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APRIL 2019

# CITY OF CHICAGO OFFICE OF INSPECTOR GENERAL

REPORT OF THE OFFICE OF INSPECTOR GENERAL

## FIRST QUARTER REPORT 2019

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## **TO THE MAYOR, MEMBERS OF THE CITY COUNCIL, CITY CLERK, CITY TREASURER, AND RESIDENTS OF THE CITY OF CHICAGO:**

Enclosed for your review is the public report on the operations of the City of Chicago Office of Inspector General (OIG) during the first quarter of 2019, filed with the City Council pursuant to Section 2-56-120 of the Municipal Code of Chicago. This quarterly is the last report to be issued during the administration of outgoing Mayor Rahm Emanuel. It is therefore an appropriate occasion for a brief review of the trajectory of the OIG during his tenure. Since May 2011, this Office has changed significantly.

*OIG's Audit and Program Review (APR) section, a fledgling operation in 2011! has become one of the leading local performance audit shops in the United States, evidenced in two ways in the recently concluded quarter-the delivery of the factually and procedurally complex audit of the Chicago Board of Elections, which had not previously been the subject of a full published review of its operations, and the receipt of a national award from the Association of Local Government Auditors for APR's 2018 Audit or the City's Process for Evaluating and Setting User Fees*

OIG's Investigations section has undertaken numerous challenging administrative investigations in areas that, prior to 2011, OIG had devoted little need, most notably, investigations of police misconduct. It has done so without diminishing its efforts in traditional areas, in matters ranging from administrative residency violations to contracts to criminal investigations to prosecutions of M/WBE program fraud, with examples of each found in the enclosed quarterly report.

OIG's Hiring Oversight section had not come into full existence until May 2011. But over the last eight years, this compliance function has been a key factor in the Emanuel Administration getting the City out from court monitorship, respecting its hiring and promotional practices, and scrubbing political considerations from the City's long history of patronage-based employment practices. The successes in this area allow Hiring Oversight to pledge in 2019 to seek streamlining amendments to the City's Hiring Plans that will assure continuing safeguards against unconstitutional hiring practices through more efficient procedures and protocols.

OIG's Public Safety section likewise did not exist in 2011. Its existence is a byproduct of wrenching internal and external reviews and investigations of historical practices of

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the Chicago Police Department (CPD), conducted by the Mayor's Police Accountability Task Force in 2016 and the Department of Justice Civil Rights Division into 2017. The creation of the Public Safety section within OIG has begun shedding light and understanding on aspects of the operations of CPD that resulted in practices and outcomes which severely frayed police-community relations, in ways that in recent years have impeded the Department's critically important law enforcement and community safety objectives.

Additionally, OIG's Center for Information Technology & Analytics did not exist in 2011. Today, it is engaged in cutting edge data analytics in the service of OIG's mission work, and is soon to move into predictive analytics. It has also created and continues to build on what I regard to be a critical contribution to government transparency and community empowerment in its evolving Information Portal, found at [informationalportal.igchicago.org](http://informationalportal.igchicago.org) <<http://informationalportal.igchicago.org>>, where members of the public,

aldermen, and officials can engage use-friendly, interactive visualization tools that render understandable data-based information regarding varied aspects of City operations.

None of this could have occurred without support from a City Hall that came to appreciate that one of the best measures of the value of a government administration is not whether scandal occurs during its time, but rather how it responds to scandals when they, inevitably, do occur. One clear measure of that is whether an administration provides the necessary support for the operation of an independent office of inspector general that can and does, with transparency: root out misconduct, abuses of authority, and criminality; recover wrongfully diverted taxpayer money; perform independent performance audits that close control and policy gaps through which waste and opportunities for misconduct flourish; and identify efficiencies and savings through recommendations for better government administration. On that score, there has clearly been significant progress during these last eight years; progress reflected in a recently concluded triennial peer review of the operations of OIG-conducted by a team of outside officials from federal oversight bodies around the country, selected by the national Association of Inspectors General-which found the Chicago OIG to be exemplary in its operations.

The continuing stream of news regarding ongoing corruption investigations is a clear indicator that there is much, much more to do. But it is important, amidst that disheartening news, to take a moment to appreciate the progress made and ongoing work being done by the outgoing administration. We look forward to a continuation of that progress and work in a new administration.

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Respectfully,

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## FIRST QUARTER 2019 HIGHLIGHTS

### 597

#### COMPLAINTS RECEIVED

Multiple OIC investigations established battery by a City contractor parking enforcement aide, sexual battery by a CFD firefighter, and excessive force by a CFD paramedic.

### 213

#### MATTERS CONCLUDED

**\$5,500**

COST  
RECOVERIES

**39**

AUDITED HIRING SEQUENCES

**8**

ISSUED REPORTS

Office of Emergency Management and Communications employees used intermittent leave under the Family and Medical Leave Act (FMLA) to take a Caribbean cruise together, submitting doctor's notes for bed rest and surgical procedures to justify the time off. Two of these employees took a combined 10 cruises using sick leave and/or FMLA leave dating back to 2010.

An audit of the Chicago Board of Elections Commissioners (CBOEC) found significant gaps in financial administration, budgeting, employee reimbursements, payroll, contract procurement, and cash management. OIG found that CBOEC did not fulfill obligations under the ACA, budget accurately for personnel, or have transparent hiring/promotional practices, in addition to no contingency plan to maintain continuity of operations in the event of attack or disaster.

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This quarterly report provides an overview of the operations of the Office of Inspector General (OIG) during the period from January 1, 2019, through March 31, 2019. The report includes statistics and narrative descriptions of OIG's activity as required by the Municipal Code of Chicago (MCC).

## **I. MISSION OF THE OFFICE OF INSPECTOR GENERAL**

The mission of OIG is to promote economy, effectiveness, efficiency, and integrity in the administration of programs and operation of City government.<sup>1</sup> OIG accomplishes its mission through investigations, audits, and other reviews. OIG issues summary reports of investigations to the appropriate authority, management officials, and/or the Mayor, with investigative findings and recommendations for corrective action and discipline. Summaries of sustained investigations and the resulting department or agency actions are released in quarterly reports. OIG's audit reports and advisories are directed to the appropriate agency authority or management officials for comment and then are released to the public on the OIG website. OIG's department notifications are sent to the appropriate agency authority or management officials for attention and comment,

and are summarized, along with any management response, in the ensuing quarterly report Finally, OIG issues reports as required by the Hiring Plan and as otherwise necessary to carry out its hiring oversight functions.

<sup>1</sup> "City government" includes the City of Chicago and any sister agency which enters into an Intergovernmental Agreement (IGA) with the City for the provision of oversight services by OIG

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## II. INVESTIGATIONS

The OIG Investigations section conducts both criminal and administrative investigations into the conduct of governmental officers, employees, departments, functions, and programs, either in response to complaints or on the Office's own initiative.

### A. COMPLAINTS RECEIVED THIS QUARTER

OIG received 597 complaints during the first quarter. The chart below breaks down the complaints OIG received during the past quarter by the method in which the complaint was reported.

#### CHART #1 - COMPLAINTS BY REPORTING METHOD

316

Online   Tipline   Mail   Referral   OIG   Fax   Board of

Initiated Ethics

Complaint Origin

Among other factors, OIG evaluates complaints to gauge the investigative viability and potential magnitude or significance of the allegations-both individually and programmatically.<sup>2</sup> The following table outlines the actions OIG has taken in response to these complaints.

<sup>2</sup> OIG's complaint intake process allows it to assess the substance of a complaint prior to processing and, after thorough review, to filter out complaints that lack sufficient information or clarity on which to base additional research or action, or are incoherent, incomprehensible, or factually impossible

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TABLE #1 - COMPLAINT ACTIONS

Status	Number of Complaints
Opened Investigation	33
Pending	78
Referred to Department/Sister Agency	151
Declined	335
Total	597

**B. PRIOR QUARTER COMPLAINTS**

OIG also took action on complaints that were pending at the end of the prior quarter by declining 66 complaints, opening 18 administrative or criminal investigations, and referring 30 complaints to sister agencies. Additionally, 3 complaints were referred to the Hiring Oversight section and 1 complaint was referred to the Audit and Program Review section. The following table provides the status of all complaints that were pending at the end of the previous quarter.

TABLE #2 - PRIOR PENDING COMPLAINTS

Status	Number of Complaints
Opened Investigation	18
Pending	0
Referred to Department/Sister Agency	30
Referred to Audit and Program Review	1
Referred to Hiring Oversight	3
Declined	66
Total	118

### C. NEWLY OPENED MATTERS

During the first quarter, OIG opened 232 matters. Of the newly opened matters, 181 were referred to other departments or investigative agencies. A total of 51 cases proceeded to an OIG investigation.<sup>3</sup> Of those cases, 49 remained open at the end of the quarter, 1 was closed administratively, and 1 was closed'^ustained. The following table categorizes the matters opened by OIG this quarter based on the subject of the matter

<sup>3</sup> More than one case may be opened on the same complaint, accounting for discrepancies between the total number of complaints opened as investigations and the total number of cases opened this quarter.

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TABLE #3 - SUBJECT OF INVESTIGATIONS AND REFERRALS

Subject of Investigations and Referrals •	Number of Investigations and Referrals '
Employees	175
Contractors, Subcontractors, and Persons Seeking Contracts	14
Elected Officials	18
Licensees	2
Other	23
Total	232

### D. CASES CONCLUDED THIS QUARTER

During the first quarter, OIG concluded 213 opened matters, 181 of which were-referred to the following: 136 to a City department and 45 to a sister agency or other external agency. Of the remaining concluded matters, 12 were closed as "sustained." A case is sustained when the evidence sufficiently establishes that either an administrative or criminal violation has occurred, or the case identifies a particular problem or risk that warrants a public report or notification to a department. A total of 14 matters were closed as "not sustained." A case is not sustained when OIG concludes that the available evidence is insufficient to prove a violation under applicable burdens of proof. A total of 6 matters were closed "administratively." A case is closed administratively when, in OIG's assessment, it has been or is being appropriately treated by another agency or department, the matter was consolidated with another investigation or, in rare circumstances, OIG determined that further action was unwarranted.

TABLE #4 - CASES CONCLUDED IN THE FIRST QUARTER

Status	Number of Cases
Referred to a City Department	136
Referred to a Sister/External Agency	45
Sustained	12
Not Sustained	14

Closed Administratively	6
Total	213

### E. PENDING MATTERS

At the close of the first quarter, OIG had a total of 183 pending matters, including investigations opened during the quarter.

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### F. INVESTIGATIONS NOT CONCLUDED IN TWELVE MONTHS

Under MCC § 2-56-080, OIG must provide quarterly statistical data on pending investigations open for more than 12 months. Of the 183 pending matters, 51 investigations have been open for at least 12 months' The following table shows the general reasons that these investigations remain active.

TABLE #5 - REASONS INVESTIGATIONS WERE NOT CONCLUDED IN TWELVE MONTHS

Reason	Number of Investigations
Complex or resource-intensive investigation, which may involve difficult issues or multiple subjects	39
Extended due to higher-risk, time-sensitive investigations	10
Additional complaints added during the course of the investigation	1
On hold, so as not to interfere with another ongoing investigation	1
Total	51

### G. ETHICS ORDINANCE COMPLAINTS

During the first quarter, OIG received 21 ethics ordinance complaints. OIG declined 9 ethics ordinance complaints because they lacked foundation, 4 ethics ordinance complaints were opened for investigation, 7 ethics ordinance complaints were referred to the appropriate City departments, and 1 ethics ordinance complaint is pending.

### H. PUBLIC BUILDING COMMISSION COMPLAINTS AND INVESTIGATIONS

OIG received no complaints related to the Public Buildings Commission (PBC) in the first quarter.

■<sup>1</sup> Of the 51 cases opened longer than 12 months, 12 are criminal matters being conducted under the direction of county, state, or federal prosecutorial bodies

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### III. ADMINISTRATIVE CASES

OIG investigations may result in administrative sanctions, criminal charges, or both. Investigations leading to administrative sanctions involve violations of City rules, policies or procedures, and/or waste or inefficiency. For "sustained" administrative cases, OIG produces summary reports of investigation<sup>5</sup>-a summary and analysis of the evidence and recommendations for disciplinary or other corrective action. OIG sends these reports to the appropriate authority, including the Office of the Mayor, the Corporation Counsel, and the City departments affected by or involved in the investigation. When officials are found to be in violation of campaign finance regulations, the law affords them the opportunity to cure the violation by returning excess funds.

#### A. CAMPAIGN FINANCE INVESTIGATIONS

The MCC bans City vendors, lobbyists, and those seeking to do business with the City from contributing over \$1,500 annually to any elected City official's or candidate's political campaign. Potential violations of the cap are identified through complaints and OIG analysis. Other rules and regulations such as Executive Order 2011-4 place further restrictions on donations. Once a potential violation is identified, OIG notifies the donor and the donation recipient of the violation and, in accordance with the MCC, provides the individual or entities 10 days to challenge the determination or cure the violation by returning the excess donation. If the excess donation is returned in a timely manner, or it is determined that a violation did not occur, OIG closes the matter administratively. In the event the matter is not cured or rightfully challenged, OIG will sustain an investigation and deliver the case to the Board of Ethics for adjudication. This quarter OIG resolved no campaign finance violation matters.

#### B. SUSTAINED ADMINISTRATIVE INVESTIGATIONS

The following are brief synopses of administrative investigations completed and reported as sustained investigative matters. These synopses are intended to illustrate the general nature and outcome of the cases for public reporting purposes and thus may not contain all allegations and/or findings for each case.

In addition to OIG's findings, each synopsis includes the action taken by the department in response to OIG's recommendations. City departments have 30 days to respond to OIG recommendations.<sup>b</sup> This response informs OIG of what action the

<sup>5</sup> Per MCC § 2-56-060, "Upon conclusion of an investigation the inspector general shall issue a summary report thereon. The report shall be filed with the mayor, and may be filed with the head of each department or other agency affected by or involved in the investigation"

"■ PBC has 60 days to respond to a summary report of investigation by stating a description of any disciplinary or administrative action taken by the Commission If PBC chooses not to take action or takes

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department intends to take. Departments must follow strict protocols, set forth in the City's Personnel Rules, Procurement Rules, and/or applicable collective bargaining agreements, prior to imposing disciplinary or corrective action.

In deference to the deliberative processes of City departments and the contractual rights of employees relating to discipline, OIG does not report on cases regarding current City employees until the subject's department has acted on and/or responded to OIG's report. For cases in which a department has failed to respond in full within 30 days (or 60 days if an extension has been granted), the response will be listed as late. The following table lists concluded matters for which OIG has received a department response this quarter.

TABLE #6 - OVERVIEW OF CASES COMPLETED AND REPORTED AS SUSTAINED MATTERS

Case Number	Department or Agency	OIG Recommendation	Department or Agency Action
#18-0735	Finance	Find that evidence established violations against contractor's employees	Parking enforcement aide-discharged Second parking enforcement employee-two-day suspension
#18-0526	Fire	Discharge	Discharged
#18-0371	Water Management	Discipline up to and including discharge	Retired in lieu of discharge
#18-0275	Streets and Sanitation	Discipline commensurate with gravity of violations	No discipline
#18-0116 and #18-0248	Streets and Sanitation	Designate as having resigned under inquiry	Designated as having resigned under inquiry
#17-0411 and #17-0455	Emergency Management and Communications	Discharge	PCO A, C, and D-discharged: appeal pending

an action different from that recommended by OIG, PBC must describe that action and explain the reasons for that action. If OIG issues a report to the Chairman of the City Council Committee on Committees, Rules and Ethics, the Chairman must forward the report to the appropriate City Council authority within 14 days. After receiving the report, that individual has 30 days to provide a written response to the Inspector General (or 60 days if a full extension has been granted or if action by the Chairman of the Committee on Committees, Rules and Ethics is required)

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Case Number	Department or Agency	OIG Recommendation	Department or Agency Action
#17-0283	Emergency Management and Communications	Discharge	PCO B-resigned in lieu of discharge Discharged; appeal pending
#17-0244	Fire	Discipline commensurate with gravity of violations	Written reprimand
#17-0082	Transportation	Find probable cause, impose sanctions, and designate as resigned under inquiry	Current employee and City contractor: letter of admonition Former employee: Designated as resigned under inquiry

#15-0512	Business Affairs and Consumer Protection	Impose sanctions commensurate with gravity of violations	Under review for possibility of false statement prosecutions ..
#09-1556	Procurement Services	Debarment	Debarment proceedings pending

1 Battery by Contract Parking Enforcement Aide (#18-0735)

An OIG investigation established that a parking enforcement aide, while working for a City contractor on behalf of the City, forcefully grabbed an individual by his clothing. The investigation further established that a second contract parking enforcement employee observed the incident and did not properly notify the City contractor of the altercation. The first parking enforcement aide's conduct violated Illinois state law and the City's contract with the contractor. In October 2018, after OIG showed the contractor management security camera footage of the incident and identified the two parking enforcement employees, the contractor terminated the parking enforcement aide's employment and issued the second parking enforcement employee a written warning and a two-day suspension.

In the course of the investigation, OIG interviewed the victim, who reported that the parking enforcement aide and second employee cursed at him as his vehicle was parked in a valet loading zone at a hotel around midnight. He reported that, while unloading his car, he walked to the rear of the vehicle, at which point, the parking enforcement aide grabbed him by the back of his collar and shoved him. Hotel security camera footage shows a parking enforcement aide, wearing a neon yellow

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and orange vest, forcefully grabbing, pushing, and shoving an individual. The video also shows another parking enforcement employee standing on the sidewalk during the altercation.

OIG recommended that the Department of Finance (DOF) find that the evidence established the violations, record that the City contractor resolved the issue with its employees, and ensure that the parking enforcement aide does not perform City work for the contractor in the future. DOF agreed with OIG's findings and informed OIG that the contractor had previously received customer service complaints regarding the two employees. DOF also informed OIG that the second parking enforcement employee resigned in January 2019.

2. Sexual Battery by CFD Firefighter (#18-0526)

An OIG investigation established that a Chicago Fire Department (CFD) firefighter sexually harassed and committed battery against a City College of Chicago student participating in a CFD ride-along program as part of the student's training to become a paramedic. Specifically, while on duty and eating dinner in the firehouse, the firefighter made lewd comments and rubbed the student's thigh and genitals while they were seated together at a dinner table. The student promptly alerted the student's parents, the police, and the supervisor of the student's academic program, each of whom OIG interviewed in the course of the investigation. Each of these outcry witnesses confirmed the student's consistent version of events. While the firefighter denied these allegations in an OIG interview, the firefighter admitted to sitting next to the student during dinner and claimed to not recall the details of their interaction. The Cook County State's Attorney's Office subsequently charged the firefighter with one count of misdemeanor battery against the student. At a bench trial on April 4, 2019, the court found the firefighter not guilty of the criminal charge.

OIG recommended that CFD discharge the firefighter and refer the firefighter for placement on the ineligible for rehire list maintained by the Department of Human Resources (DHR).

In response, CFD discharged the firefighter and placed the firefighter on the ineligible for rehire list.

### 3 Drinking on Duty (#18-0371)

An OIG investigation established that a Department of Water Management (DWM) construction laborer stopped at a restaurant while on duty and consumed two alcoholic beverages within twenty minutes, while the rest of the laborer's work crew waited outside. Surveillance video captured the construction laborer seated at the restaurant bar and drinking the alcoholic beverages. In an OIG interview, the

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construction laborer admitted to drinking alcohol while on duty at the restaurant and admitted to drinking alcohol while on duty on previous occasions.

OIG recommended that DWM impose discipline up to and including discharge, commensurate with the gravity of the construction laborer's violations, past disciplinary record, and any other relevant considerations.

In response, DWM notified OIG that the construction laborer retired from City employment in lieu of discharge.

### 4. False Statements, Unauthorized Secondary Employment (#18-0275)

An OIG investigation established that a current Department of Streets and Sanitation (DSS) hoisting engineer had previously made a false statement when the hoisting engineer commenced City employment with Chicago Department of Transportation (CDOT) in 2010. The hoisting engineer denied engaging in secondary employment despite being employed by a suburban fire department as a firefighter. In addition, the hoisting engineer subsequently failed to disclose and-obtain permission for continued secondary employment during the intervening years. The hoisting engineer failed to submit any annual updated dual employment forms between 2011 and 2018, despite continued employment at the suburban fire department.

OIG recommended that DSS impose discipline against the hoisting engineer, commensurate with the gravity of the hoisting engineer's violations, past disciplinary record, and any other relevant considerations.

In response, DSS declined to impose any discipline against the hoisting engineer. DSS noted that the hoisting engineer had recently filed a dual employment form, and any past violations occurred when the hoisting engineer worked for CDOT. Additionally, despite evidence establishing that the hoisting engineer is a paid firefighter with the suburban department, DSS stated that it based its decision on the fact that, in the most recent dual employment paperwork, the hoisting engineer described the work as that of a volunteer firefighter.

### 5. Residency Violation and FMLA Abuse (#18-0116 and #18-0248)

An OIG investigation established that a DSS sanitation laborer lived in Addison, Illinois, in violation of the City's Municipal Code (MCC) § 2-152-050, requiring its employees to reside in Chicago. Record evidence showed that the laborer had discontinued electrical service to the declared City residence as early as 2015. Between May and July of 2018, OIG conducted multiple surveillances on the Addison property. On each occasion, OIG observed the laborer leave the residence, enter a vehicle, and drive

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away. A short time later, the laborer clocked into work at a DSS facility, according to Kronos timekeeping records.

A separate OIG investigation revealed that the same laborer fraudulently used leave under the Family and Medical Leave Act (FMLA) to attend a court hearing in November 2014. At the November 2014 court appearance, the laborer entered a guilty plea for one count of Aggravated Assault/Use of a Deadly Weapon and was sentenced to four months of court supervision. Kronos records show that the laborer used one FMLA day to account for the absence from work on the date of the court appearance.

Two days after the laborer received notification of an OIG interview concerning these investigations, the laborer resigned from City employment. Were the laborer still a City employee, OIG would have recommended that DSS discipline the laborer in accordance with the residency ordinance, which mandates discharge. However, because the laborer left employment immediately after being formally notified of the OIG investigation, OIG recommended that DSS find that the evidence established the foregoing violations, designate the laborer as having resigned under inquiry, and place the OIG report and evidentiary files in the laborer's personnel file for consideration in the event the laborer applies for re-employment with the City.

In response, DSS agreed that the evidence established the laborer's violations and placed the OIG report in the laborer's personnel file. DHR designated the laborer as having resigned under inquiry.

6. FMLA Abuse (#17-0411 and #17-0455)

An OIG investigation established that three Office of Emergency Management and Communications (OEMC) police communications operators (PCO) used intermittent FMLA leave to take a Caribbean cruise together in July 2017. Records and testimony demonstrated that PCO A, PCO B, and PCO C booked the 2017 cruise almost a full year in advance, but never submitted the appropriate requests for time off: instead, all three PCOs used intermittent FMLA leave for at least a portion of the vacation. None of the PCOs disclosed to OEMC at any time that the FMLA leave was for the cruise. PCO A submitted a doctor's note to justify using FMLA leave for the time off, yet the doctor told OIG that he recommended bedrest for PCO A and did not know PCO A intended to go on a cruise. PCO B submitted an FMLA time-off request slip that stated the employee would be undergoing a surgical procedure when, in fact, the employee was on the cruise. While on the cruise, the three PCOs consumed alcohol, went to numerous restaurants, attended night clubs, toured Caribbean islands, went horseback riding, rode jet skis, and even went on a "booze cruise."

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OIG's investigation also established that, in addition to the 2017 cruise, PCO A and PCO B took a combined ten cruises using sick leave and/or FMLA leave dating as far back as 2010.

A separate OIG investigation established that an additional PCO (PCO D) used a total of 19 FMLA days to take two Caribbean cruises in 2014 and 2017. PCO D never submitted the appropriate requests for time off. Instead, PCO D acquired doctors' notes indicating flare-ups of a medical condition as a pretext to use FMLA leave. Records and testimony obtained over the course of the investigation demonstrated that PCO D flew on planes, watched evening movies on the ship deck, ate at . restaurants, consumed alcohol (including the "drink of the day"), toured various islands, shopped, and even went to a nightclub while on the cruises. In an interview with OIG, PCO D admitted the use of FMLA was "just to get away."

OIG recommended OEMC discharge PCO A, PCO B, and PCO D, and refer them for placement on the ineligible for rehire list maintained by DHR. For the remaining employee, PCO C, OIG recommended OEMC impose discipline up to and including discharge, commensurate with the gravity of the employee's past violations, past disciplinary record, and any other relevant considerations

In response, OEMC discharged PCO A, PCO C, and PCO D. PCO B resigned in lieu of discharge.

OEMC further noted in its response to OIG, that in 2017, OEMC established an internal FMLA Efficient Use and Review Committee to examine its FMLA process and procedures, to keep in line with best practices. OEMC also instituted mandatory FMLA training for supervisors to equip them with firsthand knowledge about FMLA processing, allowances, and abuse.

7. Residency Violation (#17-0283)

An OIG investigation established that an OEMC supervising police communications operator lived in Monee, Illinois, in violation of the City's Municipal Code (MCC) § 2-152-050, requiring its employees to reside in Chicago. In the course of the investigation, OIG gathered documents including a 2017 deed and mortgage in the employee's name for the Monee property. OIG conducted multiple surveillances in Monee, and on five separate surveillances observed the employee drive from work toward the Monee property. Documents further established that the employee predominantly < made purchases in Monee, Tinley Park, and other surrounding suburbs. Furthermore, the employee admitted to residing full-time in Monee and only maintaining an apartment in the City to satisfy the residency ordinance.

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OIG recommended that OEMC take action consonant with the residency ordinance and discharge the employee and refer the employee for placement on the ineligible for rehire list maintained by DHR.

In response, OEMC discharged the employee and placed the employee on the ineligible for rehire list. The employee appealed the discharge, and the appeal is currently pending before the Human Resources Board..

8. Excessive Force by a CFD Paramedic (#17-0244)

An OIG investigation established that a CFD paramedic in charge used excessive force on a patient after unsuccessfully attempting to persuade the patient to consent to treatment. The paramedic, whose actions were captured by body cameras of CPD officers who were also present at the scene, quickly and forcefully twisted the patient's head more than 90 degrees and pushed it against a wall. Although the paramedic claimed to have used the minimum amount of force necessary to prevent the patient from spitting on the paramedic, the paramedic clearly acted out of anger, as the paramedic simultaneously threatened the patient with profane language, stating: "Don't spit in my face motherfucker. You got it?" The paramedic's use of force contravened CFD training-and exposed the City to potential liability-as it escalated the interaction between the paramedic and patient to a physical confrontation which resulted in the patient being tased by a CPD officer. Accordingly, OIG recommended that CFD impose discipline against the paramedic, commensurate with the gravity of the paramedic's violations, past disciplinary record, and any other relevant considerations.

In response, CFD stated that it concurred with OIG's findings that the paramedic violated CFD's code of conduct. CFD noted, though, that the paramedic "faced a combative patient in a crowded and narrow stairwell" and described the paramedic's conduct'as a "visceral reaction to a combative patient." CFD therefore concluded that the appropriate penalty for the paramedic's violations of CFD rules was a written reprimand.

9. Prohibited Gifts to City Employees (#17-0082)

An OIG investigation established that a CDOT employee violated the City of Chicago Governmental Ethics Ordinance by knowingly accepting prohibited gifts from a City contractor. Likewise, the City contractor violated the Ethics Ordinance by providing the CDOT employee with gifts in the form of \$825 worth of dinners and paid registration to a conference and networking event. Specifically, OIG determined that the City contractor paid for six dinners and a conference registration fee on behalf of the employee, as well as tickets to a dinner and networking event at the Willis Tower that included a cocktail hour and open bar, for both the CDOT employee and the

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employee's spouse, at which they were incorrectly listed as employees of the City contractor, rather than the City of Chicago.

Further, the OIG investigation established that a former CDOT employee failed to comply with the City employee travel policy for 10 trips outside of Chicago, during which a City contractor paid \$2,069.89 for the former CDOT employee's hotels and conference registration fees. In addition, the former CDOT employee misused City property by approving payment vouchers reimbursing the City contractor for their payments of the former employee's conference fees and hotel stays.

OIG recommended that the Board of Ethics find probable cause to believe that the current CDOT employee, the City contractor that paid for \$825 in gifts, and the former CDOT employee each violated the Ethics Ordinance and impose appropriate sanctions. In addition, OIG recommended that CDOT ask DHR to designate the former employee as "resigned under inquiry," and place the Department's response in the former employee's personnel file for consideration in the event the former employee applies for re-employment with the City.

In response, the Board of Ethics determined that the violations committed by the current CDOT employee and the contractor that gifted the employee six dinners, one conference registration fee, and tickets to a Willis Tower event for the employee and the employee's spouse, were minor, and that the Board would have approved them as educational meetings had the employee sought permission in advance and sought approval after each event. Therefore, the Board of Ethics decided to issue confidential letters of admonition to the employee and the City contractor. The Board also determined that the former CDOT employee violated the Ethics Ordinance by receiving gifts and misusing City property and set a date for the former employee to respond to the Board's determination. In addition, CDOT designated the former employee as having resigned under inquiry and placed a copy of OIG's report in the former employee's personnel file.

#### 10. False Statements to the City (#15-0512)

An OIG investigation established that a single room occupancy (SRO) establishment submitted false statements in its business license and annual renewal applications to the Department of Business Affairs and Consumer Protection (BACP). OIG determined the licensee was a limited liability corporation (LLC), and the LLC and its affiliated individuals knew or should have known the license and applications falsely stated that the SRO was a sole proprietorship, when in fact the LLC had owned and operated the SRO since 2002. OIG determined that the alleged sole proprietor died in 2004, but the name and purported signature of the deceased sole proprietor continued to appear on the SRO's business license renewals until 2015. In 2016, the

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LLC corrected the SRO's license and renewal applications, listing the LLC as the owner and operator.

OIG recommended that BACP impose sanctions commensurate with the gravity of the violations, up to and including license revocation and fines against the LLC and its affiliated individuals.

In response, BACP determined that because the alleged misstatements concerned the SRO's operations as a sole proprietor, an entity that is no longer in operation and whose license expired in 2015, BACP is unable to pursue license sanctions against the LLC. Nonetheless, to ensure business compliance following OIG's investigation, BACP stated that it would request a review of business license ownership through a request of books and records, and a City inspection of the SRO by both BACP and Department of Building inspectors in January 2019. BACP further stated that it would consult with the Department of Law regarding the possibility of false statement prosecutions for the individuals involved and would explore the potential for legislation to prohibit any person who has submitted false statements to the City from receiving a business license.

#### 11. MBE Pass-Through Fraud (#09-1556)

An OIG investigation, concluded in 2011, established that an MBE firm certified for the supply and installation of windows acted as a classic M/WBE "pass-through" for a prime contractor working on the Residential Sound Insulation Program (RSIP), a federally funded program to provide sound insulation for the homes surrounding Midway and O'Hare International airports. The prime contractor knowingly claimed over \$7 million of M/WBE credit for utilizing the subcontractor, while the prime contractor controlled nearly all aspects of the subcontractor. The president of the subcontractor did not control the managerial and operational aspects, nor could the subcontractor exist without the control, resources, and assets of the prime contractor, thereby violating numerous provisions of the City's M/WBE regulations and the express terms of the City contract. The prime contractor also failed to undertake background checks for its subcontractors' employees who entered homes under the RSIP contracts. OIG recommended that the subcontractor be decertified as an MBE, and that both the subcontractor and its president be permanently debarred from doing business with the City. Further, OIG recommended that the prime contractor and its president be permanently debarred from doing business with the City.

*In response, in 2011, the Department of Procurement Services (DPS) initiated the debarment process for all parties. DPS permanently debarred the subcontractor and its president in August 2011. DPS suspended the debarment process for the prime contractor and president pending the resolution of federal civil litigation regarding the same allegations {U.S. and the City of Chicago, ex re/, Chicago Regional Council of*

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Carpenters, United Brotherhood of Carpenters and Joiners of America v. Sound Solutions Windows and Doors, Inc., et al, 09-CV-6948 (N.D. Ill.)). The civil litigation concluded in December 2017 with a monetary judgment in the City's favor, totaling \$13,554,508.01, including penalties and treble damages as permitted under the City's False Claims Ordinance.

In January 2019, DPS issued a notice to the prime contractor and its president proposing their permanent debarment. DPS' notice cited the federal court's determination that the contractor had committed MBE fraud and further supplied defective windows and doors and failed to honor its warranties. The debarment proceedings remain pending.

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## **IV. CRIMINAL CASES, ADMINISTRATIVE APPEALS, GRIEVANCES, AND RECOVERIES**

Criminal investigations may uncover violations of local, state, or federal criminal laws, and may be prosecuted by the U.S. Attorney's Office, the Illinois Attorney General's Office, or the Cook County State's Attorney's Office, as appropriate. For the purposes of OIG quarterly summaries, criminal cases are considered concluded when the subject(s) of the case is publicly charged by complaint, information, or indictment.<sup>7</sup>

In administrative cases, a City employee may be entitled to appeal or grieve a departmental disciplinary action, depending on the type of corrective action taken and the employee's classification under the City's Personnel Rules and/or applicable collective bargaining agreements. OIG monitors the results of administrative appeals before the Human Resources Board (HRB) and grievance arbitrations concerning OIG's disciplinary recommendations.

### **A. SYNOPSES OF CRIMINAL CASES**

1 United States v. John McClendon, 19 CR 100 (N.D. Ill.) (#17-0267)

On February 5, 2019, John McClendon, owner and president of McClendon Holdings LLC, was indicted on federal charges, including four charges of wire fraud (18 U.S.C. 1343) for defrauding the City of Chicago, by falsifying price increases in two City contracts that were secured in 2014 and 2015.

The indictment alleges that McClendon won a bid in 2014 to supply the City's Department of Water Management with butterfly valves in a five-year, \$11.7 million contract, and won a second bid in 2015 to supply the City's Department of Transportation with pavement marking materials in a five-year, \$1.45 million contract.

The contracts allowed for the contractor to raise prices three to five percent annually after the first year if the cost of raw materials increased, as long as the increases were supported by a statement from the supplier confirming the price increases.

The indictment further alleges that McClendon requested a price increase from the City on both contracts despite not having incurred any increases in the cost of raw materials. Without the supplier's knowledge, McClendon forged and fabricated letters that were purported to be from his suppliers in order to support the proposed price increases. He then submitted these letters to the City in an attempt to increase profits.

'OIG may issue summary reports of investigation recommending administrative action based on criminal conduct prior to, during, or after criminal prosecution

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On February 25, 2019, McClendon was arraigned in federal court in the Northern District of Illinois and is scheduled to return on June 6, 2019. This investigation was conducted by OIC, working in conjunction with the United States Attorney's Office for the Northern District of Illinois and the Chicago Field Office of the Federal Bureau of Investigation. The charge of wire fraud carries a maximum statutory sentence of 20 years in prison.

The public should note that charges in an indictment are not evidence of guilt. The defendant is presumed innocent and entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

### **B. DEVELOPMENTS IN PRIOR CHARGED CRIMINAL CASES**

During the first quarter, there were no developments in previously reported criminal cases.

### **C. SYNOPSES AND RESULTS OF ADMINISTRATIVE APPEALS, GRIEVANCES, OR OTHER ACTIONS**

OIG has been notified of eight updates regarding appeals to HRB or an arbitrator or other actions in the first quarter regarding discipline imposed or other actions resulting from OIG investigations

#### 1. Excessive Force, False or Inaccurate Reporting (#17-0187)

As reported in the third quarter of 2017, three Chicago Department of Aviation (CDA) aviation security officers (ASOs) and one aviation security sergeant violated City of Chicago Personnel Rules in response to a passenger disturbance aboard United Airlines Express Flight 3411 on April 9, 2017. Specifically, the first ASO violated the CDA Use of Force policy when that ASO forcefully removed a passenger from the aircraft. Accordingly, OIG recommended CDA impose discipline up to and including discharge against the ASO, commensurate with the gravity of the ASO's violations, past disciplinary record, and any other relevant considerations. OIG's investigation also established that the second and third ASOs made misleading statements and/or material omissions in reports regarding the first ASO's forceful removal of the passenger from the aircraft. Thus, OIG recommended CDA impose discipline against the second and third ASOs, commensurate with the gravity of their violations, past disciplinary record, and any other relevant

considerations. Finally, OIG's investigation established that the sergeant deliberately removed material facts from a report and approved reports without all essential information. Thus, OIG recommended CDA impose discipline up to and including discharge against the sergeant, commensurate with the gravity of the sergeant's violations, past disciplinary record, and any other relevant considerations

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In response, CDA discharged the first ASO and the sergeant, and issued five-day suspensions to the second and third ASOs. Each employee grieved the discipline. The City agreed to reduce the second ASO's suspension to two days. The third ASO withdrew the grievance and resigned. In March 2018, an arbitrator upheld the discharge of the first ASO.

In October 2018, after five days of hearings spanning from February 2018 to August 2018, the hearing officer recommended that HRB uphold the discharge of the sergeant. The hearing officer noted that the sergeant's ordered changes "materially changed the tone and character and minimized the substance of the report." On November 13, 2018, HRB heard oral arguments by the City and the sergeant. In January 2019, HRB adopted the hearing officer's findings and recommendations and upheld the discharge of the sergeant.

#### 2. Inappropriate Acceptance of Gifts (#17-0148)

As reported in the third quarter of 2018, an OIG investigation established that a DWM inspector accepted a gift valued over \$50 in violation of the City of Chicago Governmental Ethics Ordinance. Specifically, the inspector provided advice or assistance to the owner of a plumbing contractor in exchange for free access for the inspector and the inspector's son to a rooftop viewing of the Chicago Cubs National League Championship Series baseball game.

OIG requested the City of Chicago Board of Ethics (BOE) issue a finding of probable cause to believe the inspector violated the City of Chicago Governmental Ethics Ordinance and impose appropriate sanctions. Additionally, because the inspector resigned before the completion of OIG's investigation, OIG recommended that DWM issue a formal determination on the violation, designate the inspector as having resigned under inquiry, and place the report along with the Department's response and designation in the inspector's personnel file for consideration in the event the inspector reapplies for employment with the City.

DWM concurred with OIG's findings, placed the report in the employee's personnel file, and designated the employee as having resigned under inquiry.

At its July 2018 board meeting, BOE found there was probable cause to believe the inspector violated the Ethics Ordinance. At its December 2018 board meeting, BOE sustained a finding that the inspector had violated the Ethics Ordinance and entered into a settlement agreement with the inspector. As part of that agreement the inspector acknowledged accepting a prohibited gift and failing to disclose that gift on a statement of financial interests. The inspector agreed to pay a fine of \$500 to BOE and submit a corrected Statement of Financial Interests.

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3. Improper Negotiation of Future Employment and Improper Lobbying by a Former Elected Official (#16-0240)

As reported in the second quarter of 2018, an OIG investigation established that a former elected official for the City of Chicago improperly negotiated the possibility of future employment with a private company ("Company A") while Company A had a matter pending before the official, and improperly lobbied City of Chicago employees and officials on behalf of Company A within a year of leaving elected office. OIG concluded that the former elected official's conduct violated the City of Chicago Governmental Ethics Ordinance, MCC §§ 2-156-111(c) and 2-156-105(a-l). In May 2018, BOE found probable cause as to OIG's finding that the former elected official had engaged in lobbying during the one-year prohibition imposed by the Ethics Ordinance. BOE found no probable cause and dismissed OIG's finding that the former elected official improperly negotiated the possibility of future employment with Company A while Company A had a matter pending before the official.

In January 2019, BOE entered into a settlement agreement with the former elected official. Without admitting the conduct at issue constituted a violation, the former elected official agreed to pay a fine of \$5,000 to BOE in order to resolve the matter without a full evidentiary hearing.

4. Public Contractor Theft of City SSA Funds (#16-0334)

As reported in the third quarter of 2018, an OIG investigation established that in 2015, the executive director of a non-profit, which contracted with the City to manage a special service area (SSA), forged the signature of an SSA commissioner on three SSA checks totaling \$5750 and deposited those tax dollars into a bank account the executive director controlled, with the intent to permanently deprive the SSA of the use and benefit of the money.

The executive director ultimately confessed about the forged check to SSA commissioners but claimed that the checks were used to pay the non-profit contractor's advertising expenses with a newspaper that the executive director owned. The SSA's commissioners rejected the purported advertising costs as unauthorized expenses and the executive director agreed to repay the stolen funds. The executive director then created fraudulent, inflated invoices from the newspaper to the contractor and convinced the contractor's board to pay the newspaper the same amount the executive director originally stole from the SSA. The executive director then used the contractor's money to repay the SSA. In so doing, the executive director violated multiple Illinois criminal statutes, including forgery, theft, and public contractor misconduct and further violated the City of Chicago's Debarment Rules.

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After the executive director's forgery and theft in 2015, the contractor's board of directors was notified of the

misconduct yet failed to take any significant action in response. In 2017, a U.S. Bank employee and close friend of the executive director was charged by the Cook County State's Attorney [Stale or Illinois v. Alyssa Cornejo, 18 CR 0291201 #16-0334) with theft of the contractor's funds through multiple cash withdrawals from the contractor's account between August 2016 and March 2017, bearing the forged signature of the contractor's board president. OIG ultimately identified approximately \$22,342 in fraudulent cash withdrawals from the contractor's account. The contractor did not identify these fraudulent withdrawals, suggesting weak financial controls. Moreover, the executive director's serious misconduct in 2015 ■ may be imputed to the contractor pursuant to the City of Chicago Debarment Rules.

In addition, the contractor failed to cooperate with OIG's investigation of this matter. OIG issued a subpoena for records in September 2017 and despite OIG's attempts to communicate with the contractor regarding the subpoena, the contractor failed to respond.

OIG recommended the Department of Procurement Services (DPS) initiate debarment proceedings against the contractor to determine appropriate remedial action and further initiate permanent debarment proceedings against the executive director

In response, DPS sent letters to the contractor and the executive director, informing them that OIG had recommended both their debarments. The letters also informed them that they had 30 days to submit written answers to DPS concerning OIG's recommendations, after which DPS would make a decision. In February 2019, after sending multiple notices and having received no response from either the contractor or the executive director, DPS permanently debarred both parties.

#### 5. Incompetence and Secondary Employment (#16-0201 and #16-0182)

As reported in the third quarter of 2018, an OIG investigation established that a Department of Buildings (DOB) inspector, improperly and incompetently "complied" a property that had uncorrected building code violations. The inspector's incompetence raised substantial concerns about credibility as a building inspector and created the appearance of preferential treatment for individuals at the property.

Additionally, the inspector failed to disclose and obtain authorization for secondary employment and falsely reported they not receive more than \$1,000 from secondary employment on their 2016 Statement of Financial Interests, a violation of the Personnel Rules and the City of Chicago Ethics Ordinance. The inspector made false statements to OIG concerning the secondary employment.

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OIG recommended that DOB discharge the inspector and refer the inspector for placement on the ineligible for rehire list maintained by DHR.

In response, DOB discharged the inspector, and the inspector appealed the discharge to HRB. Following a one-day hearing, a hearing officer issued a report recommending that HRB issue an order upholding the termination. In the report, the hearing officer noted that "[The inspector's] representations to the IG investigator during [the] interview and during the hearing regarding the scope of [the inspector's] discretion were either

intentionally false or at least inaccurate reflecting poorly on [the inspector's] competence in light of the 12 years of experience as a building inspector." The hearing officer further wrote, "[the inspector's] explanation that the [secondary employment] payments were made to repay a personal debt owed to [the inspector] by [the inspector's sibling] was an obvious untruth which reflected poorly in [the inspector's] overall credibility." The inspector's position was one of "great responsibility, and trust requiring a high degree of honesty and integrity. The evidence concerning [the inspector's] actions regarding the ... property indicate that [the inspector] lacks these qualities." On March 20, 2019, HRB agreed with the hearing officer's recommendation and upheld the termination.

#### 6. Falsification of Timekeeping Records (#16-0005)

As reported in the third quarter of 2018, an OIG investigation established that a CDOT foreman submitted 95 false timekeeping edit request forms over a nearly two-and-a-half-year period. Specifically, the false timekeeping edits bore a photocopy of the foreman's supervisors' signatures without the supervisors' knowledge or permission, a false reason for the time edit request, or both. Of the 95 edit slips, OIG identified 11 on which the foreman used white-out to alter either the date on the photocopy or the basis for the request on the photocopy before it was submitted. Furthermore, the foreman violated CDOT's Time and Attendance Policy by frequently failing to clock in to work more than three times within two adjoining pay periods.

OIG recommended that CDOT discharge the foreman and refer the foreman for placement on the ineligible for rehire list maintained by DHR.

In response, CDOT discharged the employee and placed the employee on the ineligible for rehire list. The employee appealed the discharge to HRB. Ultimately, CDOT settled the appeal, agreed to reduce the discipline to 4.5 months' suspension without pay, and reinstated the employee.

#### 7. Criminal Damage to Private Property (#15-0514)

As reported in the fourth quarter of 2017, an OIG investigation established that a tow truck driver for a DSS subcontractor committed criminal damage to property by

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using a baseball bat to break the rear windshield of a vehicle the driver was assigned to tow on behalf of the City. Two CPD officers witnessed the driver smash the rear windshield with the baseball bat; however, the owner of the vehicle never came forward to file a police report or cooperate with CPD's investigation. The tow truck driver admitted to breaking the rear windshield but lied to OIG in claiming that the subcontractor had imposed a suspension and reimbursement for damages paid to / the vehicle owner. OIG's investigation revealed that the subcontractor never disciplined the tow truck driver pursuant to the contractor's recommendations.

OIG recommended that DSS seek the immediate removal of the tow truck driver from any work on the City's towing contract and that DPS initiate debarment proceedings for the purpose of determining appropriate remedial action against the subcontractor for its failure to address its employee's illegal and unprofessional on-duty conduct.

In response, at DSS' request, the DSS contractor discharged the tow truck driver from all towing on the City's contract. DPS sent a letter to the subcontractor informing the subcontractor that OIG had recommended debarment and inviting a response.

In January 2019, DPS entered a settlement agreement with the subcontractor for deferred debarment, requiring the subcontractor to enact an ethics and compliance program, cooperate with any City investigation, follow all applicable laws and regulations, and provide annual reports for two years showing full compliance with its obligations under the agreement. Violation of the deferred debarment agreement may subject the subcontractor to a two-year debarment.

8. Political Hiring (#14-0242)

As reported in the first quarter of 2017, a City contractor reserved jobs for individuals in an alderman's ward, in violation of City rules and the terms of its multimillion-dollar contract with the City. In addition, during OIG's investigation, a supervisor for the contractor refused to answer relevant questions regarding the individual's prior employment and relationship with the alderman in question. OIG therefore recommended that DPS initiate debarment proceedings against the contractor and that DPS and the CDA bar the supervisor from performing any work pursuant to the company's contract with CDA.

In March 2019, DPS entered into a settlement agreement with the contractor, pursuant to which the contractor agreed to accept a two-year term of administrative review. Among other conditions of the administrative review, the contractor is to: (1) "comply with all provisions, terms, and conditions of the Contract it has; and contract(s) it may have with the City" during the administrative review period, including "the Shakman provisions and their requirements and restrictions on [the

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contractor's] employment practices, including hiring"; (2) "ensure that its ethics and compliance program ... is managed through written standards, policies and procedures, training and education of personnel, reporting and review"; (3) "maintain a Chief Compliance Officer to ensure appropriate and effective management of the Compliance Program" and to ensure that the contractor's employment practices comply with Shakman, the costs of which are to be paid by the contractor; and (4) restrict the supervisor who refused to answer OIG's questions from managing or working on City contracts or projects.

If the chief procurement officer (CPO) determines that the contractor has not complied with the conditions of the administrative review, the CPO "may issue a decision revoking the Administrative Review and imposing a debarment of up to three (3) years, and [the contractor] agrees to accept the decision of the [CPO]."

**D. RECOVERIES**

This quarter OIG received two reports of financial recoveries related to an OIG investigation.

TABLE #7-OV	REVIEW OF COST RECOVERY ACTIONS		
Case Number	Date	Source	Amount
17-0148	1/18/2019	Fine paid to the Board	\$500
16-0240	1/18/2019	Fine paid to the Board	\$5,000

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## V. AUDITS AND REVIEWS

In addition to confidential disciplinary investigations, OIG produces a variety of public reports including independent and objective analyses and evaluations of City programs and operations with recommendations to strengthen and improve the delivery of City services. These engagements focus on the integrity, accountability, economy, efficiency, and effectiveness of each subject. The following summarizes three reports released in the first quarter.

1. Audit of the Operations of the Chicago Board of Election Commissioners (#16-0291)<sup>8</sup>

OIG audited the financial and human resource operations of the Chicago Board of Election Commissioners (CBOEC). CBOEC is responsible for conducting all elections within the City of Chicago per the State Election Code, and is funded by both the City of Chicago and Cook County. Although CBOEC challenged OIG's jurisdictional authority, OIG completed the audit pursuant to its designation as an independent, external auditor by the Chief Judge of the Cook County Circuit Court.

OIG found significant gaps in CBOEC's financial administration related to vendor payments, cost allocations, budgeting, employee reimbursements, payroll, contract procurement, and cash management. Although CBOEC was informed of many of these gaps in May 2009, CBOEC did not implement many of the corrective actions it committed to undertake. OIG also found that CBOEC did not fulfill its obligations under the Patient Protection and Affordable Care Act (ACA), budget accurately for its personnel needs, have transparent hiring or promotional practices, or have succession plans for leadership and other critical positions. Lastly, OIG found that CBOEC does not have a contingency plan effectively designed to maintain continuity of operations in the event of attack or disaster.

We recommended that CBOEC undergo regular independent audits, develop and publish financial policies, develop accurate budgets, ensure that its purchasing department is included in all procurement activities, and correct outstanding financial inaccuracies. We also recommended that CBOEC immediately come into compliance with the ACA: conduct a staffing analysis and reach an agreement with the City regarding acceptable budgeting for hourly employees; develop standardized and transparent hiring, compensation, and performance management policies; develop succession plans for staff turnover; and develop a contingency plan that meets best practices. In response to our audit findings and recommendations, CBOEC stated that it tentatively agrees with some recommendations, disagrees with

<sup>8</sup> Published January 29, 2019. See <https://ig.chicago.gov/2019/01/29/audit-of-the-operations-of-the-chicago-board-of-election-commissioners/>

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others, and is still determining its response to others. CBOEC stated its intent to provide a final response to the audit by May 31, 2019.

#### 2. Department of Planning and Development Affordable Requirements Ordinance Administration Follow-Up Inquiry (#18-0859)<sup>9</sup>

OIG completed a follow-up to its March 2017 audit of the Department of Planning and Development's (DPD) administration of the Affordable Requirements Ordinance (ARO). That audit found that the City lacked an evidence-based strategy to define high and low opportunity areas and allocate ARO fees accordingly. Additionally, OIG determined that CCLT has never been sufficiently funded to achieve its mission of acquiring land for the creation of affordable housing units. The scope of the audit included the 2003 and 2007 versions of the Ordinance, but it did not include the 2015 ARO amendments, which addressed some of OIG's recommendations.

OIG recommended that DPD develop defined goals relating to the geographic distribution of affordable housing, and that, as part of this work, the Department assess and formalize the city's high opportunity areas for affordable housing development. OIG recommended that DPD incentivize affordable housing development in these areas and monitor outcomes on an ongoing basis to ensure that it meets its geographic distribution goals. Regarding CCLT, OIG recommended that DPD and CCLT work with City Council and the Office of Budget and Management to secure the financial resources necessary for CCLT to function as a community land trust.

DPD, working with the DePaul Institute for Housing Studies, used household income data from the U.S. Census Bureau to define three categories of housing zones- Higher Income, Low-Moderate Income, and Downtown-pursuant to the 2015 ARO, but has not set numerical goals relating to these zones. The Chicago Community Land Trust has now hired an executive director, increased the number of units in its portfolio, and made efforts to fundraise externally. However, it has declined to undertake additional steps OIG recommended to better align its operations with its organizational name and mission.

#### 3. Department of Human Resources Time-to-Hire Inquiry (#18-0878)

In November 2018, OIG requested an update from DHR on its progress developing goals and measures for the time it takes to hire a City employee. OIG undertook this inquiry in relation to our 2015 audit of the timeliness of the City's processes for filling employment vacancies. The 2015 audit found that the City lacked official performance

"Published February 19, 2019 See: <https://igchicago.org/2019/02/19/department-of-planning-and-development-affordable-requirements-ordinance-administration-follow-up-inquiry/>.

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goals for how long the full hiring process should take, did not track the time-to-hire for vacancies, and took an average of six months to fill vacant positions.<sup>10</sup>

In response to the audit, DHR and the Office of Budget and Management (OBM) described a number of corrective actions they would take regarding the development, tracking, and analysis of performance goals. They disagreed with OIG's other findings and recommendations, however, and declined to take corrective actions.

In 2017, OIG followed-up with DHR and OBM, and concluded that the City had begun implementation of corrective actions related to performance measures, but still disagreed with our other recommendations."

In January 2019, DHR responded to OIG's update request by describing its efforts to develop time-to-hire goals and tracking methods. Based on that response, OIG concludes that the City is still working to identify a tracking method that meets its needs and set time-to-hire goals. Specifically, DHR has (a) piloted a tracking tool (which was ultimately determined insufficient for the Department's needs); (b) partnered with a subset of departments to regularly prioritize, set goals for, and provide a status of each hiring sequence, with the intention of expanding these activities to all departments in 2019; (c) established working groups responsible for review of the hiring process, including the identification of bottlenecks; and (d) developed a list of characteristics required of an ideal tracking tool. Regarding (d), DHR stated that if it determines the City's existing technology can be adapted to serve its needs, it will make a recommendation on next steps in April 2019. If not, DHR and OBM will consider procuring a new, external technological solution. Once a tracking tool is implemented, DHR will work with OBM to develop time-to-hire goals and identify process improvements. OIG concludes that the City is still working to identify a tracking method more than three years after the original recommendation.

<sup>10</sup> City of Chicago Office of Inspector General, Department of Human Resources and Office of Budget and

Management Hiring Timeliness Audit, December 22, 2015, available at

<<https://igchicago.org/wp-content/uploads/2015/12/City-Hiring-Timeliness-Audit-.pdf>.

<sup>11</sup> [City of Chicago Office of Inspector General, Department of Human Resources and Office of Budget and Management Hiring Timeliness Follow-up Inquiry, July 6, 2017, available at <https://igchicago.org/wp-content/uploads/2017/07/City-Hiring-Timeliness-Audit-Follow-Up.pdf>](https://igchicago.org/wp-content/uploads/2017/07/City-Hiring-Timeliness-Audit-Follow-Up.pdf)

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## VI. ADVISORIES AND DEPARTMENT NOTIFICATION LETTERS

Advisories and department notification letters describe management problems observed by OIG in the course of other activities, including audits and investigations. These are problems that OIG believes it should apprise the City of in an official manner. OIG completed no advisories and three notifications this quarter.

### 1. Removal of Political Signs on Private Property (#19-0212)

OIG notified the Department of Streets and Sanitation (DSS) that in the weeks leading up to the March 6, 2019 municipal elections, OIG received several complaints that DSS employees removed campaign signs from private property. Removal of political signs from private property may involve trespassing, infringe on individuals' First Amendment rights, violate DSS policy, and potentially constitute prohibited political activity and unauthorized use of City property. OIG recommended that DSS refresh employees on Department policy concerning the removal of political signs.

OIG received complaints related to at least three incidents of DSS employees removing campaign signs from private property. The incidents allegedly occurred in multiple wards throughout the City. In one incident, an employee removed a campaign sign from an individual's front yard. In another, which was recorded on video, an employee cut campaign signs off a privately-owned fence. In both cases, DSS employees were observed removing the signs and placing the discarded signs in their City vehicles. OIG also received at least one complaint alleging that employees selectively removed signs for specific candidates.

On January 8, 2019, DSS distributed a letter to candidates advising them that the Municipal Code prohibits the posting of campaign materials on public property, including light poles, parkway trees, and boulevards. The notice stated that DSS would remove any illegally posted campaign materials. OIG recommended that DSS similarly remind its employees to only remove campaign materials located on public property and to refrain from removing any materials on private property, which are protected by the First Amendment. Further, depending on the location of the campaign material, removal of a sign from private property may involve trespassing if the employee enters a private yard to retrieve a sign. Finally, using a City vehicle while removing or transporting campaign signs, if done for political purposes, constitutes prohibited political activity and is an unauthorized use of City property. Such conduct may be subject to discipline up to and including discharge. DSS agreed with OIG's recommendation and on March 15, 2019, sent a memo to all employees reminding them to not remove posted signs from private property.

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2. Aldermanic Influence on the Disciplinary Process (#18-0117)

In the first quarter of 2018, OIG's Hiring Oversight section received a report of a political contact which suggested that a City alderman had improperly attempted to influence the Department of Water Management's (DWM) efforts to discipline one of its employees. The report indicated that, in February 2018, members of DWM participated in a meeting at City Hall with several aldermen. According to three management-level employees who were present, one of the aldermen asked whether DWM was obligated to follow disciplinary recommendations from other investigative agencies and City departments. The alderman then stated that they had read a "report" recommending a three-day suspension for one of DWM's employees. The alderman identified the employee by name and stated that they believed the discipline to be excessive.

OIG confirmed that, several months prior, the Equal Employment Opportunity (EEO) Division of DHR issued an Investigation Report to DWM, advising that the employee in question had violated the City's EEO policy and recommending a disciplinary suspension. Accordingly, DWM implemented the recommended suspension. The employee served the suspension and filed an appeal with DWM to have the discipline overturned. The appeal was still pending at the time of the alderman's remarks at the February 2018 meeting. A few weeks after the meeting, DWM held a hearing on the employee's appeal and the suspension was ultimately upheld. The employee has since requested that the grievance be heard by an arbitrator.

OIG determined that the alderman's statements at the February 2018 meeting did not significantly influence the administration of discipline to the employee. However, the alderman's conduct is inconsistent with the City Hiring Plan's prohibition against political and other improper considerations<sup>12</sup> in hiring and other employment actions.<sup>13</sup> Although elected officials are not barred from making recommendations with respect to hiring and other employment actions, permissible recommendations are generally based on some personal or firsthand knowledge of a person's work skills, work experience, or other job-related information.<sup>14</sup> In this instance, an alderman attempted to affect the discipline of an employee outside of their office who was not under their supervision or control.

On December 12, 2018, OIG sent a notification regarding this incident to the City Council Committee on Committees, Rules and Ethics. In the notification, OIG advised

<sup>n</sup> "Improper" describes a consideration constituting preferential treatment that is not job-related. See Chapter I, Section B of City Hiring Plan (Definitions)

<sup>13</sup> "Other employment action" encompasses any change in the terms and conditions of employment, including an "employment sanction or detriment" such as a suspension

<sup>m</sup> See Chapter II, Section C.3 of the City Hiring Plan (Recommendations from Elected and Appointed Officials)

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that, as a general matter, it would be improper for an alderman, or other elected official, to attempt to exert influence over a City department's disciplinary process in situations where the alderman does not possess actual knowledge of the underlying events or circumstances that motivated the discipline. Accordingly, OIG recommended that the Committee advise all aldermen that they should refrain from attempting to influence or interfering with disciplinary decisions concerning employees that are not under their supervision or control.

OIG requested that the City Council submit its response to the notification on or before February 11, 2019. City Council did not provide a response until March 1, 2019. The response included a copy of an email communication and a brief memorandum from the chairperson to the other members of City Council, distributing a copy of OIG's original notification.

### 3. Ineligible for Rehire Policy Compliance

In 2018, OIG completed a review of the City's Ineligible for Rehire (IFR) policy.<sup>1b</sup> Specifically, OIG conducted exact name matches to determine if current or former City employees appeared on other jurisdiction's IFR lists. OIG gathered and analyzed IFR lists from the following agencies: Chicago Public Schools, Chicago Park District, City Colleges of Chicago, Cook County Offices Under the President, Cook County Health and Hospitals System, and the Cook County Recorder of Deeds.

Out of 35,718 City employees, OIG's review revealed 250 City payroll exact name matches on the sister and County agencies' IFR lists.<sup>1c</sup> OIG's review was limited to exact name matches because not all of the IFR lists included additional identifiers, such as a social security number or date of birth. In the absence of a unique identifier, it is possible that certain matches of common names are not the same individual. Some agencies' IFR lists did contain the former employee's date of birth, which OIG used to verify identity.

On December 12, 2018, OIG sent a notification to the Mayor and the Commissioner of Human Resources regarding the use of IFR lists by sister agencies and other local government agencies. OIG recommended that the City: (1) establish a system to

<sup>15</sup> On March 4, 2011, the City established uniform criteria to determine if a former City employee was ineligible to be rehired by the City. This list included former employees who had been terminated, discharged, or resigned/retired in lieu of discharge, and established a duration for ineligibility ranging from a minimum of one year to permanent. On March 26, 2014, Mayor Rahm Emanuel issued a formal request to sister agencies to observe the City's IFR list and policy. The Mayor's March 2014 memo to sister agencies detailed procedures to ensure that individuals on the City's list were not hired by the sister agencies.

<sup>16</sup> The agencies' IFR lists dated from August 2017 and the City's payroll data dated from November 12, 2018.

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receive and review sister agencies' IFR lists; (2) request that any sister agency that does not currently maintain electronic records of terminated or discharged employees ineligible for rehire begins to do so; (3) record former employees' dates of birth and social security numbers (or last four digits) on both City and sister agency IFR lists, to more accurately identify prospective candidates who were terminated from other agencies for cause; and (4) establish a working group with the human resources divisions of sister agencies and Cook County agencies to develop standardized criteria and processes for maintaining and sharing IFR lists.

In response to the notification, DHR agreed to work with sister agencies and other units of local government to share respective IFR lists. DHR explained that the City's updated IFR list is electronically shared with sister agencies daily. DHR committed to sharing additional identifying information to ensure

better matching of designated employees. Additionally, DHR stated that it is part of a human resources group comprised of sister agencies, which meets quarterly to share best practices and discuss shared concerns. During the first quarter of 2019, the working group discussed OIG's recommendations and arrived at a "general agreement to work together to implement" the recommendations

In addition, the City issued an updated IFR policy which became effective February 1, 2019. This revised policy clarifies when separated employees will be designated as ineligible for rehire or resigned/retired under inquiry, and outlines a new notice and appeals process regarding the potential designation. Additionally, the new policy explicitly allows for other investigative bodies within the City (not just OIG) to make recommendations to add former employees to the IFR list.

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## VII. OTHER REPORTS AND ACTIVITIES

As an expert in government oversight and as part of its mission to promote economy, effectiveness, efficiency, and integrity, OIG may periodically participate in additional activities and inquiries in the service of improving accountability in City government. During this quarter, there were two additional reports.

1. Management Alert on CPD's Administration of the Disciplinary Grievance Process<sup>17</sup>

OIG's Public Safety section notified the Chicago Police Department (CPD) of concerns regarding the administration of the disciplinary grievance process which is administered by the Management and Labor Affairs section.(MLAS<sup>18</sup>), a subunit of CPD's Office of the General Counsel.

During the course of interviews conducted for the ongoing review of CPD's disciplinary,grievance process for sworn members, OIG identified four immediate concerns that have the potential to impact CPD's

administration of the process:

- There are no policies and procedures for processing sworn member grievances and no agency-issued guidelines for coordination with the City of Chicago Department of Law in the resolution of grievances through negotiated settlements.
- MLAS does not have a dedicated electronic case management system for tracking grievances and lacks a standardized and reliable way to identify and obtain precedential arbitration decisions and comparable cases.
- MLAS staff stated that the section is understaffed relative to their volume of work and has a vacant lieutenant position
- The workspace assigned to MLAS is not conducive to maintaining privacy and confidentiality.

In response to OIG's notification, CPD disagreed with OIG's finding that CPD lacks policies and procedures for processing sworn member grievances. To support their claim the Department pointed to existence of E01-06 Grievance Procedures and the Collective Bargaining Agreements for all bargaining members of CPD. However, OIG maintains its position as none of the documents address how MLAS staff should

" [Published January 10, 2019](https://igchicago.org/wp-content/uploads/2019/01/CPD-Disciplinary->Grievance-Management-Alert.pdf). See <https://igchicago.org/wp-content/uploads/2019/01/CPD-Disciplinary->Grievance-Management-Alert.pdf>

<sup>13</sup> The Management and Labor Affairs section currently has a civilian director with a six person staff of four sergeants and two civilian labor relations professionals. In addition to managing the disciplinary and non-disciplinary grievance process, MLAS also provides input to command and supervisory personnel to facilitate a uniform implementation of CBAs, coordinates CPD's labor-relations activities with other governmental agencies, and serves as a liaison between CPD and bargaining agents

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process disciplinary grievances. CPD did not directly address OIG's concerns regarding a lack of guidelines for coordinating negotiated settlements with the Department of Law.

CPD did acknowledge the need for an electronic case management system to track grievances and stated that an interface would be created for MLAS in the Department's new case management system, which will be completed by 2020 under the consent decree. As a short-term solution the Department stated it would "amplify" the section's current Access database.

To address staffing concerns within MLAS, the Department responded that it would review personnel and staffing as it moves forward with a Department-wide staffing evaluation. The Department did not offer a timeline for the completion of the evaluation. Lastly, CPD concurred with OIG's finding that the MLAS workspace is not conducive to maintaining confidentiality and indicated that it would expedite a review of the workspace, which may result in the addition of a privacy wall and dedicated entrance

## 2. Recommendations to Inform and Improve CPD's Internal Affairs Investigations<sup>14</sup>

OIG's Public Safety section issued a series of recommendations to inform and improve investigations conducted by CPD's Bureau of Internal Affairs (JBIA). OIG identified these recommendations in the process of conducting its ordinance-mandated review of individual closed disciplinary investigations.

OIG recommended that BIA investigators ensure that the source of a misconduct complaint be clearly documented in each investigative file or report; that BIA investigators thoroughly document the status and progress of any criminal proceedings related to an ongoing administrative investigation; that BIA leadership protect the timeliness of investigations by avoiding assigning investigations to an investigator on a leave of absence (and by re-assigning investigations as necessary when an investigator's duty status changes); that BIA supervisors clearly memorialize their reasons for returning an investigation to a subordinate for additional work; and that CPD members take all appropriate and required steps to secure sworn affidavits from members of the public making misconduct complaints.

In response, CPD affirmed its commitment to "ensuring that all disciplinary investigations conducted by BIA investigators and district supervisors are both thorough and fair." While CPD affirmed that it is BIA's practice to document the

"Published February 14, 2019 Sec <<https://igchicaa.org/2019/02/14/recomnnendations-to-inforri-and->improve-cpds-internal-affairs-investigations/>

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source of a civilian complaint if it is received without an Initiation Report, it did not address investigations which originate from a source other than a civilian complaint. With respect to OIG's remaining four recommendations, CPD noted that its new case management system would provide additional opportunities for assuring compliance and quality.

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## VIII. HIRING OVERSIGHT

Under Chapter XII of the City of Chicago General Hiring Plan, Chapter XI of CPD Hiring Plan, and Chapter IX of the CFD Hiring Plan, OIG is required to review and audit various components of the hiring process and report on them quarterly.<sup>20</sup> The City's Hiring Plans require both reviews and compliance audits. The Hiring Plans define reviews as a "check of all relevant documentation and data concerning a matter," and audits as a "check of a random sample or risk-based sample of the documentation and data concerning a hiring element."

### HIRING PROCESS REVIEWS

#### Contacts by Hiring Departments

OIG tracks all reported or discovered instances where hiring departments contacted DHR or the Chicago Police Department Human Resources (CPD-HR) to lobby for or advocate on behalf of actual or potential Applicants or Bidders for Covered Positions or to request that specific individuals be added to any referral or eligibility list.

During the first quarter of 2019, OIG did not receive any reports of a direct contact.

#### 2. Political Contacts

OIG tracks all reported or discovered instances where elected or appointed officials of any political party or any agent acting on behalf of an elected or appointed official, political party, or political organization contact the City attempting to affect any hiring for any Covered Position or Other Employment Actions.

Additionally, City employees often report contacts by elected or appointed officials that may be categorized as inquiries on behalf of their constituents but not an attempt to affect any hiring decisions for any Covered Position or Other Employment Actions. During the first quarter, OIG received notice of one political contact:

- An assistant to an alderman contacted DHR regarding the employment status of an employee in the covered position of bridge operator at CDOT.

<sup>20</sup>On June 24, 2011, the City of Chicago filed the 2011 City of Chicago Hiring Plan (General Hiring Plan). The General Hiring Plan, which was agreed to by the parties and approved by the Court on June 29, 2011, replaced the 2007 City of Chicago Hiring Plan, which was previously in effect. This Hiring Plan was refiled, though not amended, on May 15, 2014. The City of Chicago also filed an amended Chicago Police Department Hiring Plan for Sworn Titles (CPD Hiring Plan) and an amended Chicago Fire Department Hiring Plan for Uniformed Positions (CFD Hiring Plan) on May 15, 2014, which were approved by the Court on June 16, 2014. Collectively, the General Hiring Plan, the CPD Hiring Plan, and the CFD Hiring Plan will be referred to as the "City's Hiring Plans."

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In an effort to standardize the quality of the information contained in the political contact reports, OIG added a new form to its website within the "Contact Us" tab, entitled "Political Contact Reporting." The form allows City employees to electronically report contacts by elected or appointed officials. As of February 25, 2019, political contacts may be reported at: <https://igchicago.org/contact-us/political-contact-reporting>.

### 3. Exemptions

OIG tracks all reported or discovered Shakman Exempt appointments and modifications to the Exempt List on an ongoing basis.

OIG received notification of 41 exempt appointments in the first quarter.

### 4. Senior Manager Hires

OIG reviews hires pursuant to Chapter VI covering the Senior Manager Hiring Process. Of the 50 hire packets OIG reviewed in the first quarter, 9 pertained to senior manager positions, 2 of which contained an error. The errors involved missing or incomplete documentation, which DHR corrected after being informed of the errors by OIG. Due to the nature of the errors and the corrective action taken, OIG had no further recommendations.

### 5. Written Rationale

When no consensus selection is reached during a Consensus Meeting, a Written Rationale must be provided to OIG for review.<sup>21</sup>

During the first quarter, OIG did not receive any Written Rationales for review.

### 6. Emergency Appointments

OIG reviews circumstances and written justifications for emergency hires made pursuant to the Personnel Rules and the City's Municipal Code MCC § 2-74-050(8).

The City reported no emergency appointments during the first quarter.

### 7. Review of Contracting Activity

OIG is required to review City departments' compliance with the City's Contractor Policy (Exhibit C to the City's Hiring Plan). Per the Contractor Policy, OIG may choose to review any solicitation documents, draft agreements or final contract

or agreement

'■ A "Consensus Meeting" is a discussion that is led by the DHR recruiter at the conclusion of the interview process. During the Consensus Meeting, the interviewers and the hiring manager review their respective interview results and any other relevant information to arrive at a hiring recommendation.

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terms to assess whether they are in compliance with the Contractor Policy. This review includes analyzing the contract for common-law employee risks and ensuring the inclusion of Shakman boilerplate language.

Under the revised Contractor Policy,<sup>22</sup> departments are no longer required to notify OIG of all contract or solicitation agreements or task orders. However, all contract and solicitation agreements that OIG receives notice of will be reviewed. In addition, OIG will request and review a risk-based sample of contract documents from departments.

In addition to contracts, pursuant to Chapter X of the Hiring Plan, OIG must receive notification of the procedures for using volunteer workers at least-30 days prior to implementation. OIG also receives additional notifications of new interns and/or volunteer workers for existing programs.<sup>23</sup>

The table below details contracts and internship opportunities OIG reviewed in the first quarter

TABLE #8 - CONTRACT AND INTERNSHIP OR VOLUNTEER OPPORTUNITY NOTIFICATIONS

Contracting Department	Contractor, Agency, Program, or Other Organization	Duration of Contract/ Agreement
City Clerk	Emerge Summer Career and Leadership Program	8 weeks
Civilian Office of Police Accountability	Public Service Interns	Spring 2019
Law	Volunteer Program	Ongoing
Mayor's Office	American Cities Climate Challenge	2 years
Mayor's Office	Legislative Consulting Services	2 years
Police	University of Illinois at Chicago Master of Public Administration Program	Spring 2019
Public Health	Management Synergetics Inc	Unknown
Transportation	Clean Cities Program	Spring/Summer 2019
Water Management	Water Meter Installations	5 years

<sup>22</sup> Revised June 7, 2017

<sup>23</sup> Chapter XB6 of the General Hiring Plan.

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**B. HIRING PROCESS AUDITS**

1. Modifications to Class Specifications,<sup>24</sup> Minimum Qualifications, and Screening and Hiring

## Criteria

OIG reviews modifications to Class Specifications, minimum qualifications, and screening and hiring criteria. In the first quarter, OIG received notifications that DHR changed the minimum qualifications for four titles within the following departments: Aviation, Fleet and Facility Management, and Public Health.

OIG reviewed each of the proposed changes to minimum qualifications and had no objections.

### 2. Referral Lists

OIG audits lists of applicants/bidders who meet the predetermined minimum qualifications generated by DHR for City positions. OIG examines a sample of referral lists and notifies DHR when potential issues are identified.

In the first quarter, OIG audited two referral lists, neither of which contained an error.

### 3. Testing

The Hiring Plan requires that OIG conduct an audit of DHR test administrations and scoring each quarter. In the first quarter, OIG audited materials for 25 test administrations covering 14 City departments, which were completed during the fourth quarter of 2018.

OIG did not identify any scoring errors. However, DHR self-reported an error for a test administration that did not affect the selection decision. DHR discovered that four months prior, a candidate was incorrectly listed as passing a property custodian exam for DSS although the candidate failed. OIG's review of the file revealed that this candidate would have been hired but for a City debt that prevented the hire. OIG recommended that DHR examine its current procedures for reviewing test administration and scoring processes to determine if any modifications should be instituted to reduce the frequency of human errors. Specifically, OIG recommended that DHR consider auditing all test administrations, regardless of OIG intent to audit, to self-correct simple errors. DHR stated that it has taken several approaches to preventing and/or correcting human errors in the test administration and scoring

<sup>21</sup> "Class Specifications" are descriptions of the duties and responsibilities of a Class of Positions that distinguish one Class from another. They are, in effect, the general descriptions utilized to determine the proper level to which a Position should be assigned, and they include the general job duties and minimum qualifications of the position. Class Specifications shall include sufficient detail so as to accurately reflect the job duties.

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processes, including the formalization of checking/self-auditing procedures, increased awareness and expectations, and computer-based scoring.

### 4. Selected Hiring Sequences

Each quarter, the Hiring Plan requires OIG to audit at least 10% of in-process hiring sequences and at least 5% of completed hiring sequences conducted by the following departments or their successors: Fleet and Facility Management, CDA, CDOT, DOB, DSS, DWM, and six other City departments selected at the discretion of OIG.

Auditing the hiring sequence requires an examination of the hire packets, which include all documents and notes maintained by City employees involved in the selection and hiring process for a particular position. As required by the Hiring Plan, OIG examines some hire packets during the hiring process and examines other packets after the hires are completed.

In the first quarter, OIG completed an audit of hire packets for 39 hiring sequences completed during the fourth quarter of 2018. These hiring sequences involved 11 departments. OIG did not identify any errors or Hire Plan violations during the audit.

#### 5. Hiring Certifications

OIG audits the City's compliance with Chapter XII.C.5 of the General Hiring Plan. A Hiring Certification is a form completed by the selected candidate(s) and all City employees involved in the hiring process to attest that no political reasons or factors or other improper considerations were taken into account during the applicable process.

OIG reviewed 50 hire packets in the first quarter, and none contained a Hire Certification error.

#### 6. Selected CPD Assignment Sequences

Pursuant to Chapter XII of the CPD Hiring Plan for Sworn Titles, OIG has the authority to audit Other Employment Actions, including district or unit assignments, as it deems necessary to ensure compliance with this Hiring Plan. Generally, OIG audits assignments that are not covered by a collective bargaining unit and which are located within a district or unit.

Assignment packets include all documents and notes maintained by employees involved in the selection processes outlined in Appendix D and E of the CPD Hiring Plan. On a quarterly basis, OIG selects a risk-based sample of assignment packets for completed process review after selections have been made and the candidates have begun their assignments.

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In the first quarter, OIG completed an audit of 5 non-bid duty assignment sequences and 4 non-bid unit assignments completed during the fourth quarter of 2018. Based on the review of assignment documentation, OIG did not identify any errors and did not request a response from CPD.

As previously reported in the fourth quarter of 2018, OIG completed an audit of 5 non-bid duty assignment sequences and 4 non-bid unit assignments completed during the third quarter of 2018. The audit identified 3 errors and 2 irregularities affecting 5 assignment sequences; 2 errors involved incomplete paperwork. CPD corrected the documents, and OIG did not request any further action regarding the documentation errors. The third error involved a unit commander unnecessarily signing the name of a deputy chief on Hire Certifications. OIG informed CPD that an employee cannot delegate his or her signing right to another party on Hire Certifications. OIG recommended that all employees involved in the hiring process sign one master Hire Certification form for the assignment sequence and additional training for the staff involved in the affected sequence.

Regarding the irregularities in the audit, an interview panel's ratings on the candidate assessment forms were inconsistent with their notes of the candidate's responses to interview questions. OIG recommended that CPD-HR take steps to ensure that interviewers at the unit level understand that their assessments of a candidate's competency must be consistent with the candidates' responses.

Finally, OIG discovered an irregularity where assignments occurred outside of the process due to a departmental reorganization that resulted in the creation of a new unit. OIG did not object to the members' assignments but took issue because OIG was not provided with advanced notice of the reassignments. OIG requested advance notification of movement of personnel for all non-bid assignments when CPD chooses to fill a vacancy without following the process and procedures as described in the Hiring Plan.

In response to OIG's findings, CPD stated that the unit commander and deputy chief were trained regarding the proper completion of Hire Certifications. Additionally, the affected interview panel received training on how to correctly complete candidate assessment forms. Lastly, CPD-HR agreed to ensure proper notification to OIG when members participating in an assignment sequence are moved due to "administrative or budgetary reasons." ;

#### 7. Selected CFD Assignment Sequences

Pursuant to Chapter X of the CFD Hiring Plan for Uniformed Positions, OIG has the authority to audit Other Employment Actions, including assignments, "as it deems necessary to ensure compliance with [the] CFD Hiring Plan." Assignment packets

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include all documents utilized in a specialized unit assignment sequence, including, but not limited to: all forms, certifications, licenses, and notes maintained by individuals involved in the selection process. OIG selects a risk-based sample of assignment packets for completed process review after CFD issues unit transfer orders and candidates have begun their new assignments.

During the first quarter of 2019, OIG completed an audit of selected CFD specialized unit assignment sequences. During the audit, OIG noted that ten selected candidates did not have executed Hire Certifications within the relevant assignment packets. OIG recommended that CFD continue to work to obtain executed Hire Certifications from the selected candidates. Due to the supplemental documentation already provided, OIG did not request a response.

#### 8 Monitoring Hiring Sequences

In addition to auditing hire packets, OIG monitors hiring sequences as they progress by attending and observing Intake Meetings, interviews, tests, and Consensus Meetings. The primary goal of monitoring hiring sequences is to identify any gaps in internal controls. However, real-time monitoring also allows OIG to detect and seek to address compliance anomalies as they occur.

OIG identifies the hiring sequences to be monitored based on risk factors such as past errors, complaints, and historical issues with particular positions. During the fourth quarter, OIG monitored 3 Intake Meetings, 4 sets of

interviews, and 3 Consensus Meetings. The table below shows the breakdown of monitoring activity by department.<sup>25</sup>

TABLE #9 -OIG MONITORING ACTIVITIES IN THE FIRST QUARTER

Department	Intake Meetings Monitored	Tests Monitored	Interview Sets Monitored	Consensus Meetings Monitored
Innovation and Technology	0	0	1	2
Fleet and Facility Management	0	0	1	1
Police	0	0	2	0
Streets and Sanitation	3	0	0	0
Totals	3	0	4	3

If a department is not included in this table, OIG did not monitor any elements of that department's hiring sequence(s)

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9. Acting Up<sup>26</sup>

OIG audits the City's compliance with Chapter XI of the General Hiring Plan and the Acting Up Policy. OIG did not receive notice of any DHR-approved waiver request to the City's 90-Day Acting Up limit in the first quarter.<sup>27</sup>

10. Arbitrations and Potential Resolution of Grievances by Settlement

Chapter XII.C.7 of the City's Hiring Plan requires the Hiring Oversight section to audit grievance settlement decisions that may impact procedures governed by the Hiring Plan.

During the first quarter, OIG received notice of two settlement agreements which resulted in employment actions from DHR. The settlement agreements resulted in the reclassification of an employee to a higher graded title and the reinstatement of an employee.

**C. REPORTING OF OTHER OIG HIRING OVERSIGHT ACTIVITY**

1. Escalations

Recruiters and analysts in DHR and CPD-HR must escalate concerns regarding improper hiring by notifying OIG. In response to these notifications, OIG may take one or more of the following actions: investigate the matter, conduct a review of the hiring sequence, refer the matter to the DHR commissioner or appropriate department head for resolution, or refer the matter to the OIG Investigations section.

In the first quarter, OIG received notice of 2 new escalations, concluded 1 escalation from the fourth quarter of 2018, and has 1 escalation pending from fourth quarter of 2018. Details of the concluded escalation are reported below. OIG will report on its findings for the escalations and the department's response in a future report.

a. Chicago Department of Public Health (CDPH)

A DHR recruiter escalated a sequence after receiving notification from CDPH personnel that one of the interviewers had a prior relationship with the selected candidate. CDPH and the recruiter escalated a review of the sequence to OIG out of

■<sup>b</sup> "Acting Up" means an employee is directed or is held accountable to perform, and does perform, substantially all of the responsibilities of a higher position.

•<sup>j</sup> Pursuant to the Acting Up Policy, no employee may serve in an Acting Up assignment in excess of 90 days in any calendar year unless the department receives prior written approval from DHR. The department must submit a Waiver Request in writing signed by the department head at least 10 days prior to the employee reaching the 90-day limitation. If the department exceeds 90 days of Acting Up without receiving a granted Waiver Request from DHR, the department is in violation of the Policy

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concern that the interviewer failed to disclose a potential conflict of interest as required in DHR's Interview and Consensus Training.

OIG determined that while there was a prior professional relationship between the selected candidate and the interviewer, there was no credible evidence that improper considerations affected the selection decision. OIG noted that the creation of a clear Conflict of Interest Policy has consistently been an OIG recommendation for the past few years and has never been fully implemented.<sup>28</sup>

In response to this escalation, OIG recommended that DHR: (1) formalize the supplemental Conflict of Interest Policy that clearly outlines the type of relationships that are covered under the policy and (2) incorporate the Conflict of Interest Policy into Interview and Consensus Training for 2019. DHR agreed with OIG's recommendations and has since submitted a draft of the Conflict of Interest Policy to the Office of the Mayor, the Law Department, and City unions for the required 30-day comment period.

## 2 Processing of Complaints

OIG receives complaints regarding the hiring process, including allegations of unlawful political discrimination and retaliation and other improper considerations in connection with City employment. All complaints received by OIG are reviewed as part of OIG's complaint intake process. Hiring-related complaints may be resolved in several ways depending upon the nature of the complaint. If there is an allegation of a Hiring Plan violation or breach of a policy or procedure related to hiring, OIG may open a case into the matter to determine if such a violation or breach occurred. If a violation or breach is sustained, OIG may make corrective recommendations to the appropriate department or may undertake further investigation. If, after sufficient inquiry, no violation or breach is found, OIG will close the case as not sustained. If, in the course of an inquiry, OIG identifies a non-hiring-related process or program that

<sup>78</sup> Since early 2017, OIG recommended that "DHR create procedures and train its Recruiters on how to respond when an interviewer has disclosed a potential conflict of interest. DHR's procedures should clearly define the roles and responsibilities of DHR Recruiters,

interviewers, and HRLs. In response, on June 16, 2017, DHR stated that it would create a procedural document with subsequent training on how to respond when an interviewer discloses a potential conflict of interest. In another 2017 escalation from DHR, OIG renewed its recommendation that DHR formalize and distribute a clear Conflict of Interest Disclosure and Interviewer Recusal Policy. In response, DHR expressed looking forward to working with OIG to develop the Conflict of Interest Policy Throughout 2018, DHR has provided drafts of a Conflict of Interest Policy, and OIG has met with and provided comments to DHR's draft policies.

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could benefit from a more comprehensive audit, OIG may consider a formal audit or program review.

OIG received 11 complaints related to the City's hiring practices in the first quarter. The table below summarizes the disposition of these complaints, as well as those pending from the previous quarter.

TABLE #10- HIRING OVERSIGHT COMPLAINTS RECEIVED IN THE FIRST QUARTER

Complaint Status	Number of Complaints
Pending from Previous Quarter	0
Received This Quarter	9
Opened Investigation	0
Declined	3
Referred to Department	0
Complaints Pending as of End of Quarter	6

Hiring Oversight administratively closed one case in the first quarter. Below, OIG details one sustained case closed in the previous quarter along with the department's response.

TABLE #11 - HIRING OVERSIGHT CASES IN THE FIRST QUARTER

Case Status	Number of Cases
Pending From Previous Quarter	16
Opened This Quarter	0
Cases Referred	0
Closed Not Sustained	0
Closed Sustained with Recommendation	0
Closed Administratively	1
Cases Pending as of End of Quarter	15

1. Candidate Not Meeting Minimum Qualifications (#17-0387)

In the third quarter of 2017, OIG received a complaint alleging that a CDOT street light repair worker unjustly received a promotion because the candidate lied on an application and their spouse worked in DHR. A preliminary review of the spouse's work history showed that the spouse worked for a different City department for over 30 years. OIG did not pursue any additional information regarding that claim. OIG found that the allegation against the candidate was not supported by available evidence. After a review of the candidate's application materials and job history, OIG

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found that the candidate did not meet the minimum qualifications. OIG concluded . that the DHR recruiter erroneously referred the candidate to the department.

OIG recommended that DHR clearly document and provide recruiters with more objective criteria to determine how to apply equivalencies for minimum qualifications. Additionally, OIG recommended that DHR return to the previous practice of having a second layer of referral list review to ensure referred candidates meet established minimum qualifications or equivalencies. Lastly, OIG reiterated the need for DHR to provide consistent recruiter training and written guidelines about screening and referral lists. Because the candidate had successfully-worked in the position for more than one year at the time of the review, and is currently working towards achieving journeyman status, OIG did not recommend the candidate's removal from the higher rated title.

In response, DHR agreed that the candidate was not minimally qualified for the position. However, DHR stated that the recruiter had sufficient information to refer the candidate, including the candidate's bargaining unit and job title, which was one that "typically successfully bids for" the higher rated title. Still, OIG found that at the time of application, the candidate also did not have the required number of years in that bargaining unit or job title to minimally qualify for the higher rated title. Instead, the recruiter referred the candidate based on previous job experience. DHR also noted that the candidate "blended together job duties for different positions and presented experience in a confusing manner." DHR stated that recruiters do not take "poor writing skills into account when screening applications" but that the confusion is "a complicating factor when a Recruiter is trying to interpret the information."

Regarding OIG's recommendations, DHR explained that equivalences are established by the DHR Classification and Compensation section. The disqualification questions on the job application determine if applicants meet the equivalences. DHR stated that there is "no other objective criterion to provide to the Recruiters" for guidance on applying equivalences to minimum qualifications.

Additionally, DHR rejected the recommendation to reinstate its previous practice of a second layer of supervisory review for referral lists. DHR suggested that instituting a safeguard review would potentially "add substantial time" to an already lengthy hiring process and stated that DHR did not have adequate resources to staff "this type of double-work" review. DHR also added that recruiters are highly compensated to exercise their professional judgment when determining whether or not an applicant is qualified and therefore declined to implement any process which would minimize accountability for exercising that professional judgment.

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Lastly, DHR stated that it would consider OIG's recommendation to create consistent recruiter training and written guidelines. DHR reiterated that the recruiter has to make professional judgment calls and that there is

no way to account for every combination of experience. DHR asserted that it will explore professional development opportunities for better staff alignment and consistency among recruiters.

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