



Illinois State Toll Highway Authority

Office of the Inspector General

SUMMARY ACTIVITY REPORT

For the period March 1, 2020 through August 31, 2020

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: September 30, 2020

Re: Office of the Inspector General Summary Activity Report for the Period
Spanning March 1, 2020 to August 31, 2020.

INTRODUCTION

We submit 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) to provide independent oversight of the Illinois Tollway. The Illinois Senate confirmed the appointment of Theodor J. Hengesbach on February 8, 2017. On August 31, 2020, Governor JB Pritzker re-appointed Hengesbach to a second five-year term.

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 Act² and the Illinois Administrative Code.³

By statute, OIG's jurisdiction extends to Tollway officials, Tollway employees, and Tollway contractors and vendors.⁴ OIG conducts administrative and criminal investigations of alleged violations of law, rule or regulation, and misconduct or mismanagement. OIG also reviews

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.

² 605 ILCS 10/8.5.

³ ILL. ADMIN. CODE title 2, sec. 3430 (2011).

⁴ See 605 ILCS 10/8.5(d).

Tollway policies and procedures, and employment and hiring files, and serves as liaison to law enforcement entities.⁵

As a general rule, 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.

STAFF

During the reporting period, OIG's proposed office re-organization was approved and implemented. This re-organization better reflects OIG operations and positions the office for the future. Specifically, effective September 1, 2020 the Senior Investigator was re-titled as General Manager of Investigations and the Investigators were re-titled as Investigator IIs; in addition, a position of Investigator I was created. Also, during this time, the OIG Administrative Assistant moved to the Executive office and that vacant position was replaced with an Executive Secretary position. Following posting and interviews the OIG selected an Investigator I and an Executive Secretary who started in mid-September. OIG has two remaining vacant budgeted positions: Deputy Inspector General and Investigator I, for which we anticipate posting in late 2020.

The Inspector General, General Manager of Investigations, and both Investigator IIs are certified by the National Association of Inspectors General and the Association of Certified Fraud Examiners. The Inspector General is certified by the Society of Corporate Compliance and Ethics. In addition, the Inspector General and the General Manager of Investigations 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.

OIG, like most Tollway departments, quickly pivoted to teleworking in mid-March in response to the COVID-19 crisis, with equipment and support from the Tollway Information Technology department. OIG's transition to this remote workplace has been smooth especially in the area of case processing and documentation because of our use of electronic signatures and file sharing. This has allowed the OIG to maintain solid operational function. This new remote workplace has required the OIG to alter its distribution of reports, previously almost exclusively paper-based, and required expanded use of secured electronic distribution methods.

Remote working has presented challenges in terms of accessing documentation, especially paper documents, since there have been very few personnel at Tollway facilities. Another challenge has been interviews, and OIG staff have had to develop new protocols and become adept at using video platforms.

⁵ See 605 ILCS10/8.5(f).

INTAKES

OIG receives complaints and reports of concerns and allegations of wrongdoing from the general public, Tollway officials and employees, vendors, bidders, and anonymous sources; OIG can also self-initiate investigations and reviews. These are screened and assessed to determine next steps. Generally, complaints are opened as Preliminary Investigations as limited scope inquiries for a period of 30-60 days to review available information and determine the most appropriate next action, which can include an Investigation (IG), a Review (R), a Referral (RF)⁶, or Declination. In addition, OIG can open an Investigative Assistance case (IA).⁷

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.

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

As shown below, reports of wrongdoing have greatly decreased during the pandemic. Discussions with other IG offices reveals that this appears to be a common effect of the stay at home orders. As can be expected, the remote workplace has eliminated much of the personal interaction and observation that generally gives rise to reports of wrongdoing. In addition, the pause in cash toll collections has naturally resulted in no reports of toll theft or cash shortages during this period.

Notably, during the pandemic there has been a marked decrease in US Mail, a decline in online submissions by more than half, and an overall reduction in telephone calls. However, in recent weeks reports of wrongdoing have increased and several matters opened as Preliminary Investigations have been converted to Investigations following our initial review of available documentation.

The Tollway OIG Hotline (866-786-5544) provides one of several means by which the OIG receives reports of wrongdoing. During this reporting period, there were 18 incoming calls, relating to 13 issues. A second source of information is the OIG online electronic form that allows individuals to provide information and documents 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 12 online submissions. We usually receive a number of calls through the Tollway's mainline, which have stopped with the absence of front desk personnel to answer and direct such calls.

⁶ OIG refers matters as appropriate to management, law enforcement or other entity. The most common referrals are complaints and calls relating to I-PASS concerns, or toll violations and fines that are referred to the Tollway Operations Customer Service section.

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

STATISTICAL INFORMATION

From March 1, 2020 through August 31, 2020, OIG took action in 36 new matters:

Preliminary Investigations	5 opened 6 closed [4 converted (3 Referred, 1 Review)]
Investigative Assistance	0 opened 0 closed
Investigations	0 opened 4 closed
Reviews	2 opened 1 closed
Referral	27 matters referred
Declined	2 matters

As of August 31, 2020, the following matters were open⁸:

Preliminary Investigations	3 ⁹
Investigative Assistance	0
Investigations	4
Reviews	7

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 reports issued in OIG cases concluded between March 1, 2020 and August 31, 2020.

⁸ These numbers include carry-over from the previous reporting period.

⁹ The previous Semi-Annual Report reported 5 pending PI cases, but it should have been 4.

OIG Investigations Resulting in Administrative Actions

IG-19-003 (System Technicians)

OIG issued a Summary Report of Investigation (SRI) following an investigation into Tollway vehicle parking and work location changes for System Technicians assigned to the Radio Shop. These changes affected three System Technicians who originally parked operationally assigned vehicles and clocked in and out at Central Support, located at 3460 Finley Road, Downers Grove, Illinois. This investigation confirmed that beginning November 1, 2018, all three were permitted to park and use the time clock at Tollway locations closer to their residences resulting in a significant decrease in the amount of personal commuting time to and from work.

When asked about this change, IT managers confirmed the move was authorized but could provide no documentation to support the claim that this arrangement enhanced operational efficiency. OIG analyzed a sample of one employee's daily activities and found that this new arrangement raised productivity concerns and did not seem to improve Tollway efficiency.

OIG recommended that the Tollway improve work assignment documentation for technicians who work systemwide and ensure that staff vehicle assignment, parking, and timekeeping arrangements comply with Tollway policy, further the Tollway's operational needs, and are consistently applied.

Response

The Department of Facility and Fleet Operations, which assumed control over the System Technicians from Information Technology Department, concurred with our findings and outlined several changes to correct the situation:

1. Systems Technicians will get their assignments the day preceding the work day, and drive to their first assigned work location to swipe in.
2. Technicians will swipe out at the end of the day at their last work assignment, and then return to their base location to get their personal vehicle.
3. Systems Technicians will continue to pick up their vehicles and park their vehicles at the location nearest their home.
4. Each Tollway vehicle will be equipped with the necessary material and tools to address routine and emergency repairs and installations.
5. Each Technician will provide preventative maintenance work and physical equipment inspections in assigned zones to keep the employees busy and productive.

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.

IG-19-009 (Employee Services Coordinator)

OIG issued a Management Advisory Report (MAR) following an investigation into an allegation that an Employee Services Coordinator (ESC) hired in March 2019 did not have sufficient experience and that the process used to assess an applicant's prior employment experience was flawed. During the course of this investigation, the employee was discharged.

Tollway records confirmed that Administration received a verification of employment for the candidate from an employer that the candidate had not listed on their resume or application, and there is no documentation in the file explaining this anomaly. OIG's investigation found no evidence of improper purpose or intent to mislead because the candidate provided a plausible explanation. In fact, had this explanation been memorialized in the file, OIG's investigation would have been significantly streamlined or unnecessary.

While the underlying allegation was ultimately not sustained, this investigation did uncover uncertainty about the Tollway's pre-employment screening process that could lead to incomplete checks and/or inconsistent treatment of candidates. OIG recommended that the Tollway distinguish between employment verifications and references and develop standard procedures designed to elicit information about a selected candidate's prior employment that is necessary for a complete assessment given the nature of the position to be filled.

Finally, this investigation established reasonable cause to find that the employee violated the Tollway's duty to cooperate by twice providing false or misleading statements to OIG investigators. Given the seriousness of a witness' failure to cooperate, including any false, inaccurate, or deliberately incomplete statements, we would have recommended that the Tollway seek discharge were they still a Tollway employee.

Response

Management reported that the new administrative staff took steps upon their start in the fall of 2019 to ensure that prior employment validation process was consistent and accurate. Among improvements implemented, Administration now requires that background checks be completed before new employees start.

IG-20-001 (Overtime)

OIG issued a Management Advisory Report (MAR) following an investigation into an allegation that a Supervisor had improperly sought and received overtime. We confirmed that the Supervisor and other managers in that section have, until recently, regularly worked extra hours in the mornings and accrued large amounts of overtime over the years, which has attracted justified

concern. But the facts revealed in this investigation did not support a finding that the Supervisor improperly sought or received overtime.

However, this investigation did reveal systemic and longstanding deficiencies in Tollway structures and practices and a general disconnect between operational needs and expectations. These deficiencies make it difficult to track overtime and assess operational needs and alternatives.

OIG recommended that the Tollway update the approval and management of overtime, consistent with Internal Audit's recommendations in a 2019 Audit Report.

Response

The Tollway concurred with our findings and outlined changes to begin in July 2020 which included implementation of a new overtime approval form that:

1. Utilizes the e-signature process and can be initiated by the supervisor or manager approving the overtime.
2. Requires more information such as location of overtime, reason for overtime, requestor, and a description of how the overtime was requested.
3. Requires an authorizing signature of the supervisor or manager stating that he/she has thoroughly reviewed the overtime request and approved or denied based on its necessity.
4. Requires a signature from the Deputy Chief or his designee if he is unavailable.

In addition to improvements to the OT request and approval process, the work hours in this section have been changed to facilitate operational needs and other schedule changes/staggered schedules are being considered.

Updates on Prior Management Advisory Reports

R-19-002 (Management Trainee)

As reported in our last two Semi-Annual Reports, OIG issued a Management Advisory Report (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 to address these hiring irregularities, including: Developing an actual trainee program with a defined transition plan; Ensuring that position descriptions accurately reflect qualifications and responsibilities; and Selecting candidates that meet those qualifications.

Response and Update

In initial responses in August and September 2019 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 decide about the employee by the end of 2019. In subsequent discussions, Tollway management has indicated that the employee continues to provide needed services, and that the incumbent has been informed that the position will expire on September 30, 2020.

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 Administrative Action

RF-20-022(Vendor COVID-19 safety protocols)

OIG received a Hotline call from a patron who expressed concern that crews at a Tollway construction site were not exercising appropriate COVID-19 protocols. OIG referred the matter to Engineering. Engineering contacted the firm working at the site to remind it of the need to implement appropriate protocols in accordance with state guidelines. Engineering also reported that it communicated with all Tollway construction contractors and the Illinois Roadbuilders to raise awareness of the issue and to reiterate the expectation that contractor safety plans include adherence to state COVID-19 guidelines at Tollway construction sites.

RF-20-034 (Tollway signage)

OIG received a Hotline call from a patron expressing concern about deer on a rural stretch of the Tollway and suggested better signage. OIG referred the matter to Engineering. Engineering contacted the patron, reviewed the area, and installed additional signage.

GENERAL SUMMARY OF OTHER ACTIVITY

During this time, the Inspector General and OIG staff have engaged in numerous other projects, including:

- OIG staff completed all state-mandated annual training and participated in a multi-day national virtual conference sponsored by the ACFE, earned continuing education credits necessary to maintain certifications, and took advantage of other virtual training opportunities.
- OIG management worked with IT and Procurement to finalize an RFP for a database and work flow system, expected to be posted in the fourth quarter of 2020.
- OIG completed the hiring process and selected two new OIG employees.
- The IG participated in Internal Audit's employment interviews for Audit Managers.

- OIG collaborated with Tollway trade staff to design and reconfigure existing space to provide work stations for new employees.
- OIG staff participated in training on Procurement's LCP Tracker system that houses vendor certified payroll information.
- The IG continued regular engagement with Tollway stakeholders, including Internal Audit, EEO/ADA, the Board Chair, and Executive staff about common issues and ways to improve Tollway operations.