



Illinois State Toll Highway Authority
Office of the Inspector General

SUMMARY ACTIVITY REPORT

For the period March 1, 2016 through August 31, 2016

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Acting Inspector General

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



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

Date: September 22, 2016

Re: Office of the Inspector General Summary Activity Report for the Period Spanning
March 1, 2016 to August 31, 2016

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 that appointment is pending Senate approval.

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.

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 fully staffed with an Inspector General, a Deputy Inspector General, a Senior Investigator, an Investigator, an Investigator/Auditor, and an Administrative Assistant. Investigative Staff have satisfied the requirements of the National Association of Inspectors General and are Certified Investigators; and they have satisfied the requirements of the Association of Certified Fraud Examiners and are Certified Fraud Examiners. During this reporting period, the Senior Investigator completed the training and examination process necessary to become a Certified Inspector General. In addition to conducting 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.⁵ Furthermore, OIG provides assistance to law enforcement entities.

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. OIG can also decline or refer matters, as appropriate, to Tollway Management or another investigative entity. 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. Finally, OIG receives a number of calls respecting 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 required by law.⁸ In addition, state and federal Whistleblower laws prohibit retaliation against individuals who provide information to or cooperate with an OIG investigation.

During this reporting period, there were 99 incoming calls to the Tollway OIG Hotline (866-786-5544).

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.

⁸ See 605 ILCS 10/8.5(k)(1).

From March 1, 2016 through August 31, 2016, OIG took action in 135 new matters:

Preliminary Investigations	22 opened 16 closed (5 converted to Investigation)
Investigative Assistance	66 cases opened 70 closed (1 converted to an Investigation)
Investigations	6 opened (5 converted from PI and 1 converted from IA) 3 closed
Reviews	2 opened 1 closed
Referral – Law Enforcement	3 matters referred
Referral – Management	23 matters referred
Declined	13 matters

As of August 31, 2016, the following matters were pending⁹:

Preliminary Investigations	8
Investigative Assistance	4
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. De-identified narrative summaries are provided in semi-annual reports, and, as required by law, 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.

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.

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

OIG Management Advisory Report

R-2016-001 (Contract Language)

An OIG Review identified inconsistencies in the standard language used in Tollway contracts respecting OIG authority and vendor responsibilities to the OIG. In a Management Advisory Report dated July 29, 2016, OIG recommended that revised language be included in Tollway Goods and Services, Professional Services, and Construction Contracts, and that a Board resolution be passed requiring inclusion of this language in all Tollway-led contracts.

Tollway management concurred with recommendation to add new language to future Tollway contracts respecting OIG authority and vendor cooperation. Tollway management disagreed with the need for a Board resolution, and agreed to ensure that the language is included in future Tollway contracts.

UPDATES ON PREVIOUS OIG MATTERS

IG-2015-001

OIG issued a report on April 7, 2015 recommending discipline for an Antenna Specialist who failed to report damage to a Tollway vehicle and improperly used the Tollway vehicle for personal errands. The Tollway discharged the employee, who grieved the action. At the arbitration hearing in March 2016, the employee stipulated to the facts in the OIG report. Following testimony and briefing by the parties, the arbitrator upheld the discharge in an award issued on June 30, 2016.

OIG has submitted its proposed redactions to the respondent as required by law, and will publish a redacted version of its Summary Report.

IG-2015-010

On January 21, 2016, OIG issued a Management Advisory Report based on information it learned while tracking a matter involving an Equipment Operator/Laborer (EO/L) who was discharged after his Commercial Driver's License (CDL), a requirement for the position, was suspended following his off-duty arrest for Operating While Intoxicated. In its report, OIG identified potential vulnerabilities in the Tollway's process for monitoring and verifying the validity of Tollway employees' CDLs, and made recommendations to address those concerns.

Tollway management agreed with OIG recommendations and has made revisions to the Tollway Policy and Procedure Manual to enhance an employee's duty to notify management if their driver's license is threatened with suspension. In addition, Tollway management is developing a formal procedure and improved training to ensure that employees understand their responsibilities, and that supervisors appropriately monitor the status of employee driver's licenses.

On February 24, 2016, OIG issued a Management Advisory Report based on information it learned while responding to a subpoena seeking Tollway records for a criminal case against a person who spat upon a Toll Collector. In that matter, OIG learned that video footage from the relevant location and date had been overwritten because there had been no timely request to preserve it. OIG recommended that the Tollway address apparent communications breakdowns and policy gaps respecting incident reporting and video preservation.

Tollway management concurred with the recommendations, and updated the Administrative Directive governing incident reporting and video preservation, which it has shared with all plaza managers and units that have access to video recording systems. Furthermore, the Tollway created a Frequently Asked Questions document and has re-emphasized proper incident reporting protocol in supervisor and employee orientation and training.

UPDATES ON 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). Two of these matters have resulted in the initiation of criminal proceedings.

Unauthorized Use of I-PASS Transponder

OIG received information regarding an I-PASS transponder, which had been lost following an automobile accident, was being used by a vehicle not associated with the patron's account and without the patron's authorization. OIG obtained records that identified a possible suspect, and referred the matter to ISP, District 15. Based on information provided by OIG, ISP located the suspect and made an arrest. The case is currently pending in the 18th Judicial Circuit Court (DuPage County).

Fraudulent Toll Violation Notices

OIG received a complaint that a patron had received a Notice of Toll Violation purportedly from the Tollway. Although the notice looked similar to official Tollway notices, it included non-Tollway contact information and payment instructions. OIG provided information to ISP, District 15, which conducted an investigation that identified a juvenile suspect. The DuPage County State's Attorney's Office has filed a delinquency petition alleging multiple counts of felony forgery.

RECOVERIES/RESTITUTION

During the reporting period, the Tollway received the following restitution payment resulting from an OIG investigation:

IG-2013-002 \$1,629.10 (Final payment of the \$3,429.10 Court-ordered restitution award).

GENERAL SUMMARY OF OTHER ACTIVITY

In addition to investigatory activities described above, the Inspector General and OIG staff has engaged in ongoing projects, including:

- Meeting with Diversity, Internal Audit, and the Interim Equal Employment Officer.
- Meeting with Illinois Chief Procurement Officer and State Procurement Officer.
- Developing and improving internal case management processes in preparation for database upgrade.
- Collaborating with Tollway Information Technology and Procurement to address OIG technology needs.
- Improving outreach efforts – worked with Communications to develop new poster to publicize OIG Hotline and encourage reporting.