



Illinois State Toll Highway Authority

# Office of the Inspector General

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## SUMMARY ACTIVITY REPORT

March 1, 2022 through August 31, 2022

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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:** September 30, 2022

**Re:** Office of the Inspector General Summary Activity Report for the Period  
Spanning March 1, 2022 to August 31, 2022.

**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. On February 22, 2022, the Illinois Senate confirmed the re-appointment of Theodor J. Hengesbach to a second five-year term.

**MISSION/JURISDICTION**

The 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,

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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.

the OIG strives to detect, deter, and prevent fraud, waste, abuse, corruption, misconduct, and mismanagement.

The 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, the OIG's jurisdiction extends to Tollway officials, Tollway employees, and Tollway contractors and vendors.<sup>4</sup> As a general rule, the OIG does not become involved in cases involving private disputes, labor-management issues, or litigation. Matters investigated by the 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.

The OIG conducts administrative and criminal investigations of alleged violations of law, rule or regulation, and misconduct or mismanagement. In addition, the OIG reviews Tollway policies and procedures, and employment and hiring files, and serves as liaison to law enforcement entities.<sup>5</sup>

## STAFF

With the onboarding of a Deputy Inspector General in June and the promotion of an Investigator in August, the OIG is currently staffed with a General Manager of Investigations, a Deputy Inspector General, 2 Investigator IIs, an Investigator I, and an Executive Secretary. The Inspector General, General Manager of Investigations, and one Investigator II are certified by the Association of Inspectors General and the Association of Certified Fraud Examiners; the Deputy Inspector General is certified by the Association of Inspectors General. The other Investigator II recently successfully completed requirements for certification by the Association of Certified Fraud Examiners. 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 currently serves as Vice-President of that Board.

There are two budgeted positions that are vacant. The Investigator I position has been

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

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

posted and interviews have occurred, and the Information Analyst will be posted by the end of the year.

## INTAKES

The OIG receives complaints and reports of concerns and allegations of wrongdoing<sup>6</sup> from the general public, Tollway officials and employees, vendors, bidders, and anonymous sources. These are screened and assessed to determine the most appropriate action, which can include opening a Preliminary Investigation (PI),<sup>7</sup> an Investigation (IG), a Review (R), or an Investigative Assistance case (IA).<sup>8</sup> The OIG can also refer matters, as appropriate, to Tollway management, law enforcement or another entity, or decline to open a case.

Factors that impact this decision include: the reliability and accuracy of information based on the 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.

Most often, matters are opened as Preliminary Investigations, which are limited scope inquiries to develop and evaluate available information to determine the most appropriate next action.

The OIG also receives a number of complaints and calls relating to I-PASS concerns, or toll violations and fines that we refer to the Tollway Operations Customer Service section.

By law, the identity of any individual providing information or reporting possible or alleged misconduct to the 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.

The Tollway OIG Hotline (866-786-5544) provides one of several means by which the

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<sup>6</sup> The OIG can also self-initiate investigations and reviews.

<sup>7</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 30-day extensions may be approved by the Inspector General.

<sup>8</sup> Investigative Assistance matters include tracking of employee arrests and requests for information or subpoenas from law enforcement, regulatory agencies, or other Inspectors General.

OIG receives reports of wrongdoing. During this reporting period, there were 73 incoming calls.

A second source of information is the OIG online electronic form that allows individuals to provide information 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, the OIG received 33 online submissions.

From March 1, 2022 through August 31, 2022, the OIG took action in 127 matters:

Preliminary Investigations	15 opened 15 closed 4 converted (2 Investigations, 1 Referral, 1 Review)
Investigative Assistance <sup>9</sup>	6 opened 6 closed
Investigations	6 opened 5 closed
Reviews	5 opened 4 closed
Referrals	88 matters referred 1 to Law Enforcement
Declined	7 matters

As of August 31, 2022 the following matters were pending<sup>10</sup>:

Preliminary Investigations	9
Investigative Assistance	0
Investigations	7
Reviews	4

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<sup>9</sup> On October 1, 2017, responsibility for responding to law enforcement subpoena requests for Tollway records transitioned from the OIG to the Legal Department.

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

## REPORTS OF FINDINGS

Summary Reports of Investigation detailing sustained findings and/or recommendations for corrective action are submitted to the Board Chair, the Executive Director and appropriate management officials. Summary reports resulting in discipline of more than 3 days are publicly released in redacted form on the OIG website. The OIG also issues Management Advisory Reports to the Board Chair, the Executive Director and appropriate management officials, which describe operational concerns observed by the OIG in the course of its activities.

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

The following are summaries of OIG reports issued between March 1, 2022 and August 31, 2022. Four reports were issued; three will be summarized in this report because the due date for response on the fourth report was after August 31, 2022.

### SUMMARY REPORTS OF INVESTIGATION

#### IG-22-008

An OIG investigation established reasonable cause to find that an Equipment Operator Laborer (EOL) violated Tollway policy when they failed to report to the Tollway an arrest in May 2022 and when they failed to provide complete and truthful responses during an OIG interview. OIG initiated an investigation after learning that the EOL had been arrested in early 2022 and charged with Domestic Battery Bodily Harm and Domestic Battery Physical Contact but the Tollway Administration Department had no records that the EOL had reported it.

During the OIG interview the EOL confirmed the Domestic Violence arrest but stated that they did not report it because it did not affect their Commercial Driver's License (CDL). The EOL claimed to be unaware of the policy requiring employees to report all arrests and indictments within three business days and insisted that they had never received the Tollway Employee Policies and Procedures Manual.

Tollway records reflect that the EOL actually completed three personnel policy and procedure receipt forms acknowledging receipt of the Tollway Policy Manual at various times during their employment. In addition, Tollway training records show that the EOL completed Tollway Ethics Training on May 12, 2022. This training included a slide

reiterating the requirement that Tollway employees must report all arrests to the Tollway.

Based on these findings, OIG recommended that the Tollway impose discipline up to and including discharge. OIG further recommended other administrative steps to improve communication with Tollway stakeholders.

### **Response**

The response was expected on August 25, 2022 and received August 25, 2022.

The Tollway agreed with the OIG findings and confirmed that the EOL had still not reported the arrest. The Tollway indicated that it would obtain the necessary information and evaluate what disciplinary action would be appropriate in light of the collective bargaining agreement. In addition, the Tollway reported that a revised Personnel Policies and Procedures Manual was expected shortly and would be made available to all employees.

### **IG-19-012**

An OIG investigation identified concerns about potential risks to the Tollway of using direct cost billing arrangements, which require less transparency than other billing methods, for services not traditionally considered direct costs. OIG's investigation established reasonable cause to find that from 2016 to 2018, work conducted by a public relations and communications vendor on the Tollway's Traffic Engineer contract was inappropriately approved and billed as a direct cost. The circumstances of this arrangement created potential conflict of interest concerns.

Tollway management approached a Tollway prime contractor in 2016 about using a specific individual to assist a former Tollway official. This individual had a prior professional relationship with the former Tollway official. The prime contractor agreed to the arrangement and sought and received approval from Tollway Engineering to bill these services as a direct cost. The services invoiced, such as attending meetings and consulting, were not included in the list of acceptable direct costs under the contract and appeared to be within the scope of services offered by one of the prime contractor's existing sub-contractors. By using direct billing, neither this individual nor their firm are publicly identified as Tollway vendors, and the payments are more difficult to track. Tollway records reflect that individual was last paid under this contract in December 2018.

Had the arrangement continued, OIG would have recommended that the direct billing cease and an alternative engagement be established, if the services were deemed necessary. The concerns identified by this investigation reveal areas for potential improvement of Tollway processes. OIG recommended that the Tollway communicate with its prime contractors about the proper use of direct billing and ensure that direct billing in all contracts is limited to specific enumerated expenses and situations. In the alternative, OIG recommended that if the Tollway determined direct billing, as used in this case, is acceptable, then the Tollway should develop a process to disclose similar arrangements involving vendors or potential consultants with significant ties to high-level Tollway managers or Board members so that potential conflicts of interest can be discussed and addressed.

### **Response**

The response was expected on August 31, 2022 and received August 31, 2022.

The Tollway agreed with the OIG findings and indicated that it is developing a communication with its prime contractors to reiterate the proper use of direct billing as it is enumerated in each contract. This guidance would remind Tollway contractors that direct costs presented for reimbursement must be included on the Allowable Direct Costs list. Expenses not specifically enumerated in the Tollway's direct billing guidance must be itemized and approved in writing by the Tollway's Chief Engineer.

Engineering, Procurement, and Ethics will work together to establish any new procedures needed for this process. If a direct cost is not listed and requires the use of a new vendor, that vendor must submit the conflicts disclosures that are required by Procurement on any contract. If the disclosures require any deliberation that cannot be made by the Chief Engineer, the disclosure will be referred to the Tollway Ethics Officer for a review.

Documentation of any new direct allowable cost and the disclosures from the new vendor, as well as any determination will be maintained for any future review/audit concerning the allowable direct cost.



## MANAGEMENT ADVISORY REPORTS

### R-22-001

OIG completed a review of the Facilities and Fleet Operations Department's 2021 overtime distribution and documentation. OIG initiated this review in response to a complaint, and as a follow up to a prior recommendation in OIG Case # IG-20-001. This review included assessing available documentation and discussions with key Facilities and Fleet stakeholders.

This review found that, among the three Facilities and Fleet divisions (Messenger Services, Warehouse, and Custodial Services), overtime opportunities appear to have been offered and distributed in substantial accordance with applicable collective bargaining agreement provisions. However, despite the 2020 rollout of a standard process and approval form (established in response to the prior OIG report), documentation varied widely among these divisions.

OIG recommended that the Facilities and Fleet Operations Department train and require all division managers and supervisors to consistently use the Overtime Authorization Form to ensure transparent and consistent assignment and tracking of overtime. OIG further recommended that the department consult with the Information Technology Department to develop an electronic system to track overtime offers and refusals.

### **Response**

The response was expected on August 26, 2022 and received August 26, 2022.

The Tollway concurred with OIG's recommendations and indicated that Facilities and Fleet Operations Department and the Tollway are reviewing policy and procedures to ensure all overtime procedures are being followed and documented in accordance with applicable collective bargaining agreement provisions. All managers and supervisors will be retrained to consistently use and document the Overtime Authorization form. The Tollway noted that Overtime Authorization forms have been consistently utilized by all Facilities and Fleet divisions since the issue was raised as a result of this OIG inquiry in December of 2021.

The Tollway confirmed that, as noted in the OIG report, overtime forms for some of the workers in one Fleet division were not actually required by department policy at that time, because those workers provided snow detail work for a different Tollway

department and any overtime was not actually authorized by Fleet. So the policy will be updated to include forms for overtime worked assisting other departments.

## **UPDATES ON PRIOR RECOMMENDATIONS**

### **IG-21-002**

The OIG completed a review and made recommendations respecting Tollway employees and state revolving door restrictions. First, the OIG noted that the term “fiscal administration” was added to the statutory list of activities that can cause an employee to be restricted from working for a Tollway vendor, and recommended that the Tollway take steps to inform employees of this change and modify its revolving door responses accordingly. Second, the OIG reiterated recommendations made in OIG Case # IG-20-005 that the Tollway strengthen its internal conflict of interest policy and standardize the disclosure and determination process for Tollway employees.

### **Update**

The Tollway Ethics Officer reported that he has been using the OEIG’s updated revolving door forms since December 2021, and that he has completed and submitted responses based on information received from Human Resources, Procurement, and the specific employing department. The Ethics Officer confirmed that he has reviewed Tollway positions and updated the C- and H-Lists, and that he will work with Human Resources to add revolving door language, including the new fiscal administration language, to each job description on these lists. In addition, the Ethics Officer will work with Procurement, Administration, and the OIG to develop more comprehensive conflict of interest disclosures for vendors and employees.

## SUMMARY OF OTHER ACTIVITY

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

- Participated in bi-monthly new employee on-boarding to introduce OIG and emphasize Tollway's commitment to integrity.
- Regular engagement with Tollway stakeholders, including the Board Chair, Audit Chair, Internal Audit, and Executive staff about common issues and ways to improve.
- OIG staff completed all required annual state and Tollway training.
- Provided feedback and content for revised Employee Policy and Procedures Manual.
- Collaborated with Ethics, Internal Audit, and Legal on the Conflict Review Committee and Ethics-related initiatives.