

Managing Renewal

by June Gibbs Brown

Contributions by: John M. Hapchuck, Director, Programs and Operations Audits, Health Care Financing Audits, Office of Inspector General, Department of Health and Human Services



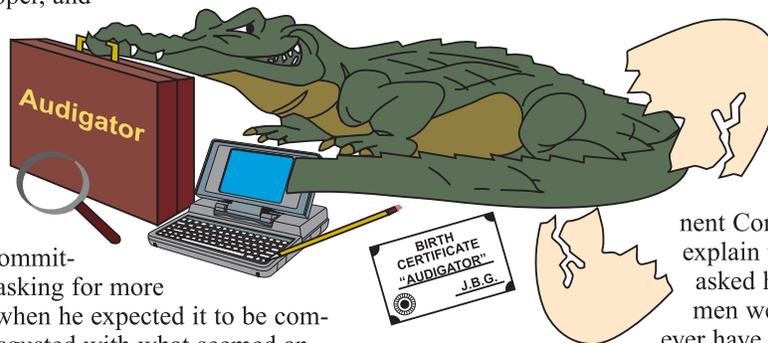
June Gibbs Brown, Inspector General, Department of Health and Human Services

Twenty years ago I came to Washington. As a result of the Inspector General Act of 1978, I was a newly appointed Inspector General assigned to the Department of the Interior. Shortly after settling into my new office, I received a telephone call from an Assistant Secretary of the Department of the Interior. Cecil Andrus, the Secretary, was at that very moment testifying before a congressional committee on the Union Station Project. Today, Union Station is a beautiful marble structure filled with restaurants, a variety of stores to please the most ardent shopper, and a fully functional railroad station. But in 1979 it was a marble facade behind which a great black hole sucked up appropriated funds with no apparent results. The Secretary had been called before our appropriating committee to explain why he was asking for more money for the project and when he expected it to be completed. The Committee, disgusted with what seemed an endless waste of taxpayers money, was determined to cut the losses. The Secretary was anxious to keep the project going. Since the Congress had established the Inspectors General, the members wanted IG assurance that the project was sound. The IG Act was so new the Secretary was not certain the law, with its independence provisions, permitted him to ask the IG to perform a review. Hence the phone call. I, of course, agreed to do the job. Secretary Andrus told the Committee that he would ask the IG to review the

project and, based on that review, the committee could make a decision regarding the future of Union Station.

I immediately called the heads of Audit and Investigation to my office to discuss their assignment (the Assistant Inspectors General for Audit and Investigations had not yet been selected). We decided to build upon the results of numerous work products already completed. I checked on the progress weekly and then daily as time wore on. Finally the Audit Chief, with considerable fanfare, presented the completed report to me. I delivered a copy to the Secretary, concerned staff, and personally delivered copies to all Committee members. I had a great sense of relief that this first highly visible project had been completed in a timely manner.

The next day I was sitting in my office when the head of Investigations came to see me. He put a report on my desk and stated he had finished the investigation report on the Union Station Project. How could I possibly have two reports? I had personally delivered what I thought was an OIG report to the Secretary and prominent Congressmen. How could I explain that I had a second report? I asked how this could happen? Both men were incredulous. How could I ever have expected one report? The chief auditor insinuated that he could not include the work of investigations in his audit report because investigators do not follow the Yellow Book Standards, and report hearsay and innuendo. The chief investigator indicated he would never consider reporting audit recommendations since they are too general and not supported with compelling evidence of wrongdoing (even



(continued on page 20)

when an auditor knew it existed, the auditor would take a statistical sample...etc.).

That was a defining moment in my fledgling IG career. It was clear to me that auditors and investigators needed to communicate. Because they had not in the past, Billie Sol Estes had been better able to conceal his fraudulent activities, and wasn't that part of the history of why Inspectors General were established? I recognized that a new type of work product - an "investigative audit" - needed to be created for special situations. Obviously, this new type of activity required a person with expanded skills and perspective - an "audigator."

What is an Audigator?

An audigator is a complex concept which is difficult to explain in a few words. As it has evolved over time, it has come to represent an expansion of the traditional role of auditors and investigators. For example, an audigator is an auditor who recognizes (and proves) that some "innocent" errors are made on purpose or "with intent." An audigator is an auditor who realizes that his/her work identifying overpayments may be used in the determination of criminal or civil fines, penalties and possible incarceration. By the same token, an audigator is an investigator who recognizes that problems detected in a specific case may exist elsewhere and that the appropriate follow-up work could (and should) lead to a system, policy, or legislative change. Everyone agrees that an audigator is a team player.

Comparison of Characteristics

Increasingly, my staff has been using investigative audits in criminal and civil actions. An alternate way to explain the audigator concept is to compare and contrast traditional audits with investigative audits in the Department of Health and Human Services.

Traditional Audits Performed By Auditors

An entrance conference is held with the auditee and a draft report is issued to solicit the auditee's comments.

A final report is issued to the auditee and program managers.

The final report is available to the public.

Final determination is made by program managers.

There is an administrative recovery of overpayments.

A report may contain recommendations to strengthen entity internal controls.

Auditors help managers to resolve findings.

The existence and degree of intent is usually not determined.

The amount of overpayment is determined within a specified precision.

A follow-up review is within the discretion of the auditor and program officials.

It has a lower potential "sentinel" effect.

It is usually performed by a group of auditors.

Investigative Audits Performed By Audigators

Often, there is minimal contact with the suspect.

An internal report is generated and shared with appropriate law enforcement officials.

Public information is available only after a conviction or settlement.

Final determination usually is made by the judicial system.

The judicial decision can involve the recovery of overpayments, fines, penalties, and incarceration.

A compliance plan may be mandated for the offending entity with penalties if not implemented.

Any member of the team may be called as expert witness at a trial.

The intent to defraud must be established.

Often, the amount to be recovered is a negotiable item.

The implementation of any compliance plan is monitored.

It has a higher potential "sentinel" effect.

Often is performed by a multi-disciplinary team (e.g. auditors, medical review specialists, investigators) from various agencies (e.g. HHS, FBI, DOJ).

Audigator Benefits

Since I became the Inspector General at the Department of Health and Human Services in November 1993, I have stressed to the staff the benefits of using the audigator concept. As with any new concept, it took time to be fully embraced and used with regularity. Its use, in my opinion, accounts for much of the dramatic increase in our investigative monetary accomplishments. In FY 1994, our traditional investigative actions showed that approximately \$300 million needed to be repaid to the Federal Government. As shown in the following table, investigative fines, restitutions, and other settlements resulting from our criminal convictions and civil settlements amounted to approximately \$1.24 billion in FY 1997. Furthermore, with respect to this \$1.24 billion, audigator teams were responsible for identifying approximately \$6 out of every \$10.

Fines, restitutions and other settlements during Fiscal Year 1997		
How Performed	Amount	Percentage
Traditional Investigations	\$ 479.3 million	39%
Audigator Teams	\$ 759.8 million	61%
Total	\$1,239.1 million	100%

Summary

In the "old" days, there was a clear demarcation line between audits and investigations and the staff that performed these functions. Although the majority of the work is still segregated by discipline, times and conditions have radically changed and the Inspectors General community needs to more fully integrate these functions as the work dictates. My experience has been that the results of investigative audits are very impressive and that the audigator concept needs to be adopted by others. It is my fervent hope that future potential violators embrace the belief expressed by Jack Mills (the former head of ABC Home Health Agency currently serving a 7-year prison sentence for Medicare fraud) when he stated after sentencing, "I would rather face a punk with a gun than an auditor [audigator] with a sharp pencil."□