



Illinois State Toll Highway Authority

Office of the Inspector General

SUMMARY ACTIVITY REPORT

For the period March 1, 2017 through August 31, 2017

Theodor J. Hengesbach
Inspector General

Hotline: 866.786.5544
Fax: 630.795.7661

<https://www.illinoistollway.com/about/office-of-inspector-general>



OFFICE OF THE INSPECTOR GENERAL
Theodor J. Hengesbach – Inspector General

SUMMARY ACTIVITY REPORT

To: The Office of the Governor
The Board of Directors of the Illinois State Toll Highway Authority
The State of Illinois General Assembly

From: Theodor J. Hengesbach, Inspector General

Date: September 28, 2017

Re: Office of the Inspector General Summary Activity Report for the Period Spanning
March 1, 2017 to August 31, 2017

INTRODUCTION

We provide this report pursuant to Section 8.5 of the Toll Highway Act (the Act).¹ The Act created the Office of the Inspector General (OIG) and the Governor-appointed position of Inspector General. On November 9, 2015, Governor Bruce Rauner appointed Theodor J. Hengesbach to this position, and the Illinois Senate confirmed this appointment in February 2017. The appointment runs through June 30, 2020.

MISSION AND JURISDICTION

OIG's mission is to foster effectiveness and efficiency in Tollway administration and operations by promoting integrity and accountability of the Tollway board, Tollway employees, and Tollway contractors and vendors. In furtherance of its mission, OIG strives to detect, deter, and prevent fraud, waste, abuse, corruption, misconduct, and mismanagement.

By statute, OIG's jurisdiction extends to Tollway officials, Tollway employees, and Tollway contractors and vendors.² As a general rule, the OIG does not become involved in private disputes, labor-management issues, or litigation. Matters investigated by OIG may also fall within the jurisdiction of other agencies (e.g., federal, state, or local law enforcement, other inspectors general, etc.). In such cases, the Inspector General is authorized to refer matters or work jointly with these other agencies to investigate allegations of wrongdoing.

¹ 605 ILCS 10/8.5(m) provides: The Toll Highway Inspector General shall provide to the Governor, the Board of the Authority and the General Assembly a summary of reports and investigations made under this Section no later than March 31 and September 30 of each year. The summaries shall detail the final disposition of the Inspector General's recommendations. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations. The summaries shall also include detailed, recommended administrative actions and matters for consideration by the Governor, the Board of the Authority, and the General Assembly.

² See 605 ILCS 10/8.5(d).

OIG derives its authority and direction from the Illinois Toll Highway Act³ and the Illinois Administrative Code.⁴

INVESTIGATIONS

OIG is currently staffed with an Inspector General, a Deputy Inspector General, a Senior Investigator, and an Administrative Assistant. There are currently two vacant Investigator positions. Interviews are being conducted and we expect to bring on new Investigators in the Fourth Quarter of 2017. The Inspector General, Deputy Inspector General and Senior Investigator are certified by the National Association of Inspectors General and the Association of Certified Fraud Examiners. In addition, the Inspector General and the Senior Investigator are members of the Board of Directors for the Illinois Chapter of the Association of Inspectors General. OIG conducts administrative and criminal investigations of alleged violations of law, rule or regulation, and misconduct or mismanagement. OIG also reviews Tollway policies and procedures, and employment and hiring files, and serves as liaison to law enforcement entities.⁵

COMPLAINTS

OIG receives complaints from the general public, Tollway officials and employees, vendors, bidders, and anonymous sources; OIG can also self-initiate investigations and reviews. Complaints are screened and assessed to determine the most appropriate action, which can include opening a Preliminary Investigation (PI),⁶ an Investigation (IG), a Review (R), or an Investigative Assistance case (IA)⁷ or declination. OIG can also refer matters to Tollway management or another appropriate entity.

Factors that impact these decisions include: the reliability and accuracy of information based on OIG's knowledge of the subject matter; the nature of the conduct alleged and the ability to independently verify the allegations; the age of the conduct complained of; the likely impact on Tollway operations; and the availability of investigative resources. OIG also receives a number of calls relating to I-PASS concerns or toll violations that are referred to Tollway Customer Service Managers.

By law, the identity of any individual providing information or reporting possible or alleged misconduct to OIG may not be disclosed without consent of that individual or as otherwise

³ 605 ILCS 10/8.5.

⁴ ILL. ADMIN. CODE title 2, sec. 3430 (2011).

⁵ See 605 ILCS 10/8.5(f).

⁶ A Preliminary Investigation is initiated to conduct limited-scope inquiries to determine the next appropriate action. Generally, these inquiries are open for 30 days, although one 30-day extension may be approved by the Inspector General.

⁷ Investigative Assistance matters include tracking of employee arrests and requests for information or subpoenas from law enforcement, regulatory agencies, or other Inspectors General.

required by law.⁸ Furthermore, state and federal Whistleblower laws prohibit retaliation against individuals who provide information to or cooperate with an OIG investigation.

One way OIG receives complaints is via the Tollway OIG Hotline (866-786-5544), and during this reporting period there were 75 incoming calls.

From March 1, 2017 through August 31, 2017, OIG took action in 129 new matters:

Preliminary Investigations	21 opened 11 closed (4 converted to Investigation, 2 converted to Referral)
Investigative Assistance	68 cases opened 66 closed
Investigations	6 opened (6 converted from PI) 4 closed
Reviews	0 opened 0 closed
Referral – Law Enforcement	2 matters referred
Referral – Management	27 matters referred
Declined	5 matters

As of August 31, 2017, the following matters were pending:⁹

Preliminary Investigations	10
Investigative Assistance	3
Investigations	5
Reviews	1

REPORTS OF FINDINGS

Summary reports detailing sustained findings and/or recommendations are submitted to the Board Chair, the Executive Director and appropriate management officials, and set forth investigative findings and recommendations for corrective action. As required by law, narrative summaries (without confidential or identifying information) are provided in semi-annual reports, while final summary reports resulting in discipline of more than 3 days are publicly released in redacted form on the OIG website. OIG also issues Management Advisory Reports to the Board Chair, the Executive Director and appropriate management officials, which describe operational concerns observed by OIG in the course of its activities. Summaries of these notifications and management responses will be provided in the semi-annual reports.

⁸ See 605 ILCS 10/8.5(k)(1).

⁹ These numbers include carry-over from previous reporting period.

There are no recommended administrative actions or matters for consideration by the Governor, the Board of the Authority, or the General Assembly during this period.

The following are summaries¹⁰ of sustained OIG cases concluded between March 1, 2017 and August 31, 2017.

OIG Investigations Resulting in Personnel Actions

Discharge/Termination/Resignation

IG-2017-005

OIG received information from Toll Audit concerning a \$1,208.30 cash shortage in a Toll Collector's end-of-day deposit. Toll Audit also provided OIG with relevant video clips from the Collector's booth camera that reportedly showed some suspicious activity. OIG's investigation determined that there was reasonable cause to find that the Toll Collector stole \$1,200 in Tollway revenue, and during an OIG interview the Toll Collector admitted taking the money without authorization.

The Toll Collector resigned and subsequently submitted a check for the missing \$1,200.

The matter has been referred to the DuPage County State's Attorney's Office for prosecution.

Based on this investigation, OIG recommended that the Tollway consider including credit history checks as part of the background review process for Toll Collector positions given that their job function involves custody and unsupervised control of often large amounts of cash as well as personal checks.

Suspension/Counselling

IG-2017-004

OIG received notification that a Driver Messenger had reported, as required by Tollway policy, an out-of-state arrest for Operating While Intoxicated, Driving on a Suspended License, and Refusal to Submit to a Chemical test. OIG's Preliminary Investigation confirmed the charges and verified that the employee's position requires a CDL license as a condition of employment. Further investigation determined that the employee had not notified the Tollway that his license had been suspended either in 2016 for failure to maintain insurance, or most recently as a result of his refusal to submit to a Chemical Test following the arrest, in violation of Tollway policies. In addition, because the Tollway was not aware of the prior insurance-related suspension, the employee was allowed to operate Tollway vehicles for several months in late 2016 and early 2017 despite having a suspended license, also in violation of Tollway policies.

¹⁰ These summaries are intended to illustrate the general nature and outcomes of these cases for public reporting purposes and thus may not contain all allegations and/or findings for each case.

These actions constituted violations of several provisions of the Tollway Employee Policy and Procedure Manual and the Tollway Vehicle Code, and OIG recommended that the Tollway impose discipline up to and including discharge.

The Procurement Department responded that it agreed with the findings, but because the employee's out-of-state charges had been reduced and the employee currently had a valid CDL, it entered into an agreement under which the employee agreed to not grieve a six week time-served suspension and agreed to submit to counselling and random testing. Procurement reserved the right to impose further discipline if the employee's driving privileges are restricted as a result of the arrest or if the other conditions are not satisfied.

Finally, our investigation identified weaknesses in the Tollway's process for verifying the status of employee driver's licenses and recommended a review of that process and consideration of several areas for improvement.

The Administration Department responded that it has implemented changes to the employee driver's license tracking process that the OIG recommended in an earlier matter (OIG case # IG-2016-004). These changes included requiring departments to confirm each month that employees who must have a driver's license actually possess a physical license. Administration also advised supervisors to remind employees to report any arrest that could result in the suspension or revocation of their driver's license. In addition, Administration agreed to enhance its quarterly Secretary of State license check to make sure that notifications reach appropriate supervisors, and it agreed to develop trainings for employees and supervisors respecting driver's license issues.

OIG Investigations Resulting in Administrative Recommendations

IG-2017-002 - Hiring Process

OIG received an allegation that an internal candidate for a publicly posted Rutan-covered position was unfairly disadvantaged in the interview process. That allegation was not sustained, but the investigation did identify some issues for consideration respecting the interview process. Specifically, OIG recommended better interview question development, better guidance about the interview process for candidates and interviewers, and more complete background checks of selected candidates. In its response, Administration acknowledged these concerns and explained that these issues are being addressed as part of a larger process review and revision being conducted by an outside consultant.

Update on Management Responses to Prior OIG Reports

IG-2016-011 - Secondary Employment

As reported in the March Summary Activity Report, OIG issued a report identifying deficiencies in the Tollway process for approving and monitoring employee requests to perform secondary employment. Tollway policy requires that any employee who seeks to engage in outside employment must notify and receive written approval of their Department Chief before engaging in such activity. Tollway policy imposes certain restrictions on this employment and mandates that any outside employment must not create a conflict of interest that adversely impacts the

Tollway or a conflict of commitment that undermines the employee's work performance or schedule. In response, Tollway Administration revised the Outside Employment Approval Request Form, so that it now requires more information to be provided, which will allow supervisors to more fully assess potential conflicts of interest and commitment. The new form also provides a space for the Department Chief to indicate approval or denial of such requests. Administration disseminated the new form to all Tollway employees via email with instructions to have the form completed once a year between August 1 and August 31.

REFERRALS

The following are summaries of actions resulting from referred matters between March 1, 2017 and August 31, 2017.

Management Referrals Resulting in Personnel Actions

RF-2017-013

OIG received an interoffice envelope containing a document with personal identifying information and an anonymous note indicating that the document had been found in a copier on the third floor of Central Administration. The document contained personal identifying information of current Tollway employees and dependents, but the note provided no information identifying a potential subject or relevant time frame. The document appeared to be human resources-related so it was referred to the Administration department. Administration responded that it was able to identify the responsible employee who said the document was inadvertently left in the copier. Administration verbally counseled the employee about exercising greater vigilance in securing documents with personal identifying information.

RF-2017-033

OIG received information from Toll Audit about a cash shortage of more than \$170 in a Toll Collector's cash drawer. OIG referred the documentation and video clips provided by Toll Audit. Operations reviewed the matter and determined that the video was inconclusive. Following a meeting with the employee who denied taking the money, Operations issued a two-day suspension.

Management Referrals Resulting in Administrative Actions

Toll Violations/I-PASS

During the reporting period, OIG referred 19 matters involving disputes over Toll Violations/Fines or other I-PASS-related concerns to Business Systems. To date OIG has received responses from Business Systems reflecting resolution of 18 of those matters.

Law Enforcement Referrals

In the course of its work, OIG refers potential criminal matters that do not involve Tollway employees or vendors to appropriate law enforcement. During the reporting period, OIG referred several matters to the Illinois State Police, District 15 (ISP, District 15), and criminal proceedings have been initiated from one of those referrals.

Toll Evasion/Theft

OIG received a complaint that several semi-trailer rigs parked in a suburban truck lot had altered license plates in order to evade toll violations. OIG referred the information to Business Systems, which sought assistance from ISP. Based on his investigation, ISP Trooper Adam Miklaszewski identified and arrested a truck driver for altering his license plate to avoid paying tolls. Subsequently, the truck driver was charged with theft, and that matter is currently pending in 18th Judicial Circuit Court (DuPage County). In addition to criminal penalties, the prosecution will be seeking restitution for unpaid tolls in excess of \$5,000.

RECOVERIES/RESTITUTION

During the reporting period, the Tollway received the following payments as recoveries/restitution resulting from OIG investigations:

IG-2017-005 \$1,200.00

GENERAL SUMMARY OF OTHER ACTIVITY

In addition to investigative and review activities described above, the Inspector General and OIG staff members have initiated and participated in ongoing projects, including:

- Engaging in regular discussions and meetings with Tollway stakeholders including Internal Audit, Diversity, Finance, ISP, the Equal Employment Officer, and Executive Staff about common issues and opportunities for collaboration.
- Working with Information Technology to develop and implement a confidential, electronic complaint intake solution that allows for a secure and encrypted means to report fraud, waste, and misconduct to the OIG.
- Coordinating with Communications to improve the OIG webpage and integrate the new online complaint solution.
- Meeting with new managers during orientation to discuss the role of OIG, and reinforce the common goal of fostering and enhancing integrity in Tollway operations.
- Working with Legal and ISP to update and revise the Tollway Privacy Policy and the process for law enforcement authorities to request and obtain appropriate records.