

FLORIDA DEPARTMENT OF LAW ENFORCEMENT

Office of Inspector General



PROJECT NUMBER: IG-0020

Enterprise Audit of Organizational Ethics - FDLE

FINAL REPORT

April 19, 2011



**Florida Department of Law Enforcement
Office of Inspector General**

EXECUTIVE SUMMARY PAGE		Audit #IG-0020
AUDIT TITLE: Enterprise Audit of Organizational Ethics		Date Issued: April 19, 2011
Responsible Manager: Michael Ramage General Counsel/Chief Ethics Officer	Auditor: Lourdes Howell-Thomas Planning Manager	
Background:	<p>Merriam-Webster's Dictionary defines ethics as a noun meaning the discipline dealing with what is good and bad and with moral duty and obligation, or a set of moral principles governing an individual or a group.</p> <p>The 2011 Sterling Criteria for Organizational Performance Excellence states: "Organizations should stress ethical behavior in all stakeholder transactions and interactions. Highly ethical conduct should be a requirement of and should be monitored by the organization's governance body."¹</p> <p>Since November 1991, the United States Sentencing Commissions "Federal Sentencing Guidelines Manual" has encouraged organizations (including governments) to adopt formal ethics and legal compliance programs.² These include establishing standards and procedures, high-level oversight, due diligence in hiring and promoting, effective communication (including training), compliance monitoring, enforcement, and preventive measures.</p> <p>In January 1999, Governor Jeb Bush issued Executive Order 99-20, directing the immediate adoption and implementation of a revised Code of Ethics by all Secretaries and Deputy Secretaries of executive agencies under the purview of the Governor. In the Order, the Executive Office of the Governor/Lieutenant Governor was to provide training on ethics to each executive agency head. It was the desire of the Governor that such agencies will, thereafter, arrange for similar ethics training to all employees on an annual basis. Another stipulation of the Order declared that each executive agency shall designate an Ethics Officer. The Ethics Officer shall undertake appropriate measures to ensure that the employees responsible for adhering to the Code of Ethics become familiar with all relevant ethics requirements. In January 2007, Governor Charlie Crist issued Executive Order 07-01, which also directed immediate adoption and implementation of a Governor's Office Code of Ethics and a Code of Personal Responsibility. Executive Order 07-01 both reinforced and built upon sections of Executive Order 99-20.</p> <p>In January 2011, Governor Rick Scott issued Executive Order 11-03, directing the immediate adoption and implementation of a revised Code of Ethics by the Office of the Governor and that it applies to all employees within the Office of the Governor, as well as the secretaries, deputy secretaries, and chiefs of staff of all executive agencies under the Governor's purview. It requires each executive agency secretary to designate an individual at his or her agency to act as the agency's chief ethics officer, who will make reasonable efforts to ensure that the employees responsible for adhering to this Code become familiar with relevant ethics, public records and open meeting requirements. Each agency is directed to implement any agency-specific adjustments to the code within 45 days of the date of the order. This Code of Ethics imposes more stringent requirements than the Code it revises.</p> <p>To provide an overall look at ethics in state government in Florida, the Governor's Chief Inspector General has called on all inspectors general to come together to conduct an enterprise evaluation of each agency's ethical climate. Over 20 state</p>	

¹ The 2011 Sterling Criteria for Organizational Performance Excellence, page 49.

² Chapter 8, Part B, Section 2.1, of the manual entitled, Effective Compliance and Ethics Program, outlines the minimum requirements to achieve an effective ethics and legal compliance program.

	agencies have undertaken this assignment. Each team will provide a report to their agency head. Based on findings and recommendations in agency reports, the Chief Inspector General will provide a roll-up report to the Governor.
Scope:	The scope of this audit focused primarily on recent actions taken by FDLE to design, communicate, monitor, promote, and enforce ethical standards and policies applicable to its members.
Audit Objectives:	<p>The objectives of this audit were to evaluate:</p> <ul style="list-style-type: none"> ➤ FDLE's implementation of the Office of the Governor's Executive Order 11-03, Ethics and Open Government. ➤ The design and effectiveness of each agency's ethics policy and related objectives, guidance, and activities in order to identify areas of potential weakness and best practices that could be shared among all agencies.
Methodology/ Tasks:	<p>In conducting the audit, OIG staff reviewed Governor Scott's Ethics Code, FDLE policies and procedures, interviewed appropriate department members including FDLE's Chief Ethics Officer, and evaluated the results of an ethical climate survey of members, OPS, reserved special agents (RSA), reserved law enforcement officers (RLEO), and contract employees (herein after referred to as members).</p> <p>This audit was conducted in accordance with the Principles and Standards for Offices of Inspector General (green book) and generally accepted government-auditing standards (yellow book). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.</p> <p>Copies of this audit will be made available for public inspection.</p>
Summary of Audit Findings:	<p>Survey results shows that members, OPS, and contract employees are satisfied with the ethical environment at FDLE and feel that the ethics training is adequate. Some opportunities for improvement were identified from survey comments.</p> <p>Based on the work performed, it was determined that the Florida Department of Law Enforcement is in substantial compliance with the Governor's Code of Ethics. It was also determined that members comply with FDLE's Ethics Policy 3.33 requirements for training, reading of policy, and financial disclosure. Additionally, recommendations were made to enhance FDLE ethics policy to be more in line with the Governor's Code of Ethics.</p>
FDLE's Best Practices:	<p>During the conduct of this audit, the following practices were identified as "best practices" for the Department:</p> <ul style="list-style-type: none"> ▪ FDLE's policy requires that members acknowledge they read a policy within 30 days of becoming a member or a new/revised policy is introduced. FDLE has a system that tracks whether members have acknowledged that they have read the policies. ▪ In addition to the read policy tracking system, FDLE also has a system to track whether a member has taken mandatory training.

**FDLE Survey
Results:**

On March 8, 2011, an ethics survey was emailed to members, OPS, and contract employees totaling 1,896 emails. We received 1,186 responses for a 63% response rate. The following table depicts the results by question.

Survey Questions	Strongly Agree or Agree	Disagree or Strongly Disagree
1. My agency's senior management models and promotes ethical behavior.	86.2%	6.5%
2. My supervisor models and promotes ethical behavior.	94.1%	4.1%
3. My coworkers model and promote ethical behavior.	94.1%	3.3%
4. I know how to report suspected ethical behavior and fraud within my agency.	YES 96.3%	NO 3.7%
5. I have received ethics training provided by my agency.	Within last yr 85.7%	Last 1 – 5 yrs 14%
6. I have been adequately trained by my agency to know what constitutes ethical and unethical behavior.	98.2%	1.0%
7. My agency has written ethical guidance, such as a code of conduct, policy and/or other guidelines.	YES 98.8%	NO 0.0%
8. My agency's ethical guidance, including code of conduct, policy and/or other guidelines, is clear and comprehensive.	97.3%	1.1%
9. I believe my agency has made clear my ethical responsibilities.	98.2%	1.0%
10. Unethical conduct is appropriately handled by management in my agency.	** 72.2%	9.1%

** 18.8% or 219 members, responded "Don't know or no opinion."

The charts on **Attachment A** show the survey results for FDLE. The charts on **Attachment B** show the results for all 23 participating state agencies taken as a whole, including FDLE. The charts illustrate that the majority of respondents at the 23 agencies perceived the ethical environment at their agencies as satisfactory. The charts demonstrate that the responses of those that strongly agree/agree ranges from 71% to 97% at FDLE compared to 63% to 89% statewide (including FDLE).

Overall, FDLE's ethical climate is favorable. Members indicated that FDLE had made clear their ethical responsibilities and feel they have been adequately trained on ethical behavior. However, some of the member's comments made indicate that there are opportunities for improvement. Comments were organized into Favorable,

	<p>General Comment, Lack of Professional Behavior, Questionable Management Decision, Suggestion for Improvement, and Unfavorable.</p> <p>Three common themes were identified from the comments. The themes and examples of member's comments are as follows:</p> <ol style="list-style-type: none"> 1. <u>Inconsistency of discipline for unethical conduct violations</u> <ul style="list-style-type: none"> ▪ <i>From what I have observed, management's response to unethical conduct is inconsistent from employee to employee. Unethical behavior seems to be tolerated up to the point that it can not be ignored. If this behavior was dealt with timely and consistently, it would go a long way towards improving morale.</i> ▪ <i>FDLE requires members to avoid the appearance of unethical conduct. Some members in senior management need to question whether their conduct would pass the test when viewed by the public.</i> 2. <u>Members do not know how to report, or are afraid to report, unethical conduct issues</u> <ul style="list-style-type: none"> ▪ <i>At my agency, there isn't a way to report unethical behavior anonymously (to my knowledge). I may not report a co-worker engaging in unethical behavior due to retaliation.</i> ▪ <i>Although I have been trained on ethical behavior in this work environment, I still do not feel comfortable going to my supervisor or anyone above or equal to him because a lot of things get swept under the rug and there is a high risk of coming out looking like the bad guy.</i> 3. <u>Ethics policy is too lengthy and complex to comprehend</u> <ul style="list-style-type: none"> ▪ <i>Ethics seems to be common sense for most. However, the policies/guidelines written out for this subject tends to be very lengthy and all the "do's" and "don'ts" can be somewhat confusing when reading. I have heard numerous people say it needs to be shortened or more comprehensible.</i> ▪ <i>As laws and standards evolve, it would be useful to have a newsletter or review on a periodic basis (say, quarterly) that helps with understanding any new ethical contexts. Just a Q&A might suffice.</i>
Recommendation:	<p>We recommend that FDLE management review the list of comments and consider whether any responsive actions are appropriate regarding:</p> <ul style="list-style-type: none"> ▪ the appearance of inconsistent ethical disciplinary actions, ▪ facilitating the anonymous reporting of unethical issues, and ▪ the clarification of the ethics policy.
Management Response:	<p>Agree. The comments have been circulated to the Executive Policy Board for any needed responsive actions. Appropriate clarifications to the policy will be considered.</p>
Implementation Date:	<p>June 2011</p>

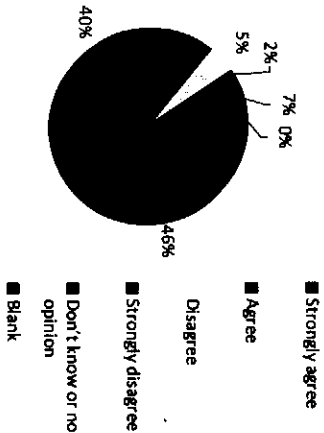
<p>Ethics Compliance Questionnaire Results:</p>	<p>As part of field work, a questionnaire was completed to determine FDLE's compliance with the Governor's Code of Ethics. Results show that FDLE's Ethics Policy is very comprehensive and includes most of the points identified in the revised Ethics Code. Test of FDLE's Values and Ethics Policy 3.33 shows that members comply with Policy requirements that training be taken annually and that policy be read within 30 days of employment and/or revision.</p> <p>As part of completing the Ethics Questionnaire, the auditor performed a compliance test to determine if members had read the Values and Ethics Policy (Policy 3.33) and the Dual Employment Policy (Policy 3.6). The test shows that out of 1,731 members that should have read the policy, 1,684 members read it. This represents 97.3% compliance. For Policy 3.6, the test shows that out of 1,732 members, 1,696 members had read the policy. This represents 97.92% compliance.</p> <p>A query of the training system was also done to test compliance with Policy 3.33. It was determined that 17 members out of 1,736 members had not taken the mandatory ethics training. Therefore, 99.02% of the members comply with the Values and Ethics policy that requires training be administered annually.</p> <p>It was noted that FDLE's Values and Ethics Policy 3.33 does not designate to whom ethical violations should be reported. Best practice dictates that in order for someone to report a violation, the person needs to know where and to whom to report it. Otherwise, the violation may go unreported.</p> <p>It was also noted that although the responsibilities of the Chief Ethics Officer are defined in Policy, the responsibilities and percentage of time of the role as Chief Ethics Officer is not included in the General Counsel position description.</p> <p>FDLE is a Governor and Cabinet agency and even though the Code does not specifically apply, the Ethics Policy could be enhanced by adopting language from the Governor's Code of Ethics. The following are areas observed where our Values and Ethics Policy could be enhanced even though some of the recommendations are already included in FDLE's policies.</p> <ul style="list-style-type: none"> ▪ Usage of the "Pledge on Behalf of the People of Florida" included in the Code. ▪ References to Honoraria and Honorarium. ▪ Travel in private aircraft. ▪ Quarterly disclosure of immediate relatives that are lobbyists. ▪ Training on public records, open meetings, records retention, equal opportunity and proper personnel procedures. ▪ A process/ways for members to anonymously report concerns about fraud, abuse, or questionable practices, and violations. ▪ A mandate for reporting of such violations.
<p>Recommendations:</p>	<p>We recommend that even though FDLE's Values and Ethics Policy designates the General Counsel as Chief Ethics Officer, and defines his/her responsibilities, the General Counsel's position description be revised to appropriately address responsibilities and percentage of time spent on the role of Chief Ethics Officer.</p> <p>We also recommend that FDLE Policy 3.33 – Values and Ethics - be revised to include language from the Governor's Code of Ethics as mentioned in the Questionnaire Results bulleted section.</p>

	<p>Although there are tools for members to report issues and/or concerns such as an anonymous email to the Commissioner or via FDLE's external website for complaints and compliments, it would be better and easier for members if the ethics policy designated a place for members to report unethical behavior. FDLE Policy 3.5 - Standards of Members Conduct – currently includes language for the reporting of violations. It would be beneficial for members to have all language relating to ethics and ethical violations in the Values and Ethics policy. Language should be added to the Ethics Policy that designates to whom ethical violations should be reported.</p> <p>Note. FDLE's Management decided to incorporate the following into the Ethics Policy 3.33:</p> <ul style="list-style-type: none"> ▪ The "Pledge on Behalf of the People of Florida" will be included in the hiring package for incoming members. ▪ Section B of the Code regarding Honoraria and Honorarium will be added to the FDLE Policy. However, language will be included that awards and/or plaques will be allowable but the member must receive confirmation after the fact from the Ethics Officer to retain the award/plaque. ▪ Section D regarding travel in private aircraft will be added to the Policy. ▪ Members' disclosure of immediate relatives that are lobbyists will remain on annual basis, not quarterly as requested in the revised Ethics Code. ▪ Comprehensive ethics training will continue every other year on even years. Selective training on public records, open meetings, records retention, equal opportunity and proper personnel procedures will be done every other year on odd years. ▪ Supervisors will be reminded to encourage members to review the ethics policy as part of the Annual Member Work Plan Evaluation.
Management Response:	<p>Agree. The General Counsel's position description will be revised to appropriately address responsibilities and percentage of time spent on the role of Chief Ethics Officer.</p> <p>Revision of the policy agreed by the Executive Policy Board is pending. In the policy revision, language will be added that designates to whom ethical violations should be reported.</p>
Implementation Date:	June 2011

Ethical Climate Survey Results - FDLE - 1,185 Respondents

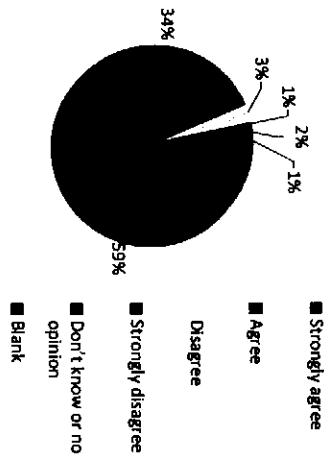
Question 1:

My agency's senior management models and promotes ethical behavior.



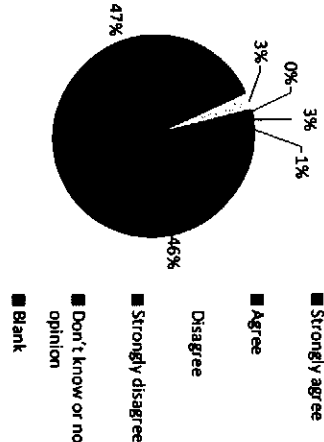
Question 2:

My supervisor models and promotes ethical behavior.



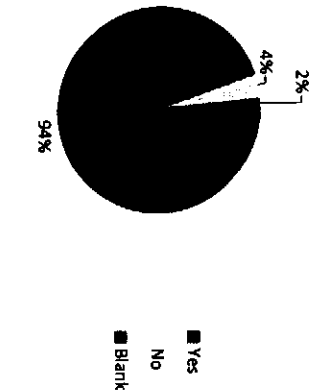
Question 3:

My coworkers model and promote ethical behavior.



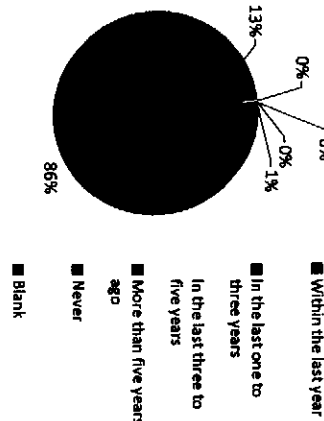
Question 4:

I know how to report suspected unethical behavior and fraud within my agency.



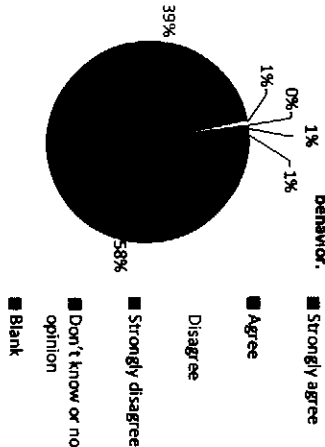
Question 5:

I have received ethics training provided by my agency.



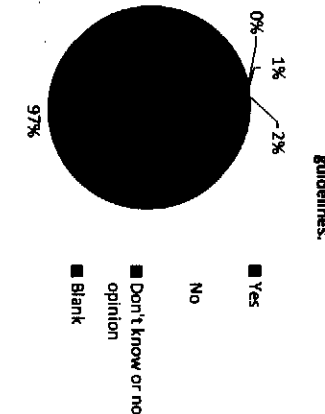
Question 6:

I have been adequately trained by my agency to know what constitutes ethical and unethical behavior.



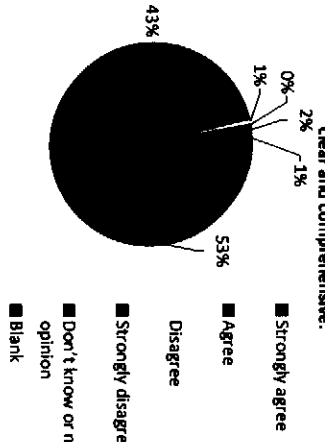
Question 7:

My agency has written ethical guidance, such as a code of conduct, policy and/or other guidelines.



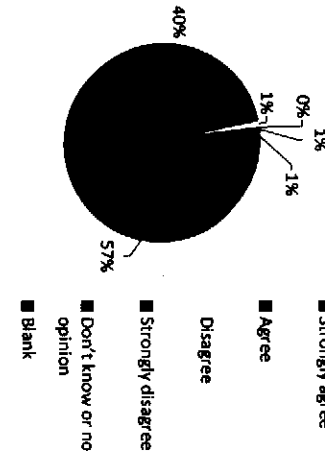
Question 8:

My agency's ethical guidance, including code of conduct, policy and/or other guidelines, is clear and comprehensive.



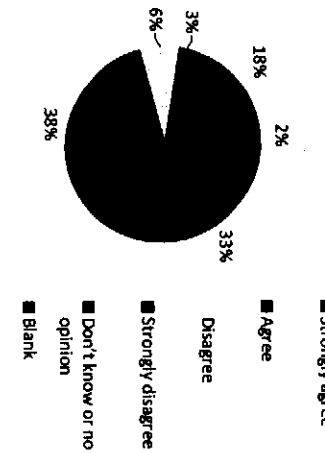
Question 9:

I believe my agency has made clear my ethical responsibilities.



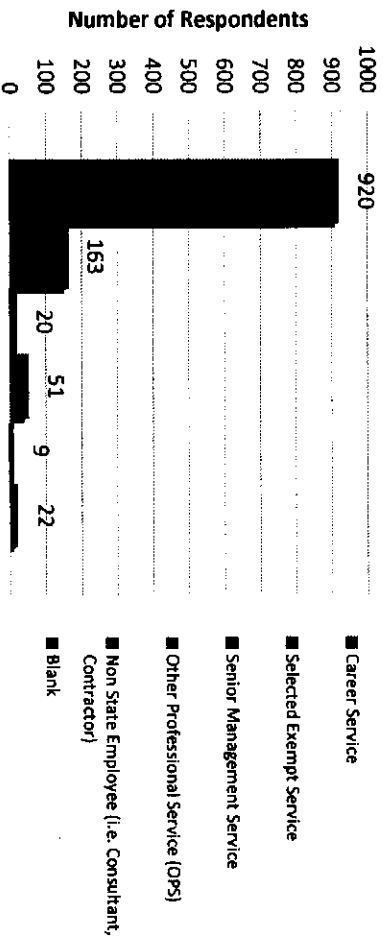
Question 10:

Unethical conduct is appropriately handled by management in my agency.



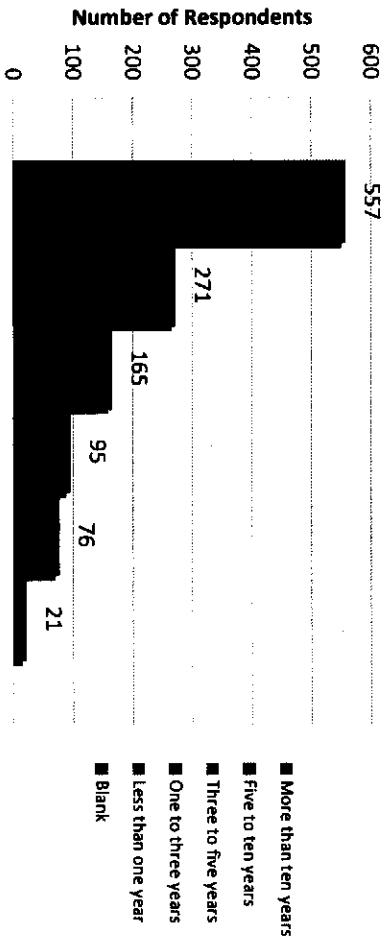
Question 11:

Please select your position type.

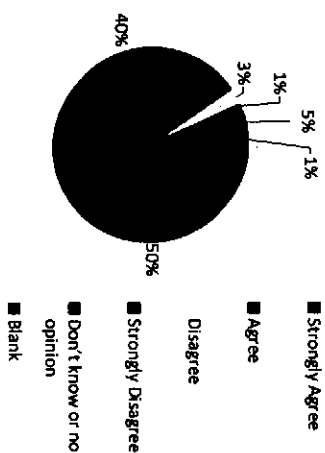


Question 12:

How long have you worked for the Agency?



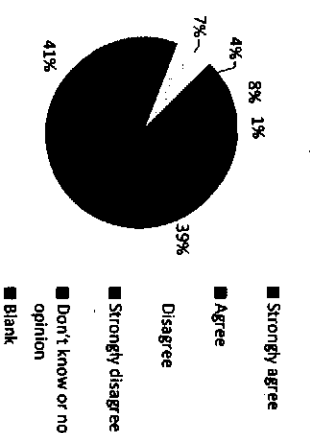
Summary (Includes results from Q1, 2, 3, 6, 8, 9, and 10)



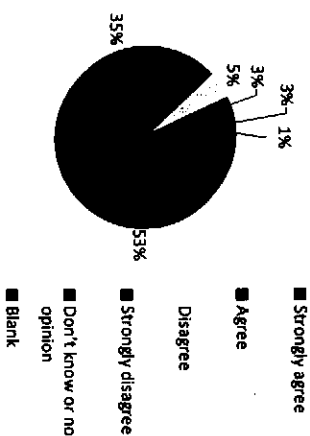
Ethical Climate Survey Results - Florida - 32,368 Respondents

Attachment B

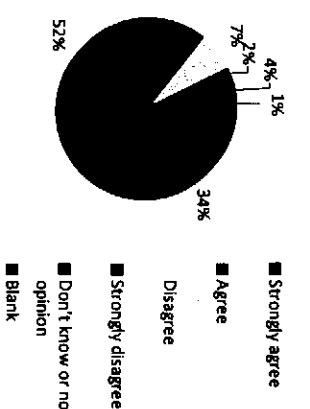
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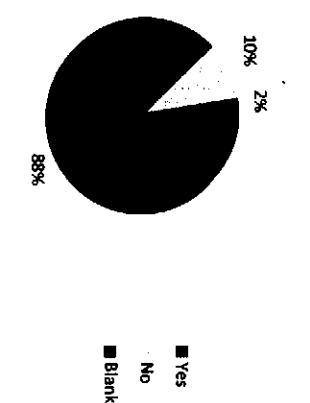
Question 2:
My supervisor models and promotes ethical behavior.



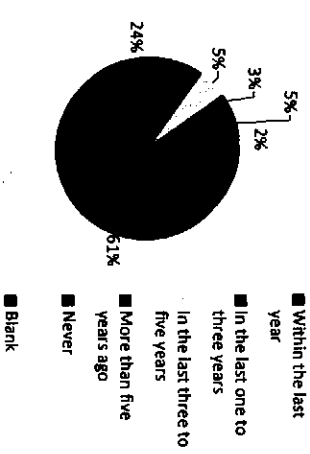
Question 3:
My coworkers model and promote ethical behavior.



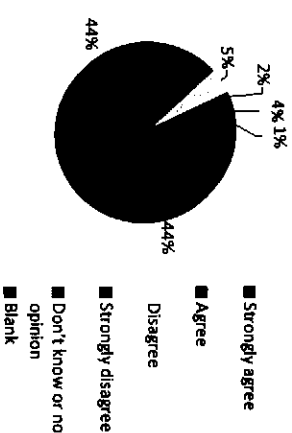
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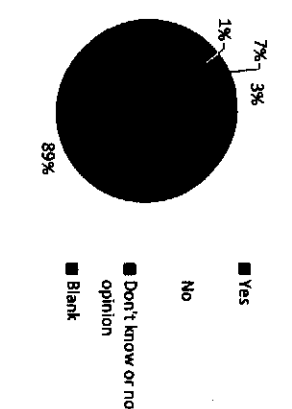
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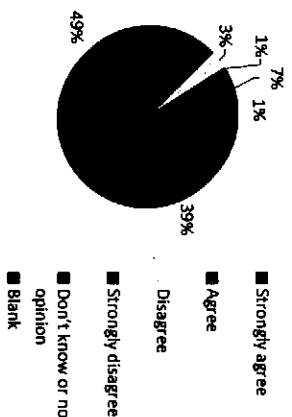
Question 6:
I have been adequately trained by my agency to know what constitutes ethical and unethical behavior.



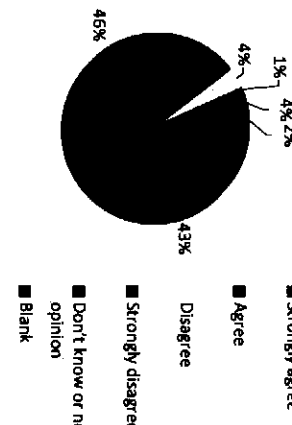
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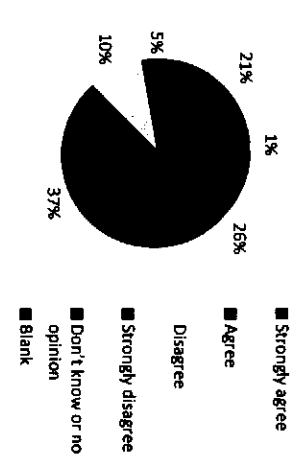
Question 8:
My agency's ethical guidance, including code of conduct, policy and/or other guidelines, is clear and comprehensive.



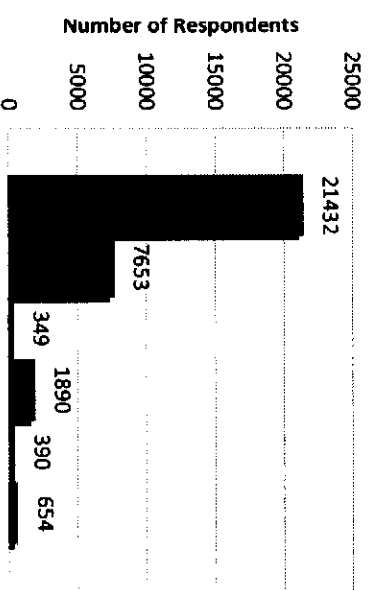
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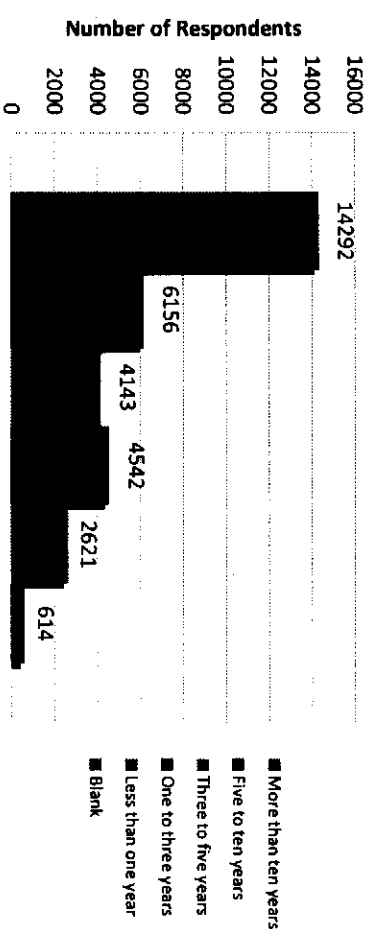
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