



OFFICE OF THE INSPECTOR GENERAL

ILLINOIS STATE TOLL HIGHWAY AUTHORITY
2700 OGDEN AVENUE, DOWNERS GROVE, IL, 60515

SUMMARY ACTIVITY REPORT FOR October 1, 2013 – March 31, 2014

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

From: James W. Wagner
Inspector General

Date: March 31, 2014

Re: Office of the Inspector General Summary Activity Report for the Period Ending
March 31, 2014.

INTRODUCTION

On January 1, 2011, the Office of the Inspector General (OIG) became effective at the Illinois State Toll Highway Authority. On July 28, 2010, Governor Pat Quinn signed the legislation (605 ILCS 10/8.5) passed by the General Assembly that created the office of the Inspector General for the Illinois State Toll Highway Authority. On October 18, 2010, Governor Quinn announced the appointment of James W. Wagner to the new position and on November 17, 2010 the Senate Executive Appointments Committee and the Illinois General Assembly approved the appointment, to run until June 30, 2015. The legislation, which became Section 8.5 of the Toll Highway Act, (605 ILCS 10/8.5) includes Subsection (m) of Section 8.5 which states:

(m) "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."

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.

MISSION/JURISDICTION

The statute (605 ILCS 10/8.5) further advised in section (d) that *“the Toll Highway Inspector General shall have jurisdiction over the Authority and all Board members, officers and employees of, and vendors, subcontractors, and others doing business with the Authority. The jurisdiction of the Toll Highway Inspector General is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance”*.

The statute required in section (f) (3) that: *Final reports and recommendations shall be submitted to the Authority’s Executive Director and the Board of Directors for investigations not involving the Board”*.

INVESTIGATIONS

The OIG now has one Deputy Inspector General, one Senior Investigator, one Investigator and one Administrative Assistant in our Department and will seek to hire a new Investigator/Auditor. In August, 2013 The Deputy IG and Investigator attended training and became Certified Fraud Examiners (CFE’s). The Senior Investigator had completed the CFE training in 2012. The Inspector General, Deputy IG and Senior Investigator have also completed Certified Inspector General and Certified Inspector General Investigator training. The OIG Investigator attended the Certified Inspector General Investigator Training during February, 2014.

The Department also worked closely with the Tollway Information Technology (IT) Department to obtain a separate computer business system for the OIG. This work resulted in the completion of the purchase and installation as of January 2013 of a new system dedicated solely to the work of the OIG in an encrypted format for security and confidentiality of the investigations. All previous investigations have also been moved to a separate secure encrypted server utilized and accessed only by the OIG.

INVESTIGATIONS RESULTING IN DISCIPLINE:

The statute (605 ILCS 10/8.5) further required in Section (e) (3) *“Within 60 days after issuance of a final summary report that resulted in a suspension of at least 3 days or termination of employment, the Toll Highway Inspector General shall make the report available to the public by presenting the report to the Board of the Authority and by posting to the Authority’s public website”*. *“The Toll Highway Inspector General shall redact information in the summary report that may reveal the identity of witnesses, complainants, or informants”*.

Pursuant to these directions, this office is reporting the following investigations for the period of October 1, 2013 – March 31, 2014:

IG-13-0006

The previous OIG report for the period ending September 30, 2013 had reported the dismissal on July 24, 2013 of a Tollway employee for growing and using cannabis following a search by the ISP. As an update to this information, the former employee pled guilty on February 14, 2014 to producing cannabis and was sentenced to court supervision with 200 hours of public service and fines and costs of \$815.00.

IG-13-0016

On August 15, 2013 the OIG interviewed a Tollway employee as a witness regarding a separate investigation. During the interview the employee complained about co-workers and admitted to telling an intern in the Tollway EEO office that he had made a recording of a conversation with a co-worker. He further stated he had told co-workers that he was recording them and told them he was working for the OIG in an undercover capacity wearing a wire. Subsequent investigation of the employee determined that he had provided false information with his initial employee application regarding prior employment and criminal activity, made threats to his supervisor, threatened violence in the workplace, had secondary employment without approval, and alleged knowledge of illegal activities that he failed to report. On March 4, 2014 the OIG was notified by the Tollway that the employee had been dismissed from employment.

IG-13-0022

On September 27, 2013 and September 30, 2013 the OIG received information from a Tollway employee regarding an alleged assault and battery against the employee during a meeting at the Tollway on September 12, 2013. At the September 12, 2013 meeting the employee received a negative performance evaluation. On September 19, 2013 the employee received a corrective action plan. The investigation determined that the employee provided false information regarding the complaint and a witness explained that the alleged assault and battery did not occur. On December 4, 2013 the OIG was notified by the Tollway that the employee had been dismissed from employment.

IG-13-0024

On September 13, 2013 the OIG received information from the Tollway Engineering Department that an employee had been arrested and was reporting to jail as part of a work-release program. The subsequent OIG investigation determined that the employee had been arrested in 2009 for a felony forgery when he stole checks from the mail and cashed them. At that time he provided false statements to the Tollway Criminal Background Review Committee (CBRC) and, as a result of the false information was given a "last chance" agreement. The investigation also determined that the employee had not reported an arrest and conviction for driving on a suspended/revoked driver's license in 2008. On September 5, 2013 the employee pled guilty to a violation of probation and was sentenced to jail. He did not notify the Tollway

of this change until approximately twenty days later. On December 26, 2013 the OIG was advised that the employee had been dismissed from employment.

IA-2013-171

On December 11, 2013 the OIG received information from Internal Audit that a Toll Collector was believed to be stealing funds. On December 11, 2013 the employee was interviewed by the OIG and admitted to stealing approximately \$1000.00 of toll revenue. The employee resigned and agreed to full restitution of the funds.

IA-2013-172

On December 12, 2013 the OIG received information from Internal Audit that a Toll Collector was believed to be stealing funds. On December 13, 2013 the employee was interviewed by the OIG and admitted to stealing toll revenue and resigned.

IG-13-002

The previous OIG report for the period ending September 30, 2013 had reported the dismissal of an I-Pass call taker who had negotiated off line settlements with patrons for cash. The employee admitted taking over \$4000.00 from patrons in exchange for dismissing over \$10,000.00 in violations. The matter had been referred to the DuPage County States Attorney and on January 28, 2014 the individual was indicted in DuPage County on sixteen counts of theft.

DIA-10-052

A previously reported investigation described thefts committed by a Toll Collector in 2010 who was dismissed by the Tollway for the thefts. The OIG referred the information for prosecution. The OIG was advised by the DeKalb County States Attorney that the former employee pled guilty on 2-5-14 to official misconduct and received thirty months probation and agreed to restitution over \$3000.00.

IG-14-003

On 2-25-14 the OIG received information from the Department of Administration that inconsistencies had been noted with the application packet submitted by an employee applying for another Tollway position. The investigation determined that the original application submitted by the employee contained inconsistent and incorrect information and the new application for a different position also contained inconsistent and incorrect information. On 2-26-14 the OIG interviewed the employee and on 2-28-14 the OIG was advised that the employee resigned from Tollway.

ADDITIONAL INVESTIGATIONS RESULTING IN RECOMMENDATIONS:

IG-13-0013

On July 16, 2013 the OIG began an investigation after receipt of information from the Finance Department regarding an allegation of check fraud. A money order and cashier's check had been presented as payment for a Tollway Dodge Caravan that was bid on through the iBid State of Illinois CMS State Surplus Auction online system. The winning bidder signed the appropriate paperwork on July 1, 2013 and took possession of the vehicle. On July 15, 2013 the money order was determined to be fraudulent. Original documents were gathered and in September 2013 the OIG released the information to the Illinois State Police (ISP) District 15 to pursue the criminal charge of deceptive practice. On February 18, 2014 the ISP advised that the subject had been arrested and charged with felony forgery.

The OIG investigation resulted in a report dated October 31, 2013 with the following recommendations with regard to issues discovered:

It was recommended that a policy be created within the Fleet Department to ensure all methods of payment used for iBid purchases are verified through the financial institution or credit union on which the method of payment is written. It was further recommended that the Tollway verify that funds are available for every money order, cashier's check or certified check presented as payment for Tollway property prior to releasing the property. In addition, purchased items should only be released to a winning bidder who presents sufficient verifiable information. And all members of the Fleet Department should be cautioned to not divulge any information regarding criminal investigations conducted by any law enforcement agency or investigations conducted by the OIG.

Management response dated November 7, 2013:

After the incident occurred Fleet took immediate action and implemented a policy that financial institutions would be contacted and a form was developed to log the contact and findings with the institution. If it is found that a payment method could not be verified, the sale will be put on hold until verification has been made or an alternate payment process has been made and verified. It has been determined that money orders are too difficult to verify, and therefore, money orders will no longer be an allowed method of payment. It is noted that all credit card payments have been verified and documented before sales were completed.

Fleet ibid policy requires that persons picking up a sale item provide a driver's license or a photo ID. In the case of the sale to this individual a copy of the license was made and placed in the sale file. It is important to note that the person picking up the sale item is not always the purchaser. This is quite common and occurs when out of state/area buyers send transport companies to pick up vehicles. Fleet has required that when persons other than the buyers are picking up the sale items, the buyer must provide the persons picking up the item(s) a copy of the iBid invoice as proof that they are giving the person approval to pick up the items. Additionally, businesses and other agencies purchase items where multiple persons can pick up the items. Fleet will endeavor to ensure the items are paid for (as noted above) and that the buyer is identified appropriately.

Fleet will revisit the disclosure recommendation with all staff involved with iBid sales. At no time did a Fleet staff member divulge any information regarding the incident with the subject or anyone outside of the agency and District 15 State Police once they learned that an investigation may be forthcoming.

IG-13-0010

On June 27, 2013 the Tollway Board of Directors permitted public comment prior to the Board meeting and were advised by a Tollway patron of a disagreement regarding billing of his company by a company contracted by the Tollway to tow disabled vehicles. As a result of the allegations raised by the patron including overbilling, a review was conducted by the OIG into the details of the Tollway Vehicle Recovery Program (VRP). The VRP was established to document the necessary prerequisites for a recovery. There were nine current companies working for the Tollway VRP and a contract was created by the Tollway which details the terms and rates set by the Tollway for all qualified companies. By the agreement, the towing operator agrees to follow specific Performance Rate Standards as set out in the contract. In addition, the operators are required to use Tollway invoices created for the program and those are reviewed for errors and overcharges.

The incident reported to the Board by the patron was a recovery of a trailer. The patron who made the report was not at the incident at the time of recovery and the Engineering Department had already begun a review of the incident prior to the report to the Board. The Department review had determined that the operator had unnecessarily removed the trailer to their property rather than releasing the trailer to the company at the Tollway maintenance site, therefore resulting in an overcharge. The operator made a refund to the patrons company.

The OIG determined that the Engineering Department conducted a complete review into the allegations filed by the patron against the towing operator and that the review began prior to the complaint at the Board of Directors meeting. The review and subsequent Internal Audit were thorough and did not reveal any misconduct on the part of the Tollway or its employees. The Department review also resulted in a refund to the complainant. In addition, the towing operator was suspended from any Tollway service for a thirty day period because of the overbilling. The OIG report, dated September 25, 2013 recommended that the Tollway continue reviews of the VRP policy and contracts and consider utilizing a competitive bid process for the program.

Management Response Dated January 24, 2014:

Management determined that both the Towing and Road Service and Vehicle Recovery Programs are franchise agreements that do not fall under the purview of the Procurement Code. Instead, the agreements should be treated similarly to other franchise agreements.

The Tollway plans, beginning in 2014, to initiate a new and revised selection process for Vehicle Recovery, followed by a similar effort focused on Towing & Road Services. These selection processes will evaluate potential candidate firms and rank them in priority order. Selection of firms to participate in each program will be done in order of ranking until all segments of the Tollway are covered. Firms not selected would remain on the list for future selection should additional services be required or should an existing agreement be cancelled. The Tollway plans to limit agreements to a five (5) year period thus allowing firms to pursue franchise agreements through an open, transparent process.

PI-11-0048

The OIG had issued a report on January 20, 2012 regarding the possible improper anchoring of temporary concrete barriers and the REACT 350 crash cushions. The Engineering Department did locate some instances of temporary concrete barriers not being correctly anchored. As a result, the Chief Engineer issued construction Bulletin No. 12-01 directing Construction Managers (CM) to inspect and confirm that the devices were being installed in accordance with the Standard Specifications and requirements detailed in the bulletin. During discussions in December 2013 with the Illinois Department of Transportation (IDOT) Office of Quality Compliance and Review (OQCR) the OIG learned that the improper anchoring of temporary concrete barriers was still occurring in some IDOT projects. The OIG therefore recommended another review of barriers by the Tollway.

At the direction of the Engineering Department the Tollway's General Engineering Consultant (GEC) inspected all of the existing Temporary Concrete Barriers (TCB) remaining from 2013 construction activities and identified instances where the TCB's were not appropriately anchored. As a result of the inspection results, the Tollway Chief Engineer issued a directive to have the locations brought into compliance. As of January 27, 2014 all TCB's are now in compliance with requirements. The Chief Engineer also issued the following action plan:

- *Develop and schedule a training session specific to this issue for all Project Managers (PM's) and Construction Managers (CM's) overseeing construction projects on the Tollway system. This session will be scheduled prior to the start of construction activities this spring.*
- *Highlight this as a key issue of the Move Illinois program, attended by Tollway consultants and contractors at the next Move Illinois Quarterly meeting held February 6, 2014.*
- *Task the GEC to independently inspect the TCB's twice per year and after each major stage change to verify the TCB has been anchored in compliance and document locations that are not in compliance.*
- *Contractor fine for non-compliance with Tollway maintenance of traffic will be levied for repeat offenders.*

IG-13-0017

On August 26, 2013, the OIG received a complaint from the Illinois State Police (ISP) regarding the conduct of a Tollway employee who served as a Communications Supervisor in the Dispatch Department. The ISP alleged that the Supervisor assisted an ISP Trooper in monopolizing the ISP radio for over four minutes in an inappropriate "goodbye" retirement message at the time of his last broadcast, thereby jeopardizing the safety of the ISP officers on duty as well as the safety of the general public traveling the Tollway at that time. While the ISP initiated an investigation of the matter, instructions were given that no copies of the broadcast were to be made. However, the Tollway Supervisor submitted two separate Freedom of Information Act (FOIA) requests specifically requesting copies of the radio transmission.

An internal investigation by the ISP resulted in the retiring ISP Trooper admitting to violation of the Rules of Conduct as charged and was issued a letter of Reprimand by the District Commander of the ISP for Improper Conduct and Unsatisfactory Performance. No additional punishment could be imposed since he retired before it could be administered.

It was determined that the Tollway Supervisor had purposefully and intentionally requested to work as Relief Supervisor for the radio on the date in question in order to be in a position to assist in the unauthorized broadcast. It was further determined that the Tollway dispatchers and telecommunicators are aware of the ISP Communications Service Bureau Policies and Procedures Manual and follow “some” of the rules and regulations regarding radio traffic; however, the employees interviewed stated they do not follow all the rules. Although the dispatchers, telecommunicators and call takers are directly responsible for all ISP District 15 communications, they do not report to ISP chain of command.

As a result of this investigation, the recommendations in the OIG report on October 16, 2013 were as follows:

- All Dispatch/Communications personnel and employees with access to LEADS should be ISP employees to clarify the chain of command.
- As ISP employees, the Dispatch/Communications personnel and employees with access to LEADS and responsible for District 15 and ISTHA communications would fall under the direct supervision of the ISP.
- As ISP employees, the Dispatch/Communications personnel and employees with access to LEADS and responsible for District 15 and ISTHA communications would report directly to the ISP District 15 chain of command and therefore be consistent with ISP Districts throughout the State.

On March 6, 2014 a Management Response to the Recommendations was received from the Chief Engineer and General Manager of Maintenance & Traffic as follows:

The Tollway Dispatch Center employees use LEADS as required by LEADS policies and procedures the same as other Public Safety Dispatch Center employees, including Illinois State Police Telecommunicators. If misuse of LEADS is discovered, Tollway dispatch management investigates and takes appropriate action. Neither the LEADS Administrative Rules nor the LEADS Access Security Policy requires personnel who access LEADS to be law enforcement or criminal justice personnel.

The Tollway Dispatch Center is subjected to LEADS audits and in previous audits, the Tollway's Dispatch Center has been placed in the Low Risk category, meaning there were only minor violations. Tollway Dispatch Management, the LEADS Coordinator, (who is a Tollway employee) and the Illinois State Police have always worked together to correct any areas of non-compliance. Many Criminal Justice Agencies in the State of Illinois are dispatched by consolidated dispatch centers who are a separate entity and who are managed by civilian personnel and overseen by a Board of Directors. The majority, if not all the Telecommunicators and Call Takers who work for these agencies and who have access to LEADS are civilian employees who do not work for a Law Enforcement or Criminal Justice Agency.

The Illinois Tollway Dispatch Center has operated successfully as a civilian, Tollway managed Public safety dispatch center for at least thirty (30)years, providing public safety dispatch service to the Illinois

State Police, District 15, Tollway maintenance, Toll Services, as well as alarm notifications services, covering a vast system of security alarms protecting Information Technology and Tollway infrastructure.

We do recognize the importance of on-going communication between the Dispatch Center, Tollway Maintenance Operations and the Illinois State Police, District 15. To ensure positive, on-going communication, we have initiated a monthly meeting between ISP Commander/Command Staff and key Managers in the Maintenance & Traffic Division, including the Dispatch Manager, Incident Manager, Roadway Maintenance Manager and the General Manager of Maintenance & Traffic. While we do not feel there is a communication gap at present, the aforementioned meeting will strengthen existing lines of communication and ensure that Dispatch provides the State Police the required support.

On March 6, 2014 the OIG responded to this response with numerous comments including the following:

The reply to the recommendation with regard to the management of the Dispatch Center contains the information that “Many Criminal Justice Agencies in the State of Illinois are dispatched by consolidated dispatch centers who are a separate entity and who are managed by civilian personnel and overseen by a Board of Directors”. While this may be correct with regard to consolidated centers, the Tollway Dispatch center is not a consolidated center as referred to in that explanation and only provides coverage for transmissions to Illinois State Police, District 15 and the Tollway. The OIG suggestion is that due to the law enforcement requirement with the operation of LEADS and NCIC and training and ISP criminal issues, that the management of the center should be under the control and direction of the ISP. The staff could still be Tollway employees, but would be directed by ISP rules and regulations. This could alleviate the concern that employees do not always follow Tollway rules and regulations.

On March 18, 2013 an additional Management Response was received from the Executive Office with the following information:

In addition to the items noted in the response, the Tollway will be taking the following actions: additional regular meetings between Tollway staff and Illinois State Police; additional formal input into the evaluation process for Illinois State Police; ensuring that similar acts are met with similar discipline; and relocation of the dispatch manager to a location within the dispatch center.

After reviewing any collective bargaining matters and concerns, Tollway staff will work in conjunction with Illinois State Police staff to allow regular formal input into the employee evaluation process to ensure that issues observed by Illinois State Police are reflected in evaluations. This regular input will allow for both positive reinforcement of behavior that is observed by Illinois State Police staff that should be recognized and rewarded, as well identifying observed behavior that is of concern.

After discussing the matter with District 15 leadership, the Tollway has no immediate plans to move supervision of the dispatch unit under the supervision of the Illinois State Police at this time. The dispatch unit serves other functions of the Tollway, including the maintenance areas of the Tollway, and we believe that common supervision of the dispatch unit by the Tollway ensures efficient management of dispatch functions. District 15 leadership and the Executive Director have agreed to continue to monitor the situation and make adjustments as needed.

GENERAL SUMMARY OF ACTIVITY:

In order to provide a more complete summary of the activity of the OIG during this period, it should be noted that in addition to the investigations discussed above, the OIG also received, from Tollway Management and individuals, various allegations and concerns and conducted investigations into numerous additional matters during this period, which were completed with no material findings or procedural recommendations.

During the period of September 19, 2013 through March 18, 2014 the Office of the Inspector General opened seven (7) Inspector General (IG) cases and closed fifteen (15) IG cases. There are currently ten (10) IG cases open

There were seventy-six (76) Investigative Assistance (IA) cases opened and eighty-one (81) IA's closed and four were converted to an IG investigation. Of the IA cases opened, sixty (60) were responding to a subpoena requesting Tollway information.

The office opened four (4) Preliminary Inquiry (PI) Investigations and two (2) PI investigations were closed. Three (3) cases were converted to IG investigations.

The IG office received thirty (30) complaints from citizens and twenty-one (21) complaints were closed.

The above numbers represent a total number of one hundred seventeen (117) cases opened and a total number of one hundred nineteen (119) cases closed for a total of two hundred thirty-six (236) cases handled during this time period.

There were five (5) redacted investigative reports posted on the Tollway website for public review during this six month period and additional ones will be posted when appropriate.