



Illinois State Toll Highway Authority  
**Office of the Inspector General**

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**SUMMARY ACTIVITY REPORT**

For the period September 1, 2019 through February 29, 2020

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Theodor J. Hengesbach  
Inspector General

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## 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:** March 31, 2020

**Re:** Office of the Inspector General Summary Activity Report for the Period Spanning  
September 1, 2019 to February 29, 2020.

### INTRODUCTION

We submit this report pursuant to Section 8.5 of the Toll Highway Act (the Act).<sup>1</sup> The Act created the Office of the Inspector General (OIG) to provide independent oversight of the Illinois Tollway. The Illinois Senate confirmed the appointment of Theodor J. Hengesbach on February 8, 2017.

### MISSION/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.

OIG derives its authority and direction from the Illinois Toll Highway Act<sup>2</sup> and the Illinois Administrative Code.<sup>3</sup>

By statute, OIG's jurisdiction extends to Tollway officials, Tollway employees, and Tollway contractors and vendors.<sup>4</sup> As a general rule, OIG does not become involved in cases involving 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

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<sup>1</sup> 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.

<sup>2</sup> 605 ILCS 10/8.5

<sup>3</sup> ILL. ADMIN. CODE title 2, sec. 3430 (2011).

<sup>4</sup> See 605 ILCS 10/8.5(d).

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.

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.<sup>5</sup>

## **STAFF**

OIG is currently staffed with an Inspector General, a Senior Investigator, 2 Investigators, and an Administrative Assistant. There are three vacancies for which we have posted: two entry-level Investigator positions and a Deputy Inspector General.

The Inspector General, Senior Investigator, and both Investigators are certified by the National Association of Inspectors General and Certified Fraud Examiners. In addition, the Inspector General and the Senior Investigator continue as active members of the Board of Directors for the Illinois Chapter of the Association of Inspectors General. The Inspector General was elected in December to two-year term as Vice-President of that Board.

## **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),<sup>6</sup> an Investigation (IG), a Review (R), or an Investigative Assistance case (IA).<sup>7</sup> OIG can also refer matters, as appropriate, to Tollway management, law enforcement or another appropriate entity, or decline to open a case.

Factors that impact this decision 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 complaints and calls relating to I-PASS concerns, or toll violations and fines that we refer to Tollway Customer Service Managers. In the last reporting period the number of calls we have received to our office line has greatly decreased, most likely due to better training of Tollway switchboard operators who now transfer these calls to the proper customer service personnel.

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

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<sup>5</sup> See 605 ILCS 10/8.5(f).

<sup>6</sup> 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.

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

<sup>8</sup> See 605 ILCS 10/8.5(k)(1).

One method by which OIG receives complaints is via the Tollway OIG Hotline (866-786-5544). During this reporting period, there were 15 incoming calls. A second way is through our online electronic form that allows individuals to provide information to OIG in a secure, confidential manner. This form can be accessed through the OIG webpage; it is encrypted upon submission and delivered directly to a secure OIG email account. During this reporting period, OIG received 30 online submissions.

### STATISTICAL INFORMATION

From September 1, 2019 through February 29, 2020, OIG took action in 90 new matters:

Preliminary Investigations	15 opened 18 closed 9 converted (3 Investigation, 5 Referred, 1 Review)
Investigative Assistance	1 opened 1 closed
Investigations	7 opened 3 closed
Reviews	2 opened 1 closed
Referral	46 matters referred 4 to Law Enforcement
Declined	8 matters
Calls referred to Customer Service	11 <sup>9</sup>

As of February 29, 2020, the following matters were open<sup>10</sup>:

Preliminary Investigations	5
Investigative Assistance	0
Investigations	8
Reviews	6

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<sup>9</sup> For the same period last year, we received 51 customer service telephone calls, most came in to our office extension.

<sup>10</sup> These numbers include carry-over from previous reporting period.

## **REPORTS OF FINDINGS**

Summary Reports of Investigation (SRI) detailing sustained findings and/or recommendations for corrective action are submitted to the Board of Directors, the Executive Director and appropriate management officials. SRIs resulting in discipline of more than 3 days are publicly released in redacted form on the OIG website.

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

The following are summaries of OIG cases concluded between September 1, 2019 and February 29, 2020.

### **OIG Investigations Resulting in Personnel Action**

#### **Discharge/Termination/Resignation**

##### **IG-19-008 Seasonal Toll Collector**

The Toll Audit Department informed OIG of a series of large cash shortages associated with the collection activity of a Seasonal Toll Collector (STC) who started in May 2019. Toll Audit provided copies of numerous Unusual Occurrence Reports (UORs) submitted by the STC claiming that currency had blown away, as well as video recordings which contradicted those reports by showing the STC putting money into his/her pockets.

When interviewed the STC admitted taking money, and OIG informed Toll Operations. Toll Operations reported that based on its discussions with the STC, it entered into a written agreement whereby the STC resigned, agreed not to seek employment in the future, and promised to pay back \$728 by surrendering his/her last paychecks. However, Toll Operations subsequently informed OIG that the first check had been direct deposited before the hold could be finalized, and subsequent efforts to reach the STC were unsuccessful. A second smaller check was properly withheld, but there remains a balance of approximately \$500. OIG is working with the Winnebago County State's Attorney's Office on felony criminal charges.

### **Updates on OIG Investigations**

##### **IG-19-001 Driver Messenger**

As reported in a previous Summary Activity Report, an OIG investigation established reasonable cause to find that a Driver Messenger committed time/attendance fraud, misused Tollway resources, and damaged Tollway property in violation of numerous Tollway policies. Based on these findings, OIG recommended discharge and payment for the damages to the Tollway vehicle.

#### **Response and Update**

The Tollway discharged the employee who grieved as permitted under the collective bargaining agreement. The grievance went to arbitration. Following testimony and written briefs, Arbitrator Richard D. Fincher denied the grievance, holding that the termination was justified in a written award dated December 18, 2019 that favorably cited the OIG findings and analysis.

### **IG-19-005 (Equipment Operator Laborer Candidate)**

As reported in our last Summary Activity Report, an OIG investigation found that a candidate for an EOL position in 2018 had mistakenly been offered a position and was subsequently informed that the offer had been rescinded because of her/his prior criminal conviction.

Our investigation established reasonable cause to find mismanagement in the Administration Department for the failure to conduct an appropriate criminal history assessment, and we recommended the Tollway design, adopt, and adhere to a thorough criminal background review and an individualized assessment process that complies with state law.

#### Response and Update

The Tollway agreed with our recommendations and expressed its commitment to develop and implement a more comprehensive background review process. OIG has learned that the Tollway has adopted many of OIG's recommended enhancements and is now using an improved process for reviewing criminal history of prospective employees and others who require access to Tollway facilities with the goal of ensuring the safety of Tollway property and personnel, and the public at large.

### **MANAGEMENT ADVISORY REPORTS**

OIG issues Management Advisory Reports (MAR) to the Board of Directors, the Executive Director and appropriate management officials, which describe operational concerns observed by OIG in the course of its activities.

### **R-19-003 (Communications Expenditures)**

OIG issued a Management Advisory Report to provide insight to Tollway management and the Board into the Tollway's overall communications expenditures. Our review revealed that the Tollway receives and pays for a number of services generally categorized as communications that are provided by different vendors in different contexts. These expenses are not documented or tracked in the same way, so calculating a final amount is difficult. Thus, we focused on 2018 expenditures categorized as communications services billed by outside contractors, which amounted to more than \$3.7 million.

Most of these expenditures arose out of consultant and construction/design contracts managed by Engineering. Based on the invoices, it appears that there are basically three different methods that these communications-related services have been provided and billed to the Tollway by:

- communications firms serving as subcontractors on construction management or design contracts;
- engineering firms using in-house staff; and
- engineering firms billing for communications services of subcontractors as direct costs on construction management or design contracts.

Tollway pays for these expenses in addition to the \$1,669,684 budgeted for the Tollway's Communications department. Thus, our review identified Tollway expenditures for communications services totaling at least \$5,425,516 in 2018.

Given the wide range of services billed as communications and the myriad ways those services are managed and invoiced, it is difficult to track these costs. We recommended that the Tollway develop a better system to track these expenses to ensure a more detailed understanding of these and other similar expenses so potential efficiencies can be more easily identified and implemented.

#### Response

The Tollway did not dispute the amounts but responded by describing a difference between expenses from the Management and Operations budget – attributable to the Communications department for such things as agency-wide public relations and marketing, and expenses from the Capitol Fund - attributable to consultant and design/construction projects managed by Engineering and Planning related to the Move Illinois program. The Tollway emphasized that many of the services categorized as communications that were provided under the consultant and construction/design contracts were not the type of public relations related activities spearheaded or directed by the Communications department.

However, the Tollway did acknowledge that it is reviewing how consultant services provided to the Engineering and Planning Departments are utilized and characterized to ensure that services rendered are properly documented as project related support. The Tollway also indicated that it is engaged in ongoing general discussions with vendors about managing consultants' services.

### **Updates on Prior Management Advisory Reports**

#### **R-19-002 (Management Trainee)**

As reported in our last Semi-Annual Report, OIG issued a MAR following our review of the development and selection of a Rutan-exempt trainee position that was filled in July 2018 under the direction of the then-Chief of Administration.

The MAR identified several concerns with this irregular hire and we made recommendations ranging from developing an actual trainee program with a defined transition plan, to ensuring that position descriptions accurately reflect qualifications and responsibilities and selecting candidates that meet those qualifications.

#### Response and Update

The Tollway agreed with our findings and acknowledged there is no established Tollway trainee program. It noted that the employee's original one-year term had been extended with Executive and Administration's approval based on operational need and the employee's strong work record. The Tollway further stated that it would evaluate the structure of a management trainee program and the current position and expected to make a decision about the employee by the end of 2019. As of March 20, 2020, the employee was listed as active.

## **MANAGEMENT REFERRALS**

OIG refers matters that are either not within its jurisdiction, or which are most appropriately handled by Tollway management. We provide responses to several notable referrals below.

### **Referrals Resulting in Personnel Action**

#### **RF-19-061 Mechanical/Electrical**

OIG received notice that a Mechanical/Electrical employee had reported a DUI arrest to Toll Operations. OIG confirmed the charges and determined that the employee's Commercial Driver's License (CDL) had been revoked due to the DUI. Recognizing that such employees must have a valid CDL to perform their duties, the Teamsters Contract provides members 90 days to get their license reinstated and allows them to use paid vacation or personal leave. OIG obtained and provided Toll Operations with court records showing that the employee's license had been revoked beyond 90 days. Because this information showed that the employee failed to maintain a valid CDL, Toll Operations initiated the disciplinary process. Tollway records reflect that the employee was terminated in October 2019.

#### **RF-19-081 Equipment Operator Laborer**

OIG received notice that an Equipment Operator Laborer had been arrested for DUI. OIG confirmed the charges and that the employee's CDL had been suspended due to the DUI. Recognizing that such employees must have a valid CDL to perform their duties, the Teamsters Contract provides members 90 days to get their license reinstated and allows them to use available paid vacation or personal leave. OIG subsequently obtained court records reflecting that the employee's license would be suspended until March 2020 and provided that to Engineering. Given that the employee's CDL had not been reinstated within 90 days, Engineering initiated the disciplinary process and Tollway records show that the employee was terminated in November 2019.

### **Referrals resulting in Administrative Action**

#### **RF-20-004 Employees with Elected Positions**

The Tollway Policy and Procedure Manual requires all employees to report to the Tollway Ethics Officer any elected or appointed governmental positions they hold outside of their Tollway duties. However, there is no mechanism in place for such reporting and some employees have identified these positions on their Secondary Employment Request forms. We referred the matter to the Ethics Officer and the Executive Director.

#### **Response**

The Tollway indicated that it has revised the Tollway Secondary Employment Request form to include specific reference to and an opportunity to report elected or appointed positions. All employees will be required to complete these forms annually, and any who indicate an elected or appointed government position will be routed to the Ethics Officer for review and consultation. OIG understands that this process is set to start on May 1, 2020.



## **Updates on prior Management Referrals**

### **RF-19-047 HR Placement Specialist**

As reported in our last Summary Activity Report, OIG received an allegation that a former HR Placement Specialist had been intoxicated at work in 2018 but was not sent for testing. Our investigation confirmed that 2 co-workers reported their observations that the employee was intoxicated at work and that the then-Chief of Administration declined to require testing, sending the employee home instead. When interviewed, the employee twice denied ever being approached by a supervisor about allegations of intoxication, but eventually told OIG that they had been so counseled only one time. Our referral memorandum noted the employee's denials, subsequent admission (albeit partial), recent transfer to a different department, and included documentation obtained post-interview that reflected more than one prior counseling about suspected intoxication at work.

#### **Response and Update**

Administration reported that in mid-2019 the employee was placed on suspension pending investigation for infractions related to other behavior and work performance issues. Following Administration's review, the employee was presented with charges alleging violations of Tollway policy including those related to the above-referenced conduct. Tollway records reflect that the employee resigned in late November 2019 following the grievance process.

The Tollway also reported that it is developing improved reasonable suspicion drug/alcohol testing protocols and management training.

## **RECOVERIES/RESTITUTION**

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

IG-18-006 \$676.18

IG-19-008 \$146.44

## **GENERAL SUMMARY OF OTHER ACTIVITY**

In addition to investigatory activities described above, the Inspector General and OIG staff have engaged in other related projects, including:

- Regular engagement with Tollway stakeholders, including Internal Audit, ISP, EEO/ADA, the Board Chair, and Executive staff about common issues and ways to improve.
- Meeting with new managers during orientation to discuss the role of OIG and to reinforce the common goal of fostering and enhancing integrity in Tollway operations.
- Providing input to the Chairman, Administration, Legal, and Executive on proposed Tollway policy and procedure revisions.
- Working with Ethics, Internal Audit, and Legal on the Conflict Review Committee.
- Training on Procurement's B2Gnow database that tracks contract compliance.
- Publishing three Summary Reports of Investigation.