

Okaloosa County Sheriff's Office

Funding of Beach Safety in TDC Tax District

Sheriff Larry R. Ashley

The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

Briefing Outline

- Objective
- Purpose
- Justification
- Background
- Analysis
- Precedence

The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

Objective

OCSO is requesting appropriations from the Okaloosa TDC in the amount of \$350,000 to fund Sheriff's Operations that enhance and promote tourism in Okaloosa County. Funding will subsidize salaries, vehicles, vessels and equipment for 4 Beach Patrol Deputies and 2 Marine Patrol Deputies

The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

Purpose

- Ensure that Okaloosa County remains a safe and family friendly tourist destination and that tourism continues as one of the county's primary economic engines.
 - Calls for service by tourists constitute ~80% of OCSO call volume in TDC Bed Tax District.
 - A significant portion of the OCSO annual budget is derived from Ad valorem tax revenues.
- Ensure that public safety services consumed by tourists are subsidized by tourists.

The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

Justification

- Need: An analysis of five years of call for service data in Okaloosa County's TDC bed tax districts, reveals that among 11 categories of calls analyzed, there is an average increase of 1100% during high tourist periods.
- Categories analyzed included: 1) Ordinance Violations, 2) Sexual Battery, 3) Traffic Crashes, 4) Driving While Intoxicated, 5) Alcohol Offenses, 6) Boating Issues, 7) Distressed Swimmers, 8) Trespassing, 9) Missing Persons, 10) Battery, 11) Shoplifting.

Calls for Service

Ordinance Violations	Off	On	Change	Total
2009	510	4269	737.06%	4779
2010	281	3784	1246.62%	4065
2011	485	8629	1679.18%	9114
2012	411	6902	1579.32%	7313
2013	451	5671	1157.43%	6122
Sexual Battery	Off	On	Change	Total
2009	1	6	500.00%	7
2010	2	9	350.00%	11
2011	5	10	100.00%	15
2012	6	10	66.67%	16
2013	6	15	150.00%	21
Traffic Crash	Off	On	Change	Total
2009	197	627	218.27%	824
2010	191	624	226.70%	815
2011	199	764	283.92%	963
2012	239	901	276.99%	1140
2013	263	804	205.70%	1067

The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

Calls for Service

DUI	Off	On	Change	Total
2009	173	280	61.85%	453
2010	144	307	113.19%	451
2011	146	285	95.21%	431
2012	138	325	135.51%	463
2013	116	276	137.93%	392
Alcohol Offenses	Off	On	Change	Total
2009	12	388	3133.33%	400
2010	10	329	3190.00%	339
2011	10	426	4160.00%	436
2012	21	633	2914.29%	654
2013	7	306	4271.43%	313
Marine Summary	Off	On	Change	Total
2009	2	37	1750.00%	39
2010	2	28	1300.00%	30
2011		58	#DIV/0!	58
2012	1	61	6000.00%	62
2013	1	73	7200.00%	74

The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

Calls for Service

Distressed Swimmer	Off	On	Total	Change
2009	6	26	32	333.33%
2010	1	46	47	4500.00%
2011	0	20	20	#DIV/0!
2012	3	43	46	1333.33%
2013	5	38	43	660.00%
Trespassing	Off	On	Total	Change
2009	164	392	556	139.02%
2010	184	414	598	125.00%
2011	234	486	720	107.69%
2012	286	492	778	72.03%
2013	163	462	625	183.44%
Missing Person	Off	On	Total	Change
2009	24	115	139	379.17%
2010	25	77	102	208.00%
2011	12	70	82	483.33%
2012	28	131	159	367.86%
2013	13	106	119	715.38%

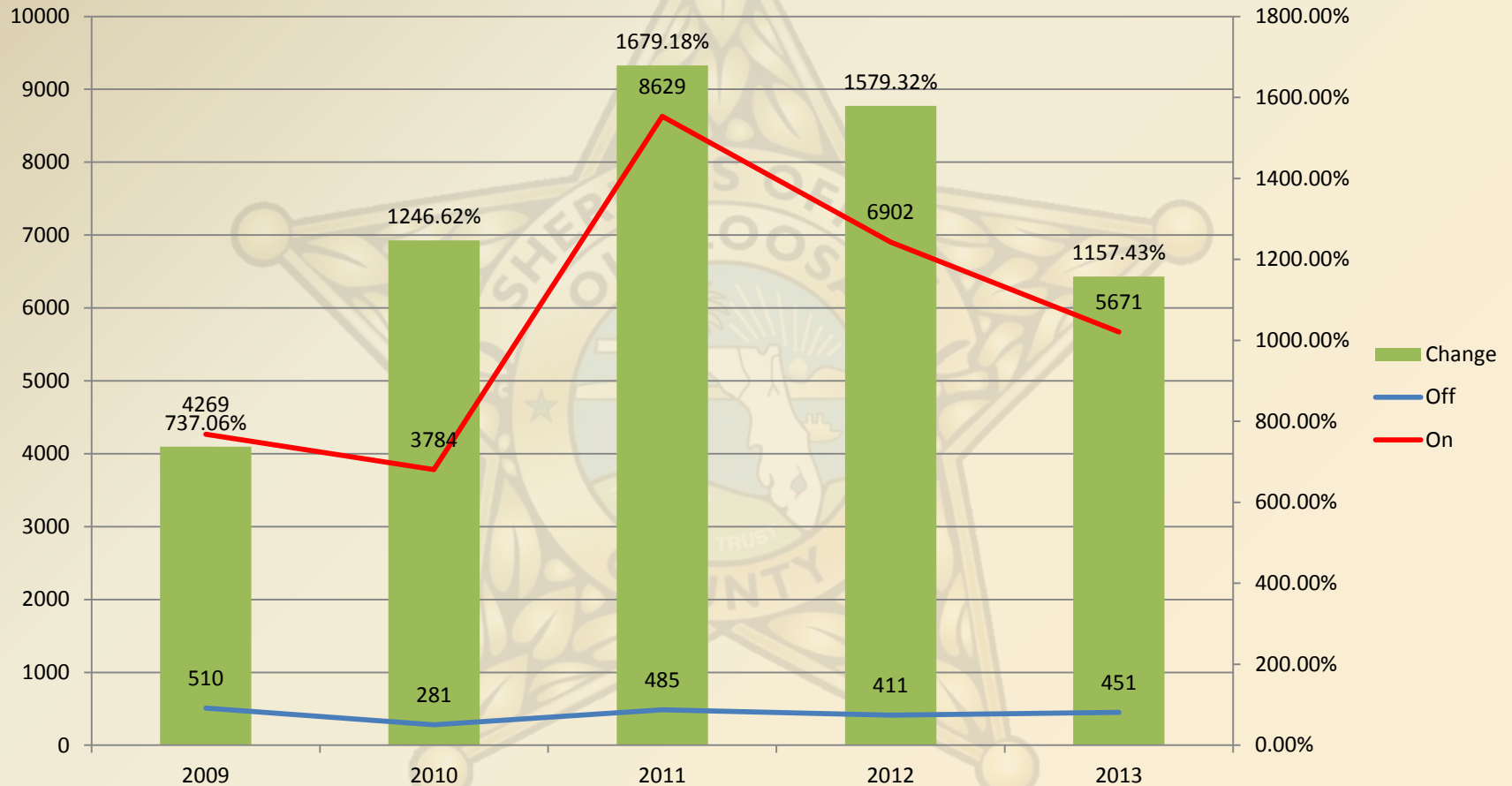
The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

Calls for Service

Battery	Off	On	Total	Change
2009	90	185	275	105.56%
2010	98	219	317	123.47%
2011	108	242	350	124.07%
2012	131	279	410	112.98%
2013	96	240	336	150.00%
Shoplifting	Off	On	Total	Change
2009	24	42	66	75.00%
2010	19	33	52	73.68%
2011	47	45	92	-4.26%
2012	31	81	112	161.29%
2013	47	59	106	25.53%

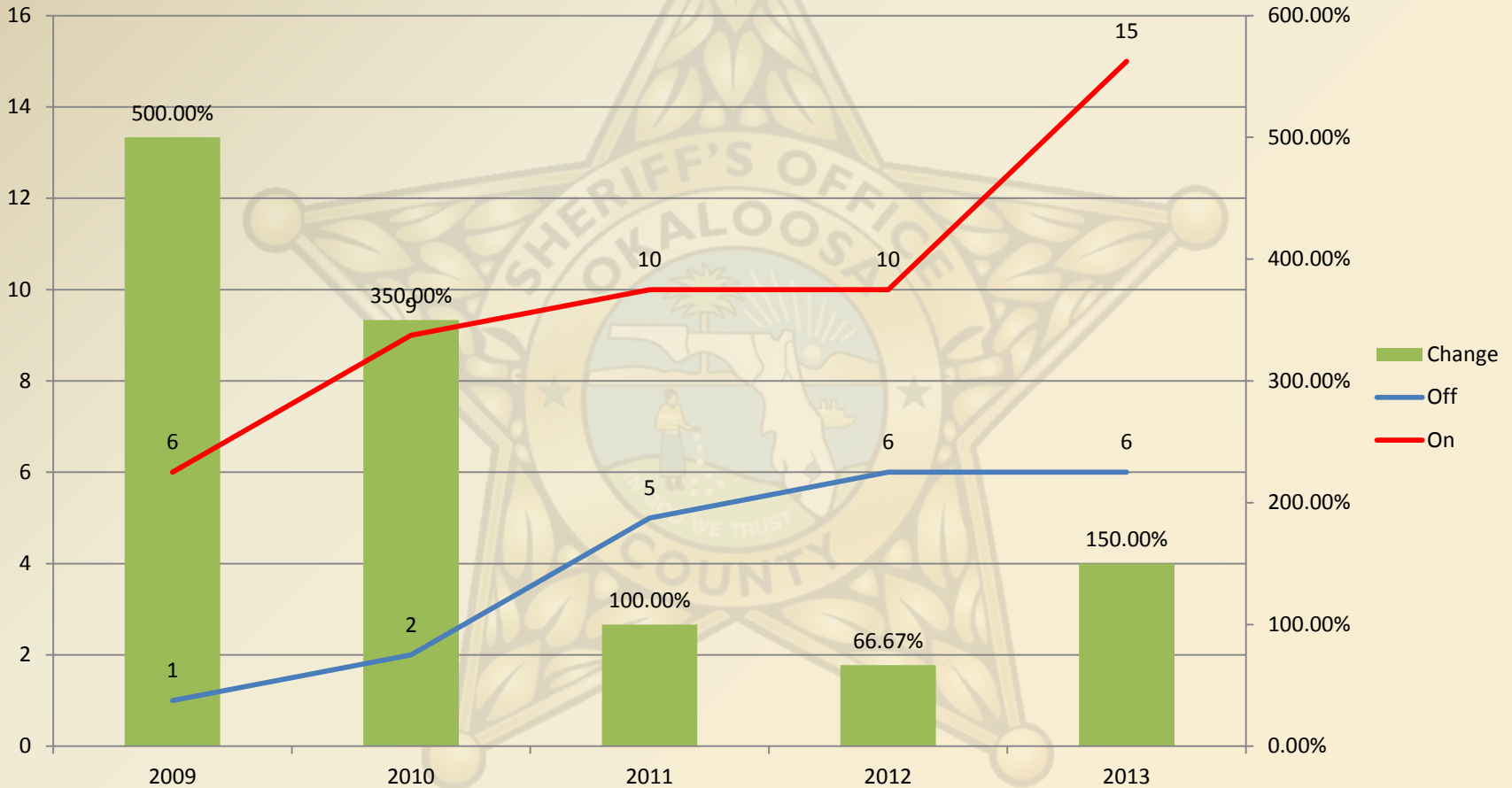
The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

Ordinance Violations



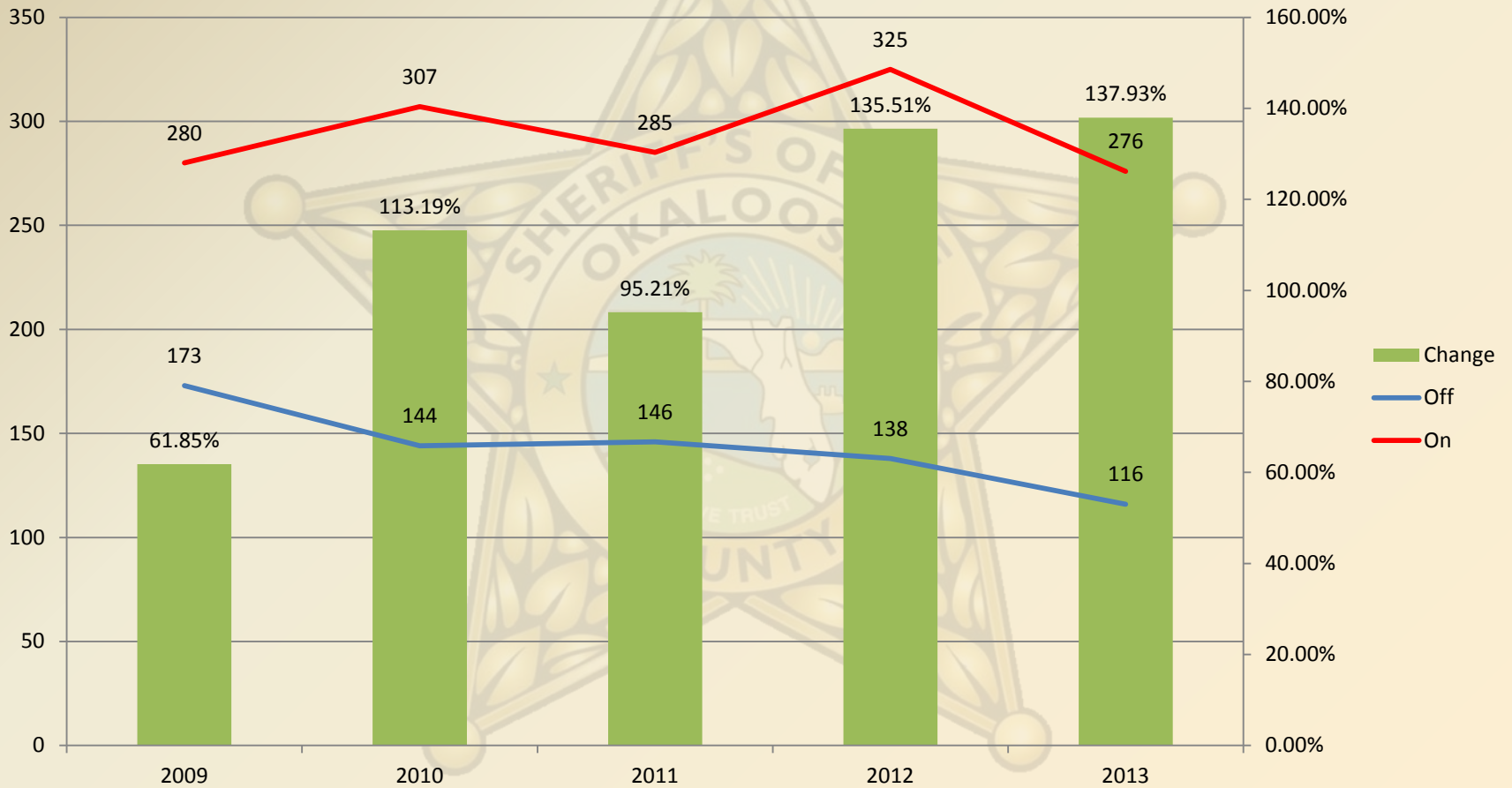
The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

Sexual Battery



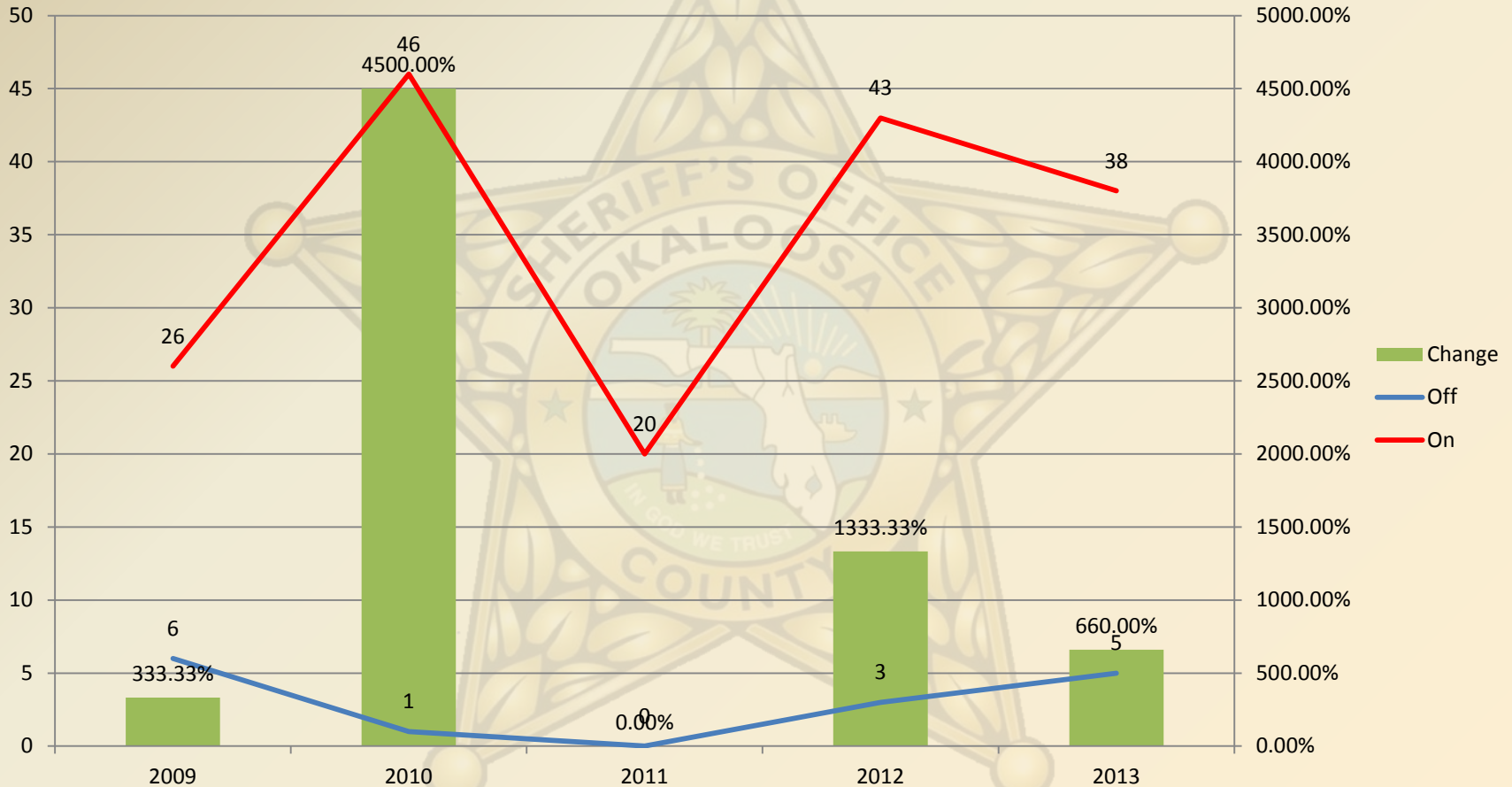
The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

DUI



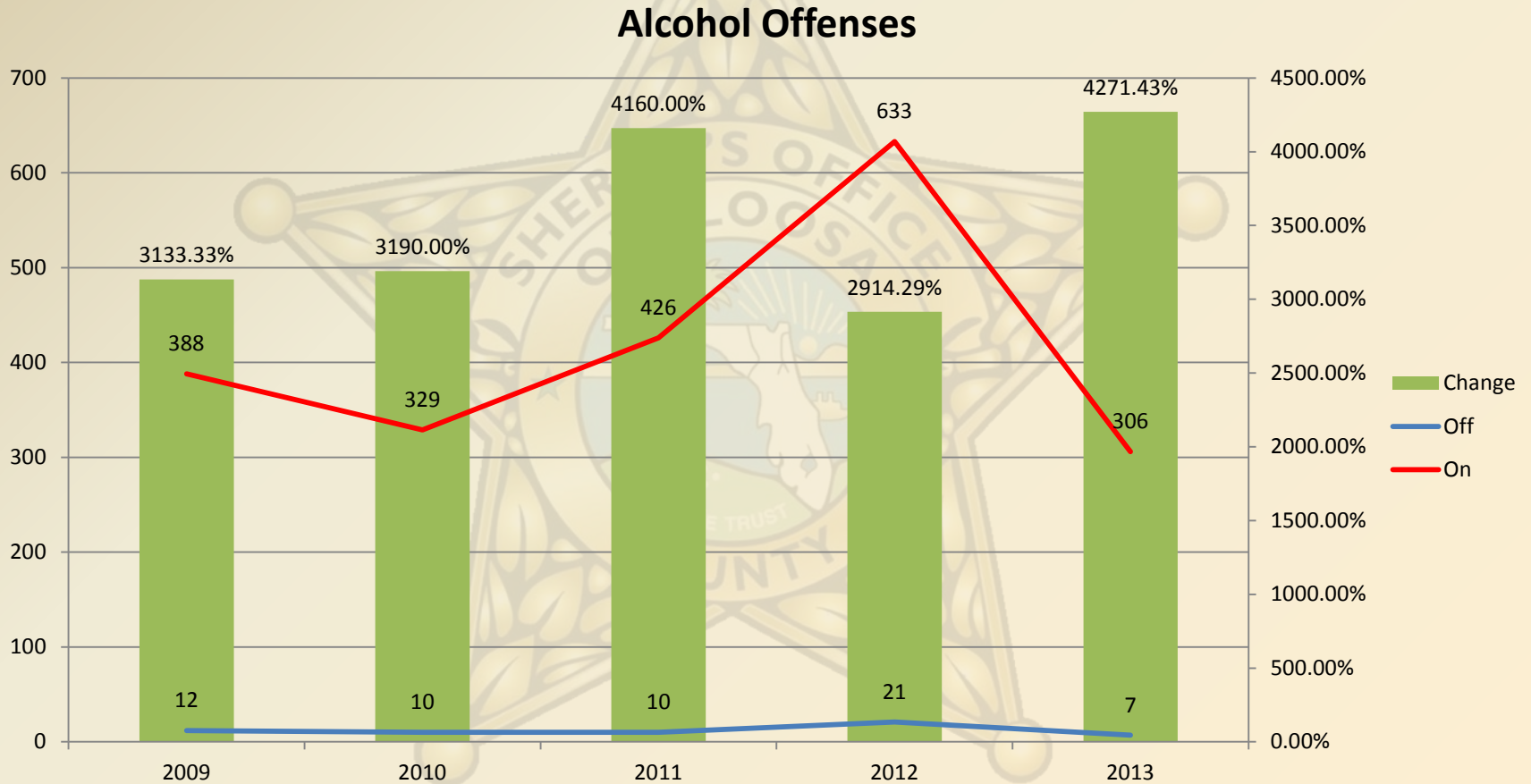
The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

Distressed Swimmer



The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

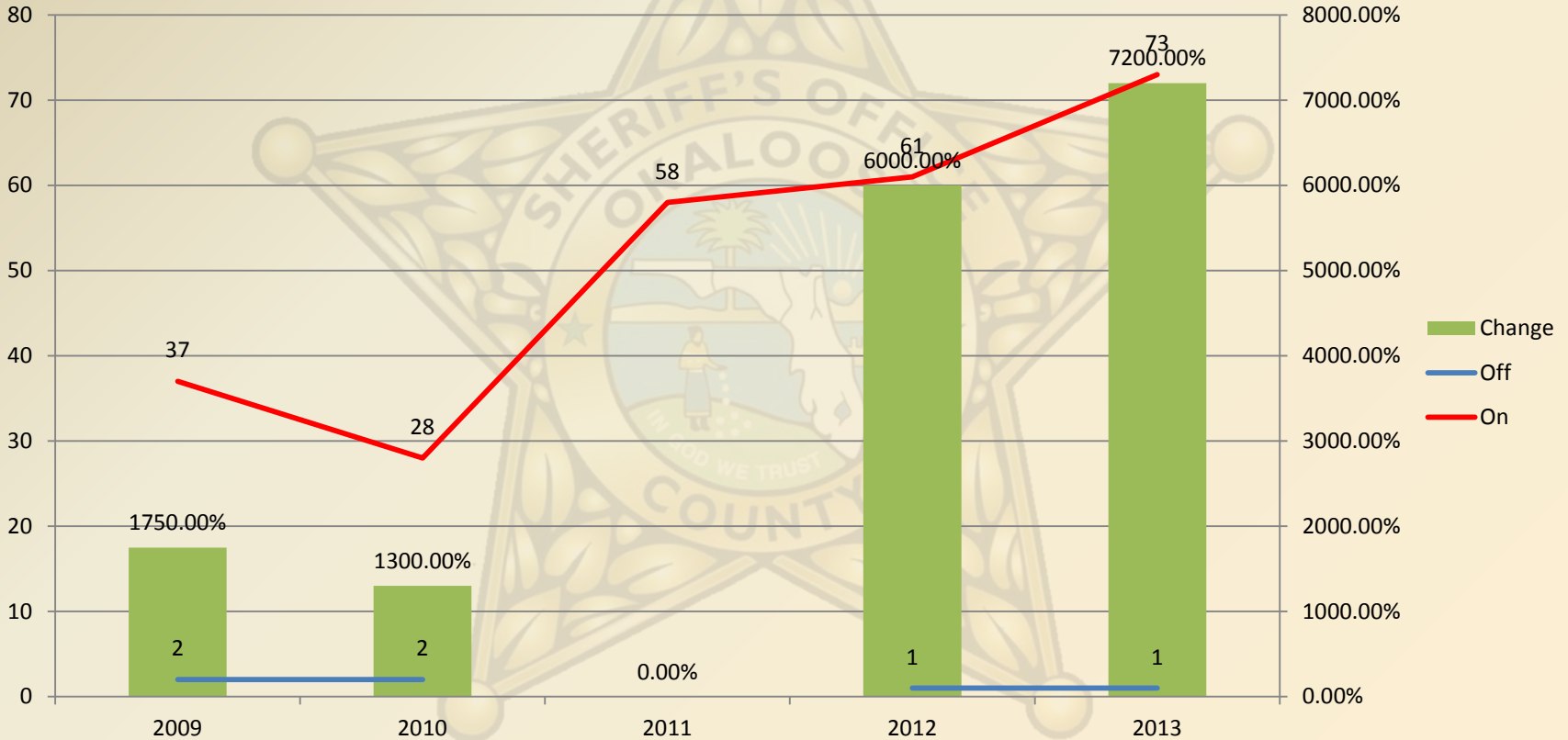
Alcohol Offenses



The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

Marine Violations

Marine Violations



The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

Background

Okaloosa County has been funding life guard services on the County's Public Beaches with TDC Revenues since 2008. Total appropriations over the last five years total \$4,078,542.68 additionally FY2014 appropriations totaled \$1,103,072. Most recently BOCC voted to fund ½ the cost of a beach rescue vehicle.

The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

Precedence

The most compelling precedence for approval of the OCSO request is Okaloosa County's long-standing practice of funding lifeguard services with TDC revenues. However, Okaloosa County does not stand alone in their practice of funding public safety programs with TDC revenues. Walton County also funds lifeguard services with TDC revenues. Bay County funds tourist related law enforcement activities with TDC revenues, as well. Most recently, in 2014, Bay County appropriated \$100,000 of TDC revenues to fund additional law enforcement operations/patrols in their tourist district during spring break.

The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

Opinion

TALLAHASSEE
Suite 200
1500 Mahan Drive
Tallahassee, Florida 32308
(850) 224-4070 Tel
(850) 224-4073 Fax

FORT LAUDERDALE
208 S.E. Sixth Street
Fort Lauderdale, Florida 33301
(954) 525-8000 Tel
(954) 525-8331 Fax

**Nabors
Giblin &
Nickerson** P.A.
ATTORNEYS AT LAW

FORT MYERS
Building 83, Suite 2
12731 World Plaza Lane
Fort Myers, Florida 33907
(239) 288-4027 Tel
(239) 288-4057 Fax

TAMPA
Suite 1060
2502 Rocky Point Drive
Tampa, Florida 33607
(813) 281-2222 Tel
(813) 281-0129 Fax

Reply to Tallahassee

December 3, 2012

Via Electronic Mail

James D. Curry
County Administrator
Okaloosa County
1804 Lewis Turner Boulevard, Suite 400
Fort Walton Beach, Florida 32547

Re: Auditor General's Finding Related to the
Funding of Lifeguard Services

Dear Mr. Curry:

Based upon our discussion, it is my understanding that the staff of the Office of the Auditor General has conducted its exit interview with county personnel and verbally summarized its proposed findings related to its review. Among the findings noted by the Auditor General is the appropriateness of expending tourist development tax revenues for the provision of lifeguard services.

The Auditor General has apparently concluded that based upon a 1990 Opinion of the Office of the Attorney General (AGO 90-55) (the "1990 AGO") that the use of tourist development tax revenues for the funding of lifeguard services is impermissible under section 125.0104, Florida Statutes. Further, that they are considering recommending that tourist development tax revenues expended by the County during the review period (May 2010 to present) to fund such services should be reimbursed from general revenues.

Based upon this proposed finding, you have asked that we review this matter and in light of the potential finding by the Auditor General. As you are aware, we were previously requested in 2003 to review this matter and we rendered an opinion to the County that we believe such services could be funded by tourist development tax revenues. We have made an additional review of this issue and our position remains unchanged. Further, we find that the Auditor General's analysis and potential recommendation is flawed for several reasons. First, we believe

The Mission of the Okaloosa County Sheriff's Office: "Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust".

AG Opinions

Florida Attorney General Opinions repeatedly give great deference to the governing body of the county in deciding if a particular activity or program satisfies the requirements of F.S. 125.0104

– Attorney General Opinion No. 86-87

“However, in section 125.01(1)(w), F.S., **county commissions may perform any other acts not inconsistent with the law which are in the common interest of the people of the county** and exercise all powers and privileges not specifically prohibited by law.”

– Attorney General Opinion No. 86-96

“Many counties use a portion of their tourist development tax revenues for arts and cultural activities. Although the statutes do not specifically identify arts and culture as an authorized use of these collections, **county commissions have exercised some discretion by funding the programs and activities in order to enhance and promote tourism.**”

The Mission of the Okaloosa County Sheriff's Office: “Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public's trust”.

AG Opinions

– Attorney General Opinion No. 92-16

The Attorney General cited subsection (5) of s. 125.0104, F.S., and reiterated the determination that since this subsection enumerates the authorized uses of tourist development tax revenues, the implication is that any proposed use not specifically listed is excluded. "To promote and advertise tourism in the State of Florida and nationally and internationally;" is, however, an authorized use of tourist development tax revenues pursuant to this subsection. **Consequently, the Attorney General offered the opinion that the determination as to whether a particular project is tourist related and furthers the purpose of promoting tourism is one which must be made by the governing body of the county.** For that reason, the county would be authorized to expend tourist development tax revenues to promote and advertise the "Concert in the Park," if the governing body of the county makes the appropriate legislative determination that such activity is primarily related to promoting tourism in the county.

Of growing concern to all entities involved with local option tourist development taxes is the determination as to who has the ultimate authority to decide how tax revenues will be used.

AG Opinions

– Attorney General Opinion No. 92-66

(4) Ultimately, the determination of whether a particular expenditure satisfies the requirements of s. 125.0104, F.S., is the responsibility of the governing body of the county and cannot be delegated to the Attorney General's Office.

Consequently, the

Attorney General gave the opinion that, ... *based upon the appropriate legislative finding by the governing body of the county that such a project promotes tourism, construction of an artificial reef in order to promote snorkeling and diving or as a basis for improving fishing in the coastal waters to attract tourists may be funded by tourist development tax revenues...*

AG Opinions

– Attorney General Opinion No. 92-66

(4) Ultimately, the determination of whether a particular expenditure satisfies the requirements of s. 125.0104, F.S., is the responsibility of the governing body of the county and cannot be delegated to the Attorney General's Office.

Consequently, the

Attorney General gave the opinion that, ... *based upon the appropriate legislative finding by the governing body of the county that such a project promotes tourism, construction of an artificial reef in order to promote snorkeling and diving or as a basis for improving fishing in the coastal waters to attract tourists may be funded by tourist development tax revenues...*

AG Opinions

Attorney General Opinion No. 98-74

The AG stated, however, that it was his opinion that the expenditure of tourist development tax revenues for the construction of a new memorial at the Orange County Courthouse **must be based on a determination by the county's governing body that the memorial is directly related to tourism and furthers the purpose of promoting tourism** in Orange County. Further, the opinion stated that any such a determination “must show a distinct and direct relationship between expenditure of tourist development tax revenues and the promotion of tourism.”

Attorney General Opinion No. 2000-25

The AG concluded that **the governing body of Okeechobee County may exercise its authority to decide, based upon an appropriate legislative determination**, that the promotion of an event has as its main purpose the attraction of tourists for which tourist development funds under s. 125.0104, F.S., may be used.

AG Opinions

Attorney General Opinion No. 2000-50

The opinion further stated that the use does not appear outside of the realm of use; **however, governing body of the county must make a factual determination of whether a particular facility or project is related to tourism and primarily promotes that purpose.** The determination must show a distinct and direct relationship between tax revenue expenditure and tourism promotion. Accordingly, the opinion concluded that if such findings are made, then the tax revenues could be used for welcome signs and welcome islands.

Marketing

- Okaloosa County’s TDC should establish “Safe and Family Friendly” as a key component of their tourism marketing campaign. In doing so the TDC will establish “Public Safety” as a key component in their marketing efforts and will not only satisfy the F.S.S. 125.0104 requirement that all TDC funding appropriations promote and advertise tourism. It also targets what has historically served as Okaloosa’s primary visitor demographic “the vacationing family”.
- **OCSO Tourist Public Service Announcements (PSA’s)**

The Mission of the Okaloosa County Sheriff’s Office: “Ensuring fair and equal administration of the law, safeguarding civil liberties and preserving public safety; Doing so with professionalism and unity of purpose, while being good stewards of the public’s trust”.