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AGENCY REVIEW

DEPARTMENT OF REVENUE ALCOHOL BEVERAGE CONTROL ADMINISTRATION

OVERVIEW

A Survey of Enforcement Agents Within the Alcohol Beverage Control Administration's Enforcement Unit Reveals Several Concerns



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OBJECTIVE, SCOPE & METHODOLOGY

The survey of the Enforcement Unit of the Alcohol Beverage Control Administration (ABCA) is authorized by the West Virginia Performance Review Act, specifically §4-10-8(b)3 of the West Virginia Code, as amended. This survey was conducted as part of the 2010 agency review of the Department of Revenue. The Enforcement Unit of the ABCA is responsible for ensuring compliance with West Virginia law pertaining to the control of alcohol and tobacco in the State.

Objective

The objective of the survey was to obtain the opinions of the Inspectors and Enforcement Agents working within the Enforcement Unit of the Alcohol Beverage Control Administration.

Scope

The survey was sent to the 24 individuals employed as Inspectors and Enforcement Agents in the Enforcement Unit of the Alcohol Beverage Control Administration. These employees were Enforcement Agents or Inspectors at the start of the survey period. Regional Supervisors were not included in the survey. The questions ranged from relatively broad, general questions regarding work conditions to more specific questions regarding management and enforcement regions. There were five sections in the survey: (I) Administrative; (II) Enforcement Regions; (III) Performance and Standards; (IV) Management; and (V) Licensee Enforcement.

Methodology

The Legislative Auditor initiated the survey of Enforcement Unit employees on August 27, 2010 and collected responses until October 31, 2010. The Legislative Auditor conducted the survey primarily online using SurveyMonkey.com. The Department of Revenue provided contact information for each Enforcement Unit employee. Potential respondents received a letter in the mail inviting them to participate in the survey online with the option to have a paper copy of the survey sent to them or to provide responses over the telephone. The complete results of the survey are given in this report including numerical data and comments provided by the respondents. Comments given by respondents were edited to correct obvious spelling errors and potentially identifying information has been either removed or edited into general terms.

ISSUE 1

A Survey of Enforcement Agents Within the Alcohol Beverage Control Administration's Enforcement Unit Reveals Several Concerns.

Issue Summary

The Legislative Auditor conducted a survey of Enforcement Agents and Inspectors working in the Enforcement Unit (the Unit) of the Alcohol Beverage Control Administration (ABCA). The survey was conducted online using SurveyMonkey.com to collect results, but respondents were also given the option to return a paper copy of their responses or to complete the survey by telephone. Out of 24 enforcement agents, 19 completed the survey either via the web, telephone or by returning a paper survey. Survey questions covered several topics relating to the Unit's work including sections to address basic work conditions, training needs, enforcement regions and the management of the ABCA. Survey results indicate that performance issues may be present in the agency. Note that the information provided by respondents in comments has not been confirmed for accuracy. The Legislative Auditor will address these potential issues in a future report.

The Enforcement Unit is responsible for the Enforcement of Alcohol Beverage Control Laws in Licensed Establishments Throughout the State

The Alcohol Beverage Control Administration (ABCA) is a fully-funded special revenue agency, operating with revenues earned through the sale of alcohol to licensed retailers in the State. The mission of the ABCA is to sell and control the use of alcoholic beverages and to enforce the laws and regulations regarding alcoholic beverages for the benefit of the state. The Commissioner of the agency feels that the primary function of the agency is to earn state revenue through the sale of alcohol to licensees. On average, the ABCA transfers \$15.5 million to the General Revenue Fund annually based on sales from 2008 to 2010. However, the enforcement of alcohol laws is also the function of the agency, and this function is the responsibility of the Enforcement Unit (the Unit).

The Unit makes up 56 of the ABCA's 113.5 FTE positions, and its FY 2011 requested budget totaled \$3,258,395 of the \$8,747,564 budget for the entire agency. Currently, the Unit has a staff of 36 employees including the Licensing Supervisor, 6 Administrative positions, 5 Enforcement Supervisors, 10 Inspectors, 12 Enforcement Agents, a Supervisor in the Eastern Region and a Staff Development Specialist.

The Unit is responsible for ensuring compliance with West Virginia law pertaining to alcohol and tobacco. The Unit enforces numerous alcohol laws that deal with the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages. The primary duties of the Enforcement Unit are to

- conduct initial inspection for licensing purposes,
- conduct background checks on persons applying for an ABCA license,
- conduct inspections of Class A and Class B licensed establishments,
- conduct inspections to ensure that premises are properly licensed,
- respond to complaints received from the general public regarding violations,
- conduct underage alcohol and tobacco compliance checks,
- conduct walkthroughs to spot underage consuming alcohol, and
- conduct compliance sweeps with other law enforcement agencies.

Enforcement agents and inspectors travel to conduct their work, so they are based out of their homes. The unit breaks up the state into five regions, and each region has an enforcement supervisor.

Survey Methodology

The Legislative Auditor initiated the survey of Enforcement Unit employees on August 27, 2010 and collected responses until October 31, 2010. The long survey period was allowed in an attempt to gain as many respondents as possible. **The survey population included 24 employees, of which 19 responded, although not all responded to each question.** These employees were Enforcement Agents or Inspectors at the start of the survey period. Regional Supervisors were not included in the survey. The Legislative Auditor conducted the survey primarily online using SurveyMonkey.com. The Department of Revenue provided contact information for each Enforcement Unit employee. Potential respondents received a letter in the mail inviting them to participate in the survey online with the option to have a paper copy of the survey sent to them or to provide responses over the telephone. The Legislative Auditor assured the confidentiality of survey responses for all respondents.

The survey questions ranged from relatively broad, general questions regarding work conditions to more specific questions regarding management and enforcement regions. There were five sections in the survey: (I) Administrative; (II) Enforcement Regions; (III) Performance and Standards; (IV) Management; and (V) Licensee Enforcement.

The complete results of the survey are given in this report including numerical data and comments provided by the respondents. Comments given by respondents were edited to correct obvious spelling errors and potentially identifying information has been either removed or edited into general terms. The title “inspector” replaces gendered pronouns referring to respondents, but this does not indicate the actual job title of the respondent. Any comments edited for personally identifying information are made apparent by

the addition of “[XXXXX]” within those comments. **Finally, all comments are the opinions of the respondents, and issues raised by respondents have not yet been verified by the Legislative Auditor.**

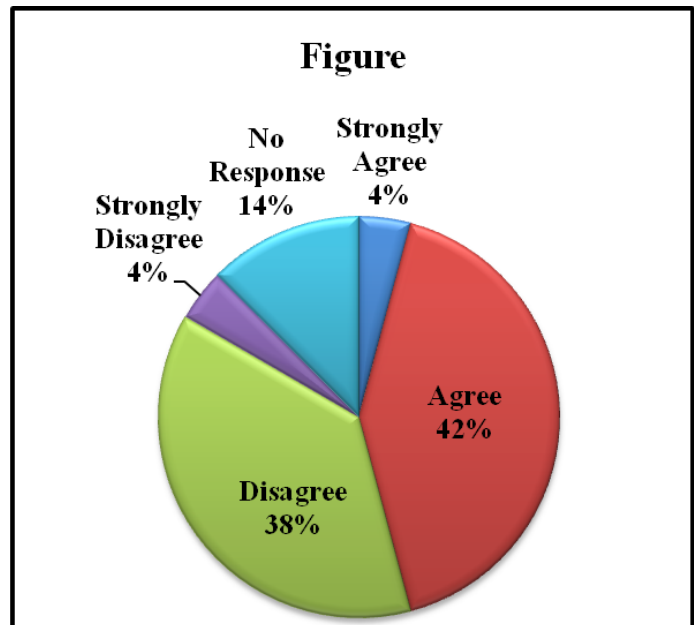
I. Administrative

This section included questions regarding work resources and supplies, policies, procedure and training. The full text and responses for each question are shown in tables. Some results may be graphically displayed where appropriate. The comments provided by respondents for each question are listed when applicable.

Question 1: I have sufficient resources and supplies to complete my job duties.		
Answer Options	Response Percent	Response Count
Strongly Agree	4.2%	1
Agree	41.7%	10
Disagree	37.5%	9
Strongly Disagree	4.2%	1
No Response	12.5%	3
Total		24

Comments for Question 1

1. Communications for field officers is very poor, as far as phones and field uniforms.
2. You can give all the resources you want, we have cheap phones, and in our field that is the only line of defense we have. The number one resource lacking in the agency is communication.
3. I have been here for [more than a decade] and there are Laws that have passed and we have not even been informed of them
4. There needs to be a few more field personnel.

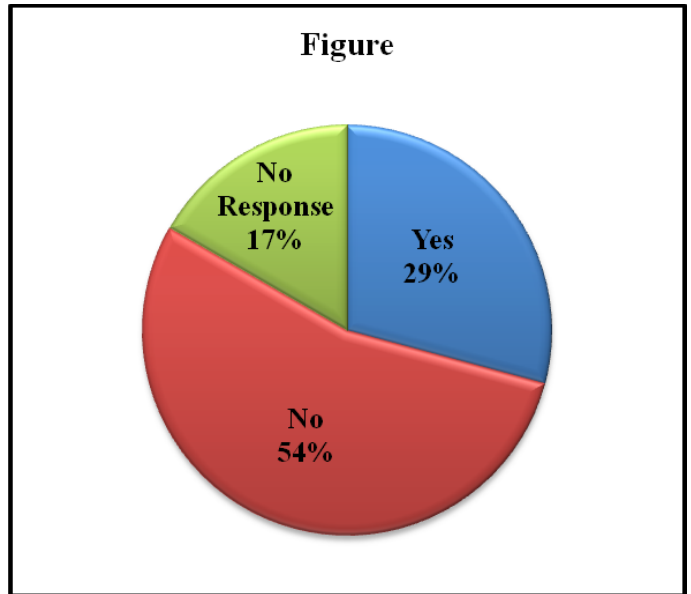


5. Most are sufficient. However, some supplies are less than satisfactory. These items are from lowest bidder & not always good quality
6. They have to get someone who has worked in the field and has job knowledge to purchase the equipment. For example, the flashlights that he purchased to check holograms were stated to be junk when they were passed out at a training class at the academy. The teacher giving the class called them junk. We asked for our office to send them back because they weren't effective but the office kept them anyway. Thousands of dollars wasted again. The same with the clothing, each time we get clothes it is different and worker unfriendly. The pockets in the jackets don't hold the things you put in them. They are small, shallow and things keep falling out. They don't have inside pockets where pens, papers, phones, etc could be held.
7. Supplies such as the laptops are old and do not work correctly. I cannot open all documents that are sent to me and there are other problems with them. When I first began this job I had problems with the computer and I was given ways around the problem such as resaving or finding other ways of dealing with the problem. When my phone broke it took awhile to get a replacement [XXXXXX]
8. Radio equipment for vehicle and portables are needed for security and safety
9. Computers need replaced, cell phones, need in car radios for communication in remote areas.
10. We are supplied "bullet proof" vests, yet we are not permitted to carry a weapon. In essence, we can catch, but cannot pitch. Also, I think we should be allowed to write citations against individuals who violate ABCA rules. In our current situation, we write a citation, it gets reviewed by the enforcement director or the commissioner and they decide the punishment. But if a bartender commits the violation, we cite the owner(s) of the establishment. Also, if we work with underage operatives to do compliance checks, we are only allotted one overtime shift per month. It would be easier to do underage compliance checks if more overtime shifts would be allotted.
11. slightly agree
12. Could do better with travel arrangements
13. [Inspector] has computer issues. [XXXXXX] ABCA will only reimburse the cheapest internet plan—which is dial up.
14. Updates are needed for everyone in the field not just supervisors, on gang [activity], homeland security, green cards, fake social security cards, false ID's of all kind we come in contact with. Supervisors never relay the new information to you or work with everyone in their region. Most of the time to get overtime in certain areas, they aren't needed. Computer used for personal use for emails to friends, pictures.

Question 2: Are the policies and procedures of the ABCA clearly communicated and practical? If not, how can they be improved?		
Answer Options	Response Percent	Response Count
Yes	29.2%	7
No	54.2%	13
No Response	16.7%	4
Total		24

Comments for Question 2

1. It seems as if the policies are to protect the ABCA instead of the field officers.
2. There is zero communication in this agency. A policy is ran through, we sign it, and then go on. The people on the committee's are in good grace with the Administration, or politically connected. I always hear that no input is needed because [XXXXX] implements all the policies. We are not allowed to have an eight inch flash light, because an agent in the past struck a person to defend a fellow worker while [inspector] was attacked. We have a policy to wear a bullet proof vest at night, but we carry no guns to protect ourselves. Policies are always reactionary, and never planned for the improvement of the Dept or the workers. If this is investigated, you will find it true.



3. What we do have was done for the administration its not to help the agent also they are not followed by anyone from top to the bottom
4. A great deal of them should be done away with and then replaced with new ones written by people that in no way can benefit from them
5. They change by the day, and it depends who it's for
6. I think they should have a policy meeting at least twice a year to go over old policies and especially newly implemented ones.
7. Not everyone is made to follow policy in the same way.

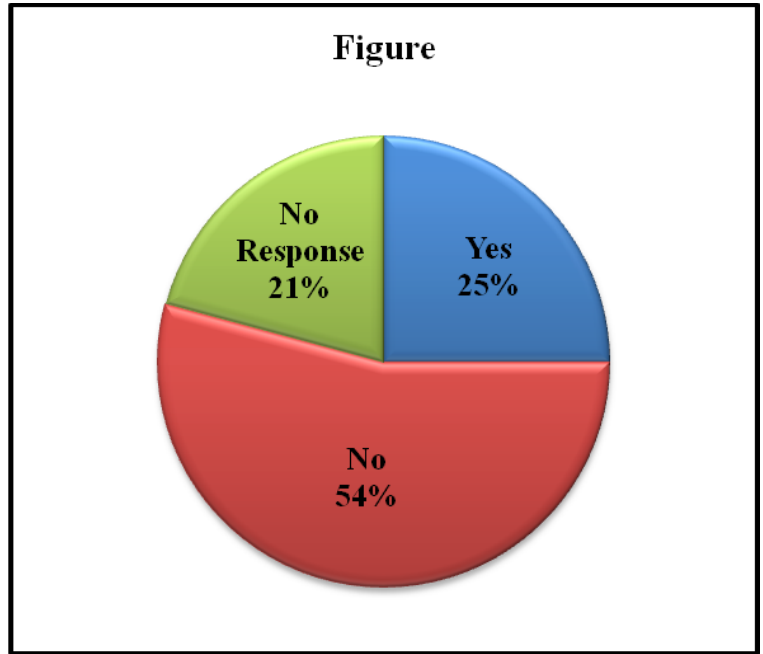
8. They give us a scanner that is less that efficient. There was supposed to be hardware added that would allow us to use it as a phone, computer, typewriter keyboard but it has not been done. This is years in the waiting and could have been accomplished if the it dept were on the ball and doing their jobs. We have more things than we can carry comfortably and sometimes our hands are full when we try to do our jobs.
9. Policy changes are made at times and agent/inspectors are not notified
10. Policies in effect are not followed or adhered to
11. Certain policy and procedures are practical and easily communicated. A lot are outdated and the people in charge claim that change cannot be made. If a better, faster, more efficient idea is presented, it is shot down because it is not “policy and procedure.” Change and updates are slow, unless it is something so ridiculous that it gets pushed through. We can’t change our weekly timesheets to be more efficient, but we add a policy not to use our flashlights as weapons.
12. Policy & Procedure Manual needs to be stripped down to basics. Policy & Procedure Teams needs to stop writing new policies for the sake of staying busy!
13. policies and procedures tend to change often
14. Policies are clear but some are never enforced. Such as working together at night, not alone, underage, when using them to work on a compliance check, are to have someone of the same sex work within the group such as a female working at night with all males.
15. [Inspector] is confused about policies and what [inspector] is even supposed to do. [Inspector] does the job of agent 2 or inspector 2 but feels [inspector] is not paid for this. Salary raises are political.

Question 3: Do you feel that the recently implemented Enforcement Unit policies help the Unit fulfill its goals? Please provide your reasons for your response.

Answer Options	Response Percent	Response Count
Yes	25.0%	6
No	54.2%	13
No Response	20.8%	5
Total		24

Comments for Question 3

1. Yes, we have better communication working directly for our supervisor
2. The goal of the ABCA us to enforce chapter 60, and all beer, liquor and wine laws. All policies are made to hinder the fight against underage. Take for instance walkthroughs. There are supposed to be two agents inside covertly, and three agents outside. It is hard to round up five agents because the number of agents has dwindled. We are also informed that new policies are implemented because the commissioner doesn't want to get sued; the goal of this commissioner and enforcement director is to provide protection for certain politically connected bars [XXXXXX].



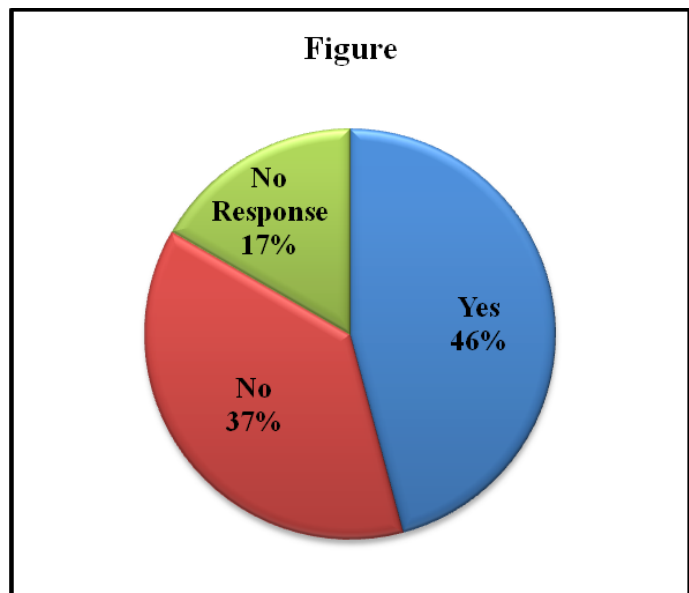
3. There was no input by all the agents just a few that was close to the Commissioner I feel at the time they gave him what he wanted Again there is little backup for the Agents
4. Any policy change has been made to hinder the enforcement process which has already been diluted by a nearly 38% decline in field personnel [XXXXXX].
5. In some cases, they just implement what they want, not what agents need
6. I feel that if everyone followed policy it would but some get by doing what they want and feel they don't have to follow policy which in turn causes dissention.
7. I haven't heard of or received new Unit policies
8. We need policies that help us do our jobs. We need text messaging to be able to communicate in loud busy establishments. Our cell phones and services are inadequate and are usually the cheapest available. This is done even though we are in danger each time we go into a bar and this is our only means of calling for help.
9. I don't know about any recent implemented Enforcement Unit policies.
10. 1. With the number of agents/inspectors decreasing policies can't be followed 2. new policies say a firearm can't be carried even if you have a concealed weapon permit now when we go in a club the club owners and the patrons have the weapons and we have nothing
11. Policies not enforced or followed

- 12. It seems that policies are never set in stone [XXXXX] I believe that policies that are implemented state wide, don't always apply to all areas of the state, and on some of the policies I will agree. The state is regional, and what may work in one part of the state, doesn't work in another part of the state. There are cultural differences in the state and not all policies should be state wide.
- 13. I am not sure what the policies are that was recently implemented.
- 14. I don't know about any recently implemented Enforcement polices
- 15. Sometimes we aren't always updated on new policies or issues concerning liquor, such as the new questions asked about the way stores were to be set up recently by the licensee's. Information wasn't carried through to the agents in the field.
- 16. [Inspector] was not asked to be on the policy committee—it was [XXXXX]. There is a “battle in our department.” [Inspector] only feels comfortable talking to supervisor. [Inspector] would rather collect unemployment than work there if [inspector] had any other supervisor. The Commissioner isn't really in charge.

Question 4: I receive or have received adequate training to effectively complete my job duties.		
Answer Options	Response Percent	Response Count
Yes	45.8%	11
No	37.5%	9
No Response	16.7%	4
Total		24

Comments for Question 4

- 1. I would like to see training from the state police academy dealing with writing our own citations.
- 2. Most of the training I Received was hands on work training, and the school of hard knocks. [XXXXX] Don't get me wrong, ABCA has provided plenty of training, like the two weeks spent at the academy, id training, ETC, but that training needs to be issued to all new hires, don't wait until ten years and then put someone through training
- 3. NO There's always more to learn There is the NLLEA that only a select few get to go to



4. The one nationally recognized training organization that we were able to attend has been as far as I can tell been ruined for us as field agents to attend due to an incident which occurred at one of the training academies held by the NLLEA which involved one of our agency’s supervisors and the total unprofessional way in which it was handled after the incident was reported to our agency by the NLLEA.
5. There have been changes in the laws, they have never informed us of.
6. I don’t feel we are adequately trained. There should be a school to prepare us just like police departments do. We should have academy classes set up to train for our job responsibilities. Maybe a 6 week program at the academy that specializes in alcohol enforcement. But remember, it won’t matter if they allow political interference.
7. I am actually going through more training now working with different people to learn different things with this job.
8. firearm training and being able to write tickets for underage drinking and selling to underage without calling in State Police or Deputies or City Police(they are not always available
9. All regions do things differently
10. I feel that my training was adequate, but also believe that you never stop learning.
11. [Inspector] training was adequate, [XXXXXX] [Inspector] feels that the enforcement agent title is only given in the northern parts of the state.

Question 5: What type of training that you have not received could benefit you?	
Total	18
No Response	6

Comments

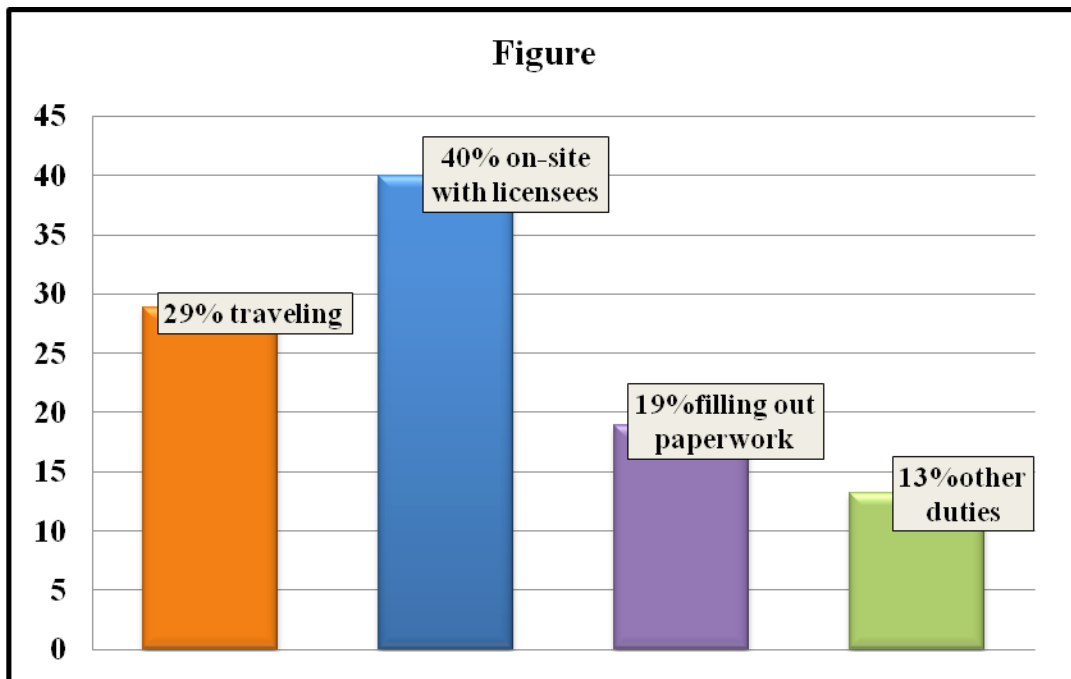
1. citation writing on ABCA laws
2. Interrogation
3. In house training, so we all work uniformly. The northern region conducts operation different from the southern region. Actual training by a lawyer or legal aid concerning the laws, or rules of our agency would be quite effective. Report training by an educated person, such as in the field of English. Different supervisors want reports written differently. Reports should be written one way, the way the agent sees it because they are the one testifying. Tips could be given to a person so they can report better. [XXXXXX] People teaching in our agency can’t speak a complete sentence
4. Search and Seizure, Civil rights, Ethics Supervisors need training on how to supervise
5. A complete review of Chapter 60, Chapter 11, Legislative Rules 175, and 176 just for a start.

6. Updates on the laws
7. Training that would help you deal with different personality traits to diffuse a possibly bad situation.
8. Writing our own citations to establishments, Being made sworn officers, Defensive tactics/Self-defense
9. Training on our laws required to utilize such as ch.60, ch.11,abca rules series 175,176
10. None at this time.
11. What to look for in a club when I'm undercover and how to deal with situations while in the club.
12. same as [previous comment-- firearm training and being able to write tickets for underage drinking and selling to underage without calling in State Police or Deputies or City Police(they are not always available)]
13. Rules and regulations, updates on new laws -- changes are made and we never are informed of them. sometimes the changes are told to us by the licensees
14. As technologies change and upgrade, training in new equipment and programs would be beneficial.
15. N/A
16. I think we need more self defense classes.
17. Assertiveness
18. agents need more law enforcement training.

II. Enforcement Regions

For this section, respondents were asked to estimate the percentage of time spent on job duties including travel, which makes up a large part of the job of the survey population. To determine if region-size may be a problem for the enforcement unit, questions in this section also addressed the enforcement regions defined by ABCA.

Question 6: On average, how is your time spent on a weekly basis for a typical work week?	
Answer Options	Response Average
Percent traveling	29%
Percent on-site with licensees	40%
Percent filling out paperwork	19%
Percent other duties	13%
No Response	4
Total	24



Comments for Question 6

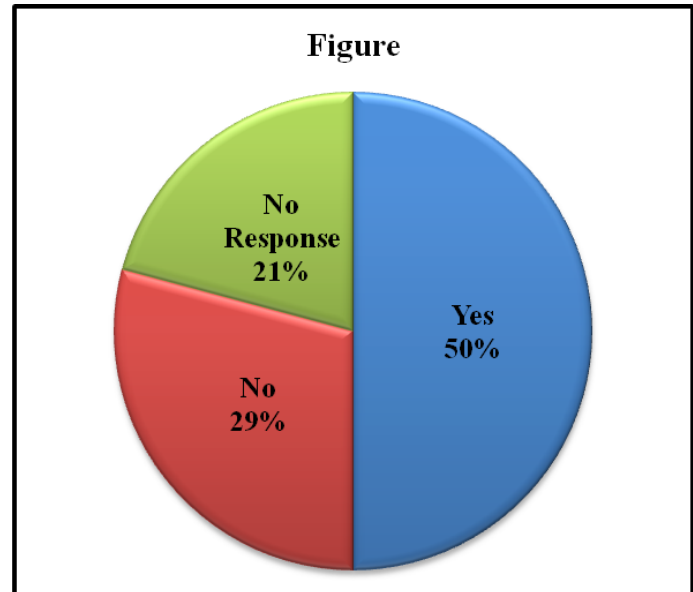
Respondents were not given an opportunity to provide comments for this question, however, one respondent could not provide a numerical breakdown and instead commented that:

Times vary too much to say—[increased] travel last year due to weather delays, and amount of time spent on paperwork depends on the complaints and initial inspections done on any given day.

Question 7: Do you feel as though the territory you are assigned to is adequately covered by ABCA Enforcement at the current staffing level? If not, please provide an example of the issues that may or have resulted from this.		
Answer Options	Response Percent	Response Count
Yes	50.0%	12
No	29.2%	7
No Response	20.8%	4
Total		24

Comments for Question 7

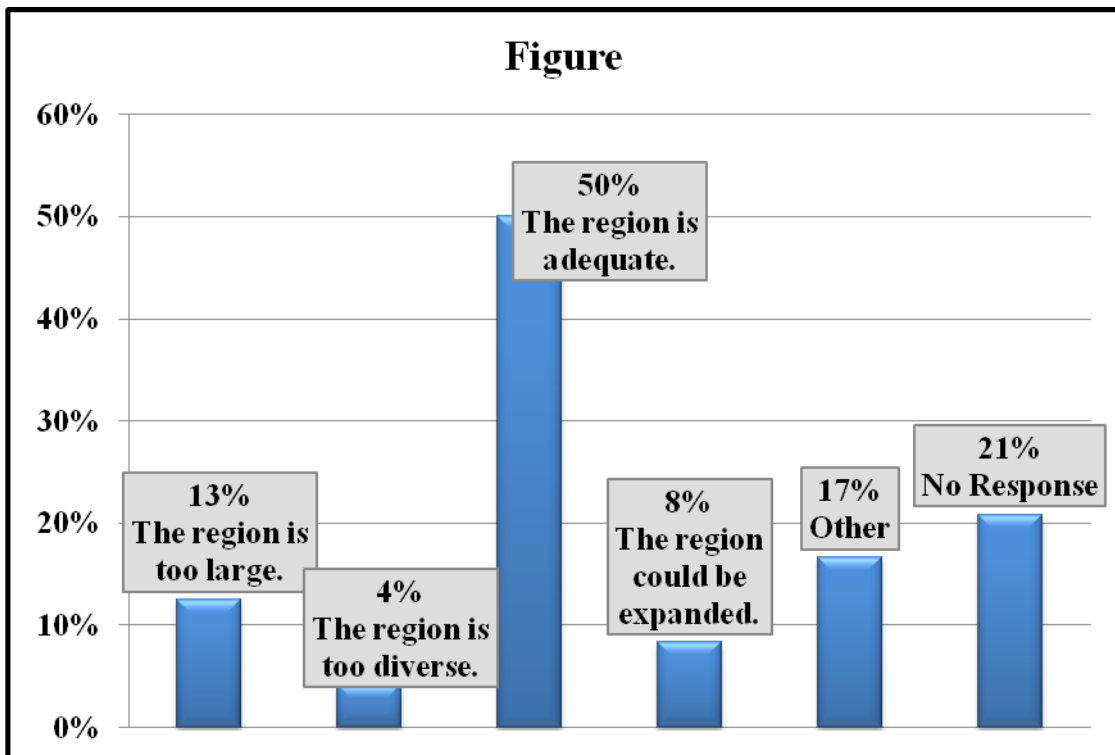
1. I feel we should hire some younger inspectors. In order to work undercover in our college towns.
2. My feeling is that if you don't do regular inspections of licensees 90% of them will break the law I believe that we need more people to enforce the code No areas are not covered the way they should be
3. Territory has just been changed due to the addition of a supervisor by the "outgoing" [Cabinet Secretary]. So to be on the safe side rather than sorry I must say no.
4. My region is small and well covered. However, other regions are not adequately covered. Two supervisors only have 1 or 2 agents working for them. Another has a very large area that could have been divided more fairly.
5. College towns need more people on the busy nights. we can't cover or thoroughly inspect a bar with hundreds of people in it using 2 people
6. some agent/inspectors have less than 100 license to check and others have over 300 license to check
7. We need more people in order for agents not to have to work alone. hiring should be in areas that currently do not have 2 or 3 people already hired from the same county
8. I think that I adequately cover my territory. As is the case with any territory, I can only be in one place at any one time.
9. however I think less travel would give more attention to licenses which would hopefully will educate and keep people on their toes
10. [XXXXXX] The paperwork load has improved. There are few "other" activities. There are no meetings held among enforcement division employees other than supervisors. There has been no department-wide meeting in over 2 years. [XXXXXX] There are only 4 inspectors for a 9 county region...one supervisor drove 5 hours just to meet with employees.



Question 8: What is your opinion of your enforcement region as defined by the ABCA? Select all that apply.

Answer Options	Response Percent	Response Count
The region is too large.	13%	3
The region is too diverse.	4%	1
The region is adequate.	50%	12
The region could be expanded.	8%	2
Other (please specify)	17%	4
No Response	21%	5
Total		27

Note: Respondents were able to select more than one answer for this question, so the response percentages will not total 100. Further, three respondents selected two answers, so the total number of responses is increased by 3.



Comments for Question 8

1. There was too many people hired in one area There is 3 agents that live in Preston Co 1 or 2 could work in the Mineral Hampshire County areas
2. Our region is much larger than most areas. some areas only have 2 counties when some may have 11 or more and contain colleges
3. My region is not too large in area. [XXXXXX] [Some regions] dominated by licensees that are basically lottery parlors. [XXXXXX]
4. [Inspector] does get tired of driving.
5. No opinion of regions—[inspector] thinks they are kind of meaningless

Question 9: Do you have an opinion of other enforcement regions?		
Answer Options	Response Percent	Response Count
Yes	37.5%	9
No	41.7%	10
No Response	20.8%	5
Total		24

Comments for Question 9

1. I think everything should be uniform. Every region should enforce the laws and codes the same.
2. I have never worked with other regions for an extended time to make an assumption
3. some regional supervisors have two workers while other regions have more than five
4. Lottery makes more money 9-5 no weekends nor nights we work nights and weekends and less money and in the same bars that have machines and we have more experience of the crowds and all we also have bullet proof vest they don't same with labor inspectors no risk.
5. [XXXXXX] Regions aren't divided properly. Some have too much territory, others not enough.
6. Likes how regions are broken up, but they should be equally-sized based on the number of licensees. Some may have 350 licensees in a region while others only have 25. Carry-out liquor stores are a problem, because the customers are out driving around.

III. Performance and Standards

Respondents were asked to provide opinions regarding the reporting requirements for inspections and other enforcement activities. Respondents were also asked if any time limits or quotas are defined for the Unit regarding inspections and reporting possible violations.

Question 10: Do you feel that your reporting requirements for inspections and other work-related activities are reasonable?		
Answer Options	Response Percent	Response Count
Yes	70.8%	17
No	8.3%	2
No Response	20.8%	5
Total		24

Comments for Question 10

1. I do feel that when we have to do narratives, it's just added paperwork. What they want in narratives is already on the IIR form.
2. I agree but some of it very redundant.
3. There is no requirements for the amount of work generated. When complaints come in that an agent isn't putting in a full work week, nothing is done to check it out. they seem to be allowing it as long as it doesn't cause problems
4. It could be worse.
5. I do not believe that since we have went to the hand held scanners that we are really taking the time to do a good inspection When we used paper we went down the list and checked marked also you could make notes as will as give a warning and both parties had copies of this Paper was so much better
6. Yes as far as working with the handheld and downloading straight to the office.
7. Should standardize reporting requirements. They have a form, but some don't write much at all.
8. Scanners are a waste. [XXXXX]. [Inspector] thinks they have taken away time with licensees. It's too easy to just tap through all of the options. The scanners only have half of the ABCA violation codes programmed.

Question 11: Do you feel that the ABCA expects you to report a specified number of possible licensee violations in a certain time frame?

Answer Options	Response Percent	Response Count
Yes	8.3%	2
No	70.8%	17
No Response	20.8%	5
Total		24

Comments for Question 11

1. If a licensee has a violation we are to turn that violation in a certain time frame.
2. I don't feel like we have a quota. I've always tried to work with licensees and explain certain situations instead of writing a violation. Of course, underage and after hours are violations that are more serious and would normally receive a violation.
3. They don't seem to care if any violations are written and sometimes question the violations you do right and don't give adequate fines and give too many warning letters. There should be a set guideline for each fine regardless of who it is.
4. they don't require any violations
5. The office the higher up and politicians and those with pull that are connected to our office don't want no one wrote up and when you do write someone up that only get a slap across the hand We have no backing in the office they want the bars money and they want us to prove everything If they didn't do something wrong then they would not be wrote up in the first place No Backing they in the office do that they want to do
6. This agency would rather you not write violations, look at the one's written in Morgantown [XXXXX] the violators got warning letters
7. I think 10 days in the time limits on violations when they occur

Question 12: Does the ABCA require you to complete a specified number of inspections within a certain time frame? If so, please explain the number and time frame in the comments section.

Answer Options	Response Percent	Response Count
Yes	8.3%	2
No	70.8%	17
No Response	20.8%	5
Total		24

Comments for Question 12

1. It depends on your region, and how many licensees you have.
2. There are so many variables in our schedule that it is almost impossible to put a number of inspections as a set goal. We may have to do initial inspections, meet with local law enforcement, do investigations, paperwork, etc. When doing inspections, I always try to do at least [XXXXXX]. But it doesn't always work because you may have issues or questions with a licensee.
3. Duties vary for agents/inspectors, some have many IIR's, meetings and reports to do and the number of inspections vary for each person
4. I do initial inspections when sent to me. As far as routine inspections I do however many keeps me busy for that day. I also handle problems as they arrive so some days I don't do as many inspections.
5. There aren't any specific number of work activities required
6. We used to have to complete a certain amount a month & some areas still feel they have to.
7. We have investigation work as well as meetings with Law Enforcement etc No I never have been told how many to do
8. They tell you not to worry about quantity, just quality; however, they send a list out telling you that these places haven't been inspected in the last year, kind of hypocritical due to the fact that you might be working on a investigation or doing something other than inspections.
9. Varies supervisor to supervisor, doing a class B in the day. According to job description they do 2 each per 6 months
10. June 20th to July 1st IRRs

Question 13: Do you feel that this requirement to complete a specified number of inspections within a certain time frame is appropriate?		
Answer Options	Response Percent	Response Count
Yes	54.2%	13
No	12.5%	3
No Response	33.3%	8
Total		4

Comments for Question 13

1. Yes as long as you are working.
2. Do to the fact that you never know from day to day what you might be doing a investigation from something that happened the night before or a new license application come thru
3. There is far more to this position than just inspections [XXXXXX]
4. There are other parts of the job that has a direct bearing on specified number of inspections
5. There are some weeks when we have more investigations, details & meetings to take care of and can't get a required amount of inspections in.
6. There should be adequate verification of time claimed worked and a reasonable amount of time for driving. the supervisor should be well enough acquainted with the area to realize if the amount of time claimed is reasonable for the amount of work generated
7. Because we have other duties other than inspections such as IR's, investigations, background checks, etc..
8. Some inspector/agents never complete routine inspections and refuse to use their scanner
9. As stated in the previous response, it is almost impossible to require a set number of inspections due to other requirements of the job.

IV. Management

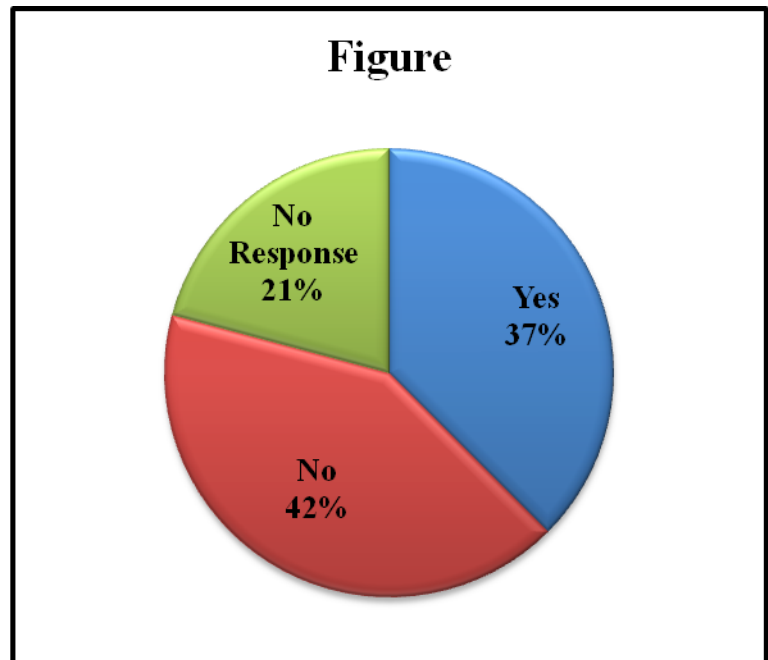
In this section of the survey, respondents were asked to provide opinions regarding the responsiveness of Unit management and suggest improvements if needed.

Question 14: Do you feel that the management of the Enforcement Unit is responsive to your needs? If not, please provide an example(s) of an incident when you felt that management did not meet your needs.

Answer Options	Response Percent	Response Count
Yes	37.5%	9
No	41.7%	10
No Response	20.8%	5
Total		24

Comments for Question 14

1. Put agents in unsafe vehicles, have to beg for new cell phones or supplies and they often question if something breaks and needs replaced.
2. pay scale not equal in ABCA
3. [XXXXXX] I do not feel like I can talk to management and be treated fairly. Management has their picks in the agency also it is very noticeable.
4. We are unable to get the management to correct the problems with our equipment. they don't support us in the field but taking harsher action on repeat violators
5. My supervisor is very good about responding & being available. However, not all of the management is like that. There is too much favoritism paid to certain agents/supervisors & some licensees. It shouldn't matter who the licensee knows or is, if they are in violation of ABCA rules/regs, they should be fined just like the rest of the licensees.
6. [Enforcement Director did not respond to an inspector's request for police assistance with a licensed establishment for weeks.] [XXXXXX]
7. They do not care about us out in the field nor does the [former] governor [XXXXXX] the enforcement dir does not care about the people tells us if you don't like go elsewhere that's bad when you have some good people and experienced people and they treat all of us like dirt
8. Management doesn't plan or communicate well. For instance, if you are needed to work a weekend, you may not find out until Thursday or Friday. I like to know ahead of time what days extra I may be needed.
9. We have ask for smart phones in order to receive emails, and texting while out in the field. Due to the lack of service in certain areas, you might not be able to call but it only takes one bar to text if you need help.
10. Working in areas without anyway of calling someone when the vehicle breaks down, some areas only have cell service but not all. We don't have radios. One [inspector] walked five miles for help. Having no way of defending one's self [XXXXXX]
11. Direct supervisor is good but that is all. Again complaints of the political issues



Question 15: What changes should be made to improve the responsiveness of ABCA management?	
---	--

No Response	5
Total	19

Comments for Question 15

1. They should notify me of the results of licenses who received violations
2. I am satisfied with the responsiveness.
3. N/A
4. I would like to see those of us in the field be able to write citations to violators. This would allow us to handle situations on the spot. It seems like after we write a citation, it takes a long time for the violator to receive any punishment. This may speed up the process, eliminate paperwork in Charleston and have more of an impact on owners and employees of establishments.
5. New management.
6. equal pay for equal work
7. Treat everyone the same.
8. At this time I have no complaints.
9. Eliminate a lot of the duplicate paperwork/ accounting...have consistency throughout the state on how the laws are enforced. Make guidelines that are consistent with all areas of the state and equally applied on all licensees. inconsistency with the deck requirements, food requirements, visibility, seating, location allowances, all create problems for the field agents because the commissioner has the policy that these are dealt with on a case by case basis. This means no consistency and people will ask if that bar can do it, why can't they do it as well. The commissioner's answer is always that it is looked at on a case by case basis.
10. Less favoritism & political influence.
11. I think a direct line to the ABCA Commissioner instead of the Enforcement Director
12. These changes should have already been made when their names appeared in the [newspaper] as possibly under investigation by agencies of the Federal Government.
13. New Management
14. The appointed commissioner thing is the problem. They are working for the politicians to keep their jobs, not enforce the laws. The attitude of the commissioner reflects on the management below him. Our commissioner wants no communication from the lower end workers, we have to go through our supervisors.

- 15. I have no problems with the way it is operated at this time
- 16. Outfit the field officers with better communications and uniforms. This way we are all identified with the outfits, and we can be contacted at any time.
- 17. Standardize equipment and standards for all employees. [Inspector] feels that other agents do much less work than [inspector] and [inspector's] supervisor.
- 18. Radios, not just cell phones, are needed. Form a group that want to work nights, train them on the use of a gun, then send them to the WV State Police Academy someone is going to get hurt or killed [XXXXXX]. Work in pairs, not alone and enforce this issue.
- 19. Get rid of the political issues. The highest scoring person is not always the best person for the job. Some inspectors/agents have incidents such as losing money or wrecking cars and receive no punishment for it while others fear for their jobs over having their home broken into. Punishments are not equal. It's discriminatory.

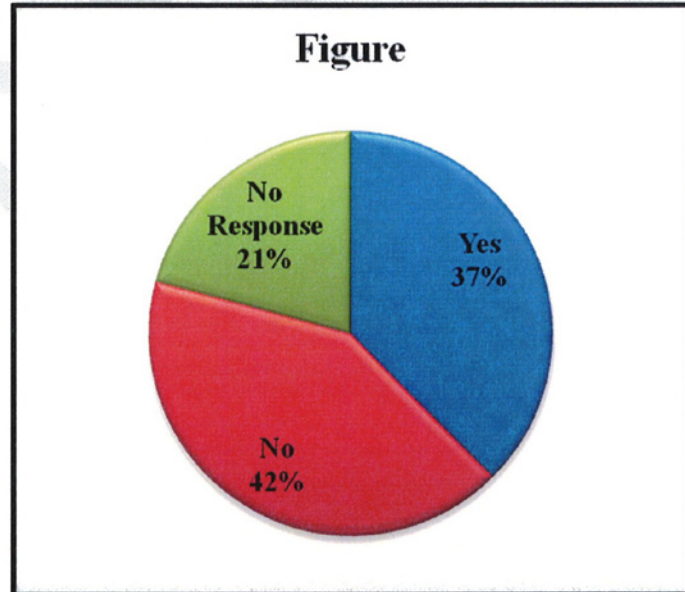
V. Licensee Enforcement

This section of the survey included questions of whether licensees are treated equally, and whether concerns with all licensees are thoroughly investigated by the Enforcement Unit. This section also included an opportunity for respondents to address any other issues within the ABCA.

Question 16: Do you feel that licensees are treated equally within your region? If not, please explain or give an example.		
Answer Options	Response Percent	Response Count
Yes	37.5%	9
No	41.7%	10
No Response	20.8%	5
Total		24

Comments for Question 16

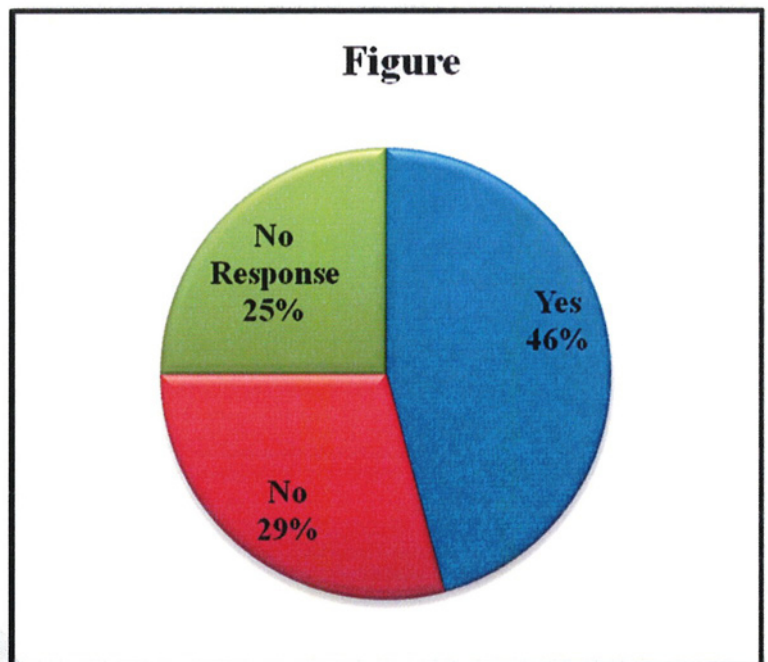
1. by the people in the field
2. Politics often interfere.
3. penalties differ for same charges
4. I believe that some of the licensees are not treated with respect or they think that some are hidden ownership. Also, some places are protected because of political ties or because the worker frequents that establishment.
5. Some are obviously shown favoritism. Just look at the suspensions as well as who gets warnings vs. violation penalties. Look at the penalties for each bar. Some are continually minimal when they are repeat violators. They are allowed to do what they want and choose when they close if they do get suspended. some bars are telling other bars that they are untouchable
6. Some licensees are treated better because of who they are or know. [XXXXXX] This establishment [owned by a former Legislator] should have never been licensed to begin with because it was not in compliance. I was actually asked to not write this location up [XXXXXX]
7. I feel that if the licensee has connections with someone in the ABCA or politically they get by with more
8. NO again depends if a licensee knows someone if they are fined they make a call and they get a warning letter I myself believe in this fair firm and consistent
9. Politically connected bars do receive favoritism. Some licensees can make a phone call and our agency will jump through hoops to help them. Some people are allowed to have decks that don't meet abca requirements=such entertainment, loud speakers, and others aren't allowed. I personally, have been told to stay out of a few bars in [XXXXXX], and when I told [the] commissioner, he didn't want to believe it. [XXXXXX] I have been [XXXXXX] told to personally deliver a license to a new licensee because [licensee] is friends with the [former] governor.
10. Some get warning, why some get fines.
11. We also work in other regions where some licensees are friends with the dept. heads and are serving underage, get small fines or pasted over, [XXXXXX].
12. Others want to really bust people out—certain bars are looked at. Has received many threats over violation issues.



Question 17: Do you feel that all concerns with licensees in your region are thoroughly investigated by the Enforcement Unit? If not, please provide your reasons.		
Answer Options	Response Percent	Response Count
Yes	45.8%	11
No	29.2%	7
No Response	25.0%	6
Total		24

Comments for Question 17

1. We are limited in what we can actually pursue in background checks, etc. This especially applies to licensees who may have previously been out of state.
2. Some are but some people are not doing investigations properly but count time without turning in paperwork to back this up
3. hidden ownership
4. We have asked in the past for assistance from our legal department to get evidence to prove a violation and continually get stonewalled.
5. [XXXXX] [One] establishment that is clearly a public safety issue but nothing has been done about it. I have the support of all Law Enforcement in the area, the Chief of Police & Mayor. I keep getting told we need more information.



6. There is no Enforcement Unit. There is the WV ABCA which is part of the Dept. of Revenue. A true Enforcement Unit needs to be put together that is separate and apart from the business end of the agency.
7. I feel that for the most part that yes the agents do follow thru on their investigations It does seem that if you do work one and it takes time then you feel like the office thinks your not doing anything just

beating in time

8. No, because all agents don't work the same. I know in the past if there was a problem in a certain area favored by the agency or some politically connected bar. [XXXXXX] would send a designated agent who would over look the situation
9. In [the inspector's region], yes but not in all the others. [Inspector] wants to educate rather than write out a bunch of violations.

18. What changes should be made to improve the quality of ABCA Enforcement Unit work?	
No Response	6
Total	18

Comments for Question 18

1. Consistency
2. I have no complaints.
3. Allowing the Agents liberty to fully investigate complaints/concerns and providing the resources to do so. More backing by supervisors and commissioner. Harsher punishments for licensees when warranted.
4. As stated in an earlier response, I would like to see us have the power to issue citations on the spot. They would have set fines for violations and appeals could be made to Charleston.
5. New management and every region being on the same page.
6. Equal pay for equal work
7. Treat everyone equally. Do not assume if you cannot prove anything.
8. None at this time.
9. We need to merge with another law enforcement agency separate from the abca which is in the business of promoting alcohol sales.
10. Less concern with who the licensee is or knows & more on if that licensee is in compliance or not.
11. I feel that everyone should be treated the same because treatment of some individuals (favoritism) causes a lot of morale issues within the agency. This preferential treatment is not on a regional basis (at least not in my region) but involves the Enforcement Director.
12. See above: [There is no Enforcement Unit. There is the WV ABCA which is part of the Dept. of Revenue. A true Enforcement Unit needs to be put together that is seperate and apart from the business

end of the agency.]

- 13. New Enforcement Director and have a higher standard for the agents as will to have them feel better about themselves, as well as get the morale up
- 14. The position of the commissioner, I have worked for commissioners who were pro active, and commissioners like [the current Commissioner] [XXXXXX], who hinder and make it hard on Agents who do their jobs. Agents need to be kept out of the political turmoil, there is too much stress on us because commissioners, deputy commissioner, and enforcement directors work for the bars and politically connected, not the people
- 15. None
- 16. 1 violation-Warning
 2-violation-fine
 3-violation-fine plus suspend
 4-violation-take license until problem straighten up.
- 17. [XXXXXX] this is the worst in enforcement and administration. Supervisors were put in under this administration, salary raised, some of them have one or two people, they don't work with all in field, they work when overtime is made and can travel long distance, staying over, per diem, costing gas. Monthly meeting if we have one are a "joke", sometimes agents explode at meeting to supervisor. E-mails could be sent on what they say, paperwork needs to be sent to the enforcement director, time sheets are done online, printed, sent to region supervisor and he drives to Charleston to give paperwork to director. Supervisors need to be taken out, salary cut, put in field. People in field are unhappy with all of them. Some have switched to three different supervisors because of their treatment to them reported to Commissioner and Enforcement Director, nothing is done about it, male and female both have reported this. In the past we all got along, did the job duties, reported to the enforcement director, and never had region supervisors. Past supervisors that has retired, we have heard is under investigation for taking bribes, this person also treated agents terrible, one [inspector] had medical problem from treatment, a [inspector] complained also, nothing was done but changed to another supervisor. All agents and inspectors need to report to the enforcement director, he tries to do enforcement and [the Commissioner] works also, that is the problem.
- 18. Clearinghouse—ABCA needs total restructuring. The Commissioner should be elected.

19. Are there any other issues regarding your work that you would like to share?	
No Response	9
Total	15

Comments for Question 19

- 1. No.
- 2. No, the region I work with get along fine, with all do our job. The Supervisor is great, and works along

with us. [Name redacted]

3. Improve communication from the top to the bottom. Treat everyone the same, [XXXXXX] Make us all civil service, and make our agency non political like the state police so we can do our jobs
4. The Commissioner and his attorney and the enforcement director look down on everyone It's all about them and what they can do to help themselves also a Federal Investigation and you walk into a bar and patrons laugh we used to be more professional than this
5. We are, by policy, required to wear bullet resistant vests but are not allowed to carry any form of self defense. I have taken under cover WVSP Troopers into establishments (unarmed due to possible search at the door) who after the detail was completed advised me that they did not think that they were getting out of the place alive. I also on a daily basis have numerous police officers tell me what a fool I am for entering many of the places that I do and doing so unarmed for they would not. Many of the establishments are filled with gang related members and have active drug trafficking taking place. Our lives are in danger and it is only getting worse. We need a true Enforcement Division like other Liquor Control States. If DOT Officers can go to the WVSP Academy for 2 weeks and be able to issue criminal citation and carry weapons there is no good reason for this agency not to be able to do the same thing except for politics.
6. I feel very strongly that the pay equity is way out of kilter. I have several years with the agency and new hires make as much or more than I do. My salary should be comparable to other people with as much time as me but I find that is not the case. Not even close.
7. We need more uniformity throughout the state. Less favoritism for certain agents/supervisors. Agents & licensees should be treated fairly & equally regardless of who they are or know. Salaries should be more equal across the board & there should be more chances for advancement.
8. The attorney used by the commissioner continually interferes with the violation process. He is unable to schedule hearings in a timely manner. It has taken as much as 8 months which makes it harder to get the witnesses which might move or drop out of school by then. He thinks he is the one that has to negotiate with the bars and they manhandle him. He makes us do all the prep work for the hearings only to settle the case the night before or the mornings of the hearing. This costs the state thousands of dollars each time if you count all the manpower, travel expenses, etc. I think we need set court dates for each month and any cases made the month before should be automatically set on the next hearing date.
9. I feel that the pay scale is not fair at times. Length of service is not taken into consideration. New hires performing the same job start out making more than current employees.
10. No
11. Commissioner should be making decisions not enforcement director. Commissioner should be taking more active role in ABCA. [Attorney] knows nothing about ABCA laws and has no valuable function in ABCA. Does not even present cases in court. Has a bad attitude towards enforcement and the agents.
12. No.

13. Standardization of workload requirements

14. Save the State Money. People-1 person stays at motel for a week, sometimes less, is an enforcement agent and over grants, costing gas and motel, entering forms from Compliance Checks with could be entered by some people not doing anything, like [names redacted] that live in area. Remove supervisors, cut salary, put in field all report to enforcement director. Send paperwork and emails to them also. [XXXXXX] (All) Agents and inspectors have had classes in past about four years ago. Supervisors travel in areas to hunt and fish with agents or inspectors, off duty. One supervisor, [XXXXXX] has three people [to oversee and works a second full-time job].

15. There are many hidden ownership issues in the state. One felon owns nine or ten LVL establishments—but someone else holds licenses. [Inspector] says there are many women LVL licensees due to this. Veteran inspectors say it's the worst it's been in the enforcement unit. The Director has too much pull over the Commissioner. Unequal pay with no justification. They just put out ads to hire agents at a much higher salary range. One worker has been there for 29 years at the exact same salary. Overtime is not guaranteed. Raises should be merit-based. College towns are much more stressful. The drinking age should either be dropped to 18 or club entrance age raised to 21. Parents call [inspector] to complain about drunken kids. E-complaints are useless, because they can be done anonymously, thus they cannot be addressed directly. Some will leave a name and number, though. [Inspector] hears others joke about not doing work and hates it. Some legislators have even asked [inspector] about ABCA, but [inspector] doesn't usually say much because [inspector] doesn't feel comfortable. [Inspector] enjoys work but it's also frustrating. Took a pay cut for the job with a promise for raises, but of course this hasn't happened. Most interaction is with clubs, but [inspector] does speak to licensees to help educate them about regulations rather than just giving violations. The licensee's don't read regulations, and there should be a class for the servers and owners. Often, they don't know that they are doing things wrong. By the time [inspector] gets into one college bar [XXXXXX] all the kids know [inspector] is out and spread the word, so [inspector] can only do one or two undercover a night. [Inspector] does NOT want uniforms. [Inspector] feels that would "mark" him. [Inspector] wants a gun if they get uniforms. As it is, [Inspector] thinks the body armor only makes them appear to have a gun, but they don't. He gets good response from the state police, though. Feels more administrative—just enforcing code. They [the public and licensees] think inspectors are law enforcement, but they have no arrest or ticket powers. [Inspector] is an agent of the Commission. [Inspector] refers to ABCA as a political dumping ground.

Conclusion

The Legislative Auditor conducted the survey of enforcement agents and inspectors to determine possible issues in the ABCA, and the results reveal that some enforcement agents and inspectors have negative opinions of ABCA policies, practices and management. Although some survey results are positive, overall, the results indicate that there may be some issues in the agency's organization and operation that need to be addressed.

Responses to the first section of the survey addressing administrative issues in the Unit show that 46 percent of employees feel that they are provided appropriate resources and 46 percent feel they have received

adequate training to complete their work. However, regarding the policies of the Commission, 54 percent of employees feel that the policies and procedures of the Unit are not clearly communicated or practical. Similarly, 13 respondents or 54 percent do not believe the most recent policies help the Unit achieve its goals. Furthermore, four respondents commented that they were not aware of any recently implemented policies.

The second section of the survey regarding enforcement regions yielded somewhat more positive responses. On average, employees spend approximately 29 percent of their time traveling, and 50 percent feel that the region they are assigned to is appropriately covered at the current staffing level. Fifty percent of employees feel that their region is appropriately sized. However, one respondent commented that there is too much driving necessary in his or her region, and another commented that the regions are “meaningless.”

Responses to the section regarding performance standards in the agency were mostly positive. Seventy-one percent of Unit employees feel that the reporting requirements for work-related activities are reasonable. Also, 67 percent of employees do not feel that they are expected to report a specified number of possible licensee violations in a certain time frame, indicating that there is likely no implied quota in the Unit.

The management section of the survey consisted of only two questions, and the responses reveal that issues may be present regarding the management of the Unit. Forty-two percent of respondents do not feel that management is responsive to their needs and 21 percent did not respond. Importantly, the comments for this question raise possible issues in communication between agents and management, agent safety, planning, organization, favoritism and political influence.

Finally, the licensee enforcement section of the survey addressed treatment of licensees and reveals possible concerns in this area. Particularly, responses show that 42 percent of employees do not feel that licensees are treated equally in their region. The comments in this section again support the possible issue of political influence in the treatment of licensees. The survey included an open-ended question regarding possible improvements to the agency. Respondents discussed the need to eliminate favoritism both within the Unit and among licensees, salary equity and dissatisfaction with management. Alternately, three respondents do not feel that changes are needed to improve the Unit.

The Legislative Auditor finds that there may be serious issues in the Enforcement Unit of the ABCA based on the survey results. Because the enforcement of alcohol beverage control laws is important for the citizens of West Virginia, **the Legislative Auditor will follow up on the concerns identified in a future report.**

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

December 23, 2010

Dallas Staples, Commissioner
Alcohol Beverage Control Administration
322 70th Street, S. E.
Charleston, WV 25304

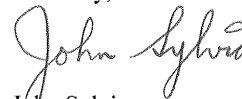
Dear Commissioner Staples:

This is to transmit a draft copy of the West Virginia Alcohol Beverage Control Administration Enforcement Unit survey report. The survey was conducted as part of the Agency Review of the Department of Revenue. In the report, you will notice that personal identifying information has been redacted. This was done to ensure that respondents remain anonymous. This report is scheduled to be presented during the January 9-11, 2011 interim meetings of the Joint Committee on Government Operations and the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committees may have.

Please contact us to schedule an exit conference to discuss any concerns you have with the report by December 29, 2010. We need your written response by noon on January 4, 2011 so that it will be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 304-340-3192 by Thursday, January 6, 2011 to make arrangements.

We request that you do not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,


John Sylvia

c. John Musgrave, Acting Cabinet Secretary, Department of Revenue

_____ *Joint Committee on Government and Finance* _____

Appendix B: Agency Response



**STATE OF WEST VIRGINIA
DEPARTMENT OF REVENUE
ALCOHOL BEVERAGE CONTROL ADMINISTRATION**

322 70th Street, SE
Charleston, West Virginia 25304-2900

EARL RAY TOMBLIN
GOVERNOR

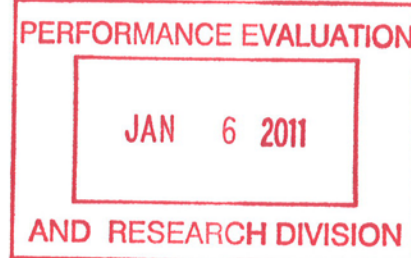
DALLAS S. STAPLES
COMMISSIONER

JOHN C. MUSGRAVE
ACTING CABINET SECRETARY

January 6, 2011

VIA HAND DELIVERY

John Sylvia, Director
West Virginia Legislature
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Blvd., E.
Charleston, WV 25035



Re: Response to Performance Evaluation Survey conducted by the Division
as a part of a Performance Evaluation of the WVABCA

Dear Mr. Sylvia:

The West Virginia Alcohol Beverage Control Administration ("WVABCA") has reviewed your "performance evaluation survey" which contains many Enforcement Staff opinions with some opinions being beneficial to the WVABCA.

To provide some background, the WVABCA's mission and organization is completely different from other government agencies. Alcohol is different, as a regulated product, and the duties and responsibilities with alcohol are different. Thus the WVABCA should not necessarily be operated just like any other state agency. The WVABCA's Enforcement Division and Staff, while a very visible part of the agency to the public, are only a part of the WVABCA.

The WVABCA registers all beers; registers and approves all wine brands and labels; lists all liquor brands; manages, maintains and delivers liquor bailment inventory from the WVABCA Distribution Center; licenses all private clubs, taverns, private wine restaurants, private wine spas, private wine bed and breakfasts, beer retailers, beer distributors, wine retailers, and wine specialty shop retailers; licenses and bids liquor retailers lists; licenses scientific and pharmaceutical uses of alcohol; licenses wineries, distillers, breweries and wine direct shippers; maintains databases and computer programs on licensees; provides a great deal of web based information and also provides for web ordering for all retail liquor stores; and many other duties and responsibilities along with working with the public, the WV Legislature and others.

The WVABCA views the "performance evaluation survey" as a preliminary part of a broader and currently incomplete performance evaluation.

John Sylvia, Director
West Virginia Legislature
Performance Evaluation and Research Division
January 6, 2011
Page 2 of 5

The “performance evaluation survey” includes Enforcement Staff opinions for each question from some but not all Enforcement Staff respondents and the opinions have not been verified for accuracy.

It should be noted that many of the Enforcement Staff opinions presented are not items within the WVABCA’s control, such as purchasing vehicles (WV Department of Administration), purchasing computers (WV Office of Technology), purchasing cell phones and plans (WV Department of Administration - Purchasing Division), salaries and positions (WV Division of Personnel) and etc. Further some Enforcement Staff opinions are basically complaints that have existed for years and which have been addressed. Other Enforcement Staff opinions express personal issues that they may have with other employees or divisions whether real or perceived.

It should further be noted that the “performance evaluation survey” actually only asks 3 or 4 performance standards questions out of 19 questions. The opinions expressed as to performance were positive.

Further, the WVABCA Commissioner and Enforcement Director met with your staff prior to conducting this survey that was to be based on measuring performance of the Enforcement Unit. However, no mention is made in the “performance evaluation survey” of the WVABCA meetings or comments.

The WVABCA can realize some positive feedback from your “performance evaluation survey”. It indicates that some Enforcement Staff understand the WVABCA and their role at the WVABCA; the WV Constitution, Code and Rules; changes need to enforcement policies to reflect actual enforcement operations; additional training; travel and working with licensees in the field is a part of the job; paperwork and documentation are necessary to build evidence to prove cases; computers and technology are necessary to operate in today’s world; enforcement work is a little sporadic with some weeks busier than others; licensees could use more education; and uniforms and body armor are used to help readily identify Enforcement Staff and protect them to a degree since they are not law enforcement.

The WVABCA is very responsive to Enforcement Staff needs. However, the WVABCA must use state funds wisely and for prudent expenses based on more than just a need or want.

Listed below are some general responses to the opinions provided in the response to the survey questions:

- (1) A jacket (last one did have an interior pocket) is provided periodically and shirts for identification and safety are typically provided annually but full uniforms were not approved;
- (2) State cell phones and plans change frequently as approved by the Department of Administration. In 2010, the WVABCA was able to receive “free” smart phones with reasonably priced unlimited plans for phone, text and data to all Enforcement Staff;
- (3) In 2006/7 brand new IBM/Lenovo laptops and printers (under the state contract) were provided to all Enforcement Staff with a 3 year 100% warranty on the laptops, recently this warranty expired. The IBM/Lenovo laptops were working and batteries were

John Sylvia, Director
West Virginia Legislature
Performance Evaluation and Research Division
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replaced on laptops with issues until the WV Office of Technology and the Purchasing Division approved a new Hewlett Packard (HP) computer contract. Upon approval of the state contract, securing pricing and obtaining administrative approvals, the WVABCA ordered HP laptops. The Enforcement Staff were provided the new HP laptops with Windows 7 along with an entire day of training on the new systems by the WV Office of Technology;

- (4) An internet connection is needed to update systems and receive pertinent information. The State only reimburses internet plans at a flat rate. An Inspector could go to a hot spot, State Police detachment or other location and inquire about connecting to the internet via WiFi without incurring the internet plan cost due to data being transferred in an encrypted manner. Again emails are available on their smart phones;
- (5) Inspectors and/or Supervisors are responsible to make their own reservations for accommodations under state guidelines and rates;
- (6) Some opinions stated there was too much paperwork, however the Enforcement Policy & Procedure Committee (consisting of employee volunteer members) has developed forms to ease such burdens, the WVABCA through WV Office of Technology provides word processing/computer training and the WVABCA has also provided laptops and printers to simplify the documentation process;
- (7) The WVABCA has conducted, since 2008, 14 enforcement training sessions, countless computer and software training sessions and, since 2005, has sent 27 Enforcement Staff members to the National Liquor Law Enforcement Association (NLLEA) training academies. Training also includes driver education training (2009) for all Enforcement Staff with state vehicles to make them better and safer drivers. In 2005, the WVABCA conducted personal safety training and had a number of Inspectors certified as trainers to train Enforcement Staff as requested;
- (8) Enforcement Policy & Procedure Committee is voluntarily staffed from Enforcement Staff members. Enforcement policies do change at the recommendation of the employee committees, to reflect changes in the law and as actual enforcement operations change to provide better and safer methods. All new policies are sent or emailed to all Enforcement Staff;
- (9) Previous administrations directed the WVABCA to reduce staff through attrition and the WVABCA has done so and there are regions with more staff and some with less staff. It should be noted that contrary to the small sentiment of understaffing that the Enforcement Staff nevertheless feels that the enforcement performance remains high;
- (10) The WV Constitution does not authorize public saloons therefore the State has private clubs. Inspectors are not law enforcement but are administrative officers and can only write administrative violations against licensees. Due to their administrative role they may enter a licensed establishment at any time to inspect the premise and without probable cause. Further because there is no license for alcohol servers, the WVABCA cannot write violations against the bartender or server but only against the licensee. Note that local and state police can write criminal citations against individuals who violate the law;

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- (11) If the WV Constitution, the Code and Personnel requirements could be changed, then such Police Academy training could be implemented;
- (12) The WVABCA has explored this issue. In-Car radios and portable radios are not feasible at this time as the State Police are changing the current system;
- (13) Supervisors and staff appear to need better meetings and communication;
- (14) Vehicle replacement policy and requirements are not set by the WVABCA, but the WV Department of Administration and State Fleet Coordinator. All vehicles are repaired as required by policy and state contracts. Enforcement Staff are responsible to immediately report vehicle issues to the WVABCA vehicle coordinator;
- (15) Supervisors are responsible to approve all work activity schedules to know where staff will be working and/or conducting operations. Overtime should be minimized as many enforcement operations should be conducted within the regular enforcement work week. Occasionally, federal grants authorize reimbursement payment of Enforcement Staff wages for conducting certain operations such as compliance checks which may occur outside their regular activities. The State is reimbursed by the federal grant for any overtime. Again, the Supervisors schedule such events and staff at such events;
- (16) All Enforcement Staff are provided a bound copy of the West Virginia Code and Rules that affect the WVABCA and also available is a WVABCA Quick Reference Guide for Law Enforcement;
- (17) Inspectors/Agents are not law enforcement but do need additional job-related training;
- (18) Inspectors/Agents/Supervisors are responsible to treat licenses equally, identify problem areas and identify and investigate problem licensees and conduct enforcement operations accordingly;
- (19) Reports, narratives and other paperwork are necessary to get the full view of applicants to determine suitability for licensure and for violations to gauge the degree or severity of violations committed by a licensee. The WVABCA is researching the ability to have penalty schedule with some degree of flexibility for more severe or repetitive violations.

Addressing your conclusions, as stated above this is a preliminary report of a much larger performance evaluation which is incomplete. I have asked that in your research that you look at or find a point in time which shows "from where the WVABCA has come." This may be difficult because your performance analysis starts with 2010 as a baseline year. I am not sure an accurate baseline for your performance research can be developed to measure how far this agency has come.

The WVABCA supports training for Enforcement Staff, and as the budget allows, additional training programs to educate, inform, train and refresh Enforcement Staff skills and abilities will be implemented.

With respect to policies, these are recommended from the Enforcement Staff's Policy and Procedure committee and other employee committees, and all Enforcement Staff is encouraged to volunteer to be a part of such committees.

With the enforcement regions, there is no perfect way to split licenses or geographic areas so that an equal amount of licenses are in each region. The WVABCA is willing to meet and discuss

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understaffing issues or under-performance issues with Supervisors or Enforcement Staff. In general there is travel involved as an Enforcement Staff member, and it is not a desk or office job.

With respect to performance, this section of the survey tells the story. Performance by the Enforcement Staff, to their credit, is well rated. The WVABCA encourages and supports job performance improvements through the use of training and technology.

The WVABCA has always maintained that Enforcement Staff must discharge their duties impartially, fairly and treat people with respect and investigate all licensee violations. The Enforcement Staff's responsibility is to prepare and build cases to substantiate their allegations and any violations.

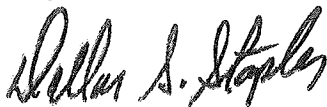
With respect to management, the survey shows that Enforcement Management, Supervisors and Enforcement Staff need better communication tools in order to work with each other and staff. Communication is the key to any organization, and the WVABCA will work on communication and building communication skills for all WVABCA personnel.

The WVABCA has existed since the 1930's and the agency, society and alcohol have changed a great deal over time. Further the alcohol industry has changed over the past 70 years with implementation of social responsibility issues that did not even exist in the past. The WVABCA has come a long way and continues to adapt and modify its training, policies and procedures over the years and with changing times.

In fairness to the WVABCA, I would ask the Legislative Auditor's office and the WV Legislature's Joint Committees to keep in mind that this is just the first step in the Performance Evaluation Process, and the opinions in the survey are individual opinions and not necessarily reflective of the entire agency. I am encouraged that while some issues may exist at the WVABCA, the staff continues to perform adequately.

If you have any questions, please call me at 304-558-2481.

Sincerely,



Dallas S. Staples,
WVABCA Commissioner

cc: John C. Musgrave, Acting Department of Revenue Cabinet Secretary



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