

# OFFICE OF INSPECTOR GENERAL ANNUAL REPORT

2016



# FOREWORD

This report describes the important work of the Texas Department of Public Safety's Office of Inspector General (OIG) for 2016.  OIG aims to fulfill its statutory responsibilities by enhancing public and employee confidence in the integrity of the processing and investigation of misconduct allegations against DPS employees.

The quality of *Integrity* is OIG's foundation.  OIG also honors and values *Honesty – Excellence – Collaboration – Stewardship and Accountability*.  These traits are consistently demonstrated in all our work.  Because OIG is an independent investigative body, we are able to advance the mission of the Texas Department of Public Safety by expeditiously and authentically providing findings and recommendations to the Public Safety Commission, the Director and other members of the Agency regarding policy and law violations.

For calendar year 2016, OIG responsibly managed all department administrative investigations and consistently displayed integrity, professionalism, and independence during these examinations.

OIG thanks the Public Safety Commission for their guidance and support of an independent investigative body.  OIG could not perform this important work without their encouragement and guidance.  We are also very grateful to the leadership of DPS.  Specifically, Director Steven McCraw, Deputy Directors David Baker and Duke Bodisch, and all agency leaders and supervisors consistently demonstrate a strong and sincere commitment for a vigorous complaint investigation process that protects both the public and members of the Department.

Rhonda Fleming  
Inspector General

*Office of Inspector General Personnel*



## **DPS OFFICE OF INSPECTOR GENERAL**

### **PUBLIC SAFETY COMMISSION**

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

### **OFFICE OF INSPECTOR GENERAL**

Rhonda Fleming, Inspector General, Austin  
Louis Sanchez, Deputy Inspector General, Austin  
James Lopez, Captain, Austin  
Brian Lillie, Captain, Austin  
Bonnie Moore, Lieutenant, Austin  
Adam Kinslow, Lieutenant, Austin  
David Adkins, Lieutenant, Austin  
Robert Rodriguez, Lieutenant, Austin  
Raquel (Rocky) Matthews, Lieutenant, Austin  
Thomas Williams, Lieutenant, Austin  
Vacancy, Lieutenant, Austin  
Kevin Huggins, Lieutenant, Garland  
Brandon Negri, Lieutenant, Garland  
Patrick Heintz, Lieutenant, Forney  
Vicky Edinger, Lieutenant, Houston  
Mark Phillips, Lieutenant, Houston  
Esther Edinger, Lieutenant, Conroe  
Jerome Johnson, Lieutenant, San Antonio

Sandra Maloy, Executive Assistant, Austin  
Judy Jolley, Administrative Assistant V, Austin  
Lisa Hale, Administrative Assistant IV, Austin  
Melissa Martinez, Administrative Assistant IV, Austin  
Kristy Miller, Administrative Assistant IV, Austin

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# Office of Inspector General

## Mission, Goals, and Values

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### ***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.

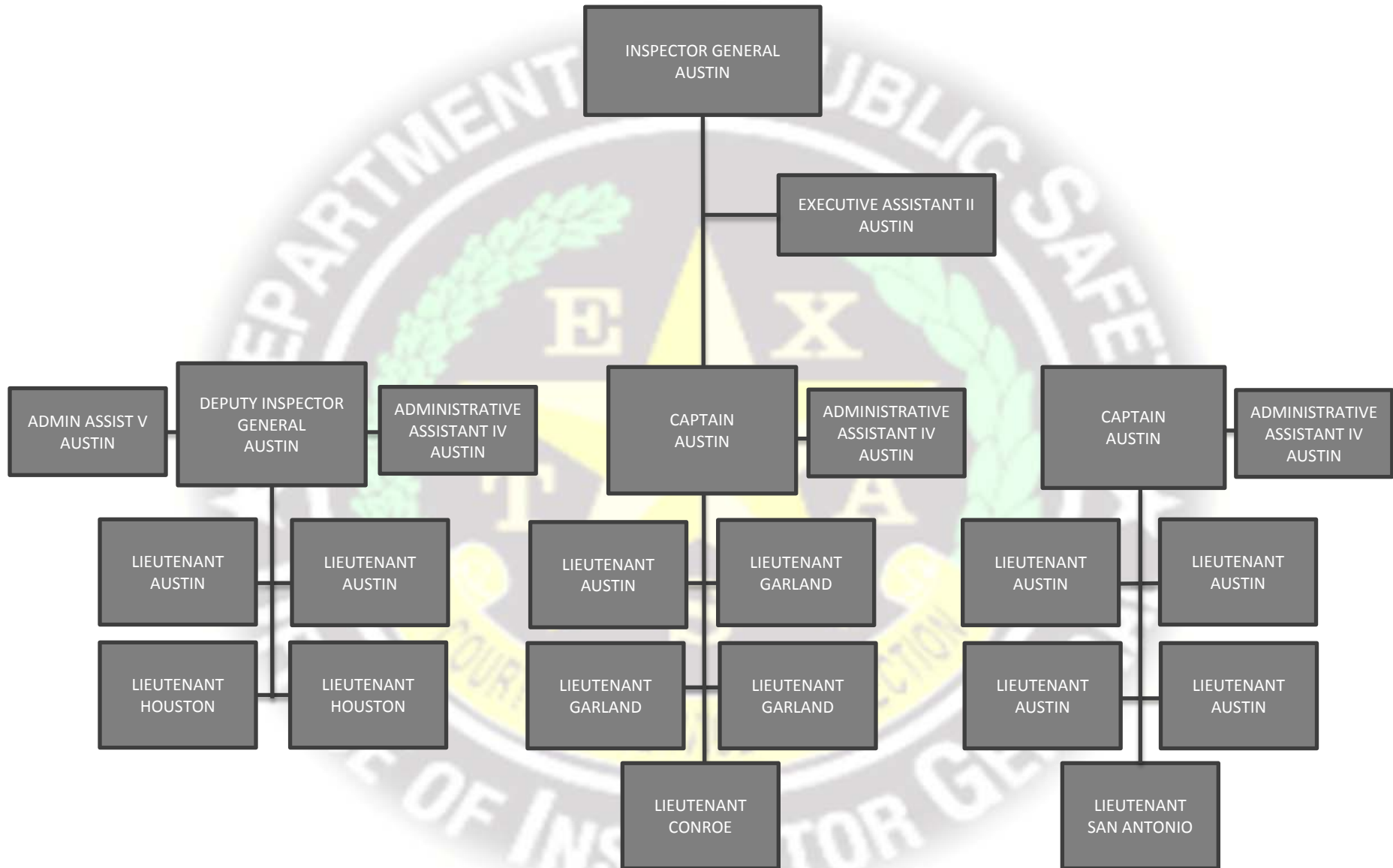
### ***Goals:***

- 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.

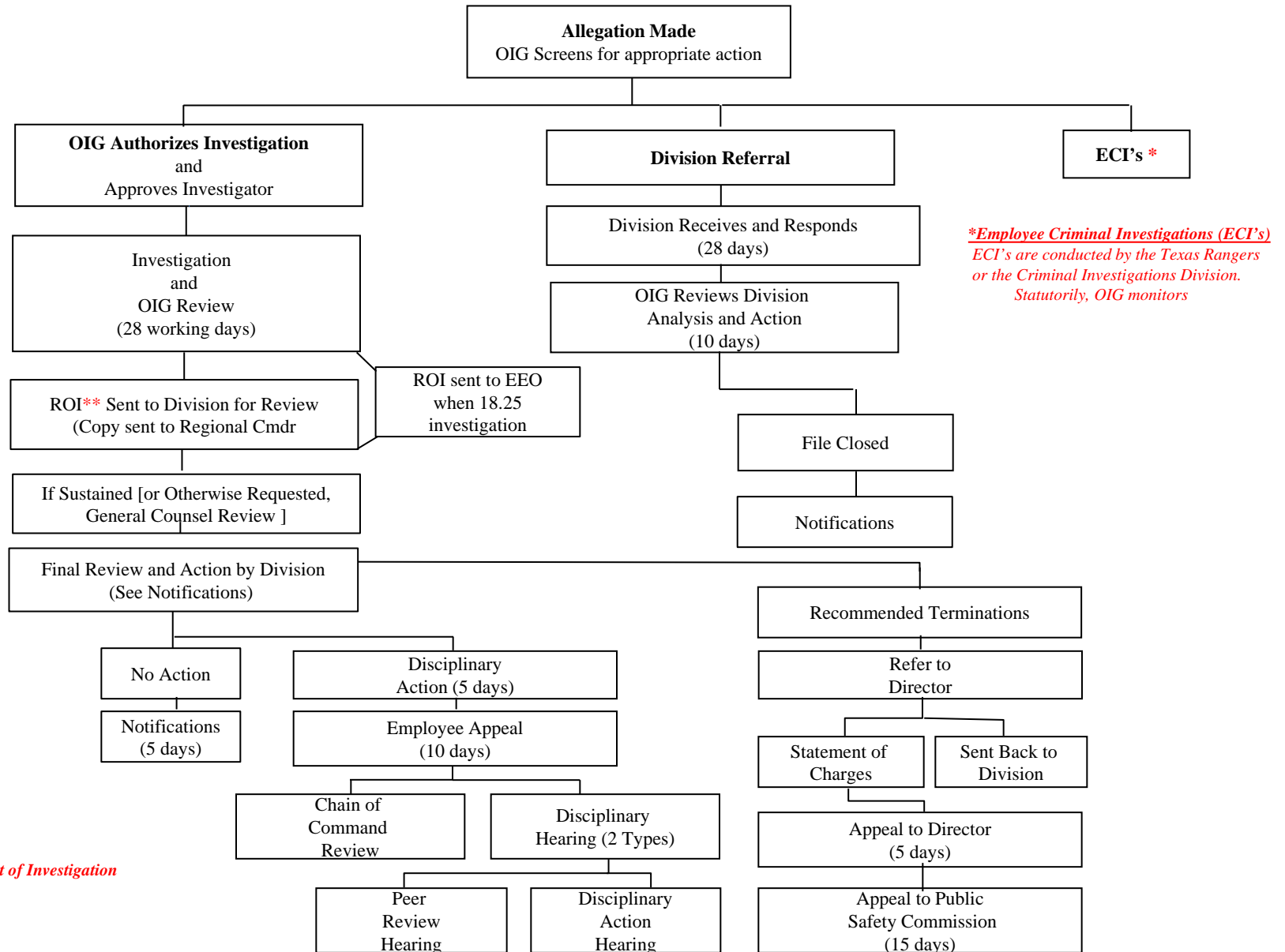
### ***Values:***

- Integrity
- Honesty
- Excellence
- Collaboration
- Stewardship
- Accountability

# OFFICE OF INSPECTOR GENERAL ORGANIZATION CHART



# PROCEDURES CONCERNING PERSONNEL COMPLAINTS AND ADMINISTRATIVE INVESTIGATIONS



## OFFICE OF INSPECTOR GENERAL ANNUAL REPORT 2016

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.\****

Some examples of negative publicity during 2016 include, but are not limited to the following:

### **General Social Media Coverage – 2016**

- ❖ *THP trooper takes a “selfie” in his patrol vehicle with arrested suspect. This photo is uploaded to suspect’s social media account exposing the agency to widespread ridicule. Parents of suspect and others complain to DPS.*
- ❖ *THP trooper posts hateful and racist comments on his personal social media account which conflict with the department’s position on neutrality. This is brought to the attention of DPS via social media outcry.*
- ❖ *Administration employee accused of felony mischief. His actions and subsequent arrest make the local media news reports.*
- ❖ *THP trooper accused of inappropriate behavior in a jail facility with an arrested suspect. Events are covered by the traditional news media and are debated on social media platforms.*

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.

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
- ❖ Fax
- ❖ Via the Internet – TxDPS website
- ❖ In person
- ❖ The Office of Inspector General also accepts anonymous complaints.

### **TIMELINESS IN THE INVESTIGATION PROCESS**

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.

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General Manual, Chapter 7A,  
Section 07.42.15

#### **TIMELINES REGARDING ADMINISTRATIVE INVESTIGATIONS**

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.

As in previous years, OIG has maintained policy guidelines regarding the number of days spent on an investigation as illustrated below:

2013 – 22 working days  
2014 – 19 working days  
2015 – 21 working days  
2016 – 25 working days

## EMPLOYEE CRIMINAL INVESTIGATIONS (ECI's)

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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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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.

For 2016, the Texas Rangers initiated **52** investigations on employees for allegations of criminal misconduct.

## 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, and as a matter of policy and practice, the Office of General Counsel (OGC) reviews OIG investigations for thoroughness and potential legal issues.

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### **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 and investigation responsibility for all EEO complaints. OIG and EEO collaboration ensures a seamless internal administrative investigation process which benefits the agency and all personnel.

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## THE YEAR IN NUMBERS

The following summary encompasses the volume and investigation trends processed through the Office of Inspector General for 2016:

### Calendar year 2015

**Total Complaints Received: 481**

- Division Referrals 199
- OIG/EEO Investigations 195
- VIP Investigations 8
- ECI Tracking 79

### Calendar year 2016

**Total Complaints Received: 557**

- Division Referrals 281
- OIG/EEO Investigations 223
- VIP Investigations 0
- ECI Tracking 53

### MAJOR TRENDS NOTED for 2016:

- Courtesy Policy
- Assault (on duty)
- Falsifying Reports
- Misuse of DPS Vehicles
- Claims of Race Discrimination
- Claims of Gender Discrimination

## THE DEPARTMENT'S DISCIPLINARY MATRIX

Through the use of the Department's *Disciplinary Matrix*, the agency imposes discipline upon its employees for the purpose of correcting misconduct, deterring future misconduct and to acknowledge this Department's special history and responsibility to the people of Texas to uphold the highest standards of ethical behavior. The Department applies its core values in determining an appropriate level of discipline. Therefore, the most severe sanctions will be reserved for conduct that compromises INTEGRITY through dishonesty or dissemination, defeats TEAMWORK by negatively impacting colleagues, avoids ACCOUNTABILITY by denying responsibility or thwarts EXCELLENCE by impacting the Department's ability to provide either public safety or world class service.

The following penalty table illustrates the disciplinary categories and management responses for 2016. The disciplinary choices made by management reflect the number of times policy was violated, and the severity of that violation as designated by management.

## Matrix Penalty Table

Misconduct Category	Mitigated Penalty	Presumptive Penalty	Aggravated Penalty	2016 Actions
<b>Category A</b>	Management through oral counseling and coaching*	Management through oral counseling and coaching*	Formal Written Reprimand	<b>90</b> Includes coaching, counseling, PIP's and Training options
<b>Category B</b>	Formal Written Reprimand	1 day suspension	1-3 day suspension	<b>33</b> Formal Written Reprimands
<b>Category C</b>	1 day suspension	3 day suspension	Up to 5 day suspension	
<b>Category D</b>	3 day suspension	5-10 day suspension	30 day suspension or Termination	<b>34 (C&amp;D)</b> [206 actual days off]
<b>Category E</b>	30 day suspension	Termination	Termination	<b>16</b>
<b>Other Disciplinary Options</b>	Probation and Demotion			<b>Probation – 6</b> <b>Demotion – 5</b>

→ Resignation in lieu of formal discipline: **33**

→ Routine counseling and coaching, including documentation through scheduled and unscheduled performance evaluations is a basic management responsibility that is not considered part of the formal disciplinary process. Therefore, the investigation, review and appeal processes applicable to formal disciplinary actions are inapplicable.

### ANCILLARY OIG DUTIES

#### OIG Public Information Requests (PIR's) for 2016:

**323** Open Records requests were fulfilled by the Office of Inspector General.

**\$ 842.05** was collected in fees.

#### FRAUD POLICY

In compliance with Tex. Gov't Code 321.022, the Office of Inspector General submits bi-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 PROGRAM (VIP)**

The Office of Inspector General is committed to improving the efficiency and effectiveness of its operations and staff, which includes the auxiliary DPS Volunteer Investigator Program (VIP).

The VIP program is designed to supplement the OIG Division when necessary due to staffing issues and in order to maintain investigation timeliness. VIP's can be either commissioned or non-commissioned supervisors throughout the agency.

VIP's are trained annually by the Office of Inspector General and utilized for all OIG and EEO Division Referrals. On rare occasions, VIP's are tasked with performing OIG formal administrative investigations.

## **RECRUITMENT and PROMOTIONS**

### **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. OIG attracts employees who find tremendous satisfaction in guarding the integrity and reputation of the agency and in particular, the law enforcement profession. For these reasons, the turnover rate in the Office of Inspector General is very low.

### **2016 OIG PROMOTIONS**

Louis Sanchez, OIG Commander, promoted to OIG Deputy Inspector General, Austin

Esther Edinger, CID Agent Conroe, promoted to OIG Lieutenant, Conroe

Vicky Edinger, CID Agent Houston, promoted to OIG Lieutenant, Houston

## DPS INTERVENTION SYSTEM – “BLUE TEAM”

The Texas Department of Public Safety is an agency of high standards. DPS embraces the core values of integrity, excellence, accountability and teamwork and demonstrates a strong commitment to its most valuable asset, our people. Because of these institutional values and expectations, DPS managers, supervisors and leaders are charged with the responsibility of training, assessing, mentoring and coaching employees to ensure high performance and acceptable behavior.

DPS adopted an Early Warning Intervention System in 2013 and named it “BLUE TEAM.” The vast majority of police agencies in the U.S. utilize an Early Intervention System as a way of leveraging technology in support of established management goals. The “BLUE TEAM” software and program is overseen and managed by the Office of Inspector General, though the data input and use for intervention is primarily designated to Department leaders.

“BLUE TEAM,” is an intervention system that provides alerts on employees involved in frequent and significant occurrences and assists managers, supervisors and leaders in recognizing patterns and trends early on so that intervention is initiated before formal investigation or formal disciplinary action is required. “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.

Examples of significant occurrences entered into “BLUE TEAM” include:

- Firearms Discharge
  - # of shootings
  - Suspect injuries
  - Suspect deaths
  - Officer injuries
  - # of shootings to disable vehicles
  - Officer Injuries
- Vehicle Pursuits
  - Spiking system deployment
- Vehicle Accidents
- Use of Force
  - Suspect injuries
  - Officer injuries
- Courtesy Policy Violations
- 7 –Step Violator complaints
- Audio/Visual Policy issues
- Performance Improvement Plan
- Citizen Concerns

It is important to remember that in any organization, there will always be employee issues due to human nature; however, the Department’s response and intervention to correct these issues prior to a crisis occurring is very significant and can ultimately save careers.

For DPS, BLUE TEAM is still considered to be in its infancy stage for intervention purposes however, it is being used consistently for data collection and statistical reporting.

When appropriate, or when a threshold is met, the following options for employee intervention can be used to intervene before formal disciplinary action is required.







### **OIG DIVISION CHIEF'S AWARD RECEPIENT**

In recognition of outstanding performance of duty and contributions to the Department of Public Safety and the State of Texas, Sandra Maloy, Executive Assistant, OIG, received the OIG Division Chief's Award in 2016.

During calendar years 2014, 2015, and 2016 Sandra Maloy has consistently distinguished herself through hard work and perseverance as a member of the Office of Inspector General. Sandra's leadership and diligent work and coordination during the development and implementation of Blue-Team, is unequaled and a testament to her dedication and devotion to duty and to the Department. Sandra continues her leadership and superior performance as the chief administrator for this software and is responsible for all software and technical issues for the entire agency. Sandra's efforts serve as a clear example of the sort of vision, teamwork, selfless service, and positive attitude we seek to develop in all Department employees.

