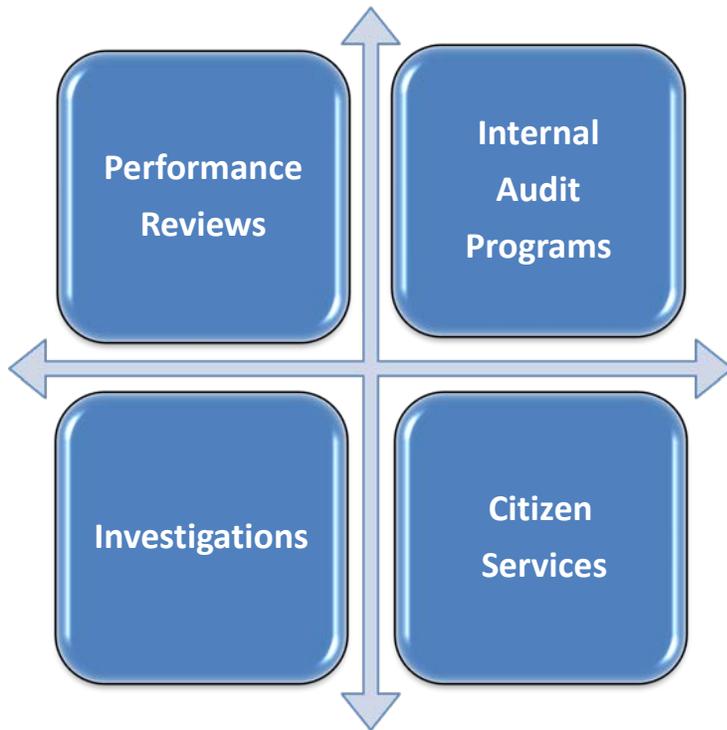




**FY 2013**

# **Annual Report to the Governor and the General Assembly of Virginia**



**Office of the State Inspector General**

**Michael F.A. Morehart**

**State Inspector General**

**August 2013**



## ***From the State Inspector General:***



I am honored to serve as the Commonwealth's first State Inspector General and I am humbled by the responsibilities of this Office. I was appointed by Governor McDonnell and commenced my service on July 2, 2012. On the day I was appointed, the Office of the State Inspector General did not physically exist—except in the *Code of Virginia* where the duties and responsibilities of the OSIG were effective July 1, 2012. Notwithstanding the *Code of Virginia* description, the OSIG lacked staff, organizational structure, office space, equipment, a mission statement, and the infrastructure needed to support an executive agency of state government.

Therefore, it is with enthusiasm and great pride for the effective work of our staff that I share with you our progress during the first year of operations covering the period July 1, 2012, to June 30, 2013. Also, I would like to thank the countless people, who are too numerous to list, for their indispensable support that helped to create the OSIG. Without your patience and counsel, we could not have accomplished so much in our first year.

As is discussed in the pages that follow, the OSIG has made important strides towards the creation of a framework to support the operation of this Office, while, at the same time, it worked diligently to accomplish the core responsibilities set-out in the enabling legislation. That said, when you view the FY 2014 Goals below you will appreciate that, despite our considerable progress thus far, we have only just begun.

Sincerely,

Michael F. A. Morehart, CPA  
State Inspector General



## Table of Contents

<b>Mission, Vision, and Values .....</b>	<b>3</b>
<b>Foreword.....</b>	<b>4</b>
<b>Legislative History .....</b>	<b>4</b>
<b>Organizational Structure .....</b>	<b>5</b>
<b>Statutory Mandates .....</b>	<b>9</b>
<b>FY 2013 Goals and Accomplishments.....</b>	<b>13</b>
<b>Division Highlights.....</b>	<b>15</b>
<b>Citizen Services Division.....</b>	<b>15</b>
<b>Performance Review and Internal Audit Division.....</b>	<b>18</b>
<b>Behavioral Health and Developmental Services (BHDS) Division .....</b>	<b>27</b>
<b>Investigation Division .....</b>	<b>36</b>
<b>2014 Goals .....</b>	<b>38</b>



## Office of the State Inspector General (OSIG)

### Mission, Vision, & Values

**Our Mission:** (Developed and ratified by the staff of the OSIG November, 2012)

To promote integrity and accountability, as well as efficient and effective government, through the conduct of independent investigations, performance audits and other services designed to provide objective and useful information to the citizens of the Commonwealth and those charged with its governance.

**Our Vision:** Through the execution of its legislative mandates, the OSIG will, on behalf of the citizens of the Commonwealth, strive to proactively:

- Enhance the efficiency, effectiveness and economy of state government programs and operations;
- Hold government entities accountable for efficient and cost effective operations;
- Investigate and expose fraud, waste, abuse, corruption and other illegal acts affecting the operations of state and non-state agencies;
- Provide timely assistance to the Commonwealth's citizens and employees; and,
- Establish standards to ensure robust independent state agency internal audit programs.

**Our Values:**

Accountability	Efficiency	Excellence
Independence	Innovation	Integrity
Leadership	Respect	Teamwork



## **Foreword**

This *Annual Report* is published in furtherance of the requirements of § 2.2-313(A) of the *Code of Virginia* requiring that the State Inspector General (SIG) annually summarize the activities of the OSIG for the preceding fiscal year and transmit the report directly to the Governor and the General Assembly.

## **Legislative History**

Effective July 1, 2012, Chapters 798 and 871 of the *2011 Acts of the General Assembly* (the enabling legislation) created the OSIG and authorized the transfer of personnel and positions, funding, and other assets from the following agencies of state government:

- Department of the State Internal Auditor (DSIA);
- Department of Corrections (DOC);
- Department of Juvenile Justice (DJJ);
- Department of Transportation (DOT); and,
- The Office of the Inspector General (OIG) for Behavioral Health and Developmental Services (BHDS)

During its 2013 session, the General Assembly clarified ambiguities in the enabling legislation and streamlined the presentation of the OSIG's Code provisions. Additionally, the latest legislation provides that up to 30 members of the OSIG's investigative unit will have the same law enforcement powers of a sheriff or law-enforcement officer to investigate allegations of criminal acts in state and non-state agencies arising within its legislative mandates.



## Organizational Structure

The enabling legislation and the Governor's *Plan for Establishing the Office of the State Inspector General (Governor's Plan)* did not prescribe the organizational structure of the OSIG or the number of personnel and other resources to be transferred to the OSIG. Instead, the *Governor's Plan* proposed several possible *Options* and, ultimately, concluded that the organizational configuration – including staffing levels of the new Office – should be determined by the SIG charged with accomplishing the statutory mandates.

Since the start of the process that would define the future structure for the OSIG, the SIG sought to create a new oversight agency capable of accomplishing its broad statutory mandates, without compromising the operational integrity of critical components of the five contributing agencies. Simply put, the OSIG's structure was designed to ensure that affected, i.e. contributing, agencies retained sufficient personnel to address

*The SIG sought to accomplish the creation of the OSIG without compromising the operational integrity of the five contributing agencies.*

critical functions such as internal audit matters outside the ability and scope of the OSIG in terms of available resources and legislated mandates, respectively.

For example, the OSIG sought to strike a balance between its organizational goals and the important goal of not compromising the effectiveness of DOC's Special Investigative Unit (SIU). The SIU supports the safety and security of the Commonwealth's dozens of correctional facilities through its investigation of serious criminal and administrative allegations, outside of the OSIG's mandate to investigate fraud, waste, and abuse, and its investigative activities are essential to safeguard DOC's 11,500 correctional officers and staff and the roughly 29,500 inmates it supervises.



The Department of Planning and Budget's (DPB) research, as set forth in the *Governor's Plan*, indicated that no other State Inspector General's Office matched the depth and breadth of the Commonwealth's OSIG with respect to its legislatively mandated responsibilities. Nevertheless, we surveyed 30 entities from around the country with similar (mostly partial) mission responsibilities to identify best practices for consideration, and to help us imagine and create a suitable organizational structure for the OSIG. Seventeen organizations responded to an online survey, and the pertinent data was analyzed and evaluated using reliable online survey tools.

*The OSIG surveyed 30 organizations throughout the country to identify best practices to inform the OSIG's initial organizational structure.*

After examination of the survey data and extensive, iterative consultation with the Governor's Office, members of the General Assembly, the DPB, the Office of the Attorney General (OAG), Cabinet Secretaries, affected agency heads and other stakeholders, the SIG chose to transfer 37 (consisting of 30 individuals and seven vacant positions) of the 78 total

available positions (as per the *Governor's Plan*) to staff the OSIG. The available personnel resources, those transferred to create the OSIG, and the personnel remaining in each of the five contributing agencies are illustrated in the table below.



Agency	Total Available Staff Resources	Transferred to OSIG	Retained by Agency
VDOT	28	14	14
DOC	34	12	22
DJJ	6	4	2
BHDS	6.75	4	2.75
DSIA	3	3	0
<b>Totals<sup>1</sup></b>	<b>77.75</b>	<b>37</b>	<b>40.75</b>

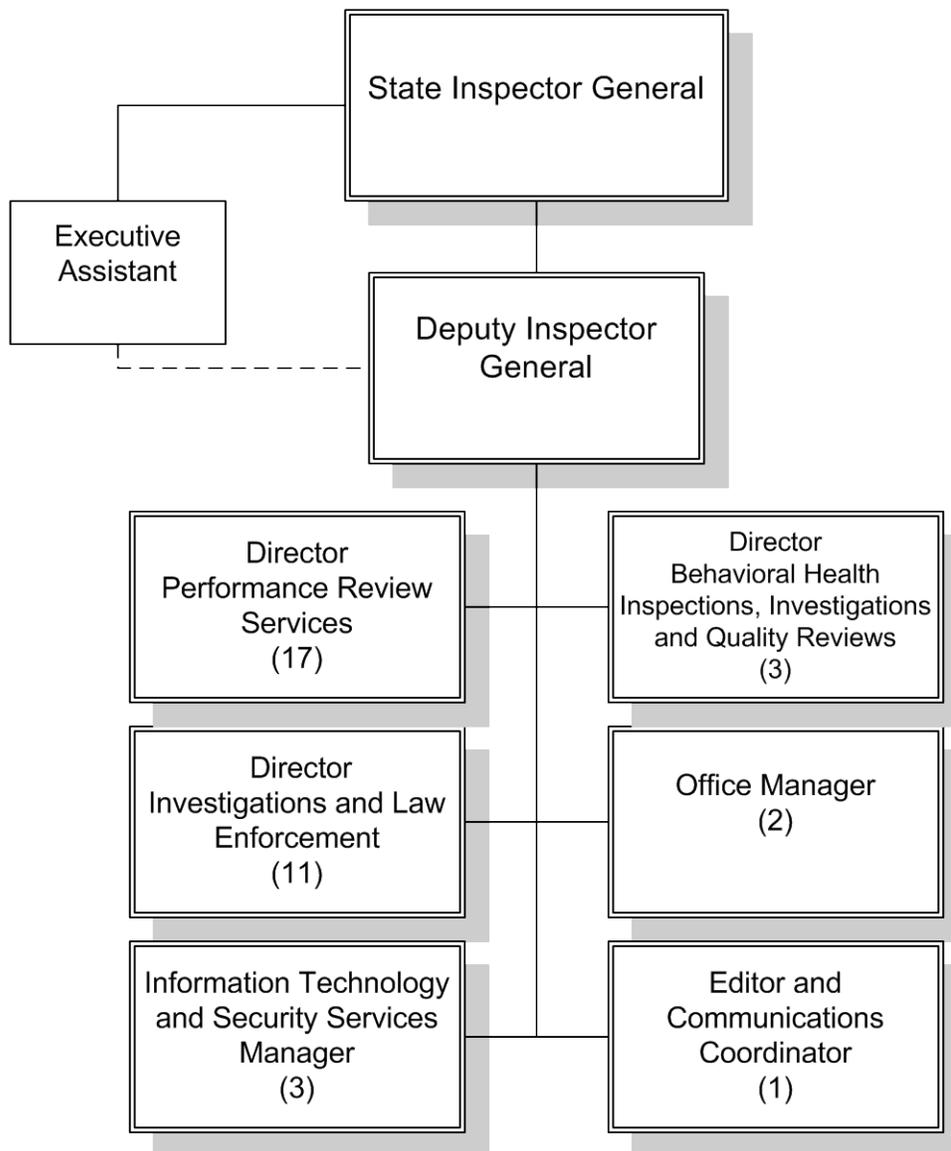
### Core Functions of the OSIG:

The OSIG's statutory responsibilities can be organized into five functional categories. The 37 positions discussed above are distributed among the five categories as reflected in the table below. It is important to appreciate that the initial organizational structure, and the allocation of personnel resources described in the organizational chart and table that follow, represents the OSIG's current best estimate of the future demand for various internal audit, performance review, and investigative services. Since there is no demand history, or prescient blueprint, to inform personnel allocation or organizational structure, the OSIG has taken the approach described herein below with the clear understanding that actual future demand may require revising this structure to satisfy the OSIG's statutory mandates.

<sup>1</sup> The Governor's *original* budget request reflected 37 individuals and vacant positions (FTEs) to be transferred from the five contributing agencies, with six additional FTEs to be added for a total of 43 FTEs. The General Assembly approved an additional three FTEs for the OSIG resulting in a total of 40 FTEs for the agency.



## OFFICE OF THE STATE INSPECTOR GENERAL





Below please find a summary by functional category and the number of incumbent and vacant positions in each division.

<b>Full Time Equivalents (FTE)</b>			
	<b>Current</b>	<b>Vacant</b>	<b>Total</b>
Executive	3	0	3
Administrative Services (including IT)	3	3	6
Review/Audit	13	7	20
Citizen Services (Hotline/Whistle Blower, etc.)	3	0	3
Investigations	8	0	8
<b>Totals</b>	<b>30</b>	<b>10</b>	<b>40<sup>2</sup></b>

## Statutory Mandates

According to the Governor’s *Plan*, the OSIG’s enabling legislation describes a range of duties and responsibilities for Virginia’s State Inspector General that do not exist in other states. As depicted on the cover page of this *Annual Report*, the statutory mandates of the OSIG generally fit into four operational categories and include:

1. Internal audit program coordination and standard setting;
2. Performance reviews of state agency programs and agencies;
3. Citizen support services; executive management and related administrative functions; and

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<sup>2</sup> Supra



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4. The investigation of allegations of waste, fraud, abuse, corruption or criminal activity in state agencies by an investigative unit with law enforcement authority.

Below please find a summary of the OSIG's statutory mandates, as described in the enabling legislation that is organized to reflect the above FTE chart—including the executive management and administration functions:

**Performance Review & Internal Audit Coordination Functions:** The SIG has the duty and the authority to:

- Coordinate and require standards for executive branch internal audit programs as necessary to protect the Commonwealth's assets;<sup>3</sup>
- Conduct performance reviews of executive branch agencies to ascertain that appropriated sums have been spent for the purpose appropriated;
- Coordinate training and provide assistance to internal audit programs in state agencies;
- Assess the condition of the accounting, financial, and administrative controls of state agencies and make recommendations to protect the Commonwealth's assets;
- Conduct annual unannounced inspections of all state-operated behavioral health and developmental services facilities (BHDS);
- Provide inspections of state-operated facilities and providers, as defined in § 37.2-403, to review the quality of services provided (BHDS);

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<sup>3</sup> At the present time, the Commonwealth has approximately 109 Executive Branch agencies (211 if you consider parent agencies and their subsidiaries). Of these, approximately 32, including 14 institutions of higher education) have active internal audit programs.



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- Review quality of care issues relating to seclusion and restraint, medication usage, abuse and neglect, staff recruitment and training, and other systemic issues (BHDS); and,
- Review the condition of the Tobacco Indemnification and Community Revitalization Commission's accounting, financial, and administrative controls.

### **Citizen Service Functions:** The SIG is required by statute to:

- Receive complaints from whatever source that allege fraud, waste, abuse, or corruption by state or non-state agencies;
- Assist citizens in understanding their rights and processes available to express concerns regarding the activities of any state or non-state agency or any officer or employee;
- Assist citizens in using the procedures and processes to express concerns regarding the activities of any state or non-state agency or any officer or employee; and,
- Ensure citizens have access to services provided by the State Inspector General and that citizens receive timely responses to inquiries.

### **Executive Management and Administrative Functions:** The SIG is charged with:

- Managing the affairs of the Office of the State Inspector General and entering into necessary contracts and accepting grants;
- Notifying Commonwealth's Attorneys of violations of criminal laws;
- Keeping the Governor, Cabinet Secretaries, and the leadership of the General Assembly currently informed of significant problems;
- Generating a detailed report for each investigation;



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- Overseeing and administering the Fraud, Waste and Abuse Hotline;
- Administering the Fraud and Abuse Whistle Blower Reward Fund;
- Preparing an Annual Report summarizing the activities of the Office;
- Making policy and operational recommendations for state facilities and providers, as defined in § 37.2-403, to prevent problems, abuses, and deficiencies and improve program effectiveness in behavioral health and developmental services; and,
- Monitoring and participating in the adoption of regulations by the State Board for DBHDS.

### **Investigative Functions:** Pursuant to the *Code of Virginia*, the SIG shall:

- Investigate the management and operations of state agencies or non-state agencies to determine whether acts of fraud, waste, abuse, or corruption have been committed or are being committed by state officers or employees or any officers or employees of non-state agencies;
- Investigate allegations of fraudulent, illegal, or inappropriate disbursement from the Tobacco Indemnification and Community Revitalization Endowment and the Tobacco Indemnification and Community Revitalization Fund; and,
- Detect fraud, waste, abuse and take actions to prevent same.

As noted above, the OSIG did not physically exist on July 1, 2012—except in the *Code of Virginia*. A major challenge during FY 2013 has been to carry out the OSIG's on-going statutory responsibilities, while simultaneously creating the organization needed to support an executive agency of state government.



The below list of goals and accomplishments for FY 2013 is not exhaustive, but is presented to convey an understanding of the foundational work that was required to construct a new executive branch agency to serve the Commonwealth. Likewise, the below list of FY 2014 goals is hardly comprehensive; rather, it is a snapshot that will continue to grow as the OSIG matures with respect to its statutory mandates.

## **FY 2013 Goals and Accomplishments**

<b>Goals and Accomplishments</b>	<b>Status</b>
✓ Transition personnel/positions, funding and other assets from DOC, DJJ, VDOT, OIG-BHDS, and Department of State Internal Auditor to the OSIG.	Complete
✓ Assume responsibility for coordinating and requiring standards for existing internal audit programs.	Complete
✓ Assume responsibility for operating the State Fraud, Waste, and Abuse Hotline; update operating policies and procedures; and, expand the Hotline to incorporate all citizens of the Commonwealth – not just state employees.	Complete
✓ Assume responsibility for annual inspections of state operated facilities, investigation of complaints of abuse, neglect, or inadequate care and oversight of the behavioral health and developmental services system.	Complete
✓ Develop processes and train staff to manage and investigate incoming complaints and to track incidents of waste, fraud, and abuse, and other criminal acts affecting the operation of executive branch agencies and certain non-state agencies.	Complete



<b>Goals and Accomplishments</b>	<b>Status</b>
✓ Clarify ambiguities in the statutory framework that created the OSIG and streamline the presentation of enabling <i>Code</i> provisions.	Complete
✓ Within the available resources, create an organizational structure capable of addressing the OSIG's statutory mandates.	Complete
✓ Create FY 2013 and 2014 OSIG operating budgets, and ensure that the OSIG had sufficient funding to operate during FY 2013 pending approval of a budget by the General Assembly.	Complete
✓ Develop OSIG policies and procedures in accordance with state regulations.	On-going
✓ Develop a process and recruit staff to respond to Freedom of Information Act (FOIA) Requests.	On-going
✓ Establish partnerships and coordinate activities via MOUs, as necessary, with similarly charged agencies such as Virginia State Police (VSP), Auditor of Public Accounts (APA), Office of the Attorney General (OAG), and Joint Legislative Audit and Review Commission (JLARC).	On-going
✓ Establish MOUs with state agencies as necessary to provide accounting, payroll, risk management, human resources, and information technology service and support.	Complete
✓ Streamline the administration and operation of the Fraud, Waste and Abuse Whistle Blower Program.	Complete



	<b>Goals and Accomplishments</b>	<b>Status</b>
✓	Perform a risk assessment of executive branch agencies to serve as a basis for constructing an annual OSIG audit plan.	Complete
✓	Create an annual audit plan to guide the performance review activities of the OSIG.	On-going
✓	Establish strong working relationships and communications with the Commonwealth Secretaries and agency heads.	On-going

## Division Highlights

For the purposes of this *Annual Report*, we have grouped the OSIG's activities in four categories:

- A. Citizen Services Division
- B. Performance Review and Internal Audit Division
- C. Behavioral Health and Developmental Services Division
- D. Investigative Division

### A. Citizen Services Division:

The OSIG's enabling legislation requires the Office to perform a number of functions to make state government more accessible for the Commonwealth's citizens. These activities include:

1. The operation of the Fraud, Waste, and Abuse Hotline and the administration of the Fraud, Waste, and Abuse Whistle Blower Reward Fund;
2. Receiving complaints from whatever source alleging fraud, waste, or corruption by any executive branch agency employee;



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3. Assisting citizens to understand their rights to express concerns about the operation of state government employees; and,
4. Helping citizens navigate the state government to voice their concerns.

**The State Fraud, Waste, and Abuse Hotline:**

- This year, as with the last three years, the Virginia Department of Corrections, the Virginia Department of Transportation, and the Department of Behavioral Health and Developmental Services have generated the most cases;
- There were 87 cases assigned to agencies under the category “Non-compliance with State or Agency Internal Policy” in the FY 2013; There were 66 cases assigned to agencies under the category “Misuse of a State-owned Vehicle” in FY 2013; There were 59 cases assigned to agencies under the category “Leave Abuse” in FY 2013;
- The Non-compliance with State or Agency Internal Policy, Leave Abuse, and Abuse of a State-owned Vehicle are consistently in the top five types of cases assigned each year; and,
- 20% of the allegations for the cases closed in FY 2013 were substantiated.

<b>Hotline Cases by Agency – FY 2013</b>			
<b>Agency</b>	<b># Cases</b>	<b>Agency</b>	<b># Cases</b>
Corrections	143	Norfolk State University	13
Juvenile Justice	66	Virginia Tech	13
Transportation	55	Virginia Employment Commission	12
Health	52	Alcoholic Beverage Control	10
Behavioral Health and Developmental Services	50	Virginia Commonwealth University	10
Social Services	46	University of Virginia	10



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Community College System	33	State Police	9
Virginia State University	27	Department of Veterans Services	8
Motor Vehicles	27	Conservation and Recreation	7
College of William and Mary	17	Other agencies*	134
George Mason University	13	<b>TOTAL</b>	<b>755</b>

\*Represents 134 cases in 49 agencies

<b>Cases Assigned by Category – FY 2013</b>	
<b>Cases by Type</b>	<b># Cases</b>
Non-compliance with Agency Internal Policy	87
Misuse of State Vehicle	66
Leave Abuse	59
Waste of Agency Resources	40
Not involving State Business	28
Employee Misconduct	26
Not Following State Hiring Policy	20
Assigned Job Duties not Performed	18
All Other Types	411
<b>TOTAL</b>	<b>755</b>

<b>Cases Closed by Resolution – FY 2013</b>				
<b>Cases Closed</b>	<b>Substantiated</b>	<b>Unsubstantiated and Improvements Recommended</b>	<b>Unsubstantiated</b>	<b>Referred to Others</b>
619	123	115	289	94



<b>Substantiated Allegations by Agency – FY 2013</b>	
<b>Agency</b>	<b># Allegations</b>
Corrections	30
Transportation	11
Behavioral Health	10
Community College System	8
Health	7
Norfolk State University	6
Other	51
<b>TOTAL</b>	<b>123</b>

## **B. Performance Review and Internal Audit Division**

Effective July 1, 2012, the *Code of Virginia* authorized the OSIG to conduct performance reviews of state agencies. The rationale for conducting performance reviews of government agencies is succinctly captured by the Auditor General of British Columbia in the comments excerpted below:

Accountability for performance with a focus on results is a concept which governments are only beginning to come to grips with. There is a growing public perception that government programs do not deliver enough value for the tax dollars being spent. Whether or not this perception is true, there is also a growing feeling that many of government's operations are accountable only to themselves. As fiscal pressures grow, and government is forced to decide which programs to keep and which to reduce or eliminate, such decisions become more difficult when the results of those programs are unclear.

The time has come for government to focus on reporting on its organizational and program results. This does not mean that government will always achieve everything it plans. But being clear about intentions, measuring and understanding results, and making adjustments where



necessary, would help assure taxpayers that their money is being spent wisely. A focus on results would also help to ensure that limited public resources...are being applied in a way that provides the most value for taxpayers.<sup>4</sup>

As of June 30, 2013, the Performance Review and Internal Audit Division completed one statewide performance review (not including the DAP Performance Review discussed in the BHDS section of this Report), had additional reviews in-progress, provided significant training for internal auditors, and engaged in other related activities as outlined below:

### **Courts Fines and Fees (Complete)**

As required by § 3-6.05 DEPOSIT OF FINES AND FEES, (C) of the 2012 Special Session I Acts of the General Assembly (hereafter referred to as the 2012 Appropriations Act), Chapter 3, the Office of the State Inspector General, in collaboration with a consultant, was charged with conducting an independent evaluation of court fines and fees. This project involved the performance of the following tasks:

- Recalculated excess fines and fees;
- Performed site visits at 21 General District Courts, for the purpose of reviewing Court records and interviewing clerks, sheriffs, local treasurers, and local fiscal or budget directors;

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<sup>4</sup> The Auditor General of British Columbia, Deputy Ministers' Council, *Enhancing Accountability for Performance: A Framework and an Implementation Plan*: Comments excerpted from *The Performance-Based Management Handbook A Six-Volume Compilation of Techniques and Tools for Implementing the Government Performance and Results Act of 1993* Volume 3, Establishing Accountability for Performance. Handbook published by the U.S. Department of Energy and Oak Ridge Associated Universities.



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- Developed and distributed online surveys regarding the efficiency of § 3-6.05 and gained an understanding of the related changes in deposit procedures and their impact on operations; and,
- Contracted with an accounting firm to assist in the conduct of the mandated evaluation.

The OSIG issued its report on court fines and fees on May 31, 2013. The report included, in part, the following recommendations: (A copy of this report is available at [www.osig.virginia.gov](http://www.osig.virginia.gov))

- That the APA use the correct calculation when determining excess fine and fee amounts for the localities in accordance with *Code* § 3-6.05. The General Assembly may also consider recovering any excess fines and fees not collected in the previous year;
- That the General Assembly re-evaluate the effectiveness of *Code* § 3-6.05 and the related change in deposit procedures with respect to generating additional revenue for the Literary Fund; and,
- That the state require localities that have implemented additional traffic enforcement programs to apply a percentage of the revenues earned from the enforcement programs to support the localities' educational programs or the court operations, or both. Alternatively, the General Assembly will determine if localities should continue to have the authority to adopt ordinances that parallel state statutes and to retain the fines and fees collected through these ordinances, even though these revenues may not necessarily be used for education or court-system purposes.



### **Tobacco Commission (In-progress)**

As required by § 2.2-309.2 of the *Code of Virginia*, the OSIG initiated a review of the Virginia Tobacco Indemnification and Community Revitalization Commission. The objectives of the review are to evaluate the condition of the accounting, financial, and administrative controls of the Tobacco Commission as they relate to:

- The grant application, approval, and award processes;
- Accounting transactions related to grant payments made to recipients and sub-recipients;
- The manner in which the Commission measures the performance of funded projects;
- The status of recommendations included in previous reports related to the Commission issued by entities such as the Joint Legislative Audit and Review Commission (JLARC), the Auditor of Public Accounts (APA), and the Blue Ribbon Panel;
- The close-out procedures related to the final distribution of Phase I indemnification funds;
- Any allegations of fraudulent, wasteful, abusive, illegal, or inappropriate activities in relation to fund disbursements and distributions; and,
- Any other areas of significance that are identified during our review.

The anticipated completion date of our review is October 31, 2013.

### **Secretary of Natural Resources (In-progress)**

At the request of the Secretary of Natural Resources, we initiated a review of certain agencies within this Secretariat. The primary objective of the review is to identify any



areas performing similar or possibility duplicative functions, particularly in the area of law enforcement with an eye toward enhancing efficiency and effectiveness. To date, we have met with agency heads of the Department of Game and Inland Fisheries (DGIF), the Virginia Marine Resources Commission (VMRC) and the Department of Conservation and Recreation (DCR). We also conducted online surveys of these agencies' law enforcement employees, and all of the other employees of DCR, to identify specific concerns they had about the efficiency and effectiveness of agency operations. As of June 30, 2013, the review was still in progress with an anticipated completion date of October 31, 2013.

### **Virginia Employment Commission (VEC) (Complete)**

A special review of the VEC was conducted to evaluate the agency's procurement and receiving processes. This review was conducted as a result of a request by the VEC Commissioner who was concerned that purchases from a specific vendor may have been unnecessary and not in accordance with state procurement policy. In performing this review, we conducted interviews and reviewed relevant documentation. The OSIG recommended that the VEC develop procedures to ensure its compliance with state procurement policy, develop and implement an inventory system, comply with federal grant requirements, and properly complete purchase requisitions, change orders, and receiving reports.

### **Internal Audit Training Programs**

As required by *Code of Virginia* § 2.2-309(A)(12), programs for internal audit training, training for the OSIG law enforcement personnel and agency head ethics training were



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developed and conducted or were under development as of June 30, 2013. These programs included:

- Internal audit training in FY 2012-13 provided through 15 courses to 419 individuals who earned 4,284 hours of continuing professional education credits. This training resulted in a cost savings of \$301,227 when compared to the cost of outside providers;
- A survey of internal audit training needs for FY 2014 and the development of a training plan for that year;
- An agreement that was established with the Crater Criminal Justice Academy for law enforcement training during FY 2013-14; and,
- A training program developed for Executive Branch agency heads, and other state employees, on Ethics and Fraud Prevention. (Note that a similar training is under development for FY 2013-14.)

### **Coordination and Oversight of the Commonwealth's Internal Audit Function**

As required by § 2.2-309(A)(10) of the *Code of Virginia*, coordination and oversight of internal audit programs continued during FY 2012-13 including:

- Issuance of the OSIG Directive No. 001 which sets forth requirements for the Commonwealth's Internal Audit Programs. This Directive is available on the OSIG's website at [www.osig.virginia.gov](http://www.osig.virginia.gov);
- The initiation of periodic Chief Audit Executives Roundtable meetings. The first meeting was held in March 2013 for Executive Branch agencies; subsequent meetings will be held at least annually or more often as necessary depending on need;



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- Coordination of the Institute of Internal Auditors (IIA) membership for 238 employees statewide; and,
- Establishment of committees comprised of chief audit executives to:
  - Develop and recommend a policy for quality assurance programs;
  - Develop and recommend improvements to the structure of the Commonwealth's Internal Audit Function throughout executive branch agencies; and,
  - Develop and recommend proposed legislation to enhance internal audit programs throughout the Commonwealth's executive branch agencies.

### **Risk Assessment (Complete)**

OSIG staff collected data from various sources to be used in the development of the OSIG Commonwealth-wide risk assessment and performance review plan. A list of all of the Executive Branch agencies was developed and data from the following areas were collected and analyzed:

- Appropriations
- Strategic Plans and Performance Measures
- Audits and reviews by other entities such as the APA, JLARC, DOA, etc.
- Media reports

The accounting firm of Deloitte & Touche LLP (Deloitte) was hired by this office to prepare a risk assessment using the data gathered above and by conducting personal interviews with the Governor's Chief of Staff, Cabinet Secretaries, and selected agency heads. Additional information was obtained by sending surveys to all other agency heads, internal audit directors, and fiscal officers. OSIG staff assisted in the interview process and in collecting, organizing, and analyzing the survey results.



## Performance Review Plan Development (In-progress)

Deloitte delivered the completed risk assessment document to the OSIG at fiscal year-end. Based on the risk assessment document, Deloitte outlined those high risk areas within the high risk agencies where performance reviews should first be conducted in the current fiscal year (FY 2013-2014) as well as those areas and agencies where performance reviews should be conducted during the following three years. Using the assessment, the OSIG is in the process of crafting a detailed performance review plan that will serve as a guide in the conduct of future performance reviews.

## Survey of Other States Having Performance Audit Functions

Section 2.2-309(A)(9) of the *Code of Virginia* tasks the OSIG with the conduct of performance reviews of executive branch agencies. As part of our effort over the last year to develop an organizational structure capable of effectively carrying out this mandate, the OSIG performed extensive research to identify entities throughout the nation with similar mission responsibilities. The research included, in part, the following:

- Utilization of the internet to identify entities across the nation responsible for the conduct of performance reviews;
- Acquisition of contact information;
- Development and delivery of an online survey to 30 entities which research suggested were responsible for conducting performance reviews; and
- A detailed examination of these 30 entities' websites.



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The purpose of this research was to identify existing organizational structures, or components thereof, as well as “best practices” to be considered for use by the OSIG in its own formative efforts.

Of the 30 entities identified, 17 responded to a survey. The responses were analyzed by the OSIG using tools from an online survey provider. The survey identified four programs (Ohio, Oklahoma, Maryland, and Massachusetts) whose mission and related responsibilities appeared closely aligned with the OSIG in terms of its legislated performance review mandate. The wealth of data provided by these entities positively contributed to the development of the OSIG’s current organizational structure. The OSIG continues to interact with these organizations to gain valuable insights into best practices relating to areas such as risk assessment, review and documentation methodologies, reporting formats, etc.



### C. Behavioral Health and Developmental Services (BHDS) Division:

The OSIG’s BHDS mandates were carried-over from the former OIG-BHDS and are currently contained in *Code* § 2.2-309.1. In addition to OSIG’s duties and authorities for other executive branch agencies, the BHDS Division is exclusively responsible for:

- i) Conducting annual unannounced inspections of the 16 state facilities operated by the Department of Behavioral Health and Developmental Services (DBHDS);
- ii) Inspecting, monitoring and reviewing the quality of services at the state-operated facilities and 814 licensed providers of behavioral health and developmental services;
- iii) Assuring that the General Assembly and the Joint Commission on Health Care are fully and currently informed of significant problems; and,
- iv) Investigating specific complaints of abuse, neglect, or inadequate care.

Below please find a summary of the critical incidents received and reviewed, the abuse and neglect cases investigated, and the deaths (and autopsies) reviewed by the OSIG during FY 2013. Critical incidents typically involve quality of care, seclusion and restraint, or medication usage. Investigations typically involve abuse, neglect, or inadequate care of persons served by state-operated facilities or providers of behavioral health or developmental services.

<b>Behavioral Health and Developmental Services FY 2013 Data Monitoring</b>					
<b>Critical Incidents Reviewed</b>	<b>Critical Incidents Requiring Follow-up</b>	<b>Abuse/Neglect Cases Reviewed</b>	<b>Deaths Reviewed</b>	<b>Autopsies Reviewed</b>	<b>DBHDS Media Alerts Reviewed</b>
680	51	11	74	63	111



### ***Performance Review of the Discharge Assistance Program (DAP) (Complete)***

During FY 2013, the OSIG completed its review titled *Performance Review of the Discharge Assistance Program (DAP)*. The DAP is administered by the DBHDS and is intended to support individuals leaving state-operated facilities to return to their communities. This review was undertaken pursuant to the *Code of Virginia* § 2.2-309(A)(9) and § 2.2-309.1(B)(2).

This review commenced in October, 2012, and a draft report was issued in August 2013. (A copy of this Report will be available in the near future at [www.osig.virginia.gov](http://www.osig.virginia.gov).) The DBHDS took steps during this review to address some of the issues identified by the OSIG; however, additional steps remain to be taken by the DBHDS to create the needed performance-based management system for the DAP.

### ***Review of Mental Health Services in Virginia's Local and Regional Jails (In-progress)***

Site reviews of 25 local and regional jails began in August, 2013, and the OSIG's Report is scheduled for release during the second quarter of FY 2014. This will be the first statewide study of jail-based mental health services and it will determine if jail policies and practices are identifying and meeting the needs of individuals with mental illness. This study will start with (and build-on) the Compensation Board's *2012 Mental Illness in Jails Report* (November 1, 2012)—highlighting that over 6,300 individuals with mental illness were served by the Commonwealth's local and regional jails in 2012.



## Significant Outstanding Findings (From Previous OIG-BHDS Reports)

As required by § 2.2-309.1(A)(4) of the *Code of Virginia*, the Office of the State Inspector General is required to report on the progress of outstanding deficiencies of the behavioral health and developmental disabilities systems. The following represents significant issues that remain in FY 2013:

**LACK OF ACCOUNTABILITY:** The DBHDS Division of Quality Management and Development has made improvements in formalizing performance measures and initiatives, particularly as related to the Department of Justice (DOJ) *Settlement Agreement*; however, performance measures are still needed for many program areas of DBHDS services. As noted in earlier OIG-BHDS Annual Reports, such measures are not always an inherent component of DBHDS' strategic planning.

In FY 2013, the OSIG attempted to verify a statement of performance regarding the Annual Consultative Audit initiative by DBHDS that was designed to increase the efficiency and effectiveness of the state facilities. The OSIG could not substantiate the information due to the lack of any process documentation and the absence of defined measures for success by the Department. The lack of accountability was also a significant theme in the Discharge Assistance Project (DAP) study.

**EXTRAORDINARY BARRIERS TO DISCHARGE:** Also outstanding are the following FY 2012 recommendations:

- That the DBHDS publish "a HIPAA compliant quarterly update summarizing the number of individuals on the Extraordinary Barriers List (EBL) at each state hospital to include: the specific barrier(s) to a person's discharge, the estimated cost (supplied by the sponsoring CSB or regional access committee) to discharge each person, and the length of time each person has been on the list." and,



- That the DBHDS “evaluate the supported housing requirements necessary for each region to materially reduce the extraordinary barriers list and report findings to the Commissioner and the OIG by January 1, 2013. The report should include an evaluation of all community supports needed to sustain an individual on the EBL in his or her community of choice.” (OIG Report No. 207-12, Review of the Barriers to Discharge in the State-Operated Adult Behavioral Health Facilities)

**MEDICAL CLEARANCE:** Ineffective medical screening and clearance processes for persons detained for evaluation under Emergency Custody Orders (ECO) and Temporary Detention Orders (TDO) have been, and remain, a chronic challenge in the Commonwealth. In 2012, there was a broad consensus that adoption of best practices and an updated common understanding articulated in the 2007 *Guidance Materials* would improve outcomes for the persons served, bring down costs system wide, and reduce the number of unexecuted TDOs.

As a result, the former OIG-BHDS recommended that the DBHDS assemble an *ad hoc* group of Stakeholders to review and update the *Medical Screening and Assessment Guidance Material* as necessary, and reissue these constructive guidelines by October 30, 2012. (OIG Report No. 206-11) The workgroup was formed and was progressing towards a consensus document, but the process became, and remains, stalled after issues between the facilities and community providers could not be resolved.



***Annual Unannounced Inspections of Facilities Operated by the  
Department of Behavioral Health and Developmental Services***

In furtherance of its statutory duty to conduct unannounced inspections of state-operated facilities as set-out at § 2.2-309.1(A)(1) the *Code of Virginia*, the Office of the State Inspector General performed the following activities during FY 2013:

- Surveys were completed with 657 clinical and direct care staff with a focus on unit functioning, leadership support, and staff morale;
- Surveys/Interviews with 38 persons served and/or their authorized representatives occurred with a focus on quality of care, participation in active treatment, and discharge support;
- Completion of environmental checklists for at least three residential units at each facility, with a focus on issues of safety and quality of life;
- Review of staff scheduling across three shifts for a seven-day period, with a focus on staffing patterns and overtime;
- Completion of 184 patient record reviews with a focus on transition planning and transition follow-up;
- Observations of 36 treatment team meetings with a focus on active treatment and the active participation of person's served in goal setting and discharge planning; and,
- Review of selected abuse and neglect cases, critical incidents, and risk management reviews.

The OSIG concentrated on four key focus areas during the unannounced inspection process of state-operated facilities during FY 2013 including:



1. Active discharge planning within the context of, and as a vital component to, overall individualized active treatment;
2. Staff concerns as evidenced by staff turnover rates and a facility's use of overtime;
3. Staff attitudes and knowledge to provide services consistent with DBHDS' expressed commitment to recovery and person-centered treatment; and,
4. Each facility's environmental compliance with the Human Rights regulations as safe, humane, and sanitary environments of care in the context of other more global environmental factors.

Issues and OSIG Recommendations, by unannounced inspection focus area, are as follows:

### ***Facility Active Treatment and Discharge Planning Issues***

1. Enhanced discharge planning and transitional services are well-developed at each of the training centers. In contrast, the process for discharge planning at the behavioral health facilities have less safeguards in place to assure successful community re-integration and continuity of care.

*OSIG Recommendation: It is recommended that DBHDS review options for enhancing the discharge planning process in the behavioral health facilities by adapting initiatives developed for the training centers.*

2. Persons served at Virginia Center for Behavioral Rehabilitation (VCBR) are not afforded the same system of transitional supports as persons discharged from Virginia's other behavioral health facilities.



*OSIG Recommendation: Consistent with public safety and sound clinical practice, it is recommended that DBHDS develop a strategy for aligning discharge/release protocols and programs for VCBR residents with those of other DBHDS facilities.*

3. There has been an increase in readmission rates at the Commonwealth Center for Children and Adolescents (CCCA) over the past 16 months (January 2012 to April 2013).

*OSIG Recommendation: It is recommended that DBHDS' Division of Children's Services conduct a study of the factors that have resulted in the increased readmission rate at CCCA and, in consultation with various stakeholders, develop strategies for reversing this trend, including assessing the effectiveness of the currently funded treatment programs to assure that the limited resources are being utilized in the most effective manner.*

### **Facility Staffing Issues**

1. Central Virginia Training Center's (CVTC) direct care staff accounted for 50% of the overall overtime across the five training centers during the period between July 1, 2012 and March 31, 2013.

*OSIG Recommendation: It is recommended that the DBHDS Central Office, in conjunction with CVTC facility leadership, develop strategies for addressing the unique challenges in staffing for this facility with a focus on mitigating the negative effects of excessive overtime on staff.*



## Facility *Environmental Issues*

1. The effectiveness of the Annual Consultation Audit (ACA) process could not be verified because neither the DBHDS nor the state facility leadership could produce any written documentation corroborating findings, observations, and recommendations from the ACA.

*The OSIG could not verify the peer review process (ACA) because neither facility nor the DBHDS leadership could produce any written documentation containing findings and recommendations of this process.*

*OSIG Recommendation: Enhanced performance measures are still needed in many process and program areas of DBHDS service provision. It was recommended that DBHDS develop and publish a plan for addressing performance enhancement of the state-operated facilities, including measureable objectives so that publicized outcomes could be verified.*

2. Even though the practice of double-bunking residents at VCBR is viewed as more cost effective than either facility expansion or reopening the vacant facility still available in Petersburg, it is clinically challenging and has the potential of increasing safety risks over-time.

*OSIG Recommendation: No recommendation is offered at this time. OSIG staff will monitor the use of double-bunking as census growth continues.*



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3. Facility and Central Office leadership acknowledged that the Petersburg campus will be impacted by the closing of Southside Virginia Training Center. The campus currently comprises Hiram Davis Medical Center (HDMC), Central State Hospital (CSH), and Southside Virginia Training Center (SVTC).

*OSIG Recommendation: It is recommended that DBHDS develop a plan for addressing the impact of the closure of SVTC on the Petersburg campus, particularly as related to CSH.*



## D. Investigation Division

Section 2.2-309 (A)(4) *Code of Virginia* sets-out the State Inspector General's authority and responsibility with respect to investigations as follows:

4. Investigate the management and operations of state agencies and nonstate agencies to determine whether acts of fraud, waste, abuse, or corruption have been committed or are being committed by state officers or employees or any officers or employees of a nonstate agency, including any allegations of criminal acts affecting the operations of state agencies or nonstate agencies.....

The *Code* also requires that the State Inspector General “prepare a detailed report of each investigation stating whether fraud, waste, abuse, or corruption has been detected....[2.2-309(A)(5).” The results of all OSIG investigations are generally communicated to the Governor’s Chief of Staff as well as the appropriate agency head and Cabinet Secretary. Below please find a summary of allegations investigated.

Nature of Allegations Investigated			
Abuse of Authority	1	Misuse of Federal Funds	1
Administrative Policy Violations	2	Misuse of State Resources	2
Bribery	1	Policy Violations (State Hotline)	1
Conflict of Interests (Employment)	1	Rebate Fraud	1
Contract & Procurement Violations	6	Retaliation (Improper Hotline Disclosure)	1
Misappropriation	1		



As a matter of policy, the Office of the State Inspector General will not comment on active or on-going investigations except, where appropriate, to acknowledge that an investigation is underway. The reports required by the *Code* of completed OSIG investigations [§ 2.2-309(A)(5)] may be available for release pursuant to *FOIA* requests. Reports describing the investigative results of completed investigations will be redacted to protect the identities of complainants, witnesses, and others in compliance with OSIG policy and as required by applicable federal and state laws. Below please find a summary of FY 2013 OSIG investigations reflecting the number of investigations initiated, closed, referred and the executive agencies where the investigations originated.

<b>FY 2013 Formal OSIG Investigations</b>			
<b>Cases Initiated</b>	<b>Cases Closed</b>	<b>Cases Referred for Federal Prosecution</b>	<b>Cases Resulting in Corrective Action Recommendations</b>
18	5	1	3

<b>Executive Agencies Involved in OSIG Investigations</b>	
<b>Agency Name</b>	<b>Agency Name</b>
Department of Mines, Minerals and Energy	Department of General Services
George Mason University	Department of Game and Inland Fisheries
Department of Behavioral Health and Developmental Services	Department of Juvenile Justice
Department of Motor Vehicles	Virginia State University
Virginia Economic Development Partnership	Norfolk State University
Department of Veterans Services	Department of Corrections
Health and Human Resources	Office of the Attorney General



## 2014 Goals

It is difficult to describe, let alone appreciate the unique challenges associated with creating a new agency of state government—especially a stand-alone agency untethered from any existing secretariat or agency. All of the support functions and resources that are often taken for granted in an established agency, (staff, office space, phones, equipment, vehicles, policies and procedures, HR support, IT equipment and support, accounting support, budget development, legislative coordination, risk management, website development and operation, the trade-craft tools of law enforcement officers, etc.) had to be created, or acquired, by the OSIG during its first year—while, at the same time, the Office endeavored to accomplish its wide-ranging statutory mandates listed earlier in this Annual Report.

Notwithstanding these challenges, the OSIG has made significant progress during its first year towards creating an agency capable of carrying-out its broad statutory mandates; however, the Office has only just begun this process. Some of the OSIG goals for 2014 appear below:

	<b>FY 2014 Goals</b>	<b>Status</b>
✓	Create a Strategic Plan for OSIG with measurable goals, objectives, and performance metrics.	FY 2014
✓	Continue to sharpen OSIG's enabling legislation to clarify the statutory mandates.	3 <sup>rd</sup> Quarter FY 2014



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- ✓ Develop comprehensive policies and procedures for responding to FOIA requests. FY 2014
- ✓ Continue to develop appropriate and necessary policies and procedures to support the operation of the OSIG. On-going
- ✓ Research and procure additional software, as appropriate, to support the investigative and performance review divisions. (data mining, forensic, case management, etc.) On-going
- ✓ Consolidate OSIG personnel and relocate into central location to streamline operations. First Quarter FY 2014
- ✓ Assure that training for all OSIG staff is current in areas of state government, professional licensure, and the Department of Criminal Justice Services for law enforcement officers. First Quarter FY 2014
- ✓ In partnership with the Department of Human Resource Management (DHRM), complete a compensation study of OSIG personnel to develop a consistent compensation approach for all OSIG personnel. FY 2014
- ✓ Create a communications plan for the agency to include a website for the OSIG that supports the Mission of the Office and provides a portal to assist citizens in reporting waste, fraud, abuse and criminal activity. FY 2014
- ✓ Develop an annual and long term performance review plan based, in part, upon a recently completed Commonwealth-wide risk assessment. FY 2014
- ✓ Continue to recruit personnel to fill existing vacant positions in the OSIG. FY 2014



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- ✓ Strengthen and improve communications with selected agency personnel to enhance the OSIG's investigative activities. FY 2014
- ✓ Continue to cultivate partnerships with agencies with overlapping, or similar, missions (i.e. APA, VSP, and JLARC) and leverage our collective effectiveness where ever possible. FY 2014

This concludes the *Annual Report* of the Office of the State Inspector General for its first year of operation covering the period July 1, 2012 to June 30, 2013.

If you would like additional information about the content of this report, or if you have any questions about the OSIG or our operations, contact the OSIG at (804) 625-3249. A copy of this report can be found on the OSIG website at [www.osig.virginia.gov](http://www.osig.virginia.gov).