chief Counsel said, "OPR and OCC have a very good working relationship with good communications both ways." He, too, reported being satisfied with OPR's investigative products.

Investigative Management Review

Case File Management

The inspection team reviewed 30 investigative files as part of the review. A complete copy of an ROI was present in 29 of the 30 files. However, we found no consistent format for how ROI exhibits are marked and stored in the file. We found some exhibits labeled with dividers, some separated by tabs, and others not separated at all. The absence of a consistent standard makes it difficult to reassemble the ROI should it be needed for future action or reference.

We additionally found one file that contained original evidence. SOP-02, section 12.1, requires that all original evidence be safeguarded in a secure location with limited access.

Recommendations

16. We recommend that the Division Chief ensures that each investigative case file includes a complete copy of the ROI and that all exhibits are maintained in a consistent fashion.

17. We recommend that the Division Chief ensures that original evidence is safeguarded in accordance with SOP-02, section 12.1.

Investigations

Our case file sample consisted of 30 cases that we inspected for diligence in execution and thoroughness in reporting investigative findings. Not all areas reviewed applied to each case, therefore, our targeted populations varied. For example, only 10 of 30 closed cases required rights advisements.

As a best practice, the CIGIE Quality Standards for Investigations mandates that "investigations must be conducted in a timely, efficient, thorough, and objective manner." The inspection team



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concluded that OPR conducted the reviewed cases in a timely manner, averaging 65 days from receipt of allegation to completion of the report. Similarly, the inspection team found that OPR was thorough, efficient, and objective in conducting their investigations. The inspection team noted the investigators conducted all relevant interviews; consulted a prosecutor when appropriate; the investigation was free of bias; and addressed all of the relevant parts of the allegation.

The inspection team found that Specials Agents gave rights advisements to subjects in 7 of 10 required instances. OPR agents issued Garrity warnings in all seven instances and received the cooperation of the interviewee. As a best practice, CIGIE's Quality Standards for Investigations and other applicable standards require investigators to provide appropriate warnings to those individuals suspected of violating law or regulation.⁹ Non-compliance with these policies could result in suppressed evidence in criminal proceedings or challenges in administrative hearings.

Additionally, the inspection team found that the Division Chief adequately maintained and provided oversight of open investigations to ensure they were progressing in a timely and logical manner. Because OPR was able to close investigations within 65 days of initiation, only three of the reviewed cases required and received periodic supervisory reviews.

Investigative Reports

The inspection team concluded that OPR did a commendable job in documenting the results of investigations in the ROI. The team found the ROIs to present facts in an organized, logical, clear, concise, and objective manner.

While the inspection team found that ROIs were complete in substance, they did not fully identify subjects and witnesses by their title, position, and affiliated agency. This is particularly important in light of the fact that OPR does not write activity reports documenting investigative activity, but instead summarizes the activity on the ROI. The report recipient would have to refer to handwritten notes or other documents to learn the information.

The fact that OPR does not write investigative activity reports is also problematic. The investigating agent's handwritten notes and recollection are all that exist to provide a full documented account of the investigative activity. The inspection team only found investigator notes in 6 of the 30 case files reviewed. Some of the information was captured in the ROI but details such as where activities/interviews occurred, the identity of all persons present, and other information that may not be necessary for the ROI, are not easily available in the case files, but may prove useful in litigation or administrative proceedings.

⁹ CIGIE Quality Standards for Investigations, p. 11-12



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Recommendations

18. We recommend that the Division Chief ensures that criminal investigators give rights advisements to all applicable subjects and witnesses.
19. We recommend that the Division Chief ensures that ROI's fully identify subjects by their title, position and affiliated agency.
20. We recommend that the Division Chief implements a policy requiring that investigative activity reports be written to document interviews and other investigative activity.
21. We recommend that the Division Chief ensures that agents' notes are maintained in all investigative case files.



SUMMARY OF RECOMMENDATIONS

We recommend that the Division Chief of the Office of Professional Responsibility:

1. Ensures each EPF contains emergency contact information and position descriptions.
We consider this recommendation resolved and closed.
2. Ensures that individual inventory property logs are marked with the issue date and the date when the annual verification was conducted.
We consider this recommendation resolved and closed.
3. Implements a method for OPR criminal investigators to track their LEAP hours. Further, we recommend the Division Chief certify at the end of every fiscal year that each criminal investigator has worked the minimum required hours of LEAP in a given fiscal year.
We consider this recommendation resolved and closed.
4. Implements a periodic training schedule that, at a minimum, includes training in law, the use of force, and the Federal Aviation Administration's policy on flying armed.
We consider this recommendation resolved and closed.
5. Requires yearly familiarization with the shotgun and rifle.
We consider this recommendation resolved and closed.
6. Designates a Special Agent as the Firearms Instructor and ensure they receive the proper training.
We consider this recommendation resolved and closed.
7. Maintains records showing agents attended an initial criminal investigator training course, documentation showing the completion of continuing legal training, periodic refresher training on the use of force, and the Federal Aviation Administration Flying Armed training.
We consider this recommendation resolved and closed.
8. Amends SOP-10 to address yearly training requirements with assigned shotguns and rifles.
We consider this recommendation resolved and closed.
9. Properly secures all evidence and correctly record the location of evidence on the Evidence Custody Form.
We consider this recommendation resolved and closed.
10. Complies with SOP-02, sections 12.1 and 12.2, which restricts all employees, other than the evidence custodian and Division Chief, from having access to the evidence room.
We consider this recommendation resolved and closed.



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11. Acquires a suitable firearms bullet trap for the office.
We consider this recommendation resolved and closed.
12. Acquires a case management system that allows for accurate complaint handling, allows for the analysis of entered data, and facilitates the retrieval of investigative results.
We consider this recommendation responsive to our recommendation and closed.
13. Ensures the OPR Hotline telephone number and contact information is available on the FLETC website.
We consider this recommendation resolved and closed.
14. Forwards all complaints to the OIG in accordance with the DHS Management Directive 810.1.
We consider this recommendation resolved and closed.
15. Creates case opening record for all investigations that captures all available information related to the subject, complainant, complaint narrative, date received, from whom and how it was received, allegation category and when it was referred to the OIG.
We consider this recommendation resolved and closed.
16. Ensures that each investigative case file includes a complete copy of the ROI and that all exhibits are maintained in a consistent fashion.
We consider this recommendation resolved and closed.
17. Ensures that original evidence is safeguarded in accordance with SOP-02, section 12.1.
We consider this recommendation resolved and closed.
18. Ensures that criminal investigators give rights advisements to all applicable subjects and witnesses.
We consider this recommendation resolved and closed.
19. Ensures that ROI's fully identify subjects by their title, position and affiliated agency.
We consider this recommendation resolved and closed.
20. Implements a policy requiring that investigative activity reports be written to document interviews and other investigative activity.
We consider this recommendation resolved and closed.
21. Ensures that agents' notes are maintained in all investigative case files.
We consider this recommendation resolved and closed.



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Appendix A

FLETC OPR Response

Federal Law Enforcement Training Center
U.S. Department of Homeland Security
1131 Chapel Crossing Road
Glynco, Georgia 31524



**Homeland
Security**

September 15, 2014

INFORMATION

MEMORANDUM FOR: Frank da Rosa
Director - Investigations Quality Assurance
Office of Integrity and Quality Oversight
Office of Inspector General

FROM: Richard K. Purvis
Chief
Office of Professional Responsibility

SUBJECT: Response to Recommendations made in DHS/OIG Inspection
Report

Purpose

The purpose of this memorandum is to provide responses to the recommendations made in the Department of Homeland Security (DHS), Office of Inspector General's (OIG), inspection report, dated September 2014.

Background

During the time period of June 2014 through August 2014, the DHS/OIG, Office of Integrity and Quality Oversight, Investigations Quality Assurance Division, conducted an inspection of the Federal Law Enforcement Training Center (FLETC), Office of Professional Responsibility (OPR), at Glynco, Georgia. The inspection focused on the OPR's organizational and investigative management.

Discussion

Following this inspection, a report was generated which made 21 recommendations for improving the efficiency and effectiveness of the OPR. Listed below are those recommendations and the responses by the OPR Chief:

1. We recommend the Division Chief ensure each EPF contains emergency contact information and position descriptions.

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Emergency contact information on all OPR employees is now included in the EPF files maintained by the OPR Chief. Additionally, updated position descriptions have been placed in each EPF file.

2. We recommend the Division Chief ensure that individual inventory property logs are marked with the issue date and the date when the annual verification was conducted.

In addition to the individual property inventory logs maintained by the OPR's Property Custodian, the OPR Chief will maintain property inventory logs for each OPR employee, reflecting the initial issue date and annual verification of all assigned government property.

3. We recommend the Division Chief implement a method for OPR criminal investigators to track their LEAP hours. Further, we recommend the Division Chief certify at the end of every fiscal year that each criminal investigator has worked the minimum required hours of LEAP in a given fiscal year.

Documentation has been provided to each OPR criminal investigator to track their LEAP hours during each fiscal year. The OPR Chief has prepared documentation to certify the LEAP hours for each criminal investigator for FY-14. The FY-14 certifications will be maintained by the OPR Chief. The FY-15 and subsequent FY certifications will be conducted and maintained in the same manner. The Deputy Director of the FLETC will certify the LEAP hours of the OPR Chief for FY-14 and subsequent FYs and maintain those certifications.

4. We recommend that the Division Chief implement a periodic training schedule that, at a minimum, includes training in law, the use of force, and the Federal Aviation Administration's policy on flying armed.

Since reporting for duty in 2011, the OPR Chief has attempted to schedule periodic training for all OPR personnel. This training has included flying armed, use of force, and home safety for firearms. Resource limitations, scheduling conflicts and priority investigations have sometimes interrupted this periodic scheduling. The OPR Chief is committed to providing periodic training on relevant topics to OPR criminal investigators and will continue with this commitment. In addition to this periodic training, each employee receives mandatory training through the DHS's automated Learning Management System (LMS). Each year, OPR employees are required to complete on-line training mandated by the DHS. The OPR criminal investigators have complied with all mandated DHS training.

5. We recommend that the Division Chief require yearly familiarization with the shotgun and rifle.

The OPR criminal investigators currently conduct annual qualifications with the shotguns and rifles assigned to the OPR Office. Due to approved waivers, some OPR investigators were unable to participate in past annual qualifications. The OPR Chief



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will ensure that all OPR criminal investigators participate in annual qualifications with the shotgun and rifle and that any unable to participate are documented appropriately.

6. We recommend that the Division Chief designate a Special Agent as the Firearms Instructor and ensure they receive the proper training.

The OPR Chief has designated a Firearms Coordinator to schedule firearms qualifications and maintain documentation. However, the OPR will continue to utilize FLETC Firearms Instructors to conduct quarterly and annual firearms re-qualifications, as well as remedial or specialized firearms training.

7. We recommend that the Division Chief maintain records showing agents attended an initial criminal investigator training course, documentation showing the completion of continuing legal training, periodic refresher training on the use of force, and the Federal Aviation Administration Flying Armed training.

The OPR Chief currently maintains some of the records identified in this recommendation for OPR criminal investigators. The OPR Chief will ensure that all other relevant training information is gathered and reflected on the training record of each OPR criminal investigator.

8. We recommend that the Division Chief of OPR amend SOP-10 to address yearly training requirements with assigned shotguns and rifles.

The SOP-10 will be amended to reflect the annual requirement for qualification with shotguns and rifles by OPR criminal investigators.

9. We recommend the Division Chief properly secure all evidence and correctly record the location of evidence on the Evidence Custody Form.

The OPR Chief will ensure that all evidence seized or recovered in OPR investigations is correctly recorded on the Evidence Custody Form and secured in the designated evidence safe or room.

10. We recommend the Division Chief comply with SOP-02, sections 12.1 and 12.2, which restricts all employees, other than the evidence custodian and Division Chief, from having access to the evidence room.

Due to space limitations, the OPR does not currently have a dedicated evidence room. The current evidence room is located in the file room, which also includes the weapons vault. The OPR Chief has designated a four drawer safe (Mosler), within the file room, as the evidence vault. All evidence, seized or recovered, in OPR investigations, will be stored in this four drawer safe, located in the file room. Only the Evidence Custodian, Alternate Custodian and OPR Chief will have access to the evidence in the four drawer safe. Larger evidence will be secured at a remote site, Building # 681, at the FLETC.



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Only the Evidence Custodian, Alternate Custodian and OPR Chief will have access to the remote site.

11. We recommend that the Division Chief acquire a suitable firearms bullet trap for the office.

A Bullet Trap has been placed at the OPR office.

12. We recommend that the Division Chief acquire a case management system that allows for accurate complaint handling, allows for the analysis of entered data, and facilitates the retrieval of investigative results.

This recommendation was reflected in the last DHS/OIG inspection report in 2010 and now, in this most recent DHS/OIG inspection report. The OPR Chief has continued in his attempts to obtain a new case management system, but has been unsuccessful because of other priorities of the FLETC. The OPR Chief considers a new case management system necessary for improving the efficiency and effectiveness of the OPR. The OPR Chief has expressed the need for a new case management system to the FLETC Senior Management, but no resources have been committed to the acquisition of this system.

13. We recommend that the Division Chief ensure the OPR Hotline telephone number and contact information is available on the FLETC website.

The OPR Hotline telephone number has been placed on the FLETC website.

14. We recommend that the Division Chief forward all complaints to the OIG in accordance with the DHS Management Directive 810.1.

The OPR Chief was under the mistaken impression that the DHS/OIG did not want certain matters reported to them. Based on the clarification provided by the DHS/OIG Inspection Team, the OPR Chief will ensure that all future complaints, no matter how trivial, are forwarded to the DHS/OIG in accordance with the DHS Management Directive 810.1.

15. We recommend that the Division Chief create case opening record for all investigations that captures all available information related to the subject, complainant, complaint narrative, date received, from whom and how it was received, allegation category and when it was referred to the OIG.

The OPR currently utilizes a format which captures much of the information being reflected in this recommendation. The OPR Chief will ensure that this format is adjusted to capture all additional information identified in this recommendation.

16. We recommend that the Division Chief ensure that each investigative case file includes a complete copy of the ROI and that all exhibits are maintained in a consistent fashion.



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The OPR Chief will ensure that each investigative file is standardized and reflects consistency in appearance and location of relevant documents.

17. We recommend that the Division Chief ensure that original evidence is safeguarded in accordance with SOP-02, section 12.1.

The OPR Chief will ensure that original evidence, seized or recovered during OPR investigations, is safeguarded in accordance with SOP-02. The OPR will utilize a remote site located at Building #681, at the FLETC, to secure larger evidence that cannot be adequately secured in the OPR four drawer evidence safe.

18. We recommend that the Division Chief ensure that criminal investigators give rights advisements to all applicable subjects and witnesses.

The OPR Chief will continue to ensure that OPR criminal investigators provide applicable rights advisements, to include Garrity, Kalkines and Miranda, to the subjects of OPR investigations.

19. We recommend that the Division Chief ensure that ROI's fully identify subjects by their title, position and affiliated agency.

The OPR Chief will continue to ensure that the current investigative reporting format (Report of Investigation) reflects the full identity of the subjects, to include title and agency affiliation, if applicable. All future ROIs will reflect that the subject's identifiers are electronically maintained in the FLETC's Velocity Security System.

20. We recommend that the Division Chief implement a policy requiring that investigative activity reports be written to document interviews and other investigative activity.

The OPR Chief will continue to ensure that the current investigative reporting format (Report of Investigation) reflects the thorough and accurate reporting of all investigative activities involved in the OPR investigation.

21. We recommend that the Division Chief ensure that agents' notes are maintained in all investigative case files.

The OPR Chief will ensure that agent's notes are maintained in all closed investigative files.



Appendix B

Checklists and Questionnaires

- Case File Review Checklist
- Employee Management Checklist
- Employee Personnel File Review checklist
- Evidence Review Checklist
- Field Office Operations Survey
- Firearms/Ammunition Checklist
- Property Inventory Checklist



Appendix C

Major Contributors to This Report

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Appendix D

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