OFFICE OF INSPECTOR GENERAL
ANNUAL REPORT
2014

Integrity*Honesty*Excellence*Collaboration*
Stewardship*Accountability
FOREWORD

This report summarizes the important work of the Office of Inspector General for calendar year 2014.

We express our thanks to Public Safety Committee Chair Cynthia Leon, Commissioners Steven Mach, Randy Watson, Manny Flores and Faith Johnson for the support and encouragement we receive from them. It is their guidance and authority that allows OIG to perform the important work conducted in this office. We are also very grateful to Director Steve McCraw, Deputy Directors David Baker and Duke Bodisch, and all agency leaders and supervisors for supporting our efforts to assist in a vigorous complaint investigation process that protects both the public and members of the Department.

The OIG maintains a workforce committed to expertise, achievement and accountability – traits which are highly regarded throughout the agency. Our staff has focused its investigative efforts on efficiency, collaboration, accuracy and fulfilling our statutory obligations. We have done so independently and without bias.

In comparison to the previous annual report for 2011 & 2013, OIG realized almost twice the amount of work in 2014 with the same amount of employees. Even though the workload doubled this year, OIG was able to maintain the timelines as required by policy and produce exceptional work that assisted every Division in the agency.

Looking forward, DPS employees can expect the OIG to conduct quality investigations that are factual, timely and void of personal bias. Our commitment is to honor the integrity and value of all employees as we fulfill our responsibilities to the agency and the State of Texas.

Rhonda Fleming
Inspector General
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PSC and OFFICE OF INSPECTOR GENERAL ROSTER

PUBLIC SAFETY COMMISSION

A. Cynthia Leon, Chairman
Manny Flores, Commissioner
Faith Johnson, Commissioner
Steven P. Mach, Commissioner
Randy Watson, Commissioner

OFFICE OF INSPECTOR GENERAL

Rhonda Fleming, Inspector General, Austin
Louis Sanchez, Commander, Austin
Phillip Ayala, Captain, Austin
James Lopez, Captain, Austin
Kathleen (Katie) Conley, Lieutenant, Austin
Bonnie Moore, Lieutenant, Austin
Kevin Huggins, Lieutenant, Garland
Brandon Negri, Lieutenant, Garland
Chris Pratt, Lieutenant, Austin
Cleve Renfro, Lieutenant, Houston
Brian Vaughan, Lieutenant, San Antonio
Jerome Johnson, Lieutenant, San Antonio
Pat Poerner, Lieutenant, San Antonio
Raquel (Rocky) Matthews, Lieutenant, Austin
Patrick Heintz, Lieutenant, Austin
Mark Phillips, Lieutenant, Houston

Sandra Maloy, Executive Assistant II, Austin
Judy Jolley, Administrative Assistant V, Austin
Lisa Hale, Administrative Assistant IV, Austin
Kimberlie Young, Administrative Assistant IV, Austin
Yolanda Alvarez, Administrative Assistant IV, Austin
Mission:

The OIG advances the Agency’s mission by expeditiously providing findings and recommendations to the Public Safety Commission, the Director, and other members of the Agency regarding policy and law violations. OIG maintains a workforce committed to performance, excellence, and accountability by working together to ensure that:

- Our activities result in needed change and are responsive to agency needs;
- Our opinions and products are independent, objective, and accurate;
- Our workforce is highly competent and seeks opportunities for continual improvement;
- We act with professionalism, integrity, and transparency.

Goals:

- Readily accept and review each complaint received with the deserved level of attention;
- Be proactive in preventing and identifying misconduct, fraud and abuse of office through analysis of data trends;
- Independently investigate, evaluate and recommend a fair classification based upon facts, ignoring all irrelevant factors;
- Provide employees confidence and protection against complaints and allegations lacking merit or actual violation of law and policy;
- Provide timely information to the Public Safety Commission, Director and all divisional and regional commands requiring their attention, involvement and action;
- Minimize misconduct by providing employee training and guidance on problematic trends and issues;
- Enhance public and employee confidence in the integrity of the processing and investigation of misconduct allegations against DPS employees.

Values:

- Integrity
- Honesty
- Excellence
- Collaboration
- Stewardship
- Accountability
The Office of Inspector General (OIG) is statutorily tasked with responsibility for all administrative investigations of employee misconduct. Texas Government Code 411.251 requires the Office of Inspector General to be responsible for acting to prevent and detect serious breaches of departmental policy, fraud and abuse of office, including any acts of criminal conduct. The Office of Inspector General independently and objectively reviews, investigates, delegates and oversees the investigations of:

- Criminal activity
- Allegations of wrongdoing by department employees
- Crimes committed on department property; and
- Serious breaches of department policy.

Pursuant to statute, the Inspector General reports directly to the Public Safety Commission and is also tasked with the duty to provide the Director with information regarding investigations as appropriate. The Commission and Director will be kept apprised regarding complaint investigations where:

- Dismissal of the accused appears possible.
- Criminal Prosecution of the accused appears justified.
- The reputation of the Department is in jeopardy as a result of the action of the accused.
- **Widespread publicity may result.**

**2014 EXAMPLES OF DPS INCIDENTS IN THE PUBLIC EYE**

*DPS issues statement regarding trooper's 'unprofessional manner' caught on citizens cell phone video. Citizen video leaked to news outlets.*

*DPS Trooper found sleeping on duty during Operation Strong Safety (OSS). Photograph leaked online via Facebook.*

*Texas DPS Trooper caught on citizen’s video behaving unprofessionally when responding to assist local deputies. Citizen video leaked to news outlets.*

*Man’s lawful refusal to ID leads Trooper to assault him, charge him with resisting arrest. Citizen video leaked to news outlets.*
OIG receives and accepts complaints from the public and internal employees through various methods. These include but are not limited to the following:

- Phone calls
- U.S. mail
- Email
- Via the Internet – Texas Department of Public Safety website
- In person
- The Office of Inspector General also accepts anonymous complaints.

Investigations require tremendous focus and the necessary appropriation of time to meet current policy guidelines. By carefully focusing resources and receiving tremendous support from agency leadership, the Office of Inspector General has been able to successfully manage the investigative caseload and comply with department guidelines.

During 2014, OIG was able improve the number of days spent on an investigation as illustrated below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Days</th>
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<tbody>
<tr>
<td>2013</td>
<td>22 working days</td>
</tr>
<tr>
<td>2014</td>
<td>19 working days</td>
</tr>
</tbody>
</table>

*Chapter 7A, General Manual, COMPLAINT INVESTIGATION AND REVIEW PROCEDURES (revised August 2013) requires OIG investigations to be received, investigated and completed within 28 working days.*
Criminal investigations on DPS personnel are an unfortunate reality in some administrative employee investigations. The Texas Rangers and the Criminal Investigations Division are solely responsible for these investigations and the Office of Inspector General monitors these as required by statute. In most cases, the Office of Inspector General proceeds with an administrative investigation on DPS personnel once the criminal investigation is concluded.

Because the Office of Inspector General enjoys a collaborative relationship with the Texas Rangers and the Criminal Investigations Division, these highly sensitive investigations are conducted without undue interruption to a criminal prosecution or administrative action.

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Texas Government Code, Chapter 411.251 and DPS General Manual, Chapter 7A

“The Office of Inspector General shall delegate any investigation considered potentially appropriate for criminal prosecution to the Texas Rangers or the Criminal Investigations Division for investigation or referral back to the Inspector General for further action. Criminal matters may or may not result in prosecutions.”

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ECI’s

FY 2014

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Each complaint against a department member is evaluated to determine if OIG has jurisdiction and if the matter warrants further consideration. Matters brought to the attention of OIG can be addressed via several methods:

- Formal administrative investigation
- Referral to a Division for managerial correction (Division Referral)
- Referral to the Texas Rangers and/or the Criminal Investigations Division (ECI)
- Investigation declined.

(A complaint may be declined for various reasons including, for example, if it does not allege a violation of law or policy or if insufficient information is provided.)

All matters investigated by OIG are summarized in written format and provided to the appropriate Division for review and disciplinary recommendation. Additionally, the Office of General Counsel (OGC) reviews OIG investigations for thoroughness and potential legal issues.

Equal Employment Opportunity (EEO) Investigations:

The Office of Inspector General is statutorily tasked with responsibility for all internal administrative investigations of employee misconduct. As such, OIG assumes investigation approval authority for all EEO investigations and on occasion, provides expert investigation services for this office. OIG and EEO collaboration ensures a seamless internal administrative investigation process which benefits the agency and all personnel.

It is agency policy that discrimination, sexual harassment and related unprofessional conduct are unacceptable conduct and will not be tolerated. DPS leadership at all levels will be committed to creating and maintaining an environment conducive to maximum productivity and respect for human dignity. Discrimination, sexual harassment and related unprofessional conduct create a hostile work environment. Understanding, preventing and reporting violations of discrimination and sexual harassment is the responsibility of every member of this agency.

Steve McCraw, Director
The following summary encompasses the statistics and investigation trends processed through the Office of Inspector General for 2014:

<table>
<thead>
<tr>
<th></th>
<th>Total Complaints Received: 290</th>
<th>Total Complaints Received: 404</th>
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<tbody>
<tr>
<td>Division Referrals</td>
<td>131</td>
<td>Division Referrals: 219</td>
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<tr>
<td>OIG Investigations</td>
<td>131</td>
<td>OIG Investigations: 185</td>
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<tr>
<td>TAIG Investigations</td>
<td>28</td>
<td>TAIG Investigations: 8</td>
</tr>
<tr>
<td>ECI Tracking</td>
<td>69</td>
<td>ECI Tracking: 76</td>
</tr>
<tr>
<td>EEO Investigations</td>
<td>00</td>
<td>EEO Investigations: 16</td>
</tr>
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**OIG PUBLIC INFORMATION REQUESTS (PIR’s)**

318 Open Records requests were fulfilled by the Office of Inspector General. $ 257.80 was collected in fees.

**MAJOR TRENDS NOTED:**

- Conduct unbecoming – *Off duty behaviors typically involving acting in a non-official capacity*
- Assaultive behaviors – *On Duty – persons in custody*  
  *Off Duty – domestic violence*
- Candor issues
- Theft – non-commissioned employees

**FRAUD POLICY**

In compliance with Tex. Gov't Code 321.022, the Office of Inspector General submits monthly reports to the Chief Auditor’s Office (CAO) detailing OIG investigations that may fall under the definitions of Fraud, Waste and Abuse. This report is then disseminated by the CAO to the State Auditor’s Special Investigations Unit.

Article IX, Section 7.10, of the General Appropriations Act (82nd Legislature) and DPS General Manual, Section 05.49.00 FRAUD POLICY states that:

*Employees who suspect fraud is occurring in the workplace should immediately notify their supervisors. If for some reason the employee is uncomfortable with notifying their supervisor, they may notify Internal Affairs or the State Auditor’s Office. The DPS home page includes a link to the State Auditor’s website for fraud reporting.*
The Office of Inspector General is committed to improving the efficiency and effectiveness of its operations and staff, which includes the DPS Volunteer Investigator Program (VIP). In January and February of 2015, this office presented its second annual continuing education program for these investigators which seeks to:

- Better ensure understanding of policy and law as it relates to administrative investigations
- Promote employee professionalism and development.

VOLUNTEER INVESTIGATOR PROGRAM – (Also known as “VIP”)

The VIP program is designed to supplement the OIG and EEO offices when necessary due to staffing concerns and in order to maintain investigation timeliness. VIP’s can be either commissioned or non-commissioned supervisors throughout the agency. Not every supervisor however, is qualified to be a department investigator. The IG’s office has defined standards for participating in the VIP Program. The list below (developed in 2009), which identifies these standards, has been disseminated to all Assist. Directors and Regional Commander’s.

All administrative investigations help citizens and employees exercise their right to lodge a complaint with the Department, but to be specific, this work helps the volunteer investigator develope skills that can enhance their careers. The opportunity to analyze issues and draw factual conclusions while sometimes providing an assessment of managerial accomplishments and failures, assists them in becoming a better manager, supervisor and leader.

The IG and EEO Officer will periodically review the efficiency, morale and effectiveness of each volunteer investigator and when necessary, make recommendations for additional training or replacement. The IG and EEO Officer retain the right to remove any volunteer investigator from the working list should an employee prove to not meet these standards.

VOLUNTEER INVESTIGATOR QUALIFICATIONS

- Recommendation from chain of command
- Impartiality
- Professionalism and credibility
- Reputation among employees as honest, neutral and fair
- Knowledge of agency policies, procedures, practices and rules
- Communication and interviewing skills
- Ability to maintain confidentiality
- Ability to adapt to and follow-up on unexpected or new information
- Effectiveness as a potential witness in an administrative or court proceeding
The second annual VIP investigator training conference consisted of courses designed to promote professional responsibilities for this role with topics such as:

- Communication and interviewing skills
  - Instruction offered by the Office of Inspector General
- Legal education – applicable laws as they relate to department investigations
  - Instruction offered by the Office of Inspector General
- Review of agency policies, procedures and practices
  - Instruction offered by the Office of Inspector General
- Unique and specific training applicable to EEO investigations
  - Instruction offered by the DPS-EEO, Nathanael Haddox

**OIG STAFF RECRUITMENT**

The Office of Inspector General seeks to maintain a workforce committed to performance, excellence, and accountability. Employees in OIG enjoy their work, mission and the responsibilities related to their positions. Employees in the Office of Inspector General are high achievers and take pride knowing their work protects employees against erroneous allegations and when necessary, holds employees accountable for wrongdoing that is proven to be factual. For these reasons, the turnover rate in the Office of Inspector General is very low.

**Specialized Requests**

On occasion, Divisions request Ad hoc reports from the OIG to assist in planning and evaluating upcoming programs or ongoing concerns within their divisions.

In 2014, OIG assisted the following Divisions with these requests:

**Driver License Division:**
- The DLD requested a report showing how many employees had been accused and subsequently sustained for theft of state monies.
- The DLD wanted to know how many employees have been arrested and/or investigated for criminal activities.

**Criminal Investigations Division:**
- CID requested a report showing how many commissioned employees were potential Brady/Giglio/Michael Morton concerns – Candor issues which may prevent them from filing criminal charges in the field.

**Texas Highway Patrol Division**
- THP requested the number of sustained investigations for a designated year.
In 2014, the Office of Inspector General, at the request of the Director’s Office, began incorporating the first steps of an Early Intervention System for the agency incorporated within a software application called BlueTeam.

An EI system is “early” in the sense that it helps to identify employee performance problems that do not initially warrant formal disciplinary action but suggest that an employee is having problems. The major contribution of an EI system is its capacity to spot patterns of performance and to intervene before problems lead to a serious incident such as a lawsuit, a citizen complaint, or some other public crisis involving the department.

An EI system is officially separate from the department’s formal disciplinary system. It is designed for supervisors to help employees improve their performance through counseling, training, or coaching. No record of participation in an EI program is placed in an employee's personnel file, although a separate record of participation is usually maintained by the Office of Inspector General.

An Early Intervention System has several benefits including but not limited to:

1) Improved officer performance,
2) Reduction in number and severity of citizen complaints,
3) More accountability from first line supervisors,
4) Improved morale,
5) Reduction in lawsuits and department liability, and
6) Identify training needs.
Early identification (EI) programs identify behaviors which could lead to diminished work performance. Early intervention is implemented through the employee’s management team and occurs immediately after a behavior is identified. Intervention is based on the particular needs of the employee may include, but is not limited to counseling, training and/or referral. In addition, an EI system reduces liability and risk exposure to the employee as well as to the department, and ensures supervisory accountability.

In 2014, OIG partnered with members of the major law enforcement divisions to form a working committee with emphasis on the incident reporting system contained within BlueTeam. OIG also collaborated closely with the DPS Information Technology Division to integrate the BlueTeam application within the Department’s domain. This integration allows network connected employees the capability to readily enter incident summaries and route them electronically to their next level supervisor using both the Department’s email and the BlueTeam application. Supervisory approved BlueTeam incidents will ultimately be stored within an OIG housed database which is capable of being queried for statistical reports for requesting stakeholders within the Department. BlueTeam’s early intervention capabilities offer the Department the prospect of being able to capture, monitor and alert both employees and their supervision of critical law enforcement incident trends. Systemic occurrences by an employee can be viewed globally by their supervisors for closer inspection, summary clearance or if necessary, intervention in an attempt to stave off subsequent or more serious incidents which may result in a formal departmental investigation.

OIG’s implementation of the BlueTeam project started as a pilot-project with testing occurring in a limited number of THP field offices, but has since expanded more assertively in THP District 3A (the Rio Grande Valley). OIG expects a large influx of reportable incidents with this robust expansion which in turn will provide OIG, THP, and the Department the necessary data to ultimately determine the adaptability of BlueTeam for the agency. OIG expects field testing to conclude by late spring 2015.