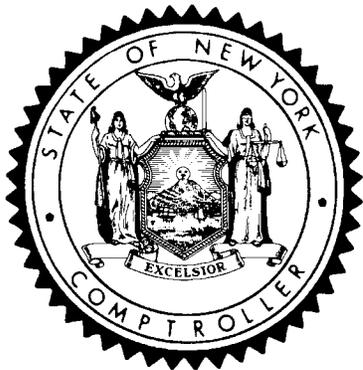


State of New York
Office of the State Comptroller
Division of Management Audit
and State Financial Services

**OFFICE OF THE STATE
INSPECTOR GENERAL**

**SELECTED OPERATIONS OF THE
OFFICE OF THE STATE
INSPECTOR GENERAL**

REPORT 98-S-11



H. Carl McCall
Comptroller



State of New York Office of the State Comptroller

Division of Management Audit and State Financial Services

Report 98-S-11

Ms. Roslynn R. Mauskopf
Inspector General
Office of the State Inspector General
State Capitol - Executive Chamber
Albany, NY 12224

Dear Ms. Mauskopf:

The following is our report on selected operations of the Office of the State Inspector General.

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law. We list major contributors to this report in Appendix A.

*Office of the State Comptroller
Division of Management Audit
and State Financial Services*

June 27, 2000

Executive Summary

Office of the State Inspector General Selected Operations of the Office of the State Inspector General

Scope of Audit

The Office of the State Inspector General (OSIG) was established in 1986 to receive inquiries and conduct investigations of fraud, abuse, and corruption within most State agencies; report any findings; and recommend measures for preventing misconduct in the future. Since a restructuring in 1996, OSIG has replaced a group of separate, semi-independent deputy inspectors general who covered 47 agencies. Total appropriations for the 1998-99 fiscal year were \$6.1 million, which was intended to support a workforce of 97. For the calendar years of 1997 and 1998, OSIG logged 2,262 allegations of wrongdoing.

We audited selected OSIG activities for the period of January 1, 1996 through July 15, 1999, and addressed the following question:

- ! Does OSIG conduct its investigations effectively and in a timely manner?

Audit Observations and Conclusions

We informed OSIG of our intention to audit the effectiveness of its operations in June 1998. However, our fieldwork was delayed several months because of extended discussions regarding the extent of access to records OSIG would provide the Office of the State Comptroller. OSIG officials denied our access to confidential witness statements, including references to them contained within investigative files. As a result of audit scope limitations, we were unable to reach conclusions concerning whether the evidence gathered during investigations supported the decision-making process. Therefore, we cannot provide an independent opinion on this aspect of the effectiveness of OSIG's operations. (See pp. 2-4)

In recent years OSIG has not produced any periodic accountability reports (e.g., an annual report) similar to those produced by the previous State Inspectors General. The previous reports provided a description of operations, including staffing and fiscal resources, as well as the number of allegations received and the number of investigations closed during the period, a breakdown of cases resulting in a prosecution or disciplinary action, and an estimate of the total cost savings associated with investigations. Information such as this provided the Governor, the Legislature, and the public with a measure of the scope, efficiency and effectiveness of prior State Inspector General operations. We also concluded that OSIG should prepare a formal mission statement, formalize its activities into a strategic plan, and develop relevant performance measures. (See pp. 7-12)

We found that OSIG has developed adequate procedures and a computerized system for case management, and our tests of 54 investigative case files revealed that OSIG employees generally comply with its documentation and

processing requirements. Timeliness is a significant factor in OSIG's operation. For example, OSIG case management procedures specify that complaints are to be forwarded to the Intake Unit after no more than 2 business days. Our review of 75 cases with intake dates after February 1998, identified 24, or 32 percent, for which this requirement was not met. In contrast, 90 percent of the 1,376 cases we reviewed were assigned to a Deputy Inspector General within 2 days after they reached the Intake Unit, as required. Within 10 days after receipt, the Deputy Inspector General is to recommend an appropriate course of action to be taken regarding the complaint. This requirement was met for 91 percent of the cases we reviewed. Finally, if a preliminary investigation is initiated, it is to be concluded within 60 days. This requirement was met in 52 percent of the cases we reviewed. In addition, we followed up on four allegations we received suggesting that OSIG ignored a report of wrongdoing. We found no evidence of inappropriate conduct by OSIG with regard to the related four investigations. (See pp. 15-18)

OSIG owns 35 vehicles for operational use. OSIG does not require its staff to report or otherwise substantiate that they themselves paid for the gasoline they consumed when they used the vehicles for personal commuting. We determined that 14 of the 23 employees who reported commuting miles in February 1999 paid for their own gasoline while commuting. We also found that OSIG employees had not reported any commuting to the Division of the Budget, during 1997 or 1998, as required. OSIG officials told us they will be reporting the taxable value of commuting with State vehicles for the 1999 tax year and would clarify the vehicle policy for all employees. (See pp. 19-21)

We reviewed training information for all OSIG investigators, Deputy Inspectors General, and Deputy Chiefs from January 1, 1997 to April 29, 1999, and determined that all had received training in subjects related to their duties. All of the OSIG employees we interviewed stated they were satisfied with the extent of training being provided. (See pp. 23-24)

Comments of OSIG Officials

We provided draft copies of the matters in this report to OSIG officials for their review and comment. We considered their responses in preparing this final report.

Unfortunately, OSIG management's response to our draft report presents misleading and inaccurate information regarding the manner in which this audit was conducted as well as the conclusions reached. However, we are pleased that, despite the negative rhetoric of OSIG's response, it appears our audit has added value to OSIG operations. For example, OSIG indicates that it has already made some changes to improve operations as a result of this audit in relation to vehicle usage, and plans to take some additional actions regarding improving case management. In addition, we remain hopeful that OSIG will reconsider our recommendations concerning public accountability for overall performance results.

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Introduction

Background

The Office of the State Inspector General (OSIG) was established in 1986, pursuant to an Executive Order, to receive inquiries and conduct investigations of fraud, abuse, and corruption within most State agencies; report any findings; and recommend measures for preventing misconduct in the future. OSIG was restructured in June 1996 pursuant to Executive Order 39 (Order), which provided for the consolidation of most of the State's inspector general activities in a single office. The restructured OSIG replaces a group of separate, semi-independent deputy inspectors general who covered 47 agencies. Total appropriations for the 1998-99 fiscal year were \$6.1 million, which was intended to support a workforce of 97. Although just 79 of the 97 positions were filled as of February 1999, this operation is a dramatic change from the one authorized for fiscal year 1994-95, when appropriations totaling \$1.7 million were expected to support a workforce of 29.

The new Order is intended to strengthen OSIG's ability to detect, investigate, and deter wrongdoing in State agencies and thereby promote integrity in government. With the consolidation of the various inspector general activities, OSIG has expanded its investigative resources to include former prosecutors, detectives, and Federal agents. In addition, the Order gives OSIG the following duties and responsibilities:

- ! to receive and investigate complaints from any source, or to act on the initiative of OSIG, concerning allegations of corruption, fraud, criminal activity, conflicts of interest, or abuse in any covered agency;
 - ! to inform agency heads of such allegations and progress of investigations unless special circumstances require confidentiality;
 - ! to determine with respect to such allegations whether disciplinary action, civil or criminal prosecution, or further investigation by an appropriate Federal, State, or local agency is warranted, and to assist in such investigations;
 - ! to prepare and release to the public written reports of such investigations, as appropriate and to the extent permitted by law, subject to redactions to protect the confidentiality of witnesses (The release of all or portions of such reports may be deferred to protect the confidentiality of an ongoing investigation.);
 - ! to periodically review and examine the policies and procedures of covered agencies with regard to the prevention and detection of corruption, fraud, criminal activity, conflicts of interest, or abuse;
-

- ! to recommend remedial action that will prevent or eliminate corruption, fraud, criminal activity, conflicts of interest, or abuse in covered agencies; and
- ! to establish training programs for State officers and employees regarding the prevention and elimination of corruption, fraud, criminal activity, conflicts of interest, or abuse in covered agencies.

For the calendar years of 1997 and 1998, OSIG logged 2,262 allegations of wrongdoing. OSIG's disposition of these allegations, as of March 31, 1999, is shown in the following table:

Allegations Logged by OSIG			
Disposition	1997	1998	Total
Completed Investigation	342	118	460
No Action Deemed Necessary	134	214	348
Referred to Other Agency	579	645	1,224
Cases Remaining Open	55	175	230
Total Allegations Logged	1,110	1,152	2,262

Audit Scope, Objective, and Methodology

We audited selected activities of the Office of the State Inspector General for the period of January 1, 1996 through July 15, 1999. The objective of our performance audit was to evaluate selected operations of OSIG in conducting investigations, including both the effectiveness and timeliness of the investigations, pursuant to Executive Order 39. We informed OSIG of our intention to audit on June 3, 1998, and we planned to start the survey portion of our audit work during the week of June 29, 1998. However, OSIG delayed the start of our fieldwork several months. For example, OSIG provided some background information such as its investigative procedures manual, staff roster, Executive Order 39 and general budget information on August 21, 1998. However, the first audit meeting OSIG would agree to conduct did not occur until October 7, 1998, over three months after we intended to begin fieldwork.

Our fieldwork was also delayed because of extended discussions regarding the extent of access to records OSIG would provide the Office of the State Comptroller (OSC). Due to the confidential nature of OSIG's mission, OSIG officials denied our auditors access to confidential witness statements,

including references to them contained within investigative files. In an effort to be productive during this period, our auditors gathered information related to OSIG from external sources such as, the State Accounting System, the Office of General Services and the New York State Thruway Authority. However, this information had only limited value until it could be matched to OSIG records.

Further, between October and December of 1998, OSIG would not allow auditors to interview any of its staff without OSIG Counsel present. This served to create an environment where OSIG employees might not feel comfortable speaking freely. After considerable discussion, OSIG permitted auditors access to its employees without Counsel present. In addition, OSIG would not allow auditors access to its investigation case files without officials first reviewing every record and redacting information at their discretion. Although we found no indication that case files had been altered, other than for the redactions noted, the fact that OSIG officials did pre-screen all files before providing them to our auditors means we have no way to know if files were actually altered.

Between October 1998 and March 1999, OSIG allowed our auditors access to only non-confidential information, such as case tracking information, vehicle usage reports, and payroll and personnel records. To mitigate some of the effects of the limited access and the protracted deliberations over how confidential materials would be handled, members of the audit team were temporarily reassigned to a different audit.

Discussions concerning our protocol for access to confidential information ultimately culminated in an agreement, whereby OSIG would continue pre-screening and redacting confidential witness statements, or references to them, and any identifying information relating to a witness. This condition remained in place through the remainder of the audit, with the exception of our inquiry into four specific allegations, where we were allowed to review the case files in their entirety.

Investigations conducted by OSIG are of a sensitive and confidential nature, as they can result in civil or criminal actions against individuals. Furthermore, at times, these investigations involve outside agencies, such as the State Police or the Federal Bureau of Investigation. Each investigatory agency shares information on a joint investigation with the understanding that this information will not be disclosed to unauthorized parties. However, these concerns must be reconciled with the State Comptroller's authority to audit State operations. Typically, the State Comptroller's Office enters into agreements with State agencies allowing auditors to review confidential material related to an audit. Despite our assurances of maintaining the confidentiality of any records we reviewed, OSIG management would not

agree to provide access to all of the particulars of an investigation. Specifically, witness statements or references to them, and any identifying information relating to the witness was redacted. In some cases, the information identifying the accused party was also redacted. As a result of these audit scope limitations, we were unable to reach conclusions concerning whether the evidence gathered during investigations supported the decision-making process. Therefore, we cannot provide an independent opinion on this aspect of the effectiveness of OSIG's operations.

To accomplish the remaining aspects of our audit objective, we reviewed procedures and regulations, interviewed responsible managers, and analyzed program statistical and financial information. We tested the pre-screened investigation case files and analyzed the database containing investigative milestones such as date received, assigned, and completed. We also tested vehicle usage reports to determine staff compliance with OSIG policy, and reviewed personnel folders to assess staff qualifications. We contacted 11 Inspector General Offices to obtain information about their operations.

Except for the previously-noted restriction on access to confidential information and the fact that case files were pre-screened by OSIG officials, we conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations of OSIG which are included within the audit scope. Further, these standards require that we understand OSIG's internal control structure and compliance with those laws, rules and regulations that are relevant to the operations which are included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions, and recommendations.

Response of OSIG Officials to Audit

We provided a draft copy of this report to OSIG officials for their review and comment. We considered their response to the draft report in preparing this final report, and their response to the draft report is included as Appendix B to this report. In addition, we have included a Chronology of Audit Activity as Appendix C.

We are disappointed by OSIG management's misleading and inaccurate response to our draft report. Their response distorts the facts regarding the manner in which this audit was conducted as well as the conclusions reached. We are pleased that, despite the negative rhetoric of its response, our audit apparently has added value to OSIG operations. For example, OSIG indicates that it has already made some changes to improve operations as a

result of this audit in relation to vehicle usage, and plans to take some additional actions to improve case management. In addition, we remain hopeful that OSIG will reconsider our recommendations concerning public accountability for overall performance results.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the State Inspector General shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

Accountability for Results of Operations

Officials who manage government programs should render an account of their activities to the public. Public officials, legislators, and citizens want to know whether government programs are achieving their purposes and whether these programs are operating economically and efficiently. Although OSIG has established the policies and procedures necessary to carry out its responsibilities and tracks the timeliness of investigative milestones, we found that it has not established the comprehensive measurement standards (benchmarks) necessary to allow its management and others to readily evaluate its accomplishments. OSIG is in compliance with the public accountability requirements of Executive Order 39, which provides for the issuance of separate public reports for each completed investigation. We recommend that OSIG summarize all of its accomplishments in comprehensive annual reports. We also recommend the use of strategic planning and the development of additional quantitative and qualitative performance measures to increase OSIG's public accountability. This would allow for comparisons between reporting periods, and could help demonstrate improvement or improvement opportunities.

Combined with the lack of any published summary reports reflecting overall activity, or standards and benchmarks to measure against, government officials and the public's ability to assess OSIG's overall effectiveness is diminished.

Measuring and Reporting Performance

Performance measurement systems provide a basis for improving the quality of public sector programs, as well as addressing waste and inefficiency in government programs. Such systems serve as the foundation for organizational improvement; and provide all concerned parties, agency staff and managers, the Executive, the Legislature and the public, with information about the efficiency and effectiveness of programs and operations. Because they provide information about a program's success and serve as a warning system for potential undesired results, it is important that relevant performance measures be developed to ensure that the goals and objectives of a program are being achieved.

In February 1999, OSC issued a revised edition of its *Standards for Internal Control in New York State Government*. This document addresses the important role played by internal controls in protecting government resources against fraud, waste, mismanagement, or misappropriation. It discusses the five components of internal control — control environment, communication, assessing and managing risk, control activities, and monitoring — and addresses two other items that support a good internal control system and keep an organization's focus on its mission: evaluation and strategic plans. Management uses the evaluation process to assess the

effectiveness of an organization's operations in terms of its mission. Strategic plans provide a course of action that will make it possible for all of an organization's activities to be consistent with its mission and enable it to achieve its objectives or desired outcomes.

Internal control is the integration of the activities, plans, attitudes, policies, and efforts of an organization's employees to provide reasonable assurance that it will achieve its objectives and fulfill its mission. An effective system of internal control is oriented around the organization's mission, which provides all members of the organization with a sense of purpose. Without a mission that is defined and communicated clearly and is known and understood by its employees, an organization may become inefficient or even ineffective.

Strategic planning should include the establishment of the organization's broad objectives and the development of strategies that should be followed to achieve them. Along with the mission statement, management should provide employees with written organizational and operational objectives as well as goals that can be translated into specific, measurable targets.

At the Federal level, the Inspector General Act of 1978 mandated the reporting of certain statistics and related quantitative data to Congress. These statistics, which included the number of reports issued, the dollar amount of savings, dollar amount of fines, and the number of convictions, became the basis for the development of the first formal performance measures for the Federal Inspector General (IG) community. Amendments to the Act in 1988 expanded the reporting of such statistical accomplishments to include the reporting of statistics by Federal agencies. In 1994, the President's Council on Integrity and Efficiency (PCIE) formed a task force to consider approaches that IGs could use to develop performance measures that would help them determine whether their efforts have resulted in significant improvements in the effectiveness, quality, economy, efficiency, and integrity of agencies; or in program functions or activities. The task force asked IG members of the PCIE to submit three to five office-specific goals they had established. It then compiled a composite summary of these goals that individual IGs could use or modify for their own use. Some examples of the goals and performance measures established with the help of the summary were:

Example 1:

- ! **Goal** — Provide independent, objective, and timely audit, investigation, and inspection services for agency programs.

-
- ! **Performance measure** — measurement of time required to initiate/resolve allegations.

Example 2:

- ! **Goal** — Train agency personnel in the prevention and detection of fraud, waste, and abuse.
- ! **Performance measure** — hours of training per agency staff on the strengthening of practices and the prevention of fraud, waste, and abuse.

In establishing its system of internal control, OSIG has succeeded in hiring qualified staff, establishing written policies and procedures, and developing a system for case management and tracking that collects relevant investigation data. OSIG policies incorporate several concepts contained within PCIE's Quality Standards for Investigations, which include standards for investigative planning, training, staff qualifications, and reporting. OSIG has also certified to the State Division of the Budget its compliance with provisions of Article 45, Section 951, of the Executive Law. Known as the Internal Control Act, this law requires agencies to identify their functions and assess the risks and consequences that are likely to occur if those functions are not performed properly. Agencies are to review corresponding controls to determine whether control weaknesses exist, then to take corrective actions to address any such weaknesses that are identified.

We believe OSIG should next formalize a strategic plan and develop relevant performance measures.

OSIG has not prepared a formal mission statement or strategic plan. According to OSIG officials, their strategic plan is set forth in various documents such as the budget request and Executive Order 39. As discussed in the Case Management section of this report, OSIG collects the data necessary for a performance measurement system. Also, OSIG officials have developed maximum time frames for some steps within the investigation process and a monitoring system for identifying exceptions. However, beyond these case tracking time frames, OSIG officials have not established overall goals, objectives, standards or benchmarks for monitoring their effectiveness in fulfilling the duties and responsibilities specified in Executive Order 39.

In recent years, OSIG has not produced any periodic annual reports similar to those produced by previous State Inspectors General. The previous reports provided a description of operations, including staffing and fiscal resources and the number of allegations received during the period.

The reports also included the number of investigations closed during the period, including a breakdown of cases resulting in a prosecution or disciplinary action, and provided an estimate of the total cost savings associated with investigations. Information such as this provided the Governor, the Legislature, and the public with a measure of the scope, efficiency and effectiveness of prior State Inspector General operations.

During our audit, we contacted 11 other Inspector General Offices to determine whether they had developed strategic plans and performance measures — 5 in Federal agencies (Departments of Agriculture, Justice, Labor, Treasury, and the Environmental Protection Agency); 4 in the states of Pennsylvania, Massachusetts, Florida, and Louisiana; and 2 at the New York State Metropolitan Transit Authority (NYSMTA) and the Los Angeles County Metropolitan Transit Authority (LACMTA).

We found that the five Federal IGs had developed strategic plans that included mission statements, as well as the following types of performance measures:

- S number of complaints received;
- S number of cases/investigations to be completed;
- S percentage of investigations completed within 12 months;
- S average number of days investigations are open;
- S percentage of cases that should yield convictions or other civil/administrative action;
- S number of fraud reports issued;
- S percentage of fraud investigations resulting in criminal prosecutions;
- S percentage of fraud investigations resulting in fines, penalties, recoveries, etc.; and
- S percentage of customers indicating satisfaction with investigations.

While these performance measures provide useful information, they need to be compared to established goals, standards or benchmarks in order to assess an agency's overall performance. Some Federal agencies had not

developed specific benchmarks for their performance measures. Instead, they compared current-year performance to that of prior periods.

One of the four state IGs we contacted, the Office of the State Inspector General in Louisiana, has established performance measures. It has a strategic plan that includes a mission statement, objectives, goals, and performance measures. Records maintained through the Louisiana performance measures include such items as: number of cases opened per year; percentage of cases closed within one year of receipt; number of reports issued; and number of report recommendations that increase efficiency and effectiveness, recover state resources, and refer wrongdoing to other authorities.

Officials at the NYS MTA have a strategic business plan containing nine separate goals for the NYS MTA IG, who has also identified performance measures for each of the goals. Although the LACMTA has not developed performance measures, it does produce a semiannual report detailing its accomplishments. It provides such information as the number of investigations opened, closed, and ongoing; and narrative information on audit reports issued and investigations closed.

We compared the duties and responsibilities of OSIG listed in Executive Order 39 with those contained in the performance plans we received from the other IGs we contacted. The following chart contains a list of OSIG's duties and responsibilities, as well as performance measures adopted by other IGs for use in similar circumstances. OSIG should refer to this list for guidance as it establishes performance measures applicable to its operations:

**RESPONSIBILITIES AND SUGGESTED PERFORMANCE MEASURES
USED BY OTHER INSPECTORS GENERAL**

OSIG Responsibilities	Suggested Performance Measures
1. To receive and investigate complaints concerning allegations of corruption, fraud, criminal activity, conflicts of interest, or abuse in covered agencies.	Number of complaints received; number of investigations in open status; percentage of investigations completed within 12 months; average number of days investigations are open; average number of days to assign a complaint; number of investigations resulting in significant findings of fraud, waste, and mismanagement; and number of instances in which fraud and abuse were eliminated.
2. To inform agency heads about such allegations and to report progress of investigations, unless circumstances require confidentiality.	Average elapsed time between completion of a finding and communication with responsible management, as well as number of customer satisfaction surveys conducted and results of same.
3. To determine whether disciplinary action, civil or criminal prosecution, or further investigation by another agency is warranted; and to assist in that activity.	Number of cases referred for criminal prosecution and/or administrative action, percentage of cases that should yield convictions or other civil/administrative action, number of joint investigations, and working relationships developed with other agencies.
4. To prepare and release to the public written reports of such investigations.	Average elapsed time between completion of field work and issuance of a document detailing OSIG findings; and number of investigation reports issued.
5. To periodically review and examine the policies and procedures of covered agencies with regard to the prevention and detection of corruption, fraud, criminal activity, conflicts of interest, or abuse.	<i>None specifically identified.</i> OSIG should consider developing its own performance measures.
6. To recommend actions intended to prevent or eliminate corruption, fraud, criminal activity, conflicts of interest, or abuse in covered agencies.	Average number of days to implement recommendations; number of recommendations accepted by the agencies; number of investigations resulting in significant findings of fraud, waste, and mismanagement; and number of instances in which fraud and abuse were eliminated.
7. To establish training programs for State officers and employees regarding the prevention and elimination of corruption, fraud, criminal activity, conflicts of interest, or abuse in covered agencies.	Number of employee briefings delivered; number of employees who have received training in these areas; number of presentations to State employees concerning OSIG's mission and purpose; and number of training sessions and meetings devoted to awareness of fraud, waste, and abuse.

OSIG officials told us they agree with the concept of using performance measures; they also agreed they could increase the use of data they currently collect on their case management system. However, they noted that the use of performance measures in law enforcement is a difficult process that remains controversial. For example, they can raise the specter of quotas which can intentionally lead to abuse of authority. We encourage OSIG officials to develop the performance measures they believe can help them track the accomplishment of their goals and objectives, and to enhance public accountability.

Recommendations

1. Develop a formal strategic plan that includes a mission statement, objectives, goals, and performance measures. Communicate the plan to all OSIG employees, and monitor OSIG's performance in the accomplishment of its goals and objectives. Periodically update the plan to reflect changing conditions.

(OSIG's response addresses this recommendation in three sections: Strategic Planning, Mission Statement, and Performance Measures. Within its strategic planning narrative, OSIG agrees that it does not have a written plan, but does not indicate whether it will develop one. OSIG, in stating that Executive Order 39 satisfies the requirement of a mission statement, demonstrates a lack of understanding regarding this concept. A mission statement expresses why an organization exists, not what they do or how they do it. The response concerning performance measures also demonstrates a misunderstanding of this concept and includes several inaccurate statements. First, OSIG states it is a major proponent of performance measures, then follows by explaining why it cannot subject itself to any real assessment of its performance. OSIG is incorrect in stating that the performance measures we suggest are virtually identical to those already established by it. As we state in the body of the report, OSIG has not developed any qualitative performance measures. OSIG is also incorrect in stating that we minimized the system it has in place, as we describe in detail the time monitoring system OSIG has developed. Further, we used information from its system to test OSIG adherence to its standards.)

Recommendations (Cont'd)

2. Develop and publish a comprehensive annual report reflecting the results of OSIG operations to enhance public accountability.

(OSIG does not indicate whether or not it plans to produce an annual report. OSIG's response concerning this recommendation includes several inaccurate statements. For example, OSIG states that we did not examine its compilation of investigative reports. During our audit, we noted that OSIG produces individual public reports for completed investigations. This is the evidence we used to conclude that OSIG was in compliance with the requirements of Executive Order 39. However, at no time during the audit did OSIG officials make available to our auditors any documents referred to as statistical summaries. Regardless, OSIG officials seem to miss the point that the State's citizens cannot be expected to read hundreds of individual investigative reports in an attempt to evaluate its overall performance.)

Case Management

OSIG has developed processing procedures for investigating cases as well as a computerized case management system for recording and monitoring case activities. OSIG notified its employees of these interim procedures in February 1998, and in October 1998 incorporated them into its overall operations manual. The policy statement for these procedures indicates that OSIG shall conduct all investigations in a professional and thorough manner and shall conclude all cases promptly. The case management procedures include maximum allowable time frames for completion of specified steps within an investigation.

The case management system provides management with information regarding the number of cases classified as Open, Closed, No Action, and Referred. The system includes key dates such as the date an allegation is received, the date an investigation is assigned to the responsible employees, and the date the investigation is completed. OSIG upgraded its computer tracking system in June 1998 to provide management with certain status or activity reports, including investigations that do not meet a designated time frame. It is currently working with an outside vendor to further improve its computerized case management system.

When we initially planned our audit, we wanted to determine the overall effectiveness of OSIG's investigative process. However, the limits OSIG placed on our ability to review and evaluate its case files precluded us from reaching such a conclusion. We were able to conclude that OSIG has developed procedures and a computerized case management system that are adequate. From the 2,262 allegations processed during our audit scope period, we reviewed 54 cases. We judgmentally selected these 54 cases to include cases that were open, closed, no action, and referred. We concluded that, except in the instances noted in this report, employees of OSIG generally comply with its documentation and processing requirements.

We received allegations that OSIG choose to either totally or partially ignore four reported instances of wrongdoing. Each of the four allegations we reviewed suggested that OSIG ignored a report of wrongdoing entirely, or performed only a superficial investigation resulting in a failure to uncover the reported wrongdoing. In an exception to the normal OSIG procedure for this audit, we were provided with immediate and unrestricted access to each of the four investigation case files. We found no evidence of inappropriate conduct by OSIG with regard to these four investigations. For one case, OSIG concluded that wrongdoing had occurred, had recommended disciplinary action, and referred the case to the State Attorney General to consider for prosecution. For two other cases, OSIG concluded that the original allegation was unsubstantiated. The final case

was still classified as an open investigation at the time of our review, and was being actively pursued.

During our audit, we obtained a download of selected data from OSIG's case management system. To determine whether OSIG staff had complied with the time frames specified in their case management policies and procedures, we analyzed selected data for 1,376 cases with intake dates of February 1, 1998 through March 31, 1999.

Timeliness of Complaint Intake

OSIG's Intake Unit is responsible for processing all complaints and answering the Hot Line. Its policies and procedures for case management specify that the Intake Unit prepare a complaint intake form for all complaints received by OSIG. This form serves as the basis for all investigative actions, and no investigation is to be initiated without prior approval by the Deputy Chief, and until a complaint is assigned a case number. OSIG also encourages its employees to receive complaints. In such cases, the Deputy Inspector General (DIG) is responsible for forwarding the complaint to the Intake Unit "as soon as practical," generally described by OSIG officials as no more than two business days.

We obtained information for 75 cases with intake dates after February 1998, including the date the complaint was received by OSIG. We identified 24 cases (32 percent) in which the complaint information had been received by an OSIG employee but had not been forwarded to the Intake Unit within 2 business days, as required. The elapsed time between the date the complaint was received and the date it was forwarded ranged from 3 to 144 business days and averaged 23 days for these 24 cases.

Timeliness of Deputy Inspector General Assignments

OSIG's case management policies and procedures specify that the Intake Unit will open a complaint folder within two business days after a complaint has been received and enter the complaint information, as well as the identity of the assigned DIG, into the case management system. Therefore, the DIG should be assigned to the case within the same time period — two business days after a complaint is received.

To determine whether the DIGs had been assigned within the required period of time, we reviewed the 1,376 cases with intake dates of February 1, 1998 through March 31, 1999. Referring to the data we were provided from the case management system, we compared the intake date with the date the DIG was assigned. For approximately 90 percent of the cases, the 2-day time frame was met; for the remaining 10 percent (143 cases), the elapsed time ranged from 3 to 19 business days and averaged 4.2 days.

Timeliness of Recommended Course of Action

OSIG's policies and procedures manual indicates that the assigned DIG will recommend to the Deputy Chief an appropriate course of action within ten days of receiving the completed complaint intake form. The DIG may recommend one of the following actions:

- ! No Action — There will be no investigative activity in response to the complaint.
- ! Referral — The complaint will be referred to the affected agency or another agency that has jurisdiction and OSIG will take no further action.
- ! Investigation — The complaint warrants a full investigation and becomes an open investigation case.
- ! Preliminary Investigation — A complaint warrants initial action, short of a full investigation, to determine whether an investigation should be opened. In these cases, limited investigative steps will be taken to determine the appropriate course of action.

We also reviewed the 1,376 cases to determine whether the DIGs had recommended a course of action within 10 business days, as required. We compared the date the DIG was assigned with the date the case status was assigned on the case management system. For 91 percent of the cases, the 10-day requirement was met. For the remaining 9 percent (117 cases), the elapsed time ranged from 11 to 20 business days for 92 cases, and 21 to 95 days for the remaining 25 cases.

Timeliness of Preliminary Investigations

According to OSIG's case management policies and procedures, a DIG can recommend that a preliminary investigation be initiated. Such an investigation is undertaken when a complaint warrants something short of a full investigative effort to determine whether an investigation should be opened. Within 60 business days, the DIG is to conclude the preliminary investigation by recommending one of three actions: No Action, Referral, or Investigation.

OSIG officials supplied us with a report from their case management system. This report was a listing of cases that had been classified as preliminary investigations but had later been classified as No Action, Referral, or Investigation cases. It included 280 cases that had been categorized as preliminary investigations at some point between February 1998 and June 1999. Using this data, we determined the amount of time that had been allotted for a preliminary investigation in each case. We found that the 60-day time limit specified in OSIG's policies and procedures had been met in about 51 percent of the 280 cases. For the remaining 49

percent (136 cases), 112 of them were completed between 61 and 65 days. For the remaining 24 cases, these delays ranged from 66 to 181 days.

Recommendation

3. Continue efforts to enforce staff compliance with time frames specified in OSIG's policies and procedures for case management.

(OSIG's response calls for even greater disclosure of a point which we clearly make within this report. The report provides a complete breakdown of the number of cases tested, the number in compliance, the number exceeding the time frame, and the range of days and the average time frame for the exceptions. Concerning our finding related to complaints received in the field, OSIG indicated that, as a result of our audit, it will be amending the policy to implement a two-business day period for forwarding complaints to the Intake Unit.)

Vehicle Usage by OSIG Employees

OSIG owns 35 vehicles for use in conducting its operations. Each vehicle has a gasoline credit card and New York State Thruway EZ PASS authorization (EZ PASS). OSIG Policy (Policy) O170, *Operation of State Vehicles and Radio Procedures* indicates that assignment, use, and maintenance of State vehicles by OSIG employees will be conducted in a manner consistent with the mandate and authority of OSIG in accordance with Item D-750, State Vehicles, of the *New York State Budget Policy and Reporting Manual*. The Policy states that a vehicle shall be assigned to each of seven top officials (the Inspector General, First Deputy, Executive Deputy, Chief Inspector, and each of three Deputy Chiefs). The remaining vehicles are to be considered pool vehicles for general use of OSIG staff when conducting investigations or other official business. At the time of our audit, OSIG had 61 staff in investigative titles who might need a car for investigative purposes.

OSIG policy requires employees who have an assigned vehicle to complete monthly usage reports. These are to be filled out every time a vehicle is used, with notations of the dates used, the beginning and ending mileage, and both the destination and relevant OSIG case number. Original copies of repair bills and gasoline credit card receipts are to be attached to this form. OSIG policy requires employees who use the vehicles for commuting to and from work to pay for the gasoline they use during their commute, and they are not allowed to use the agency EZ PASS at that time. They are also responsible for the taxable value of the personal use of the assigned vehicle.

We reviewed vehicle usage reports, gasoline credit card receipts, and EZ PASS billings for each of the vehicles for the months of May, August, and November 1998 and February 1999. The purpose of this review was to determine whether employees were adhering to OSIG policy. We found that a total of 26 employees had reported using a State vehicle for commuting during the 4 months we tested. Vehicles assigned to agency heads are classified for "unrestricted use" and are exempt from certain policies issued by the State Division of the Budget (DOB) governing usage of State vehicles. Therefore, we did not include the usage data regarding the vehicle assigned to the State Inspector General in our audit work. The observations contained within this document are based on our analysis of the remaining vehicles operated by OSIG.

Use of Gasoline Credit Cards

Although the majority of OSIG employees use their assigned vehicles for commuting at least some of the time, OSIG does not require its staff to report or otherwise substantiate that they themselves have paid for the gasoline consumed during that commutation. Nor does it perform any other type of analysis to ensure that employees pay for their own gasoline while commuting. OSIG officials told us they have not identified a methodology that would serve such a purpose.

During the four months we tested, we obtained the State gasoline credit card receipts for each vehicle. We reviewed the miles each vehicle traveled, using the mileage employees had categorized as either commuting or business use, and determined whether the State gasoline credit card purchases were reasonable in relation to the business miles. For this calculation, we used 20 miles per gallon as an average. For example, an employee may travel 1,000 miles in a month — 500 commuting miles and 500 business miles. In this case, we would expect that State credit card purchases would not exceed 25 gallons, because at 20 miles per gallon, 25 gallons of gas would be required for the 500 business miles. If more than 25 gallons of gasoline were purchased using the State credit card, we concluded that the employee did not pay for gasoline to cover his or her personal use of the vehicle.

We recognize that our approach is not an absolute measure; however, it provides an approximation of whether or not the employee is purchasing gasoline for commuting. Using this approach, we determined that 14 of the 23 employees who reported commuting miles in February 1999 paid for their own gasoline while commuting in accordance with OSIG policy. The following chart reflects our estimation of the degree to which State gasoline credit cards were used for personal vehicle usage by the remaining nine employees.

Employee Number	Business Miles	Actual Gallons Purchased Using State Credit Card	Gallons Needed for Business	Excess Gallons Purchased with State Credit Card
1	629	45	32	13
2	314	67	16	51
3	744	84	38	46
4	93	101	5	96
5	248	45	13	32
6	226	52	12	40
7	1,065	107	54	53
8	693	66	35	31
9	86	36	5	31

When we discussed these observations with OSIG officials, they told us they believed employees may not have understood the policy requiring them to pay for gasoline. Officials stated that some employees had been employed previously by police organizations, which often provide all the gasoline an employee uses, regardless of how the vehicle is being used. They said they intended to discuss this aspect of their policy with DOB; modify some aspects, if necessary; and clarify the policy for all employees.

Taxable Value of Commuting

When employees use a State vehicle for commuting, the value is considered a taxable fringe benefit. The employer is to determine the value of this benefit and add it to the employees' W-2 earnings statements as documentation for the Internal Revenue Service. Moreover, OSIG considers any commuting mileage to be personal and requires the employee to report the taxable value of that use, consistent with OSIG Policy A160 and all applicable State policies and procedures. A160 indicates that employees must report to DOB the taxable value of personal use as reported in payroll bulletins issued by OSC. A160 also indicates that DOB forwards forms and instructions to drivers each year, to help them determine the fringe benefit they have derived in the past year. The reports are supposed to be completed by the employee and returned to the Director of Administration, who reviews the data provided, checks it for accuracy, and forwards the forms to the payroll office of the DOB Administrative Services Unit.

DOB processes OSIG payroll and asks OSIG employees each year to report the taxable value of their personal commuting, if any. We found that OSIG employees did not report any commuting to DOB during 1997 or 1998. OSIG officials told us they had a misunderstanding with DOB concerning this requirement, and that DOB instructed OSIG to require its employees to report this additional income directly on their Federal and State tax returns. They expressed the belief that all of their employees had handled the matter individually by reporting their commuting expenses on their personal returns.

Following our initial discussion with them regarding this matter, OSIG officials met with DOB representatives. After that meeting, OSIG officials informed us that they will be reporting the taxable value of commuting with State vehicles to DOB for the 1999 tax year and that they would clarify the policy with all OSIG employees.

Recommendations

4. Remind employees of OSIG policy concerning personal commuting in State vehicles, including the requirement to pay for gasoline consumed during the commute.
5. Develop a procedure for obtaining reasonable assurance that employees pay for their own gasoline when commuting in State vehicles.

(OSIG indicates that it has already changed its internal policies with regard to the manner in which it monitors vehicle usage to ensure that staff understand the importance of and comply with agency requirements.)

6. Report to DOB the value of employees' personal commutation with State vehicles so that it can be included in their W-2 statements. Issue amended W-2 statements for 1997 and 1998 for affected employees.

(OSIG indicates that it has conducted discussions with DOB and that the issue has been resolved. Further, OSIG indicates that 1999 W-2 forms for all employees utilizing State vehicles reflect the taxable value of that usage. OSIG does not indicate whether it is pursuing amendments to the 1997 and 1998 W-2 statements as we recommended.)

Staff Qualifications and Training

When the current State Inspector General was appointed in 1996, OSIG had just six employees. One of OSIG's first priorities was to re-staff the organization with qualified individuals, but the SIG has indicated that selecting qualified staff was more important than filling vacant positions quickly. As of February 1999, OSIG has filled 79 of its 97 authorized positions.

The control environment is an integral part of an organization's system of internal control, and includes management's attitude toward internal control and the control consciousness of the employees. The employment of competent staff who have the skill, knowledge, and ability necessary to perform their assigned tasks is a key factor in the organization's control environment. Management is responsible for hiring qualified staff and providing them with the training they need to do their jobs.

In the President's Council on Integrity and Efficiency's Quality Standards for Investigations, the first general standard for investigative organizations states that individuals assigned to conduct investigative activities must collectively possess professional proficiency for the task required. In addition, the PCIE standards state that the training of investigators should be a continuing process, based on a continuous career development program that provides proper preparation, training, and guidance to employees and enables them to develop into professionally-qualified investigators and supervisors.

Recognizing that the investigative staff of OSIG should have the necessary educational background and experience to conduct investigations properly, OSIG has established specifications for its Confidential Investigator titles. For example, the specifications for its entry-level Confidential Investigator call for at least three years of experience in law enforcement or criminal investigations, or in forensic or field accounting/audit work. Possession of a bachelor's degree in criminal justice, accounting, or another related/relevant field plus a demonstrated commitment to investigative or audit work may be substituted for practical experience. To be promoted to a higher title within the Confidential Investigator series, an employee is required to obtain additional years of experience.

During our audit, we tested to determine whether ten OSIG employees, including the top five managers, were hired in accordance with the standards set by OSIG. We interviewed each employee and reviewed their personnel folders, which are maintained by the New York State Division of the Budget. We determined that the ten tested employees all had

qualifications that appear to provide them with the necessary knowledge, skills, and abilities to perform their duties. For example, a number of employees each had several years of experience in working for the Federal Bureau of Investigation or the New York City Police Department; some had military experience; and others had received medals, awards, and citations while working in a previous position.

We also reviewed summary training information for all OSIG investigators, Deputy Inspectors General, and Deputy Chiefs from January 1, 1997 to April 29, 1999. We determined that all of these employees had received some degree of training in subjects related to their OSIG duties, such as surveillance techniques, fraud investigation, and techniques of interviewing and interrogation. We also spoke with several OSIG employees about the amount of training OSIG offers its employees. All of the employees we interviewed stated they were satisfied with the extent of training they and their subordinates were receiving. No recommendations are therefore made in this area.

(Since our audit tests concluded that OSIG hired qualified staff, we made no recommendation in this area. This is a clear example of our commitment to produce a balanced report, giving credit where appropriate. Nevertheless, OSIG felt compelled to attach the backgrounds of all of its employees to its response to our draft report.)

Major Contributors to This Report

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March 6, 2000

Mr. William P. Challice
Audit Director
Office of the State Comptroller
Division of Management Audit and
State Financial Services
270 Broadway, 19th Floor
New York, New York 10007

Dear Mr. Challice:

In accordance with Section 170 of the New York Executive Law, and in response to your letter dated January 20, 2000, and Diana Jones Ritter's letter of February 16, 2000, enclosed please find this Office's response to your draft copy of audit report 98-S-11, *Selected Operations of the Office of the State Inspector General*.

In compliance with the provisions of Budget Policy and Reporting Manual, item B-410, the Office of the State Inspector General has forwarded two copies of this response to the Division of Budget.

Please feel free to contact my staff if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Roslynn R. Mauskopf".

Roslynn R. Mauskopf
State Inspector General

Enclosure



**Response of
Office of the State Inspector General**

to

Office of the State Comptroller

on

Draft Audit Report 98-S-11

**Selected Operations of the Office
of the State Inspector General**



Submitted March 6, 2000

I. EXECUTIVE SUMMARY

No Evidence of Misconduct in Inspector General's Office

This audit has an unfortunate history for which the Office of the State Comptroller [OSC] must take full responsibility. OSC began this audit amid a campaign of innuendo and press leaks suggesting, without offering any evidence, that the Office of the State Inspector General had engaged in misconduct by ignoring serious complaints of corruption. The integrity of this Office was publicly impugned, even before OSC conducted a single audit task in this agency. In this audit report, OSC is forced to admit that there exists no shred of evidence to support these false and inflammatory allegations, and that the Office of the State Inspector General fully and properly carried out its investigative responsibilities.

From the outset of this audit, the Office of the State Inspector General [OSIG] was prepared to respond to these specious charges, fully confident that the facts of our investigations would demonstrate that this Office acted properly in the conduct of its investigations. Thus, from the start of the audit, OSIG offered the OSC audit team complete, unfettered, and immediate access to all records relevant to any allegations against this Office. This Office repeatedly asked for the substance of these allegations, and OSC repeatedly refused to provide it. Not until approximately a year later, after scrutinizing OSIG's management of investigations and reaching positive conclusions, did OSC even broach these matters. Within a matter of hours, after receiving full and immediate access to all investigative records and conducting interviews with investigative staff, the audit team reached an inescapable conclusion: *There was no improper conduct by OSIG's staff.* The evidence clearly and conclusively demonstrates that OSIG pursued each case to appropriate and fair resolutions, including the referral of one matter for criminal prosecution. Sadly, the discussion of this finding, perhaps the most significant to the public and this Office in light of OSC's leaks to the press, can be found in a seven-sentence paragraph buried in a dense analysis of the timeliness of case processing. (See p. 13 of the audit report.)

In its hunt for wrongdoing, OSC also interviewed OSIG's staff to determine if inappropriate influence had been exerted on investigations by senior OSIG management. Again, after full and unfettered access to agency personnel selected by OSC, the auditors reached the same inescapable conclusion: *no misconduct.* This Office then urged OSC to interview all agency personnel on this question. It chose not to do so. Sadly, the results of these audit efforts do not appear anywhere in OSC's audit report.

The results of OSC's inquiry into allegations of misconduct by OSIG staff are absolutely clear: *The integrity and professionalism of the State Inspector General's Office in the conduct of its investigations are unimpeachable.*

Integrity and Professionalism of Inspector General's Office are Unassailable

In conducting its review, the Comptroller also reached other findings that underscore the integrity and professionalism of this Office:

-
- OSIG is in full compliance with its public accountability mandate as contained in Executive Order 39 (see p. 6 of the audit report), with nearly 1,000 reports of completed investigations included in a central registry in OSIG's office in Albany. The registry and accompanying index are regularly examined by the public, legislative and agency staff, and the media.
 - OSIG has implemented a state-of-the-art computerized case management system (see p. 13) that: documents the receipt and disposition of the approximately 4,000 complaints handled by OSIG since 1996; requires investigative staff and supervisors to document the steps taken and decisions made in investigations; and provides OSIG management with comprehensive data to monitor the status and progress of cases, the effectiveness of personnel and the allocation of resources. OSIG staff comply with case management standards, policies and procedures, with only minor exceptions.
 - OSIG's investigative staff, including the top five managers of the agency, are experienced professionals with the background, knowledge and proficiency required to carry out their important and difficult tasks. Investigators in this Office are hired and promoted based on merit, and, for the first time in the history of this Office, in accordance with minimum standards and qualifications as established through the Department of Civil Service. (See p. 21.)
 - OSIG regularly provides training to investigative staff to augment their skill and knowledge, which enhances their effectiveness and enables them to develop further as professionally qualified investigators and supervisors. (See p. 22.)

The public and the casual reader may find it difficult to extract from this audit report the accurate and very positive picture of this Office that the audit team found. Many of these findings are obscured by minor technical discussions, or raised merely as afterthoughts. Others are distorted. Still others are nowhere to be found. In light of the fact that it chose to launch this audit in a public forum with a direct assault on the reputation of this agency, OSC has an ethical and professional obligation to set the record straight. Sadly, it has failed to do so in a fair and complete manner.

These findings will come as no surprise to OSIG's partners in the law enforcement community with whom this Office works cooperatively on an ever-increasing scale. In the past month alone, OSIG has:

- participated with federal authorities in the investigation and arrest of corrupt asbestos abatement contractors;
- completed investigations resulting in the arrest of three Department of Motor Vehicle employees for accepting bribes and issuing fraudulent identification documents;

-
- concluded an investigation leading to the arrest of a Department of Health employee on larceny and fraud charges after admitting to the misuse of a state credit card;
 - monitored wiretaps with the state Attorney General's Office;
 - executed search warrants with local police and the state Attorney General's Office;
 - conducted investigations under cross-designation as prosecutors with the Manhattan District Attorney's Office; and
 - conducted federal grand jury investigations with multiple agencies throughout the state.

These activities demonstrate the confidence of the law enforcement community in the integrity and professionalism of this Office. Even OSC itself, despite its professed concerns about this Office, has continued to refer significant matters to us for investigation during the course of this audit.

Inspector General's Office Jealously Guards Witness Confidentiality

In addition to obscuring important findings of this audit, the audit report inaccurately describes several critical matters related to the process followed in this audit – in particular, OSC's access to confidential information. OSC attempts to portray itself as a victim of OSIG's intransigence, claiming that OSIG improperly restricted access to information and staff, delayed the audit fieldwork, and prevented OSC from conducting some aspects of its audit. OSC's distortion of the audit process leaves the reader with the distinct impression that OSIG sought to hide information, prevent candid discussion with its personnel and provide less than complete data for examination. OSC once again omits relevant facts, distorts others, and misrepresents the overall audit process.

While OSC pays lip service to the notion that "investigations conducted by this office are of a sensitive and confidential nature," the audit report is completely devoid of any reference to the legal obligation imposed on OSIG by the New York State Civil Rights Law to protect the confidentiality of witnesses who provide information during the course of an investigation. Section 73 of that statute, entitled "Code of Fair Procedure for Investigating Agencies," is designed to encourage witnesses to come forward and provide candid information to investigative bodies without fear their identities and information will be disseminated. The law, created in response to abuses by investigative agencies that indiscriminately made available such information to the media and to the public, contains criminal sanctions to be imposed against agency personnel for violations of its mandate. Executive Order 39 also provides specific protections for the confidentiality of witness information. OSIG jealously guards the rights of its witnesses and the evidence it gathers in the course of its investigations.

OSC also pays lip service to the notion that “these investigations involve outside agencies, such as the State Police or the Federal Bureau of Investigation.” However, the audit report utterly lacks any reference to the additional legal obligations frequently applicable to OSIG when conducting such joint investigations. For example, OSIG investigative staff participate as full partners in federal grand jury investigations, and all information obtained during the course of such matters is protected by Rule 6(e) of the Federal Rules of Criminal Procedure. OSIG attorneys are cross-designated as Assistant District Attorneys and are, themselves, conducting state grand jury investigations, which matters are protected by Section 190.25 of the state Criminal Procedure Law. Both provisions carry criminal sanctions for a breach of grand jury secrecy. OSIG investigative staff monitor wiretaps, execute search warrants, handle confidential informants, and participate in sensitive undercover operations.

Moreover, OSC does not acknowledge the severe ramifications to OSIG’s ability to carry out its mandate if OSIG were to indiscriminately open its files for inspection. OSIG’s ability to carry out its important mission within the bounds of its legal obligations rests principally on its ability to gather information from the many honest individuals both inside and outside of state government who come to OSIG in confidence to report instances of fraud, corruption, criminal activity and other abuses of the public trust, and from those who agree to cooperate in our investigations. It is also critical that OSIG provide absolute assurances to other law enforcement agencies that information OSIG receives from or shares with those agencies will be maintained in strictest confidence. Simply put, to allow wholesale access to OSIG files would jeopardize the lives and safety of whistleblowers, witnesses and investigators, and essentially undermine, if not completely destroy, OSIG’s ability to carry out its unique and critical mandate of rooting out and addressing serious corruption in New York State government.

A Fair and Professional Audit Must Respect Protected Investigative Information

It is against this backdrop, missing from the audit report, that OSIG commenced a discussion with OSC at the very outset of the audit regarding the scope of OSC’s access to confidential records maintained by OSIG. OSIG raised the issue in an effort to balance the critical concerns of OSIG with OSC’s authority to conduct a legitimate and professional audit of this Office. Certainly, the fact that this audit effectively began in the press raised serious concern as to whether information gathered during any audit would be maintained in confidence. Moreover, OSC had not shared with OSIG the allegations made against this Office, nor had OSC communicated details concerning the scope of the audit or the methodology to be followed. Finally, OSIG was aware that OSC had physically lost electronic copies of sensitive criminal justice information obtained during the course of another state agency audit. A signed confidentiality agreement between the respective agencies provides no guarantee that the secrecy of protected sensitive investigative information will be respected.

Until these issues were resolved, OSIG, as required by law, protected the confidentiality of all witness statements and allowed staff interviews only with counsel present to further protect the legal secrecy and sanctity of confidential information. Ultimately, after discussions between OSC senior management and this Office, OSC

acknowledged that the audit would focus on a review of the process followed in investigations. OSC auditors and management clearly stated that the audit would not second-guess the professional judgments of OSIG staff in investigative decision-making. OSC's senior management expressly acknowledged that its auditors were not qualified to evaluate this Office's investigative decisions, and further acknowledged that objective standards -- a necessary prerequisite to any professional audit -- do not exist in this area. Once this understanding was reached, no legitimate audit basis existed for the auditors to breach the confidentiality of OSIG witness statements, and the two agencies developed and implemented an access protocol. The protocol included a document redaction and authentication process that was fully acceptable to the audit team. It also included a reiteration of OSIG's resolute commitment to make available in unredacted form all records necessary to answer any allegations of misconduct against this Office. Indeed, once the protocol was established, the audit team conducted its work for close to a year with absolutely no problems, objections or complaints.

In accord with this protocol, OSC's auditors reviewed as many cases as they considered necessary. In all, the auditors examined more than 50 investigative case files as well as documents from hundreds of additional cases, all of their own selection. The auditors also had the opportunity to interview any and all OSIG employees, without agency representatives present. At no time during their examination of investigative records did the OSC auditors object to the agreed-upon protocol or suggest that any information had been improperly withheld. The redaction of confidential witness information, accomplished in a manner satisfactory to the audit team, in no way impaired the auditors' ability to gather data and reach conclusions about OSIG's investigative processes.

Unfortunately, the OSC report distorts these facts. What was a mutual agreement between the two agencies regarding access to records is misrepresented in the report as a "condition" imposed on OSC by this Office. In effect, OSC now complains in the report that it is unable to offer an opinion on the effectiveness of OSIG investigations because it was prevented from performing the very type of audit that OSC acknowledged it was not qualified to do and agreed it would not do. That is, OSC plainly acknowledged that it would not "second guess" the investigative judgments of OSIG staff because OSC was not qualified to do so, and there exist no objective standards by which to conduct such an audit task. Even worse, the OSC report insinuates, unsupported by any finding, that this Office may have altered investigative records prior to their examination by auditors. Not a single record was altered or withheld, and OSC's own statements in the report show this insinuation to be completely baseless.

This Office's objections to OSC's conduct on this audit and its presentation of findings in this report have been raised repeatedly with OSC management. With the addition of a few facts obtained during the course of the audit itself, OSC could have produced a report that was complete, accurate and fair. Regrettably, it chose not to do so. Had the result been different, the public would have readily seen OSIG for what it truly is: a highly effective organization of consummate professionals that is dedicated to protecting and enhancing public confidence in the integrity of state government, and that has earned the respect of the law enforcement community throughout this state.

II. RESPONSE TO AUDIT FINDINGS AND RECOMMENDATIONS

Public Accountability

In its Executive Summary, OSC wholly misleads the reader by suggesting that OSIG lacks accountability because this Office has not published an “annual report.” The Executive Summary fails to mention one of OSC’s most important findings that is duly acknowledged in the body of its report (at p. 6): OSIG is in full compliance with its public reporting mandate established by Executive Order 39. This stringent public reporting requirement provides a standard of accountability considerably more substantial than the issuance of an annual report.

Executive Order 39 establishes a specific and substantive accountability standard, mandating that this Office “prepare and release to the public written reports” of investigations. OSIG is in full compliance with this rigorous requirement. Since the promulgation of Executive Order 39 in 1996, OSIG has completed approximately 1,000 investigations. A public report for every one of these investigations is contained in a registry of reports OSIG maintains in its Albany office. The reports outline the nature of the allegation, the steps taken in the course of the investigation, and the findings and conclusions drawn from the evidence. The registry and accompanying index are regularly examined by the public, media representatives, and legislative and agency staff. In addition, OSIG produces and makes available statistical summaries of its investigative activities. These summaries contain information on the number of investigations completed; case dispositions, including referrals for administrative, disciplinary and prosecutorial action; and the results of referrals. Summaries have been provided to the Division of Budget for inclusion in the Executive Budget narrative, as well as to legislative staff, the media and the public.

Unfortunately, to date, OSC has not examined OSIG’s compilation of investigative reports, the index of cases or the statistical summaries, all of which this office makes publicly available as a standard practice. Had the audit team done so, it would have plainly seen the extensive efforts undertaken in hundreds of investigations, and the significant results of those efforts: over 100 arrests and convictions, numerous state employees disciplined for misconduct, and many significant recommendations made to various state agencies to improve their operations and eliminate opportunities for corruption.

An annual report, which is not required under Executive Order 39, could serve as an additional mechanism through which the information already made public could be disseminated. As the audit team acknowledged, an annual report is highly selective and contains only that which an agency wishes the public to see. OSIG’s public reporting mandate is considerably more extensive, and provides the public with a more accurate and comprehensive picture of the effectiveness of OSIG’s investigative efforts.

Strategic Planning

The OSC report (at p. 6) asserts that OSIG has failed to develop a formal strategic plan that includes a mission statement, objectives, goals, and performance measures. While the

report correctly notes that OSIG has not committed a “plan” to paper, the OSC focus on the absence of a document rather than the extensive evidence of successful planning places form over substance and paints an inaccurate picture of OSIG’s accomplishments.

Indeed, the significant positive findings scattered throughout this audit report could not have been achieved without careful and consistent planning and, more important, its effective implementation by OSIG’s management. Following OSIG’s reorganization under Executive Order 39, the structure of this Office has evolved in a planned and controlled manner. Between the Inspector General’s appointment in October 1995 and today, OSIG has progressed from a small office with disjointed resources spread among various agencies into a cohesive, centralized office consisting of units with specialized expertise in addressing vulnerabilities endemic to specific agencies.

As part of our strategic planning consistent with this reorganization, OSIG has, among other actions, steadily built its staff to include what OSC itself has recognized as highly qualified and competent professionals. In addition, OSIG has consistently evaluated its investigative priorities, implemented a state-of-the-art automated case management system, and formulated new internal policies and procedures. OSIG now operates under the supervision of qualified managers who provide guidance, monitor compliance with internal guidelines, evaluate investigative operations, and reallocate resources as necessary. As a result, OSIG has gained the confidence and respect of other law enforcement agencies and prosecutors across the state.

Mission Statement

In recommending that OSIG adopt a mission statement (see p. 12), OSC ignores the fact that Executive Order 39 more than satisfies any theoretical management benefit flowing from a mission statement. Executive Order 39 definitively sets forth Governor Pataki’s mandate to the Inspector General. The order is legally binding on OSIG and all agencies within its jurisdiction. To attempt to expand, clarify or otherwise change its clear directive is unnecessary. Further, Executive Order 39 is part of OSIG’s Policy and Procedure Manual that is distributed to all OSIG employees, and that was provided to the OSC audit team. The Executive Order provides unambiguous guidance to OSIG employees and informs the public of this Office’s mission.

The OSC report points to the mission statement of the Inspector General for the State of Louisiana as a positive example of the practice in the inspector general community of adopting a mission statement. A simple comparison of Executive Order 39 and the mission statement of our colleagues in Louisiana demonstrates that a new mission statement for this Office is unnecessary.

Executive Order 39 states that the New York State Inspector General shall have the following duties and responsibilities:

To receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse in any covered agency;

To inform the heads of covered agencies of such allegations and the progress of investigations related thereto, unless special circumstances require confidentiality;

To determine with respect to such allegations whether disciplinary action, civil or criminal prosecution, or further investigation by an appropriate federal, state or local agency is warranted, and to assist in such investigations;

To prepare and release to the public written reports of such investigations, as appropriate and to the extent permitted by law, subject to redactions to protect the confidentiality of witnesses. The release of all or portions of such reports may be deferred to protect the confidentiality of an ongoing investigation;

To review and examine periodically the policies and procedures of covered agencies with regard to the prevention and detection of corruption, fraud, criminal activity, conflicts of interest or abuse;

To recommend remedial action to prevent or eliminate corruption, fraud, criminal activity, conflicts of interest or abuse in covered agencies; and

To establish programs for training state officers and employees regarding the prevention and elimination of corruption, fraud, criminal activity, conflicts of interest or abuse in covered agencies.

By comparison, the Louisiana Inspector General's mission statement reads:

The mission of the Office of Inspector General is to help prevent waste, mismanagement, abuse, fraud and corruption in the executive branch of state government.

Again, the OSC report places form ahead of substance, and seeks to find fault where none exists.

Performance Measures

OSIG is a major proponent of performance measures as management tools to monitor certain aspects of OSIG's performance. (See pp. 6-12.) However, OSIG is acutely aware that their use in investigative agencies is controversial. As confirmed by the auditors, true performance measures in investigative agencies can be highly problematic for a number of reasons. First, establishment of strict quantitative goals for performance raises the specter of quotas and can lead to abuse of authority, undermining public confidence in the agency's integrity. For example, OSC suggests that it would be appropriate to establish goals relating to the percentage of investigations leading to arrests. Setting specific goals in this area is both guesswork and dangerous. All investigations are different, and the facts of a particular matter, rather than arbitrary quantitative or statistical targets, must drive the final result. This type of performance measure is, in effect, tantamount to an arrest quota. OSIG does track information relating to the disposition of investigations, not for goal-setting purposes, but as a factor in evaluating resource allocation.

Second, OSIG recognizes that performance measures must be carefully scrutinized and applied, and, in some cases, may be of limited value. Like most statistics, such information is subject to multiple interpretations, and may not necessarily provide an objective or reliable means for assessing performance. Take, for example, OSC's suggested performance measure relating to "percent of investigations completed within 12 months." On the surface, closing a high percentage of cases within 12 months may suggest a highly efficient and effective organization. However, most major corruption investigations last longer than 12 months. Thus, a statistic that reflects a majority of cases closed in less than 12 months may indicate that an investigative agency is focusing on minor or administrative matters rather than on significant matters affecting the health, welfare or pocketbooks of taxpayers. Such a benchmark may also lead to, or be indicative of, "churning" – that is, the closing of investigations to satisfy an arbitrary statistical goal, rather than on the merits of the particular case. Thus, performance measures can create an optical illusion: With every blink of the eye, the picture of the agency's performance may change from one that is quite positive, to one that is quite negative.

The entire issue of performance measures in the inspector general community is complicated by the significant differences in the roles, responsibilities and structures of inspector general organizations in various agencies, cities and states. As a result, it is no surprise that, unlike the audit community, there are no generally accepted performance standards in the inspector general community. Many inspector general offices, including the New York State Metropolitan Transportation Authority Inspector General (NYMTA-IG) cited in the audit report, are significantly audit-oriented in their results. In that context, a great deal of their work is more readily subjected to statistical analysis and the application of formal performance measures, and a strategic plan. In contrast, OSIG focuses on criminal investigations and has recorded over 100 arrests and convictions as a result of a wide-range of investigations. Likewise, the Los Angeles Metropolitan Transportation Authority Inspector General, an agency similar to the NYMTA-IG, has focused primarily on a series of highly successful criminal corruption prosecutions related to subway construction in Los Angeles – all without the benefit of a strategic plan, mission statement or performance measures.

In addition, the audit report minimizes the extensive system of performance measures that OSIG has already created and uses on a daily basis to monitor the progress of investigations. This is somewhat surprising, as a significant portion of the audit focused on OSIG's performance measures for the receipt, recording, initial evaluation, and disposition of complaints, as well as compliance with specific goals set for the completion of preliminary investigations. As discussed in the audit report (at p. 13), OSIG has established a state-of-the-art computerized case management system that allows management to comprehensively track and monitor compliance with internal agency policies and procedures governing investigative matters. The "performance measures" suggested in the OSC audit report are virtually identical to those that OSIG has already established and has been effectively using to evaluate agency operations for the past several years.

Case Management

The audit findings related to case management (see pp. 13-16) do not paint a complete or fully accurate picture of OSIG's management systems. Even so, OSIG is pleased that OSC has reported what OSIG's managers already knew -- that staff are in substantial compliance with performance measures established by OSIG's managers to ensure the prompt and timely handling of complaint information. In addition, the computer tracking system is self-auditing with the capacity to print instant reports of any deviation from established time periods. A review of the data demonstrates ever-increasing compliance with policy as a result of management monitoring and supervision. Further, OSIG is pleased that the computer tracking system that was created to track compliance is functioning as intended; indeed it was our own system that allowed the audit team to identify deviations from existing policy. The system also allowed the auditors to identify a gap in procedures related to the absence of a specific time frame for forwarding complaints received in the field to the Intake Unit. This issue has been rectified. It is important to note that no computerized tracking system even existed prior to this administration.

The OSC report examines four specific aspects of OSIG's case management system: 1) assignment of the complaint to a Deputy Inspector General within two days of Intake's receipt; 2) recommending a course of action within 10 days of receiving a complaint; 3) completion of preliminary investigations within 60 days; and 4) submission to Intake in a timely fashion of complaints received in the field. All four areas are fundamental to the case management system and OSIG's management strives for 100 percent compliance. However, the four areas are only a handful of the parameters of agency performance that OSIG tracks through its case management system. Moreover, the computerized system is not the only mechanism through which OSIG's management monitors investigations. In addition, the audit team confirmed that OSIG's management conducts regular reviews of all ongoing investigations, and requires, among other steps, preparation of monthly reports on all matters under investigation. These reports are reviewed through the upper management in conjunction with formal case review meetings with investigative staff. In addition, before they are closed, investigations are subjected to rigorous review to ensure that the investigation is complete, and the findings and conclusions are fair and supported by the evidence developed.

In presenting its statistics on OSIG's compliance with case processing standards, the OSC report fails to present a complete picture of OSIG's case management data. In this final draft report, OSC deleted several tables of data related to the findings. The deletion of these tables occurred after OSIG requested, for purposes of clarity and completeness, that the tables reflect all relevant data collected -- not only instances where deviations from policy occurred. OSIG's subsequent requests to insert the complete tables as a means of providing the public with a fully accurate accounting of OSIG's performance were rejected by OSC. Those tables, which fully and accurately reflect OSIG's performance, and which OSC refused to include in its report, are presented below.

Table 1: Timeliness of assignment to Deputy Inspector General

Business Days	Number of Cases	Percent of Cases
0 – 2	1230	89.4%
3	62	4.5
4	41	3.0
5	18	1.3
6	13	0.95
7	3	0.2
8	6	0.45
Greater than 10 days	3	0.2
Total cases reviewed	1376	100%

Table 1 illustrates compliance with OSIG’s policy requiring complaints to be forwarded by the Intake Unit to the appropriate Deputy Inspector General within two business days of the unit’s receipt of the complaint. The policy is meant to encourage swift assignment. Table 1 reflects compliance with this policy in 89.4 percent of the cases. Within 5 business days, compliance rises to 98.2 percent. It is important to note that the statistical deviations reflected are *de minimis* and do not impact the quality or success of the investigation itself.

Table 2: Time required to recommend investigative action

Business Days	Number of Cases	Percent of Cases
0 to 10 days	1255	91.2%
11 to 15 days	68	5.0
16 to 20 days	25	1.8
21 to 25 days	10	0.7
26 to 30 days	4	0.3
31 to 60 days	3	0.2
61 to 90 days	8	0.6
Greater than 90 days	3	0.2
Total cases reviewed	1376	100%

Table 2 illustrates compliance with OSIG’s policy that requires the assigned Deputy Inspector General [DIG], within 10 business days of receipt of a complaint, to recommend one of four courses of action – 1) open investigation; 2) conduct preliminary investigation to determine if full investigation is warranted; 3) no action; or 4) refer to agency with more appropriate jurisdiction to address complaint. Table 2 reflects that recommendations are made within the required 10-day period in more than 91 percent of the cases. Again, that percentage increases significantly when the time period is slightly expanded. The auditors found that a decision is reached within 15 business days in 96 percent of cases. OSIG notes that all managers and DIGs now have direct computer access to instant reports identifying pending matters requiring action and an exception report identifying complaints not acted

upon within the required 10 business days. It is important to emphasize that complaints that exceeded the 10-day administrative requirement were ultimately reviewed and disposed of properly. In many cases, preliminary review showed that they involved unique or complex jurisdictional questions that required additional time to resolve.

Table 3: Time in preliminary investigation status

Number of Days	Number of Cases	Percent of Cases
0 to 60 days	144	51.4%
61 to 65 days	112	40.0
66 to 70 days	10	3.5
71 to 75 days	5	1.8
76 to 80 days	2	0.7
81 to 85 days	3	1.1
86 to 90 days	1	0.4
Greater than 90 days	3	1.1
Total cases reviewed	280	100%

Table 3 illustrates compliance with OSIG’s policy that allows a DIG to open a preliminary investigation if facts presented in a complaint are inadequate to determine if a full investigation is warranted. Once sufficient evidence is developed to decide on an appropriate course of action, a DIG must open an investigation, refer the matter to another agency, or determine that no action is warranted. A DIG is required to complete monthly management updates on preliminary investigations to document the steps taken toward resolving the matter within a 60-day period. In addition, according to OSIG’s policy, should a DIG fail to formally act within the required 60 days, the case automatically goes to open status by default. With that action, satisfaction of all management procedures and safeguards related to tracking and closing an open investigation is required. This provides management assurance that complaints are being pursued actively to appropriate conclusion. The OSC report fails to make clear that even in instances where preliminary investigations extended beyond the 60-day limit, appropriate investigation of the complaint continued. Once again, the statistical deviations illustrated had no impact on the ultimate outcome of the investigation.

No table was ever prepared for the finding related to the forwarding of complaints received in the field to the Intake Unit. The audit identified a gap in OSIG’s policy in this area. The policy then in effect failed to establish a specific time frame for forwarding complaints received in the field to the Intake Unit. OSIG’s management informed the audit team that it believed that two business days was a reasonable time period in the absence of a specific policy requirement. The audit proceeded based on this new standard that had not been communicated to investigative staff, and identified significant delays in a number of cases. Generally, the extended periods identified in the audit resulted from questions concerning jurisdiction, joint investigations, and inadequate orientation of newly hired DIGs. In a number of those cases, the investigation was active and ongoing despite the lapse in the

administrative process. As a result of this audit finding, OSIG's management will be amending the policy to implement a two-business day period for forwarding complaints.

Staff Qualifications and Training

The auditors' review of OSIG's staff qualifications and training duly concluded that this Office has hired qualified and competent staff to carry out its responsibilities. (See pp. 21-22.) The audit tested only 10 employees, including the top five managers, and found that all possess the "necessary knowledge, skills and abilities to perform their OSIG positions." Indeed, this finding applies to all OSIG employees, and during this audit OSIG encouraged OSC to do a comprehensive review of the qualifications of all employees. The audit findings, as well as any comprehensive review of all staff, conclusively demonstrate that all hiring decisions at OSIG are based purely on merit and have resulted in a highly competent staff with the diverse skills necessary to investigate fraud, corruption and other misconduct in state government.

The audit findings cite briefly the backgrounds of a few of the tested employees, noting that certain managers had prior experience with law enforcement agencies such as the Federal Bureau of Investigation and the New York City Police Department, and staff had received medals, awards and citations while working in prior jobs. To provide a more accurate and complete picture of OSIG's staff qualifications, it should be noted that OSIG's staff includes individuals with a wide range of experience in areas critical to the success of OSIG. OSIG's staff includes experienced prosecutors, auditors, lawyers and numerous investigators with significant experience in public corruption investigations with the Department of Justice Inspector General, the New York City Department of Investigation, the Los Angeles County Metropolitan Transportation Authority Inspector General, the Special Commissioner of Investigation for the New York City School District, the Federal Bureau of Investigation, the Drug Enforcement Administration and other agencies. This is plainly illustrated in the Summary of Senior Staff Qualifications appended to this response. Finally, OSIG is extremely proud of its ability to attract, even as entry level investigators, newly admitted attorneys, including law review members, as well as recent college graduates, several of whom are currently engaged in graduate work. OSIG's ability to attract this level of quality staff with demonstrated competence in a wide range of investigations is testament to OSIG's independence and commitment to doing quality investigations that advance the public's confidence in the integrity of state government.

Until Inspector General Mauskopf's administration, all staff positions at OSIG were in the exempt class. For the first time in its history, OSIG has created investigative positions in the non-competitive Civil Service class with minimum qualifications and fixed salary requirements. In so doing, OSIG has established clear standards for hiring decisions as well as a defined career path for investigative staff, with advancement based on the acquisition of advanced skills and additional experience. With a number of positions remaining to be filled, OSIG continues its efforts to recruit and hire only the most qualified staff based solely on merit.

The audit also has found that OSIG provides regular training to staff. (See p. 22.) In addition to the training mentioned by OSC, OSIG provides substantial, in-house training that is mandatory for all investigative staff, and also offers frequent opportunities for outside training related to the specific duties of employees. Continuing legal education for attorneys and on-going computer training for Management Information Services employees is also made available. It is important to note that several members of OSIG's staff have provided training to staff at other agencies both within and outside of state government on many diverse topics related to investigations. For example, OSIG's Chief Inspector recently spoke at a training conference for attorneys and investigators in the United States Attorney's Office for the Northern District of New York on interview techniques. In addition, two Deputy Inspectors General recently lectured on money laundering and other sophisticated financial crimes, one at a U.S. Department of Justice Training Program and the other at an international seminar in Budapest, Hungary. Other staff members are adjunct professors at local colleges. The fact that OSIG staff is sought out by other agencies and academic institutions is testament both to the skill of OSIG's staff as well as OSIG's reputation in the law enforcement community.

Vehicle Usage

The OSC report finds that certain OSIG employees did not comply with OSIG's policy requiring that employees authorized to use a state vehicle for commuting as necessary for a business-related purpose must pay for gas expended in commuting. (See pp. 17-20.) The finding as presented is misleading in that it creates the erroneous impression that applicable state regulations and laws have been violated. The finding ignores a critical fact: OSIG's own policy goes well beyond that required by state law and policy and, in effect, requires employees to pay twice for the cost of gasoline expended for business-related commuting.

As OSC recognizes, commuting in state vehicles can be authorized for certain business-related purposes under state policy when such commuting is deemed to be in the best interests of the agency and the state. Under state policy, the cost of gasoline for such business-related commuting is borne by the state. OSIG's policy with regard to payment for business-related commuting goes significantly further: OSIG requires that employees *personally* pay for all incidental expenses related to that commuting, including personal payment for gasoline and tolls.

In addition, under state law, state policy and OSIG's policy, all employees who utilize state vehicles for business-related commuting must report as income the taxable value of the use of such vehicle. Depending on the method used for reporting such taxable value, employees are required to report as income the value of gasoline as well. For example, OSIG employees who report using the "special commuting rule" are, in effect, paying twice: they are required under OSIG's policy to pay for commuting gasoline out of their own pockets, while still declaring as income for tax purposes the value of mileage that includes gasoline. Thus, OSIG's policies go well beyond the mandates of state policy, and underscore OSIG's commitment to properly utilizing and managing state dollars and resources.

Both in policy and in practice, OSIG has always required its employees to report as income the taxable value of the use of a state vehicle. During the course of the audit, OSC auditors raised an issue that OSIG's management was already addressing relating to the manner in which commuting mileage was reported as a taxable fringe benefit. The issue had been the subject of discussion between OSIG and the Division of Budget before the audit began, and the issue has been resolved: The 1999 W-2 forms for all OSIG employees utilizing state vehicles reflect the taxable value of that usage.

In its preliminary audit findings relative to state vehicle usage submitted to OSIG in July 1999, OSC duly notes that an "exact method may not be available for OSIG to periodically ensure employees are buying their own gasoline when commuting." Indeed, in this report, in attempting to audit whether employees were making such purchases, OSC states: "We recognize that our approach is not an absolute measure; however, it provides an approximation of whether or not the employee is purchasing gasoline for commuting." While OSIG's policy itself goes well beyond that required by the state, OSIG has already changed its internal policies with regard to the manner in which it monitors such usage to ensure that staff understand the importance of and comply with this important agency requirement.

III. CONCLUSION

This audit, the first ever conducted of the Office of the State Inspector General since its was established in 1986, raised numerous legal and practical issues related to the legitimate and important interests of a law enforcement agency involved in confidential investigations. It was and is our understanding that the agreement reached between OSIG and senior OSC management related to the conduct of this audit balanced the interests of both entities and permitted OSC to accomplish a full and complete audit within the boundaries of professional audit standards.

Based on inflammatory and false information, OSC commenced this audit with pre-conceptions relating to the quality and integrity of OSIG's investigations that had absolutely no basis in fact. Without the opportunity to defend itself against OSC's unspecified allegations, OSIG has been forced for two years to deal with the cloud created by OSC's unwarranted, and now admittedly groundless attack on its integrity. Make no mistake about it: the manner in which OSC commenced this audit could have impacted important investigations and compromised the ability of OSIG to do its job. Fortunately, it did not. Were it not for the fact that OSIG staff, all with unquestioned credentials and track records of significant accomplishment, had the complete confidence of the law enforcement community, OSC might have succeeded in derailing a program of critical importance to the public.

The facts revealed by this audit speak for themselves: OSIG has discharged its investigative responsibilities in accordance with the highest standards of integrity, fairness and professionalism. Its record of achievement is significant, and its reputation as a skilled law enforcement agency is well-established. OSIG will continue to build on its success to ensure that the citizens of this state have the utmost in confidence in the integrity and honesty of state government.

APPENDIX: SUMMARY OF SENIOR STAFF QUALIFICATIONS

OSIG Management

First Deputy Inspector General - admitted to the bar of the State of New York in 1988; First Deputy Inspector General in the Correctional Services Division of the New York City Department of Investigation; Senior Special Agent in the Los Angeles County Metropolitan Transportation Authority Inspector General's Office.

Chief of Department - 21 years experience as a trooper and sergeant with the New York State Police; Chief of Law Enforcement for the Oneida Indian Nation Police Department from 1993 to 1997.

Executive Deputy Inspector General - Ph.D. in Criminal Justice; Adjunct Professor in the Inspector General Program, John Jay College of Criminal Justice; Special Agent in Charge of the Research and Analysis Unit, U.S. Department of Justice's Office of the Inspector General.

Chief of Investigations - 28 years experience as a Special Agent with the Federal Bureau of Investigation, including eight years as a squad supervisor responsible for organized crime, drug and violent crime investigations.

Chief of Investigations – 27 years experience in the New York City Police Department, retired 1st Grade Detective, assigned to the Manhattan District Attorney's Office; and as Deputy Chief for Investigation in the Office of the Special Commissioner of Investigation for the New York City School District.

Deputy Inspector General and Special Counsel - admitted to the bar of the State of New York in 1982; Deputy Chief of the Homicide, Major Offense, Criminal Court, and Grand Jury Bureaus in the Bronx District Attorney's Office; Assistant United States Attorney in the Southern District of New York.

Investigative Counsel - admitted to the bar of the State of New York in 1983; Assistant District Attorney in the Nassau County District Attorney's Office; Associate General Counsel and Special Deputy Inspector General in the New York Metropolitan Transportation Authority Inspector General's Office; Deputy Commissioner of Public Safety and Counsel to the Mount Vernon Police Department.

Investigative Counsel - admitted to the bar of the State of New York in 1978; 20 years experience as Special Agent and Counsel with the Federal Bureau of Investigation.

Associate Counsel – admitted to the bar of the State of New York in 1997; Investigative Research Analyst and Counsel, Research & Analysis Unit, United States Department of Justice's Office of the Inspector General; Adjunct Professor, Inspector General Program, John Jay College of Criminal Justice.

Deputy Inspectors General

Deputy Inspector General – admitted to the bar of the State of New York in 1990; Assistant Attorney General in the New York State Attorney General’s Office; Assistant District Attorney in the Manhattan District Attorney’s Office.

Deputy Inspector General – New York City Police Department, retired 1st Grade Detective; Special Assistant to the Inspector General for the New York Metropolitan Transportation Authority.

Deputy Inspector General - Assistant Inspector General in the New York City Department of Investigation; Assistant Vice President in the Fraud Prevention and Investigation Department of Chemical Bank/Chase Manhattan Bank.

Deputy Inspector General - New York City Police Department, retired 3rd Grade Detective, assigned to the New York City Department of Investigation Squad.

Deputy Inspector General – Retired Special Agent in the Drug Enforcement Administration; Lecturer at international financial crime seminars, Master’s Degrees from the John Jay College of Criminal Justice and Cornell University.

Deputy Inspector General – admitted to the bar of the State of New York in 1987; Assistant Deputy Attorney General in the Organized Crime Task Force at the New York State Attorney General’s Office; Assistant District Attorney in the Manhattan District Attorney’s Office.

Deputy Inspector General - Director of Confidential Investigations for the New York State Department of Taxation and Finance.

Deputy Inspector General - Deputy Sheriff in the Erie County Sheriff’s Department; and Special Assistant in the Criminal Justice Services Division of the New York State Attorney General’s Office.

Deputy Inspector General –New York City Police Department, retired 1st Grade Detective, assigned to the Office of the Police Commissioner.

Deputy Inspector General - admitted to the bar of the State of New York in 1990; Chief Assistant District Attorney in the Cayuga County District Attorney’s Office; Assistant District Attorney in the Fulton County District Attorney’s Office; Assistant Attorney General in the Criminal Prosecution Bureau of the New York State Attorney General’s Office.

Deputy Inspector General - 18 years of investigation and auditing experience, including assignments at the New York State Comptroller’s Office, Department of Transportation and the Albany County Comptroller’s Office.

Senior Investigators

Principal Investigator - 25 years experience as a Special Agent in the Federal Bureau of Investigation with extensive experience in electronic surveillance.

Principal Investigator – 23 years experience in the Central Intelligence Agency and as Senior Special Investigator for the Medicaid Fraud Control Unit of the New York State Attorney General’s Office.

Principal Investigator - 26 years experience as a Special Agent in the Drug Enforcement Administration; and as a Special Agent in the Criminal Investigation Division of the Internal Revenue Service; Lecturer on financial investigations for the US Department of Justice; Master’s Degree of Business Administration in Economics.

Principal Investigator - New York City Police Department, retired 3rd Grade Detective, assigned to the Manhattan District Attorney’s Office Squad.

Principal Investigator - Branch Chief and Special Agent in the Criminal Investigation Division of the Internal Revenue Service; Master’s Degree in Business Administration.

Principal Investigator – New York City Police Department, retired 3rd Grade Detective, assigned to the Bronx District Attorney’s Office Squad.

Principal Investigator - New Jersey State Trooper and Deputy Sheriff in Seneca County; 10 years experience as a criminal investigator for the New York State Department of Motor Vehicles.

Principal Investigator - 33 years experience as Special Agent in the Criminal Investigation Division of the Internal Revenue Service.

Principal Investigator – 12 years experience as an investigator and supervisor in Correctional Services Division of the New York City Department of Investigation.

Principal Investigator - 23 years experience as a police officer in the Albany Police Department.

Supervising Investigator - 12 years experience at the New York City Civilian Complaint Review Board.

Supervising Investigator - 12 years experience as confidential and special investigator for the New York City Department of Investigation.

Supervising Investigator – 12 years experience in the North Carolina Department of Corrections; and in the New York State Commission of Correction.

Supervising Investigator -- 10 years experience as a confidential investigator in the New York City Department of Investigation.

Supervising Investigator - 9 years experience as a criminal investigator in the Department of Motor Vehicles.

Chronology of Audit Activity

The following is a chronology of the key events during this audit. This brief summary portrays the patience and effort extended by OSC auditors and management in coping with the many delays resulting from the actions of the Office of the State Inspector General (OSIG). As can be seen, from the very beginning of the audit, OSIG management was uncooperative and took actions to limit or delay our progress by restricting access to personnel and information. Due to this general lack of cooperation from OSIG management, this audit, for which fieldwork was originally scheduled to be completed in four months, actually extended over a 21-month period.

Date	Event
06/03/98	OSC sent the audit engagement letter to State Inspector General Roslynn Mauskopf. The letter stated OSC's intention to begin audit work during the week of June 29, 1998. During phone calls to the OSIG to set up an opening conference, it became apparent that OSIG officials were resistant to the audit. In fact, several weeks went by before the OSIG agreed to attend an opening conference.
07/20/98	At the insistence of OSIG, the opening conference was held on OSC's premises. This is highly unusual, as opening conferences are typically held at the agency's place of business. At the meeting, OSIG officials expressed concerns about OSC's audit scope, and said they would get back to us regarding the beginning date of audit fieldwork.
08/10/98	Senior OSC management met with OSIG officials to attempt to resolve concerns over access to personnel and records, as well as the scope of the audit. The audit team continued to gather background information from sources outside of OSIG.
10/07/98	The first on-site meeting between the audit team and OSIG was held. OSIG provided audit team members with a brief overview of their case tracking and management system. The audit team focuses on reviewing expenditure data obtained from outside sources.
11/09/98	The audit team conducted its second interview with OSIG officials, including Ms. Mauskopf. The four-week delay since the first interview is attributed by OSIG to a shutdown in communications resulting from them learning about our attempt to contact a prior OSIG employee to follow through on an allegation regarding OSIG operations. OSIG provided the audit team with an overview of Executive Order 39.

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- 12/07/98 Following a series of meetings with OSIG officials, it is clear that OSIG's Counsel plans to attend all meetings involving the auditors and OSIG staff. This is seen as an impairment to the audit and is discussed at a meeting between OSC and OSIG management.
- 12/14/98 OSIG will not allow the audit team access to investigation case files without OSIG officials pre-screening and redacting the files. The audit team discusses this situation internally with OSC management and it is agreed that we should proceed tentatively in order to complete the audit survey as best we can under the circumstances. A redaction scenario is reluctantly agreed to where the audit team sees a count of papers in a case file prior to redaction by OSIG. This proved to be a very time consuming process with little assurance we would see all relevant information in an unaltered form.
- 01/05/99 Examples of redacting by OSIG Counsel are shared with OSC management. Redaction is determined to negatively affect OSC's ability to draw conclusions on the appropriateness of OSIG activity.
- 01/06/99 OSIG Counsel asks our auditor-in-charge to sign an access agreement as a condition of allowing meetings between OSC auditors and OSIG staff without Counsel's attendance. OSC management concludes that the agreement is too restrictive. On 1/27/99, OSC management wrote to Ms. Mauskopf requesting adequate access to staff and records.
- 02/10/99 Due to the extended delays, most of the audit team is reassigned to another audit. This assignment ended on 3/26/99. During this period, a meeting with OSIG is scheduled and postponed several times and finally is held on 3/8/99. At this meeting, senior OSC management met with Ms. Mauskopf and her staff to attempt to resolve access issues. OSC agreed to allow the OSIG to redact only confidential witness statements in case files. In addition, OSIG agrees to allow OSC staff to interview OSIG staff without Counsel being present.
- 04/20/99 Audit team begins receiving access per 3/8/99 agreement. Some progress is being made on reviewing the "Vehicle Usage by OSIG Employees," and "Staff Qualifications and Training" areas of the audit.
- 06/02/99 Audit supervisor and auditor-in-charge met with OSIG officials to discuss OSC's audit plan for proceeding with the audit.
- 07/02/99 Preliminary audit findings are issued to OSIG covering "Vehicle Usage by OSIG Employees," and "Staff Qualifications and Training." OSIG has provided about half of the 35 cases we intended to test per the audit plan.
- 7/22/99 Preliminary audit finding is issued to OSIG covering "Use of Performance Measures." The OSIG has provided the remaining half of the cases to be tested per the audit plan.
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- 8/23/99 OSC issued the last preliminary finding on “Case Management.”
- 9/01/99 OSC completed audit fieldwork and provided OSIG with a sample audit representation letter and requested that they provide us with a signed audit representation letter.
- 9/29/99 A copy of the Background, and the Scope, Objectives and Methodology sections of the draft report was provided to OSIG for review and comment.
- 10/2/99 OSC audit staff held a meeting with OSIG officials to discuss the Background, and the Scope, Objectives and Methodology sections. OSIG officials were concerned that the impairments relating to excessive delays and access restrictions cited in the report presented them as being overly secretive of their operation. Further, they stated their belief that because OSC ultimately agreed to conduct an audit of their process and not the effectiveness of their operations, we shouldn't note this change in the audit objectives. OSIG officials also stated that OSC auditors were not capable of assessing their effectiveness. OSC staff stated that these sections reflected what actually occurred, and was relevant and necessary disclosure so that the reader of the report would understand the cause of this very significant shift in audit direction. OSC disagreed with OSIG officials' conclusion that we could not assess the effectiveness of OSIG's operations and explained how we could have made such an assessment. OSC auditors reminded OSIG officials that the allegations which gave rise to the audit could not be adequately addressed given the limitations they imposed.
- 11/3/99 OSC submitted a preliminary copy of our draft report to OSIG for discussion at a closing conference.
- 12/3/99 OSC audit staff held a meeting with OSIG officials to discuss the preliminary audit findings. At OSIG's request, the audit director attended. As a result of valid concerns raised by OSIG, some changes to the preliminary findings were agreed to. OSIG officials reiterated their previous aversion to describing the audit scope changes in the report. OSC staff once again explained our position and stated that we would have to reflect these relevant facts as they had a direct bearing on the direction and outcome of the audit.
- 1/06/00 OSC submitted revised preliminary audit findings to the OSIG reflecting edits made based on prior meetings. In the cover letter accompanying the revised preliminary audit findings, OSC indicated that the audit was over and that we were prepared to formally issue the draft report. As such, OSC staff stated that we would like the next meeting to be considered the formal exit conference.
- 1/14/00 Another meeting was held with OSIG officials by the audit staff. OSIG officials indicated that they were happy with some of the edits made, but still objected to the narrative reflecting the change in audit scope and the assertion that there were audit delays caused
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by their actions. OSC staff again pointed out that the statements were based on facts and unless proven incorrect would remain in the report. The facts were not challenged, however, OSIG officials still maintained their objection to presenting this information in the report.

- 1/18/00 A telephone conference call was held between OSIG officials, the OSC audit director and the audit team. OSC participants stated that this was the closing conference. OSIG objected, stating that Ms. Mauskopf would like to meet with OSC officials at a meeting scheduled for January 31, 2000. We agreed to the meeting, but indicated that the draft audit report would be issued prior to that meeting.
- 1/20/00 OSC issued the draft report requesting a response by February 22, 2000.
- 1/31/00 Ms. Mauskopf canceled the scheduled meeting due to weather conditions.
- 2/16/00 OSC granted OSIG a two-week extension for responding to the draft report.
- 3/06/00 OSIG responded to the draft report.