

Florida Trend

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Watchdogs on a Leash

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Every state agency in Florida has an inspector general — an internal watchdog trained to sniff out corruption, dig up fraud and make sure tax dollars are spent wisely. But in recent years, some Florida inspectors have found themselves in the doghouse — fired or asked to resign by bosses at the agencies where the inspectors were supposed to provide independent oversight.

“I basically got fired for doing the right thing,” says Fred Schuknecht, who lost his job as inspector general after 26 years at the Department of Corrections. [Photo: Jeffrey Camp]

The case of Inspector General Linda Keen at the Agency for Health Care Administration made headlines last year when new AHCA Secretary Holly Benson asked Keen to leave the agency. Keen had written a report critical of a pilot project meant to reform the state’s Medicaid system. Its prime sponsor in the Legislature: Then-Rep. Holly Benson.

In the last six years, at least three other inspectors were forced out of state government positions for reasons that they say had nothing to do with their job performance:

» In 2003, when James Crosby became secretary of the Florida Department of Corrections, he fired the department’s longtime inspector general, Fred Schuknecht, who had investigated A.C. Clark, a friend of Crosby’s. Both Crosby and Clark are now in prison for accepting kickbacks. Schuknecht’s 26½-year career with the Department of Corrections was destroyed [[“Unwelcome Competence”](#)].

» In 2006, then-interim FAMU President Castell Bryant fired the university’s interim inspector general, Michael Brown, after he began investigating allegations that her

administration was distorting the picture of the university's finances. A year later, following a wrongful termination suit, the university paid Brown a settlement of \$90,000 and reinstated him to a three-year job at the FAMU Foundation.

» Last year, Florida Department of Transportation Secretary Stephanie Kopelousos asked longtime Inspector General Cecil Bragg to resign. Under Bragg, hired by former Secretary Ben Watts in the fall of 1993, the department had moved aggressively against corrupt contractors and employees, helping to bring criminal action in major cases involving White Construction of Chiefland and Cone Constructors of Tampa. Watts' attitude — shared by his immediate successors — was “just do your job and don't even bring reports to me because I don't want the appearance of influence” either for or against a contractor, Bragg says.

Kopelousos didn't share that approach, Bragg says. As chief of staff and then secretary, Kopelousos, on the advice of her legal staff, told Bragg he went too far in taking cases to law enforcement, Bragg says. She was “very worried,” he says, about what he audited and “very worried about what people would think.”

The agency's general counsel, Alexis Yarbrough, told him that the Department of Transportation put itself at risk of litigation when it pursued investigations with law enforcement on cases including those against contractors, Bragg says. Yarbrough objected, for example, when Bragg worked hand-in-hand with law enforcement on a Miami case that last year led to the convictions of former Miami DOT supervisor Donnie Lee Cook and five others for bribery, racketeering, fraud and other charges. Bragg says Kopelousos stated that pursuing such investigations and prosecutions was “expensive and not appropriate use of department resources.” Neither Kopelousos nor Yarbrough would comment for this report.

“Don't we owe it to the public to pursue aggressively those who defraud the department?” Bragg asks. “I think that's a higher goal than trying to stop someone from suing us.”

Protecting inspectors

Florida created its Inspector General Act in 1994 to ensure independent oversight in 31 state agencies, five water management districts and the state's public universities. Florida's inspectors general are supposed to "detect and deter fraud, waste and abuse."

Linda Keen, a highly regarded inspector with a specialization in public health, says being forced out of the Agency for Health Care Administration was "painful" and has left a cloud over her "once unsoiled professional reputation."

[Photo: Ray Stanyard]

But the law put the watchdogs under the supervision of the politically appointed secretaries whose agencies the inspectors are supposed to monitor. The structure makes the job tricky at best. "Let's face it — no one likes people turning over rocks in their own back yard," says John Moriarty, inspector general for the Texas Department of Criminal Justice, where an independent board is responsible for hiring both agency secretaries and inspectors general. "You've got to have independence to do this work."

Moriarty says since taking his position in May 2001, "I can honestly say I've never had one person interfere with one inspection, and we've investigated everyone from the agency director on down."

Nationally, Florida's approach to agency watchdogs is middle-of-the-road. Some states don't have inspectors at all. In some states, including Ohio, inspectors can be fired only for cause. In others, like Texas, some inspectors are hired by and report to independent panels. John Turcotte, Florida's first head of the Office of Program Policy and Government Accountability, now directs program evaluation for the North Carolina General Assembly, which in 2007 set up a special review board for internal auditors because of concerns about their independence. Turcotte says the board, which is chaired by the state controller and has subpoena power, has helped protect watchdogs from the strong influence that "internal auditors and inspectors general are always going to be subject to." The board also double-checks all internal reports and can investigate cases in which an agency's reports seem to have pulled their punches.

"Independence is at the heart and soul of what we're talking about," Turcotte says. "If you're worried about keeping your job instead of doing your job, that's not in the best interest of the public."

Melinda Miguel, who has served as an inspector general for three Florida agencies, is chief inspector general in Gov. Charlie Crist's office, which makes her Florida's watchdog-in-

chief. She acknowledges Schuknecht's case was egregious but says not every secretary who replaces an inspector has ulterior motives. There's a big difference, she says, between a bad apple and "an agency head who wants to go in a different direction."

No inspector general, including Bragg, has ever made a formal complaint to her about being constrained from pursuing law enforcement action, she says. State law gives Miguel authority to investigate such cases and remove any hindrances. Florida's system "works well and does give us the broad authority to do what we need to do," Miguel says, particularly after an update last year to Florida's inspector general statute that incorporated professional standards into the law and prohibited any agency staff member from impeding investigations.

"I hate that this is happening to IGs," says former DOT Inspector General Cecil Bragg, forced out after being told his investigations went too far. "You're doing your job, you're doing it well, and then — whack." [Photo: Jeffrey Camp]

The update came after the Legislature created a Florida Council on State Agency Inspectors General in 2006 to examine the inspector general system and recommend changes "to enhance public trust, accountability and integrity in state government."

The panel noted that "the current governance structure of inspectors general reporting to agency heads has advantages and disadvantages" but didn't consider changing the structure because of its scope and time restraints, Miguel says. The Legislature adopted the panel's recommendation that agency heads should have to notify the governor's inspector general seven days before hiring or terminating an agency inspector general. But the update did not give Miguel subpoena power, which she and other inspectors general had said was "crucial" to her ability to protect inspectors.

Since Bragg, Keen and Schuknecht were all given the proverbial "opportunity to resign," the seven-day law probably wouldn't have done them any good. In addition, agency heads can put pressure on their inspectors in more subtle ways, ranging from budget or personnel cuts to unwritten policies that inspectors general not publish their reports externally. (Inspector general reports fall under Florida's public records law if requested, but there is no requirement that findings be published for the public or the Legislature except in certain whistleblower cases.)

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Schuknecht is among those who'd like to see additional changes to protect the inspectors from politics. Options include an independent oversight body like those in Texas and North Carolina or an alternative structure for hiring and dismissal. In the federal system, most inspectors general are appointed by the president and confirmed by the U.S. Senate, reporting to the president instead of agencies. Model state legislation put forth by the National Association of Inspectors General suggests appointment by the governor with oversight by the state Senate and other alternatives to agency heads. The association also recommends a fixed term for inspectors, ideally seven years, that doesn't overlap with an agency secretary's tenure.

At the very least, Schuknecht and Bragg say, the law should prevent a secretary from removing an inspector without cause, another suggestion put forward by the national inspector general association in its model legislation.

"In Florida, it's way too easy to remove someone without any cause at all," says Schuknecht. "Crosby was a bad apple allowed to operate because of a weak system. If you have the right systems in place, the bad apples can't operate."

Miguel says her office would consider any additional suggestions put forward in a bill, though she thinks the current law has "all the provisions that allow us to do our jobs, including collaborating and making referrals to law enforcement.

"That said," she adds, "our jobs are tough jobs."

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