



Ethics Audit Audit Report 202122-01

December 20, 2021

Executive Summary

Public trust exists when citizens believe elected officials and other public servants are acting in the best interest of the people they represent. Building and maintaining a comprehensive ethics program and strong ethical culture is essential for governmental organizations to maintain public trust.

The Department of Highway Safety and Motor Vehicles (Department) developed the Department's Ethical Guidelines as a companion to Department Policy 3.08, *Ethics and Personal Responsibility*. The purpose of the Ethical Guidelines is to promote honest and ethical conduct and to foster compliance with all applicable laws and regulations.

Department Policy 3.08 is intended to be a central guide and reference for members' daily decision making and serves as the Department's Code of Ethics. It addresses ethics-related issues such as solicitation or acceptance of gifts, doing business with the Department, conflicting employment or contractual relationships, and disclosure of special interests. The policy designates the Department's General Counsel as the Chief Ethics Officer and requires the General Counsel to provide legal opinions involving potential ethical concerns upon request.

The purpose of this audit was to evaluate the Department's design, implementation, and effectiveness of ethics-related programs and activities. We reviewed practices and procedures related to the Department's ethics program, reviewed samples of documentation, and interviewed Department members involved in ethics-related programs and activities. Overall, we determined the Department's ethics programs and activities are adequate.

Background and Introduction

Public trust exists when citizens believe elected officials and other public servants are acting in the best interest of the people they represent. The citizens who rely on government officials expect them to discharge their responsibilities with integrity, objectivity, and a genuine interest in serving the public. Every ethics-related decision made by a government official has the potential to further build or break down the public trust. Building and maintaining a comprehensive ethics program and strong ethical culture is essential for governmental organizations to maintain public trust.



Chapter 112, Part III, Florida Statutes (F.S.), Code of Ethics for Public Officers and Employees, contains standards of conduct for public officers, employees of agencies, and requires certain public officials and employees to publicly disclose their financial interests.

Policies and Procedures

Department Policy 3.08 is intended to be a central guide and reference for members' daily decision making and serves as the Department's Code of Ethics. It addresses ethics-related issues such as solicitation or acceptance of gifts, doing business with the Department, conflicting employment or contractual relationships, and disclosure of special interests. The policy designates the Department's General Counsel as the Chief Ethics Officer and requires the General Counsel provide legal opinions involving potential ethical concerns upon request.

Florida Highway Patrol Policy 3.02, *Code of Conduct: Code of Ethics*, requires adherence to recognized standards of professional conduct. It provides members of the Florida Highway Patrol (FHP) a Code of Ethics to assist them in making ethical decisions and judgments during the course of their career.

Various other Department's policies and procedures define and explain behavior that is appropriate, inappropriate, or unacceptable in the workplace. Additionally, policies inform members of disciplinary actions that may be taken by management when misconduct occurs.

Training

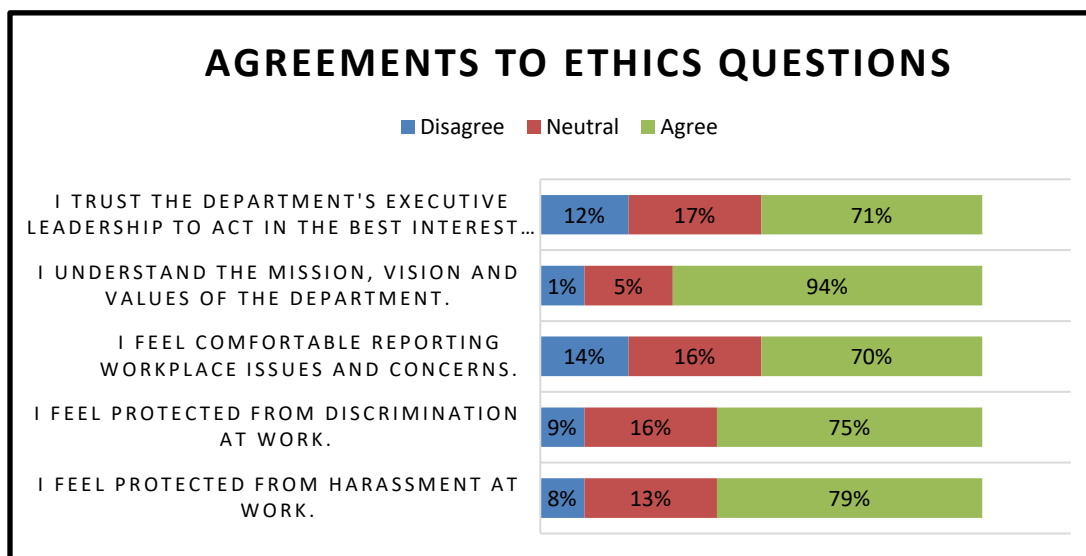
Annual ethics training is required by Executive Order 07-01. Currently, every Department member is expected to complete an annual ethics training course; and supervisors as well as FHP members are required to take additional ethics courses when they join the Department. This helps ensure each member is aware of the decision-making process of whether a behavior or activity is ethical and ways to report it. The training courses cover various other topics including: conflicts of interest, acceptance of gifts, dual and secondary employment, family nepotism, supervisory relationships, and confidential information.

Climate and Reporting

Each year, the Department provides members an opportunity to anonymously share their thoughts and experiences through the annual climate survey. The survey consists of topics that directly impact workplace engagement and satisfaction. Specifically, the climate survey includes the following questions relating to the effectiveness of the Department's ethics programs and activities:

- “I trust the Department's executive leadership to act in the best interest of the department and the people we serve.”
- “I understand the mission, vision and values of the Department.”
- “I feel comfortable reporting workplace issues and concerns.”
- “I feel protected from discrimination at work.”
- “I feel protected from harassment at work.”

According to the 2019-20 Climate Survey, 94 percent of respondents reported understanding the mission, vision, and values of the Department. When asked if Department members feel comfortable reporting workplace issues and concerns, 70 percent of respondents stated they agreed, while 14 percent indicated they did not. Meanwhile, over 75 percent of Department members responded that they feel protected from discrimination and harassment at work. Further, 71 percent of respondents agreed that they trusted the Department’s leadership to act in the best interest of the Department and the people it serves. The chart below was derived from the 2019-2020 Climate Survey and depicts percentile representations of these conclusions.



Ethical Violation Reporting Methods

The Department provides a variety of methods for members and the public to report ethical violations.

Department members may utilize electronic forms on SafetyNet and the public Department website to communicate issues or concerns to the Executive Director.



The Department's General Counsel is the designated Chief Ethics Officer. Members may contact the Office of General Counsel (OGC) for legal opinions related to ethical issues. Generally, members will contact the OGC by email with their issue. Either the General Counsel or a member of the OGC will respond to the ethical issue; however, the General Counsel reviews all responses prior to responding to the requestor.

The Office of Employee Relations (OER) within the Bureau of Personnel Services (BPS) handles disciplinary action for the Department and refers ethical issues to the OGC or the Office of Inspector General (OIG). For example, ethical issues related to conflict-of-interest or the acceptance of gifts could be referred to OGC and issues related to fraud, waste, and abuse would be referred to OIG.

The OIG provides several methods for reporting any unethical, illegal, fraudulent, and inappropriate actions and behaviors. The Department website provides contact information for the OIG, along with an electronic form for reporting fraud and misconduct. The OIG SafetyNet website provides a link to the electronic form on the public website and advises complaints can be received through the electronic form or by fax, phone, or mail. The SafetyNet homepage also has a rotating banner that includes information on reporting fraud to the OIG and it links to a document with more information on fraud and a Quick Response (QR) code to report fraud.

Handling Ethical Violation Reports

After receiving reports of ethical violations through the methods available throughout the Department, there is a weekly Pre-Closure Conference (PCC) meeting which includes representatives from the Office of Professional Compliance (OPC) within the Florida Highway Patrol, OER, OGC, and OIG. These representatives discuss the nature and severity of the violations and determine which group will address the issue.

Generally, the OIG would handle issues related to fraud, waste, or abuse, and major misconduct. Violations related to FHP members that do not rise to the level of an OIG investigation may be handled by OPC, OER, or at the Troop or Division level.

These less-severe violations (e.g., policy violation, excessive tardiness, or absenteeism) may require a desk review. A desk review is the formal documentation and review of a complaint to determine if disciplinary action is warranted. After gathering and documenting the information regarding the complaint, the supervisor will review the information with the next-level supervisor and OER to determine the action to be taken. The resulting action can range from determining the claim is unfounded and should be dropped, determining the claim is more severe and should be escalated to OIG or OPC for investigation, or determining the claim is sustained and progressive disciplinary action of suspension or dismissal or appropriate and the documentation is forwarded to



the subject's division leadership for acceptance and action or to OPC (for sworn members).

Secondary Employment

Prior to a member accepting secondary employment outside of state government, the member must obtain supervisor approval via the Department's "Request for Approval of Secondary Employment and Other Activities" Form. Per Chapter 112, F.S., secondary employment should not be approved if the employment may result in a conflict of interest.

Additionally, each year, members must complete the Dual and Secondary Employment training which educates members about secondary employment and requires members to specify whether they have secondary employment. If a member selects, "yes", the member is required to complete the electronic Secondary Employment form. Once the form is submitted by the member, it is electronically routed through the member's chain of command for approval. All new members hired by the Department must also complete the form within 30 days of employment.

BPS monitors member compliance of the yearly certifications and reviews the members who have answered "yes" to having secondary employment, along with the forms completed by new hires. SharePoint tracks the submitted secondary employment forms and the status of the forms in the approval process. After the forms have been approved by the members' chains of command, BPS reviews the forms to determine if a conflict of interest exists. Secondary employment that poses as a conflict of interest will not be approved. Approvals and denials are communicated to members and their supervisors by email through SharePoint.

Financial Disclosure

To increase public confidence and deter conflicts of interest, state officers and specified state employees must file a financial disclosure with the Florida Commission on Ethics (COE) on a yearly basis. Disclosures for each calendar year are due on July 1 of the subsequent year. The Department's BPS is responsible for determining which members are required to file based on their position and purchasing authority (if over \$35,000) and reporting these members to COE. The COE has a website which reflects employees who are required to file and their current filing status and documentation. BPS also monitors the COE website for members' filing compliance in May of the subsequent year and sends reminder emails to members in June. Members who fail to file by September 1 will be subjected to an automatic fine imposed by the COE.



Ethics Clauses in Contracts

The Department includes clauses for conflict of interest and conduct of business in all contracts. Conflict of interest clauses prohibit contractors from compensating any Department member for any act or service performed on behalf of the contractor. It also specifies no Department member can have any interest in any contract or purchase made for the Department. The conduct of business clause specifies the contractor must comply with all laws, rules, codes, ordinances, and licensing requirements applicable to the conduct of its business.

Additionally, Department contracts also include Department of Management Services (DMS) Form "PUR 1000" which is the standard set of contract terms incorporated into all state agencies' contracts in accordance with Rule 60A-1.002, F.A.C., and it specifically addresses requirements associated with lobbying and integrity. This clause specifies contractors cannot give gifts to state employees in exchange for influencing the employees as they carry out their official duties.

Background Screening Process

During the hiring process, BPS staff will give a conditional offer of employment to an applicant and determine the level of fingerprinting necessary for the position. All members must have a Level 2 background check and fingerprinting. Depending on the position, drug testing, driver license check, local arrest record check, and Criminal Justice Information Services (CJIS) security clearance may also be required. If criminal records are found for non-sworn applicants, BPS will review the details and the nature of the offenses and determine whether it would disqualify the applicant. If criminal records are found for sworn applicants, they are notified of their disqualification in writing which they may appeal.

Results

Based on our evaluation of the Department's design, implementation, and effectiveness of ethics-related programs and activities, we determined the Department's ethics-related programs and activities are adequate.



Purpose, Scope, and Methodology

The objective of this audit was to evaluate the Department's design, implementation, and effectiveness of ethics-related programs and activities.

The scope of this audit included all ethics-related programs, activities, and documentation for the 2020-2021 Fiscal Year.

The methodology included:

- Reviewing applicable Florida Statutes and Administrative Code;
- Reviewing applicable Department policies and procedures;
- Reviewing the Department's standard contract template;
- Reviewing the Department's process for hiring employees with criminal records;
- Reviewing the Department's ethics training courses;
- Determining if all members have completed required ethics training courses;
- Reviewing the Department's process for reporting ethical concerns;
- Reviewing the Department Climate Survey to determine the effectiveness of ethics related programs and activities;
- Determining if the Department has an adequate process for handling ethical violations;
- Reviewing members required to file full or partial financial disclosure to determine compliance;
- Reviewing Department process for ensuring financial disclosure compliance; and
- Reviewing the Departments process for reviewing dual/secondary employment.



Distribution, Statement of Accordance, and Project Team

Distribution

Terry L. Rhodes, Executive Director
Jennifer Langston, Chief of Staff
Christie Utt, General Counsel
Kim Ward, Chief of Personnel Services
Jennifer Ford, Chief Learning Officer

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:
Bethany Vickerman, Auditor
Mike King, Auditor

Under the supervision of:
Erin Mook, Audit Director

Approved by:



Mike Stacy, Inspector General