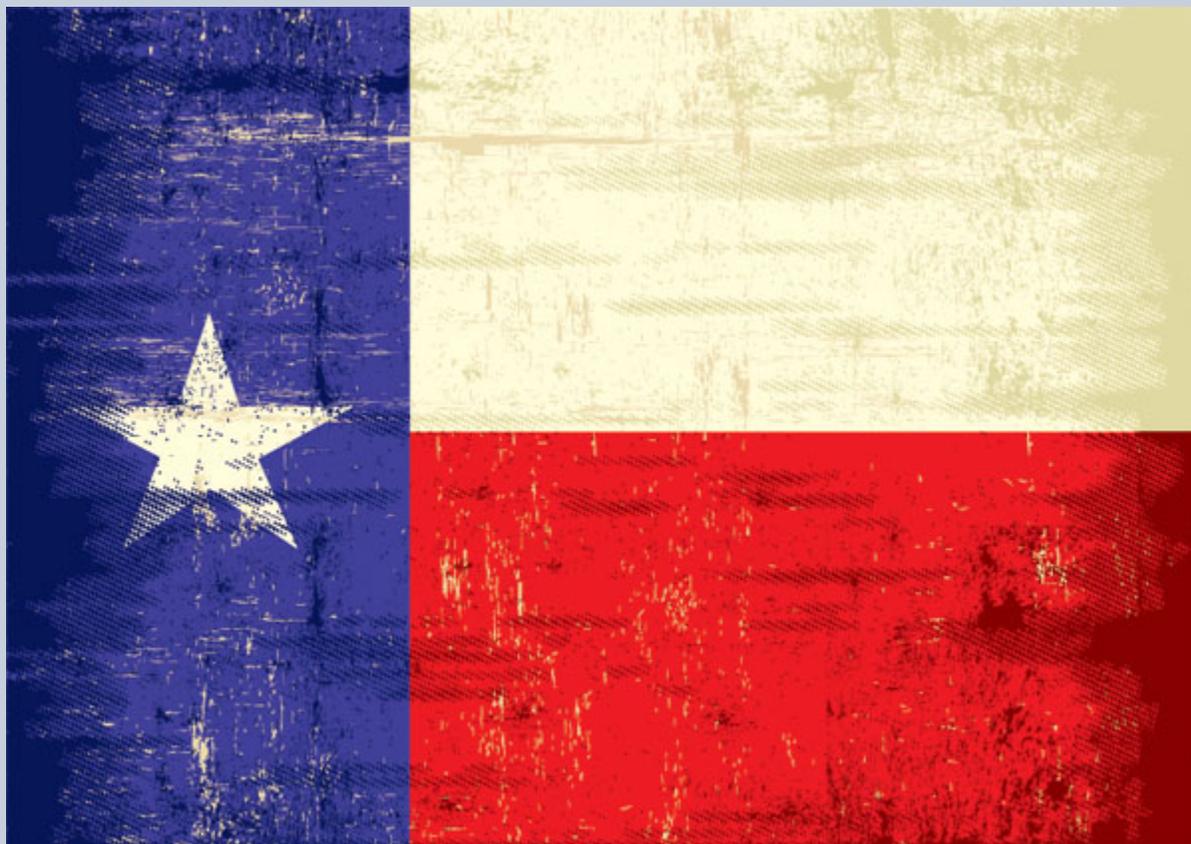


OFFICE OF INSPECTOR GENERAL ANNUAL REPORT 2015



FOREWORD

This report summarizes the important work of the Office of Inspector General.

For calendar year 2015, OIG managed complex and in some instances, publicly renowned administrative personnel complaints. Some of these matters attained notoriety not seen before at this agency. OIG personnel consistently displayed integrity, professionalism, and independence during these examinations. OIG's commitment and capacity to honor the value and integrity of all employees and members of the public, was accomplished with the reliability DPS has come to expect from this office.

Public Safety Committee Chair Cynthia Leon and Commissioners Steven Mach, Randy Watson, Manny Flores and Faith Johnson consistently provide tremendous guidance and assistance to this office. OIG could not perform this important work without their support. We are also very grateful to the leadership at DPS. Director Steven McCraw, Deputy Directors David Baker and Duke Bodisch, and all agency leaders and supervisors consistently demonstrate commitment for a vigorous complaint investigation process that protects both the public and members of the Department.

OIG maintains a workforce committed to expertise, excellence and accountability – traits which are highly regarded throughout the agency. Our staff focuses all investigative efforts on efficiency, collaboration, accuracy and fulfilling statutory obligations. OIG is reliably neutral and independent.

The public has the right to lodge a complaint against an employee and employees should count on OIG to insulate them from false claims while at the same time, expect a fair and respectful process should the complaint have merit. It is my goal that DPS employees and members of the public agree that OIG has fulfilled these responsibilities this year and every year.

Rhonda Fleming
Inspector General



Office of Inspector General Leadership Staff

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PSC and OFFICE OF INSPECTOR GENERAL ROSTER

PUBLIC SAFETY COMMISSION

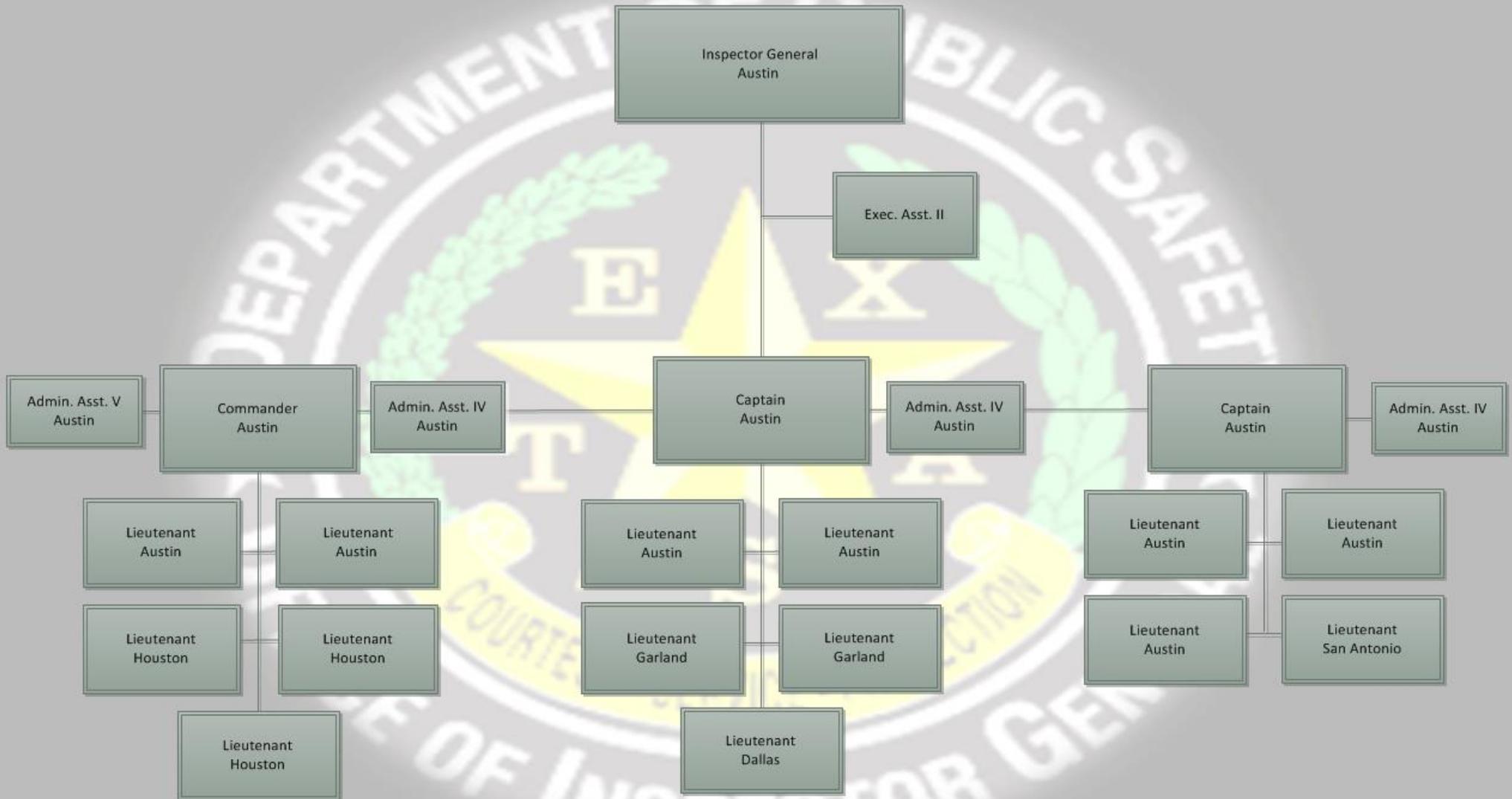
A. Cynthia Leon, Chairman
Manny Flores, Commissioner
Faith Johnson, Commissioner
Steven P. Mach, Commissioner
Randy Watson, Commissioner

OFFICE OF INSPECTOR GENERAL

Rhonda Fleming, Inspector General, Austin
Louis Sanchez, Commander, Austin
James Lopez, Captain, Austin
Brian Lillie, Captain, Austin
Bonnie Casey-Moore, Lieutenant, Austin
Kathleen (Katie) Conley, Lieutenant, Austin
Adam Kinslow, Lieutenant, Austin
David Adkins, Lieutenant, Austin
Robert Rodriguez, Lieutenant, Austin
Raquel (Rocky) Matthews, Lieutenant, Austin
Thomas Williams, Lieutenant, Austin
Kevin Huggins, Lieutenant, Garland
Brandon Negri, Lieutenant, Garland
Patrick Heintz, Lieutenant, Forney
Cleve Renfro, Lieutenant, Houston
Mark Phillips, Lieutenant, Houston
Esther Edinger, Lieutenant, Houston
Jerome Johnson, Lieutenant, San Antonio

Sandra Maloy, Executive Assistant II, Austin
Judy Jolley, Administrative Assistant V, Austin
Lisa Hale, Administrative Assistant IV, Austin
Beth Hartzell, Administrative Assistant IV, Austin
Melissa Martinez, Administrative Assistant IV, Austin

OFFICE OF INSPECTOR GENERAL ORG CHART



Office of Inspector General

Mission, Goals, and Values

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.

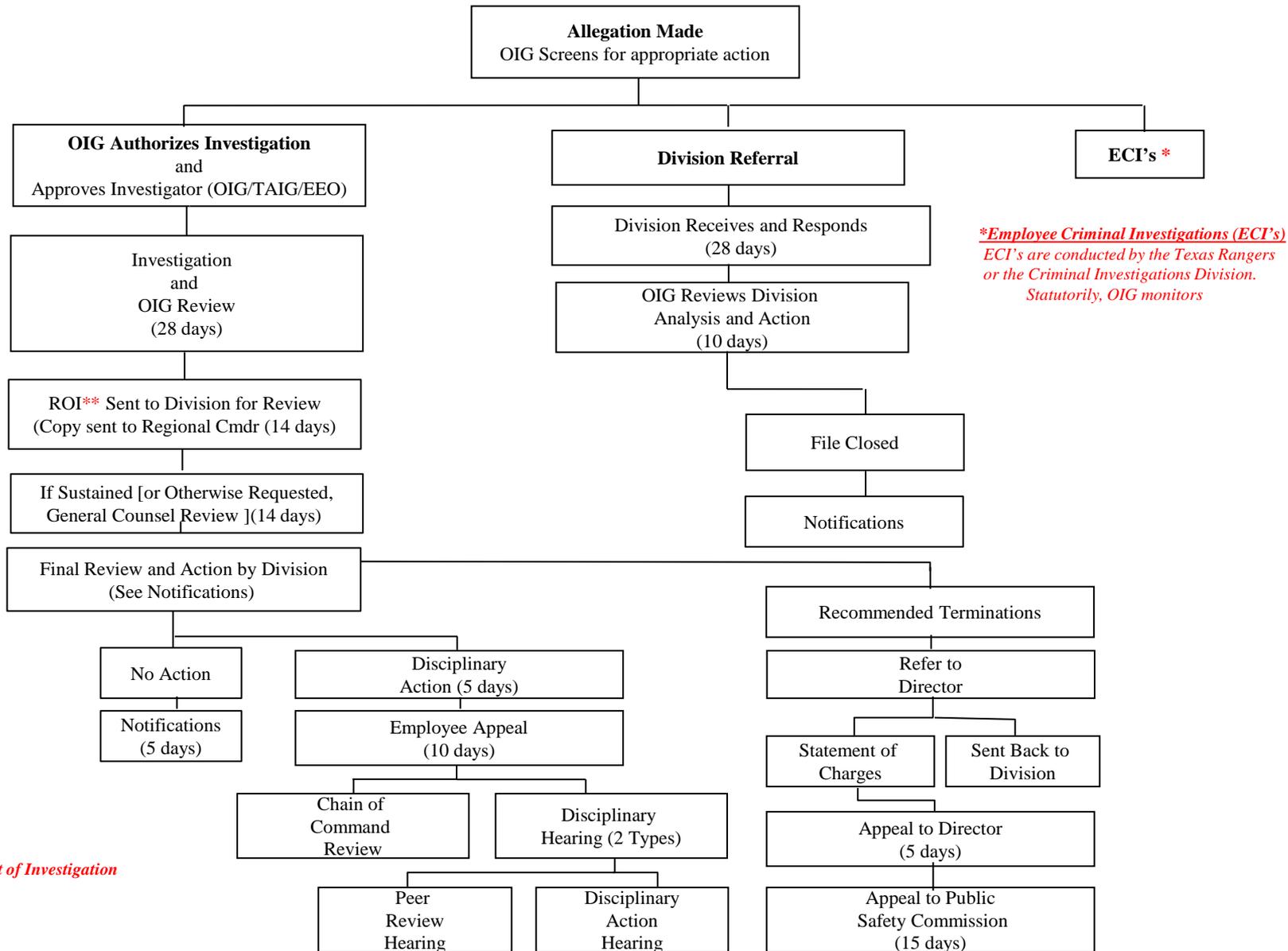
Goals:

- 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

PROCEDURES CONCERNING PERSONNEL COMPLAINTS AND ADMINISTRATIVE INVESTIGATIONS



OFFICE OF INSPECTOR GENERAL ANNUAL REPORT 2015

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.****

Widespread Publicity – 2015

- ❖ ***Citizen stopped for failing to signal lane change. Case garnered International media attention.***
- ❖ ***Arrested: THP Trooper soliciting prostitution and bribery during patrol duties. State wide media coverage.***
- ❖ ***THP Trooper stops Dallas Cowboy for picture and fails to take enforcement action. Actions appear on Facebook and broadly distributed.***
- ❖ ***THP Corporal creates and distributes “Sombrero” stamps and places them on patrol vehicles to indicate # of visits to border. Actions appear on Facebook and broadly distributed.***
- ❖ ***THP Trooper caught sleeping in his patrol vehicle. Image appeared on Facebook and broadly distributed.***

TIMELINESS IN THE INVESTIGATION PROCESS

General Manual, Chapter 7A,
Section 07.42.15

TIMELINES REGARDING ADMINISTRATIVE INVESTIGATIONS

1. The following timelines will govern completion and review of administrative investigations conducted under this chapter:

The Inspector General will forward the investigation or a copy thereof to the appropriate assistant director and regional commander no later than 28 working days following the initiation of the investigation.

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 – TxDPS 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 2015, OIG has maintained policy guidelines regarding the number of days spent on an investigation as illustrated below:

**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.*

2013 – 22 working days
2014 – 19 working days
2015 – 21 working days

EMPLOYEE CRIMINAL INVESTIGATIONS (ECI's)

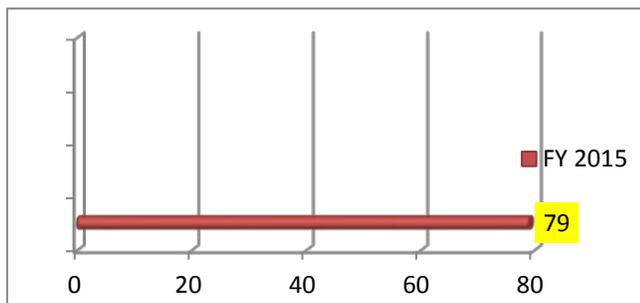
Criminal investigations on DPS personnel are an unfortunate reality in some administrative employee investigations. The Texas Rangers and the Criminal Investigations Division are solely responsible for these investigations and the Office of Inspector General monitors these as required by statute. In 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.

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.”

ECI's



OIG ADMINISTRATIVE INVESTIGATIONS

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 YEAR IN NUMBERS

The following summary encompasses the statistics and investigation trends processed through the Office of Inspector General for 2015:

Calendar year 2014

Total Complaints Received: 404

- Division Referrals 219
- OIG Investigations 185
- VIP Investigations 8
- ECI Tracking 76
- EEO Investigations 16

Calendar year 2015

Total Complaints Received: 370

- Division Referrals 199
- OIG Investigations 163
- VIP Investigations 8
- ECI Tracking 79
- EEO Investigations 32

OIG Public Information Requests (PIR's)

304 Open Records requests were fulfilled by the Office of Inspector General.
\$ 274.95 was collected in fees.

MAJOR TRENDS NOTED:

- Courtesy Policy
- 7- Step Violator Policy
- Reporting of Duty Hours
- DWI – Non- Commissioned
- Theft – non-commissioned

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.

VOLUNTEER INVESTIGATOR PROGEAM CONTINUING EDUCATION AND RECRUITMENT

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).

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 develop 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 these investigators in becoming better managers, supervisors and leaders.

The IG and EEO Officer 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.

In January and February of 2015, this office, along with the EEO 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.

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.

OIG PROMOTIONS

Brian Lillie, OIG Lt., promoted to OIG Captain, Austin

Adam Kinslow, THP Lt., promoted to OIG Lieutenant, Austin

David Adkins, THP Lt., promoted to OIG Lieutenant, Austin

Robert Rodriguez, THP Sgt., promoted to OIG Lieutenant, Austin

DPS EARLY WARNING SYSTEM – “BLUE TEAM”

“BLUE TEAM,” is an incident reporting system that also provides Early Intervention (EI) which alerts on employees involved in frequent and significant occurrences to assist managers, supervisors and leaders in recognizing patterns and trends early on so that intervention is initiated before formal disciplinary action is required. Examples of significant occurrences entered into “BLUE TEAM” include:

- Use of Force Issues
- Firearm Discharge
- Vehicle Pursuits
- Citizen Complaints to include:
 - Courtesy Issues
 - 7-Step Violator contact

“BLUE TEAM” is a system by which DPS leaders can more easily track, document and monitor employee performance and to spot trends, make “real time” notifications and offer solutions for intervention.

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,
- 6) Identify training needs.
- 7) Interdepartmental Transparency

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 as much as BLUE TEAM is designed for commissioned division use as an Early Intervention System, BLUE TEAM is also being used as a data collection tool to more easily leverage statistical analysis for the incidents identified.

In October of 2015, BLUE TEAM went “live” for the commissioned divisions of the agency and is functioning as expected. BLUE TEAM is capturing significant incidents within the system and is already producing statistics for the Director’s Dash Board as well as providing feedback for early intervention.

OIG maintains the software and oversight of BLUE TEAM to ensure the reliability and consistency promised to the agency.

EMPLOYEE AWARD – OIG DIVISION CHIEF’S AWARD RECIPIENT

In recognition of outstanding performance of duty and contributions to the Department of Public Safety and the State of Texas, Phillip Ayala, Major-THP and former Capt. of OIG, received the OIG Division Chief’s Award.

During calendar years 2014 and 2015, he distinguished himself through hard work and perseverance as a member of the Office of Inspector General. His demonstration of professionalism by serving as project manager for the implementation of Blue-Team, an intervention and data collection system, is unequalled and a testament to his dedication and devotion to duty and to the Department. Phillip consistently displayed the confidence and resolution needed to face the challenges and effectively used his authority, intellect and influence in a positive manner. Phillip proved himself an excellent visionary and tempered his duties with diplomacy and outstanding interpersonal communication skills.

Phillip’s tireless efforts serve as a clear example of the sort of vision, teamwork, selfless service, and positive attitude we seek to develop in all Department leaders.

