

Review of the Bureau of Administrative Reviews

Audit Report 201516-06

May 20, 2016

Executive Summary

Section 322.2615, Florida Statutes (F.S.), Section 322.2616, F.S., Section 322.271, F.S., and Section 322.64, F.S., authorize the Bureau of Administrative Reviews (BAR) to conduct hearings and reviews for the purpose of determining eligibility to reinstate driver license suspensions and revocations. BAR is part of the Office of General Counsel and is comprised of 116 supervisors, hearing officers, and administrative secretaries, in 16 offices separated into three regions around the state. From July 1, 2013 through June 30, 2015, BAR conducted a total of 87,515 hearings and reviews and received \$1,570,033 in BAR related fees.

BAR conducts administrative reviews and hearings for a variety of issues; a majority of those issues are for driving with an unlawful blood alcohol level or refusal to submit to a breath, blood, or urine test.

The purpose of this audit was to evaluate the efficiency and effectiveness of the BAR operations and compliance with applicable laws and Department policy and procedure. We sampled BAR paper case files and tested the information through BAR systems. Our review determined that all drivers in the sample were licensed, suspended, or revoked in accordance with Florida Statute and Florida Administrative Code. Our review also determined the following items require management attention:

- An analysis of staff workload could improve Bureau functions;
- Implementing formal procedures for voided transactions would strengthen controls over cash management;
- Communication and oversight of the Cash Management Procedures should be improved; and
- Access controls should be improved for the GOBI/BAR database.

Background and Introduction

Section 322.2615, F.S., Section 322.2616, F.S., Section 322.271, F.S., and Section 322.64, F.S., authorize BAR to conduct hearings and reviews for the purpose of determining eligibility to reinstate driver licenses that have been suspended or revoked. BAR is part of the Office of General Counsel and is comprised of 116 supervisors, hearing officers, and administrative secretaries in 16 offices separated into three regions around the state. From July 1, 2013 through June 30, 2015, BAR conducted a total of 87,515 hearings and reviews and received \$1,570,033 in BAR related fees.

BAR conducts administrative reviews and hearings for a variety of issues; a majority of those issues are for driving with an unlawful blood alcohol level or refusal to submit to a breath, blood, or urine test. Hearings and reviews include but are not limited to:

- Formal Review – allows the driver to challenge the suspension or revocation of their driving privilege. Counsel and witnesses may be present;
- Informal Review – allows the driver to request a hearing officer review all materials in the case file to challenge the suspension or revocation of their driving privilege. Only the hearing officer is present during this review;
- Hardship Hearings – allows the driver to request a business or employment restricted license because the suspension or revocation of their driving privilege is causing undue hardship;
- Show Cause – allows the driver an opportunity to present evidence why a certain entry or action should not appear on the driving record;
- Financial Responsibility – determines whether the applicant is within the scope of the Financial Responsibility Law of the State;
- Medical Hearings – available to those whose driving privilege has been suspended or revoked for medical reasons; and
- Re-Examinations – generated when the Department receives a report that questions the mental or physical ability of a person to operate a motor vehicle safely.

BAR is strictly administrative; therefore, their ruling holds no merit against criminal proceedings. If a BAR hearing officer invalidates the suspension of a driver license, it is possible that the criminal court could revoke the license when the criminal proceeding is finalized.

BAR hearing officers are required to conduct comprehensive training. The training consists of two phases. The first covers hardship hearings. Two months after completion of phase one, hearing officers conduct phase two which covers administrative reviews. Each phase is approximately a week-long training session conducted by BAR supervisors. Additionally, in between phases, hearing officers assist in the hearing and review process to gain valuable knowledge and experience.

Review and Hearing Process

BAR receives arrest packets relating to the suspension and revocation of driver licenses from law enforcement agencies. Once received, BAR reviews the packets for accuracy and compliance. These packets are retained for a minimum of 120 days. The packets include all of the arrest documents (if received), as well as all BAR correspondence. If a review or hearing is requested from the driver, BAR schedules the administrative case within the BAR database (GOBI). GOBI is an access database utilized by all BAR members. It serves as a tracking system for all hearings and reviews. BAR members can create, update, delete, and run reports for BAR cases within GOBI.

Section 322.2615, F.S., states once an administrative review is held, hearing officers must submit their final order within seven working days. Once the order is determined, hearing officers will update GOBI. They will also update the Florida Driver License Information System (FDLIS), which serves as the official driving record.

Section 322.2616, F.S., gives BAR the authority to conduct formal and informal reviews for drivers under the age of 21 who were arrested for driving with an unlawful blood-alcohol or breath-alcohol level, or refusal to submit to a test to determine their blood-alcohol or breath-alcohol level.

Section 322.271, F.S., gives BAR the authority to issue hardship driver licenses for business or employment purposes. A driver who had their license suspended can request a hardship hearing. By opting for a hardship license, the driver does not contest the suspension or revocation of their license. Instead, they petition the Department for a restricted use license because of the hardship the loss of their driving privilege has caused them. Most hardship license applications are approved and the decision is given to the driver at the conclusion of the hearing.

In order to apply for a hardship driver license, a driver must complete or enroll in a driver training course or a driving under the influence program substance abuse course. Once completed, the information is updated by the course provider and electronically sent to the Department. Nightly, the driving record of attendees is updated and can be tracked within Department systems.

Section 322.64, F.S., gives BAR the authority to conduct formal and informal reviews for holders of commercial driver licenses that were disqualified from operating a commercial vehicle due to driving with an unlawful blood-alcohol level or breath-alcohol level, or refusal to submit to a breath, urine, or blood test.

All hearings and reviews with the driver or witnesses present are recorded and placed in network drives specific for each BAR office.

OIG staff sampled approximately 5 percent of the hearings and reviews for November and December 2015 for three BAR offices. The paper case files were reviewed and the information was tested through GOBI, FDLIS, and the network drives. The review determined that all drivers in the sample were licensed, suspended, or revoked in accordance with Florida Statute and Florida Administrative Code.

Processing of Transactions

BAR processes transactions for all administrative hearings and reviews and they have the ability to process the fees for reinstatement of the driver license. Drivers requesting an administrative review are required to pay \$25, while those requesting a hardship hearing are required to pay \$12.

Drivers are required to pay the BAR fees prior to their hearings and reviews. BAR members processing these transactions receive a cash drawer at the beginning of the work day to make change for customers paying cash. If payment is made with a credit card, two copies of the receipt are saved to attach to the End of Day reconciliation report that is completed upon closing. The End of Day report compiles all of the days' activity.

Upon closing, each member submits a report obtained from FDLIS of their daily activity which includes all of the funds received by type (cash, credit card, check). The member returns the cash drawer and verifies the amount of cash returned is the same as the amount received upon opening. Additionally, the member compiles all of the cash received for their daily transactions and verifies the totals are accurate before submitting for the end of day reconciliation process. Once all members have submitted their daily activity logs, cash, receipts, and checks, two members count and verify all information is accurate and complete. Once verified, they prepare the funds for deposit which occurs the following business day.

Findings and Recommendations

Our review determined the following issues require management attention:

Staff Workload

Finding No. 1: An analysis of staff workload could improve Bureau functions.

The amount of work BAR staff have on a given day is directly related to the amount of people requesting an administrative review of their driving privilege. This number varies greatly between different regions and cities due to the number of people arrested for issues; such as driving under the influence, and the density of the population in these cities.

BAR staff are responsible for scheduling and holding administrative hearings and reviews. Each office has a supervisor and hearing officers. Some offices have administrative secretaries that handle administrative tasks. The offices that do not have administrative secretaries rotate administrative duties among the hearing officers.

OIG staff visited three offices and observed some had significant downtime and few customers in the office. There did appear to be a high volume of phone calls.

OIG staff reviewed GOBI for the total number of hearings and reviews for November and December 2015. There were a total of 18 business days in November 2015 and 21 business days in December 2015. We noted the average number of hearings and reviews conducted daily between offices varied greatly from 1.32 to 3.10 per allotted hearing officer position.

Office	Month	Total Hearings and Reviews	Number of Hearing Officer Positions (Allotted F.T.E.s)	Average Number of Hearings per Officer by Month	Average Number of Hearings per Allotted Hearing Officer F.T.E. by Day
Pensacola	November 2015	121	3	40.33	2.24
	December 2015	154		51.33	2.44
Tallahassee	November 2015	81	2	40.50	2.25
	December 2015	69		34.50	1.64
Panama City	November 2015	62	2	31.00	1.72
	December 2015	62		31.00	1.48
Gainesville	November 2015	125	4	31.25	1.74
	December 2015	130		32.50	1.55
Jacksonville	November 2015	199	5	39.80	2.21
	December 2015	238		47.60	2.27
Daytona Beach	November 2015	112	4	28.00	1.56
	December 2015	111		27.75	1.32
Orlando	November 2015	267	5	53.40	2.97
	December 2015	283		56.60	2.70
Melbourne	November 2015	106	3	35.33	1.96
	December 2015	115		38.33	1.83
Clearwater	November 2015	389	7	55.57	3.09
	December 2015	447		63.86	3.04
Tampa	November 2015	323	6	53.83	2.99
	December 2015	374		62.33	2.97
Winter Springs	November 2015	97	2	48.50	2.69
	December 2015	130		65.00	3.10
Fort Myers	November 2015	253	6	42.17	2.34
	December 2015	315		52.50	2.50
Lantana	November 2015	165	3	55.00	3.06
	December 2015	192		64.00	3.05
Fort Pierce	November 2015	127	3	42.33	2.35
	December 2015	104		34.67	1.65
Lauderdale Lakes	November 2015	223	5	44.60	2.48
	December 2015	283		56.60	2.70
Miami	November 2015	241	7	34.43	1.91
	December 2015	243		34.71	1.65

Recommendation

We recommend BAR conduct a formal workload and staffing analysis of all BAR positions by office.

Management Response

BAR leadership undertook a comprehensive review of the number of FTEs assigned to each office along with the number of arrests reported, hearings conducted, walk-ins and calls handled during the two month period covered by the audit.

We recognize that the workload has reduced and are working diligently to address that issue. To date, we have reduced our FTEs by 9, with two of those positions re-assigned to the Division of Motorist Services. We continue to look at opportunities to reduce FTEs via attrition. Additionally, we are assessing various opportunities for BAR to provide additional services needed to serve the motoring public.

Voided Transactions

Finding No. 2: Implementing formal procedures for voided transactions would strengthen controls over cash management.

BAR members are responsible for accepting and processing the fees for all hearings and reviews as well as applicable reinstatement costs. All transactions are processed through FDLIS which serves as the official driving record. At the end of the day, every BAR member who processed a transaction is required to close out their daily activity in FDLIS. FDLIS provides a print out of all transactions. Credit card receipts are attached to the print out to serve as documentation while cash and checks are collected for deposit. All of this documentation is combined to form the End of Day report.

OIG staff reviewed 30 End of Day reports from three BAR offices for November and December 2015 to determine if all of the reports reconciled and if Cash Management Procedures were followed. We identified a total of 20 voided transactions across the 30 reports. Only five of those transactions had physical documentation; consisting of "void" written on the credit card receipt attached to the End of Day report. Also, the Cash Management Procedures do not include specific details about processing voided transactions.

BAR cannot ensure all voids were valid without detailed documentation. If the voids do not contain adequate documentation, BAR members have a greater opportunity to void transactions in FDLIS for hearings and reviews that actually occurred.

Recommendation

We recommend BAR include guidelines for voiding transactions in written Cash Management Procedures and include at a minimum:

- Documenting all voids, and
- Requiring supervisory review of all documents regarding voided transactions.

Management Response

We agree with the findings and have developed written guidelines to handle cash management procedures that include voided transactions.

Cash Handling

Finding No. 3: Communication and oversight of the Cash Management Procedures should be improved.

BAR uses the Department's Driver License Cash Management Procedures. The procedures state the requirements for opening and closing the office, processing of transactions, handling of funds, and petty cash¹.

Each member may be given a petty cash or change fund at the start of the day. Upon conclusion of the day, the member must sign-off and turn in all monies and receipts collected and confirm their daily activity from FDLIS. This information is included within an End of Day report.

OIG staff visited three BAR offices, one in each of the three BAR regions, to observe Cash Management Procedures, including the opening and closing of the office. During these on-site visits and interviews with BAR staff, we determined the following issues:

- For one office, the end of day worksheet, which signifies the petty cash assignment, was not signed by the recipients when received; it was signed at the end of the day;
- For one office, the office manager does not conduct random counts of each member's cash drawer;
- For one office, the office manager does not observe closing weekly;
- For one office, petty cash is only assigned to two members in the office. The remaining petty cash is not counted during the opening of the office or during the end of day closing;
- For one office, the member serving as the verifier of the "count team" is only rotated when the field supervisor is not in the office;
- For two offices, the program manager does not sit in on opening and closing in the office at least once a quarter; and

¹ For the purposes of this audit, the term "petty cash" is used to describe funds assigned to hearing officers and administrative secretaries to generate change for their daily transactions (change fund). This money is not used for purchases. Each member receives \$50.00 daily and at the end of the day \$50.00 is returned back to the petty cash fund.

- For all three offices, petty cash is not collected by 2:00pm daily.

Recommendation

We recommend BAR comply with all aspects of the Department Cash Management Procedures.

We also recommend BAR formally communicate all cash management requirements to field supervisors.

Management Response

We agree with the findings and have developed written guidelines that are unique to BAR to handle cash management procedures.

GOBI Database

Finding No. 4: Access controls should be improved for the GOBI database.

BAR members use the GOBI database as a tracking system for all of their hearings and reviews while FDLIS serves as the official driving record. Each case is input into GOBI and updated with final order information. GOBI also contains individual driver license numbers for those who request a hearing or review.

Rule 74-2.003(1), Florida Administrative Code, states each agency shall ensure that access to IT resources is limited to authorized users, processes, or devices, and to authorized activities and transactions. It also states users are to change their passwords at least every 30-90 days, based on assessed risk of the system.

Our review determined that there is only one username and password for use in GOBI and that the password is not complex and has not been changed, at a minimum since November 2014. While members with access to the Department network can have their access terminated upon separation, former BAR members who are still members of the Department would be able to access GOBI. BAR is aware of this issue and is in the process of finding a solution to the issues related to GOBI.

Recommendation

We recommend BAR evaluate the current GOBI database and its limitations to determine if it meets the Department's needs regarding access.

Management Response

We agree with the findings and have conducted a comprehensive review of the GOBI database and the needs of the BAR to respond to this issue. We have developed a project charter to purchase licenses for software (Legal Files) to replace the GOBI Database. The Charter was approved by Tier 1 Governance on April 25 and Tier 2 on May 4 contingent upon a funding source.

Purpose, Scope, and Methodology

The purpose of this audit was to evaluate the efficiency and effectiveness of the BAR operations and compliance with applicable laws and Department policy and procedure.

The scope of this audit included all BAR records and operation procedures during the 2014-15 and 2015-16 Fiscal Years.

The methodology included:

- Reviewing applicable Federal and Florida statutes, rules, manuals, and procedures;
- Reviewing Department policies and procedures;
- Observing administrative reviews and hearings;
- Conducting on-site BAR office visits to observe office functions;
- Reviewing BAR systems and databases;
- Reviewing samples of BAR transactions for accuracy and compliance; and
- Interviewing appropriate Department staff.

Distribution, Statement of Accordance, and Project Team

Distribution

Terry L. Rhodes, Executive Director
Diana Vaughn, Deputy Executive Director
Steve Hurm, General Counsel
Kathy Jimenez, Chief Counsel
Felecia Ford, Chief of BAR

Melinda M. Miguel, Chief Inspector General
Sherrill F. Norman, Auditor General

Statement of Accordance

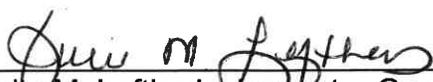
Section 20.055, Florida Statutes, requires the Florida Department of Highway Safety and Motor Vehicles' Inspector General to review, evaluate, and report on policies, plans, procedures, accounting, financial, and other operations of the Department and to recommend improvements. This audit engagement was conducted in accordance with applicable *International Standards for the Professional Practice of Internal Auditing* published by the Institute of Internal Auditors and *Principles and Standards for Offices of Inspector General* published by the Association of Inspectors General.

Project Team

Engagement conducted by:
John Brancale, Auditor

Under the supervision of:
David Ulewicz, Audit Director

Approved by:


Julie M. Leftheris, Inspector General

ATTACHMENT - Management Response



Terry L. Rhodes
Executive Director

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MEMORANDUM

DATE: May 20, 2016

TO: David Ulewicz, Audit Director

FROM: Felecia A. Ford, Chief
Bureau of Administrative Reviews

SUBJECT: General Counsel Response to the Review of the Bureau of Administrative Reviews (Audit Report No. 201516-06) - **Revised Response**

The following is the BAR response to the findings and recommendations presented in the recent audit.

Finding 1- Employee Workload

An analysis of employee workload could improve Bureau functions.

Recommendation

We recommend BAR conduct a formal workload and staffing analysis of all BAR positions by office.

Management Response

BAR leadership undertook a comprehensive review of the number of FTEs assigned to each office along with the number of arrests reported, hearings conducted, walk-ins and calls handled during the two month period covered by the audit.

We recognize that the workload has reduced and are working diligently to address that issue. To date, we have reduced our FTEs by 9, with two of those positions re-assigned to the Division of Motorist Services. We continue to look at opportunities to reduce FTEs via attrition. Additionally, we are assessing various opportunities for BAR to provide additional services needed to serve the motoring public.

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Finding 2- *Voided Transactions*

Implementing formal procedures for voided transactions would strengthen controls over cash management.

Recommendation

We recommend BAR include guidelines for voiding transactions in written Cash Management Procedures and include at a minimum:

- Documenting all voids, and
- Requiring supervisory review of all documents regarding voided transactions.

Management Response

We agree with the findings and have developed written guidelines to handle cash management procedures that include voided transactions. Please see attached guidelines.

Finding 3- *Cash Handling*

Communication and oversight of the Cash Management Procedures should be improved.

Recommendation

We recommend BAR comply with all aspects of the Department Cash Management Procedures.

We also recommend BAR formally communicate all cash management requirements to field supervisors.

Management Response

We agree with the findings and have developed written guidelines that are unique to BAR to handle cash management procedures. Please see attached guidelines.

Finding 4 – *GOBI Database*

Access controls should be improved for the GOBI database.

Recommendation

We recommend BAR evaluate the current GOBI database and its limitations to determine if it meets the Department's needs regarding access.

Management Response

We agree with the findings and have conducted a comprehensive review of the GOBI database and the needs of the BAR to respond to this issue. We have developed a project charter to purchase licenses for software (Legal Files) to replace the GOBI Database. The Charter was approved by Tier 1 Governance on April 25 and Tier 2 on May 4 contingent upon a funding source. See attached Charter.