



# Office of the City Clerk

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## Office of Inspector General

*City of Chicago*

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### *Report of the Office of Inspector General:*

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*quarterly report of the Office of Inspector General Fourth Quarter 2016*

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*Joseph M. Ferguson Inspector General*

**OFFICE OF INSPECTOR GENERAL**

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January 15, 2017

To the Mayor, Members of the City Council, the City Clerk, the City Treasurer, and the 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 fourth quarter of 2016, filed with the City Council pursuant to Section 2-56-120 of the Municipal Code of Chicago. This report includes summaries of investigations that resulted in two terminations, the resignation of a Special Service Area Commissioner, the guilty plea of a building inspector to soliciting a bribe, as well as the imposition of the final sentence in the prosecution of one of the largest, longest, and most notorious kickback schemes in the City's history. It also includes summaries of two audits published during the quarter.

This quarter's report also features a new section detailing the Office's campaign finance activities. OIG's work in this area increased in 2016 as a result of the legislative conferral of investigative oversight of the City Council to OIG. Similarly, in the fourth quarter OIG opened a more active and collaborative engagement with the Board of Ethics (BOE) under its new leadership. This collaboration included two formal requests, one for clarification on the validity and availability of unofficial guidance issued by the Board and another seeking the Board's formal opinion regarding the practice of private foundations funding the travel of City employees and officials. OIG's requests and BOE's responses are summarized in this report.

At the end of 2016, OIG began the process of hiring to build the new, dedicated police oversight function, which came into formal existence under the first wave of reform legislation, as recommended by the Police Accountability Task Force, introduced by the Mayor, and enacted by the City Council. OIG has engaged a national search for the first Deputy Inspector General for Public Safety, in accordance with the selection process specified by law. We are carrying out the search through a collaboration involving the Civic Consulting Alliance, as administrator, as well as the National Association for Civilian Oversight of Law Enforcement and Lantern Partners, as subject matter experts. The dedicated Public Safety Inspector General function will be the driver of long-term change through independent review, analysis, and recommendations respecting the Chicago Police Department (CPD), the new Civilian Office of Police Accountability (COPA), and the Chicago Police Board. The just-released Department of Justice (DOJ) report, highlights and amplifies the critically important role OIG will play in the long and challenging process of reform ahead. Regardless of the final form of City engagement with DOJ under the new presidential administration, it is incumbent on all of us to ensure that the City follows through on its commitments with thoughtful actions. OIG is committed to working with CPD, COPA, and

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others across Chicago, including legislators, community groups, and City residents to make sure this happens.

Respectfully,

Joseph M. Ferguson Inspector General City  
of Chicago

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*OIG Quarterly Report -Fourth Quarter 2016*

## TABLE OF CONTENTS

A. MISSION OF THE OFFICE OF INSPECTOR GENERAL	2
B. INVESTIGATIONS	2
1. Complaints	2
2. Newly Opened Matters	4
3. Cases Concluded in Quarter	4
4. Pending Matters	4
5. Investigations Not Concluded in Twelve Months	4
6. Public Building Commission Complaints and Investigations	5
C. ADMINISTRATIVE CASES	...5
1. Campaign Finance Investigations	5
2. Sustained Administrative Investigations	6
D. CRIMINAL CASES, ADMINISTRATIVE APPEALS, GRIEVANCES, AND RECOVERIES	13
1. Synopses of Criminal Cases	13
2. Developments in Prior Charged Criminal Cases	13
3. Synopses and Results of Administrative Appeals, Grievances, or Other Actions	15
4. Recoveries	15
E. AUDITS AND REVIEWS	16
F. ADVISORIES AND DEPARTMENT NOTIFICATION LETTERS	18
G. OTHER REPORTS AND ACTIVITIES	20
H. HIRING OVERSIGHT	21
1. Hiring Process Reviews	22
2. Hiring Process Audits	24
3. Reporting of Other OIG Hiring Oversight Activity	29

This quarterly report provides an overview of the operations of the Office of Inspector General (OIG) during the period from October 1, 2016, through December 31, 2016. The report includes

*Page 1 of 30*

*OIG Quarterly Report -Fourth Quarter 2016*

statistics and narrative descriptions of OIG's activity as required by the Municipal Code of Chicago (MCC).

A. 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 or the Mayor and appropriate management officials, 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 through publication 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.

B. 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.

**1. Complaints**

OIG received 451 complaints during the quarter. The chart below breaks down the complaints OIG received during the past quarter by the method in which the complaint was reported.

<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.

Page 2 of 30

OIG Quarterly Report -Fourth Quarter 2016

### Chart #1 - Complaints by Reporting Method

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Complaints Origiii

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>3</sup> There were no ethics ordinance complaints this quarter.

**Table #1 - Complaint Actions**

Status	Number of Complaints
Declined	262
Opened Investigation	19
Referred	78
Pending	92
<b>Total</b>	<b>451</b>

" 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.

OIG also took action on complaints received in earlier quarters by declining 49 complaints, opening 9 OIG administrative or criminal investigations, and referring 14 complaints.

*Page 3 of 30*

*OIG Quarterly Report-Fourth Quarter 2016*

## **2. Newly Opened Matters**

During the quarter, OIG opened 120 matters, including 23 based on complaints received in earlier quarters. Of the 120 opened matters, 92 were referred to other departments or investigative agencies. A total of 28 cases proceeded to an OIG investigation. Of those cases, 27 remained open at the end of the quarter and 1 investigation was closed administratively during the quarter.

The following table categorizes the matters opened by OIG this quarter based on the subject of the matter.

**Table #2 - Subject of Investigations and Referrals**

Subject of Investigations and Referrals	Number of Investigations and Referrals
Employees	101
Contractors, Subcontractors, and Persons Seeking Contracts	10
Elected Officials	1
Appointed Officials	0
Other	8
<b>Total</b>	<b>120</b>

### 3. Cases Concluded in Quarter .

During the quarter, OIG concluded 116 opened matters, 75 of which were the aforementioned referrals to City departments or other investigative agencies. Of the 75 referred matters, 63 were referred to a City department, and 12 were referred to a sister agency. Of the remaining concluded matters, four 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 28 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 nine 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.

### 4. Pending Matters

At the close of the quarter, OIG had a total of 210 pending matters, including investigations opened during the quarter.

### 5. 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 210 pending matters, 78 investigations have been open for at least 12 months.

*Page 4 of 30*

*OIG Quarterly Report -Fourth Quarter 2016*

*January 15, 2017*

The following table shows the general reasons that these investigations remain active.

**Table #3 - Reasons Investigations Were Not Concluded in Twelve Months**

<b>Reason</b>	<b>Number of Investigations</b>
Additional complaints were added during the course of the investigation.	3
Complex or resource intensive investigation. May involve difficult issues or multiple subjects.	60
On hold, in order not to interfere with another ongoing investigation.	4
Extended due to higher-risk, time sensitive investigations.	11
<b>Total</b>	<b>78</b>

## 6. Public Building Commission Complaints and Investigations

OIG received three complaints related to the Public Buildings Commission (PBC).

### C. 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>4</sup>-a summary and analysis of the evidence and recommendations for disciplinary or other corrective action. OIG sends these reports to the appropriate authority or 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 a 10-day period in which to cure the violation by returning excess funds. Beginning this quarter, OIG will provide a summary of campaign finance cases closed during the prior quarter.<sup>5</sup>

## 1. 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 City official or candidate political campaigns. 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 recipient of the violation and, in accordance with the MCC, provides the individual or entities 10 days in which 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

<sup>4</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."

Campaign finance cases have been and will continue to be captured in the overall accounting of the Office's investigative activity above.

Page 5 of 30

OIG Quarterly Report -Fourth Quarter 2016

matter administratively. In the event the matter is not cured, OIG will sustain an investigation and deliver the case to the Board of Ethics (BOE) for adjudication.

This quarter OIG resolved nine campaign finance violation matters as described in the table below.

**Table #4 - Campaign Finance Activity**

Case #	Donation Amount (Year) <sup>6</sup>	Donation Source	Amount of Returned Funds; Other Resolution
16-0355	\$4,800 (2015) \$2,400 (2016)	City Vendor	\$4,200
16-0385	\$2,000 (2016)	Lobbyist	\$500
16-0386	\$3,000 (2016)	Lobbyist	\$3,000
16-0387	\$5,000(2016)	Determined to be Non-covered Entity	Determined no violation
16-0388	\$5,250(2015)	Determined to be Non-covered Entity	Determined no violation
16-0389	\$1,500 (2016)	City Vendor	\$1,500
16-0390	\$2,000(2016)	City Vendor	\$500
16-0391	\$2,500 (2016)	City Vendor	\$1,000
16-0425	\$3,500 (2016)	Entity with matter pending before the City Council or a City Committee	\$2,000

## 2. 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>7</sup> This response informs OIG of what action the 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

" This column includes the total of all donations to a candidate over the course of a calendar year, which may consist of multiple separate donations.

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 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).

Page 6 of 30

OIG Quarterly Report -Fourth Quarter 2016

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 a full extension has been granted), the response will be listed as late. As of the end of the quarter, there were seven concluded matters that were pending department action and/or response.<sup>8</sup> The following chart lists concluded matters for which OIG has received a department response.

**Table #5 - Overview of Cases Completed and Reported as Sustained Matters**

Record Number	Department or Agency	Number of Subjects	OIG Recommendation	Department or Agency Action
14-0061	Fleet and Facility Management	2	Discipline/Termination, Designate Resigned Under Inquiry	7-Day Suspension, Designated Resigned Under Inquiry
14-0112	Business and Consumer Affairs	1	Appropriate Discipline	Verbal Counseling
14-0379	Independent Police Review Authority	1	Concur with Findings/Place OIG Report in Personnel File	Concurred/Placed OIG Report in Personnel File
15-0267	Planning and Development	1	Appropriate Discipline/Termination	90-day Suspension
15-0508	Planning and Development	1	Remove Special Service Area Commissioner	Commissioner Resigned
16-0277	Finance	1	Contractor's Removal of Employee Termination by Contractor from City Contracts	
16-0309	Fleet and Facility Management	1	Appropriate Discipline/Termination	Termination

In addition, this quarter an independent investigator completed its analyses of a complaint against OIG. As described

below, the independent investigator found one allegation not sustained but found evidence of a "lack of consensus" around the City's policies and procedures for investigations of CPD personnel.

*(A) Mismanagement and Misreporting of City Time (OIG #14-0061)*

An OIG investigation established that an electrical mechanic for Fleet and Facility Management (2FM) made over 100 unauthorized visits to a fire station while on City time and misrepresented the time spent at the fire station on timesheets. Specifically, the Mechanic often clocked in at the work site and then used a City vehicle to drive to the fire station to socialize with staff and sometimes exercised while waiting to be dispatched to job assignments. At times dispatchers

<sup>h</sup> OIG received responses regarding four additional reports that are not summarized below because they are part of the ongoing investigation of administrative misconduct in the fatal shooting of Laquan McDonald. To date, OIG has issued findings and disciplinary recommendations respecting 15 sworn members of the Chicago Police Department. OIG recommended discharge for 11 of the 15 officers. Of those 11, the Superintendent sought discharge of 5 on the basis of evidence presented by OIG. Those discharges presently are pending before the Police Board. The Superintendent disagreed with OIG's findings and disciplinary recommendation respecting 1 officer, and permitted 5 others among the 11 to resign or retire prior to formal action on OIG's findings and discharge recommendations. In the fourth quarter, OIG issued findings and disciplinary recommendations of suspension for four other officers, on the basis of which the Superintendent issued one week suspensions for each of the four individuals.

*Page 7 of 30*

*OIG Quarterly Report -Fourth Quarter 2016*

were aware that the employee was at the fire station and directed job assignments to other Mechanics instead. The Mechanic frequently recorded the time spent at the fire station as travel time. The Mechanic's actions violated, among other City policies, 2FM's Employee Policy and Procedure Manual. OIG's investigation also found that the Mechanic's foreman failed to properly supervise the Mechanic, in violation of the City's Personnel Rules.

OIG recommended that 2FM impose discipline up to and including termination against the Mechanic, commensurate with the gravity of the violations, past disciplinary record, and any other relevant considerations. Because the Foreman no longer works for the City, OIG recommended that 2FM issue a formal determination as to OIG's findings, designate the employee as having resigned under inquiry, and place a copy of OIG's report in the employee's personnel file for consideration should the employee seek re-employment with the City in the future.

In response, after holding a pre-disciplinary hearing with the Mechanic, 2FM suspended the employee for seven days. Additionally, 2FM requested that the Department of Human Resources (DHR) designate the Foreman as having retired under inquiry and included a copy of OIG's report in the former employee's personnel file.

*(B) Conflict of Interest (OIG #14-0112)*

An OIG investigation established that on at least two occasions, between 2010 and 2013, a high-level official in the Department of Business Affairs and Consumer Protection (BACP), participated in the prosecution of businesses represented by the Official's spouse, who is a private attorney. By the Official's own admission, the Official and the spouse had once appeared in court on the same case, the Official representing the City and the Official's spouse representing the business. In another instance, the Official contacted the spouse for legal advice regarding an issue related to a BACP prosecution of the spouse's client. In an interview with OIG, the Official admitted to taking no steps to identify cases in which the Official's spouse was the opposing counsel and denied that the circumstances posed a personal conflict. However, the Official's actions violated the City's Personnel Rules as well as the Illinois Rules of Professional Conduct.

Accordingly, OIG recommended that BACP impose discipline against the Official commensurate with the gravity of the violations, past disciplinary record, and any other relevant considerations. OIG further recommended that BACP instruct its attorneys to ensure they are following their own professional obligations and responsibilities. OIG recommended that BACP consult with the Department of Law (DOL) to ensure BACP's departmental conflict of interest policy appropriately covers the requirements of BACP attorneys and is administered to avoid both real and apparent conflicts.

In response, BACP verbally counseled the Official to be vigilant in identifying cases and making recusals from BACP matters in which either the spouse or the spouse's firm are involved. BACP concluded that the Official did not participate in any decision making regarding the spouse's clients and therefore did not have an actual conflict of interest. BACP acknowledged that the Official's actions, however, created an appearance of impropriety, and that the Official failed to

*Page 8 of 30*

*OIG Quarterly Report -Fourth Quarter 2016*

notify the BACP commissioner of the spouse's representation and improperly sought legal advice from the spouse.

BACP further reported that it had worked with DOL to revise its conflicts policy to address the obligations of all BACP employees, as well as the additional responsibilities of BACP attorneys. According to the Department, its attorneys received training on the revised policy in December.

**C) *Mishandling of Investigative Material (OIG #14-03 79)***

An OIG investigation established that a former investigator for the Independent Police Review Authority (IPRA) emailed, without authorization, a confidential IPRA memorandum regarding an investigation of a high-ranking Chicago Police Department (CPD) employee to an individual who did not work for the City and had no connection to the confidential investigation. The investigation additionally established that the IPRA Investigator improperly emailed a confidential lab report regarding DNA testing concerning the same investigation from the employee's official IPRA email account to a personal, unsecured email account. OIG additionally attempted to determine whether the IPRA Investigator (or other IPRA personnel) leaked the DNA testing report to a news reporter who both publicly reported on and posted a pdf of the confidential report. Because the IPRA Investigator left the agency and moved out of the surrounding area beyond the reach of an OIG subpoena, and because the news reporter declined to cooperate and invoked reporter's privilege, OIG could not develop sufficient evidence directly linking the former IPRA Investigator or any other City employee to the public reporting and publishing of the confidential DNA report.

The IPRA Investigator's improper handling of confidential investigative documents violated IPRA's confidentiality policies and the City's Personnel Rules. Because the IPRA Investigator no longer worked for the City, OIG recommended that IPRA make a determination as to OIG's findings and place a copy of OIG's report in the IPRA Investigator's personnel file for consideration should the individual seek re-employment with the City in the future.

In response, IPRA stated that it concurred with OIG's findings and would place a copy of OIG's report in the former IPRA Investigator's personnel file.

**D) *Misuse of City Resources (OIG #15-0267)***

An OIG investigation established that a Department of Planning and Development (DPD) employee used City resources to conduct secondary employment and to exchange sexually explicit emails on City time. For over a decade the

Employee used a City email account as the primary means of communication for outside employment, including while on the clock for DPD. Even after obtaining a private email address the employee continued the past practice, sending and receiving over 170 emails related to the secondary employment between May 2015 and January 2016 alone. The Employee also failed to disclose the secondary employment income on statements of financial interest. In a separate incident, the Employee misused DPD's letterhead by providing a memo on editable letterhead in a matter unrelated to the Employee's City duties.

*Page 9 of 30*

*OIG Quarterly Report -Fourth Quarter 2016*

OIG's investigation also established that over a three-month period the Employee sent more than 50 sexually explicit emails through the City's system. The emails were sent during the workday.

The Employee's actions violated the City's Personnel Rules. OIG recommended that DPD, at its discretion, impose discipline up to and including termination commensurate with the gravity of the violations, past disciplinary record, and any other relevant considerations.

DPD initiated discharge proceedings against the Employee and, per the collective bargaining . agreement, allowed the Employee five days to respond to the charges. After receiving the Employee's response, DPD in consultation with DOL, changed the discipline to a 90-day suspension without pay. The Employee's union, has requested an arbitration regarding the suspension. The arbitration is expected to occur in early spring 2017.

**E)      *Conflict of Interest (OIG #15-0508)***

An OIG investigation established that a Special Service Area (SSA) commissioner, via a corporate entity which the Commissioner owned, leased office space to the SSA's Service Provider, in violation of the SSA and City's conflict of interest policy. The rental arrangement had been disclosed in annual audit documents that were submitted to the City. During interviews the Commissioner claimed to have consulted with City employees before entering the agreement and was under the impression that there was no conflict. However, the Commissioner's ownership stake in the entity collecting rent from the SSA created an impermissible interest under the City's Service Provider Agreement. Accordingly, OIG recommended that DPD take action consonant with the conflict of interest provisions of the Service Provider Agreement, which required that the Commissioner be removed if the lease arrangement was to remain in place.

The Commissioner resigned in the fall of 2016.

**F)      *Soliciting a Bribe (OIG #16-0277)***

An OIG investigation established that an employee of a city contractor providing services to the Department of Finance (DOF) solicited a \$20 bribe from a pizza delivery driver in exchange for not issuing the driver a parking citation. Following the incident, the Delivery Driver flagged down a CPD officer to seek assistance and filed a police report detailing the incident. The Employee's actions violated the Illinois Compiled Statutes. Accordingly, OIG recommended that DOF seek that the Employee be removed and barred by the Contractor from performing work under any City contract. In response, DOF agreed with OIG's recommendation and the Contractor terminated the Employee.

**(G)      *Inappropriate Conduct by City Employee (OIG #16-0309)***

An OIG investigation concluded that a 2FM employee made sexually suggestive comments to two senior citizens, who used services at a City-run senior facility. The Employee's comments included uninvited and probing questions. At least one of the seniors became uncomfortable using the facility for fear of running into the Employee.

*Page 10 of 30*

*OIG Quarterly Report -Fourth Quarter 2016*

The Employee's actions violated the City's Personnel Rules, and OIG recommended that 2FM, at its discretion, impose discipline up to and including termination commensurate with the gravity of the violations, past disciplinary record and any other relevant considerations.

2FM agreed with OIG's finding that the Employee engaged in inappropriate behavior and terminated the individual's employment. The Employee appealed the termination and an arbitration hearing is set for early 2017.

(H) Lack of Consensus in Policies and Procedures (External Investigation)

In December 2015, a non-sworn, non-union member of the Chicago Police Department (CPD) lodged a complaint against OIG. Pursuant to a Memorandum of Understanding between OIG and DOL, DOL contracted with a litigation partner to conduct an independent investigation of the matter.<sup>9</sup> The independent investigator obtained and reviewed over 5000 documents and conducted interviews of multiple witnesses, including the complainant. In October 2016, based on that review, the independent investigator found one allegation not sustained and, regarding a second allegation, found evidence of a "lack of consensus" around the City's policies and procedures for investigations of CPD personnel, and therefore sustained the allegation while noting that no misconduct had occurred.

In the first allegation, the Complainant, while not the subject of any OIG disciplinary report, alleged that a paragraph and footnote in a 145-page Chronology of Events with over 1000 footnotes contained inaccuracies and omissions in mentions of the Complainant.<sup>10</sup> The Chronology accompanied summary reports of investigation for separate subjects. Soon after the Complainant raised the concerns, OIG issued an amendment to the chronology correcting one issue and clarifying another. However, the Complainant maintained that senior-level OIG employees engaged in improper behavior by including the references and that the chronology remained misleading and incomplete. The independent investigator found this allegation not sustained, concluding,

There is no evidence that the imprecision in the aforementioned footnote and paragraph were anything other than human mistake as a result of numerous individuals contributing to the creation and development of a dense and novel document, in connection with a complex investigation, over a relatively extensive period of time. No evidence exists -either in the interviews of OIG personnel or in documents we reviewed - that anyone at OIG had any animus toward [Complainant]...OIG's prompt corrective action in response to this matter resolved the issue, and no further action is required.

<sup>9</sup> The Memorandum of Understanding Between the Law Department and the Inspector General's Office Regarding Investigations of the Inspector General's Office is available at <http://chicagoinspectorgencral.org/wp-content/uploads/2011/02/MOU-Internal-Investigations-June-2009.pdf>.

<sup>10</sup> The originating complaint related to OIG's summary reports of investigation on violations stemming from CPD employees' 2004 and 2011 investigations of the homicide of David Koschman. A full summary of OIG's findings and recommendations related to the Koschman case is available in the first Quarter Report of 2016. See <http://chicagoinspectorgencral.org/publications-and-press/oiti-releases-1st-quarter-2016-report/>.

*OIG Quarterly Report -Fourth Quarter 2016*

In February, 2016, during the course of the independent investigation, the Complainant asserted a second allegation that in March, 2015, "OIG wrongly and erroneously served" the Complainant with a notice of allegations and notice of interview, which improperly referenced an affidavit from Scott Ando, the then-head of IPRA. Obtaining an affidavit is a procedural step that OIG must take with regards to sworn CPD employees, as provided by their collective bargaining agreements." Prior to conducting interviews in its administrative investigation, OIG had submitted a request for an affidavit override to IPRA, along with supporting evidence. The request named sworn CPD officers, whom OIG intended to interview. The request, however, did not include the Complainant, who is not sworn. After receiving the affidavit override,<sup>12</sup> OIG drafted the following language to include in the "Complainant" section of its notifications of allegations, "An appropriate affidavit could not be obtained from a citizen complainant. Accordingly, and pursuant to the affidavit override process, the Office of Inspector General sought and obtained an appropriate affidavit from Scott M. Ando, Chief Administrator of the Independent Police Review Authority for the City of Chicago." This paragraph was included in the notice sent to Complainant.

In its review of this allegation, the independent investigator once again found "no evidence of intentional misconduct or malice," but sustained the finding regarding the service of the notices because it determined that "OIG should not have issued a Notice of Allegations against [Complainant] which indicated that an affidavit existed from Scott Ando which named [Complainant]."<sup>13</sup> The independent investigator found that this occurred because members of OIG's investigative team did not share a common understanding of the relevance of the affidavit override process on a non-sworn CPD member. Ultimately, the independent investigator found "the error attached to this incident immaterial" because after receiving the notice of interview, the Complainant's attorney requested the referenced affidavit, triggering OIG to revisit the question of whether an affidavit override was necessary for a non-sworn CPD member and, if so, whether the Ando affidavit was sufficient. While not reaching a definitive answer at the time, OIG cancelled Complainant's interview.

As the independent investigator found no misconduct by OIG, it did not make any disciplinary recommendations. Rather, it recommended that OIG review its processes and determine whether any additional training is necessary. Noting that OIG will likely be involved in more investigations of CPD personnel in the future, the independent investigator recommended that OIG clarify and take a definitive position on the procedures applicable to non-sworn CPD personnel who are interviewed as subjects of OIG investigations.

Unlike other City employees, sworn CPD employees who are subjects of an investigation are entitled to a notice of allegations and a notice of interview before OIG may interview them. The notices must identify who filed a signed complaint against them. In the absence of a signed complaint, OIG may seek an "affidavit override" from the head of either CPD's Bureau of Internal Affairs or IPRA, whereby he or she authorizes an investigation after review of the available evidence.

" IPRA provided the requested override, agreeing that the administrative investigation was necessary and appropriate for all the sworn officers listed in the request except for one who was no longer an active CPD employee.

"" OIG notes that the description of the affidavit provided in the "Complainant" section does not state that the affidavit named Complainant. OIG understands this statement to mean that the independent investigator believes the reference to the affidavit allowed a reader to assume that the affidavit named the Complainant.

*OIG Quarterly Report -Fourth Quarter 2016*

OIG agrees with this recommendation. OIG strives to be transparent regarding its administrative processes by describing them in its rules and regulations and publishing them on its website. OIG has begun the process of clarifying this issue and related issues of administrative rights for non-sworn CPD employees by opening a dialogue with DOL, CPD's Bureau of Internal Affairs, and IPRA, soon to be the Civilian Office of Police Accountability (COPA). Once resolved, OIG will update its published rules and regulations and will train its staff on this matter.

#### **D. 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>14</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)<sup>15</sup> and grievance arbitrations concerning OIG's disciplinary recommendations.

##### **1. Synopses of Criminal Cases**

During this quarter, no criminal charges resulted from or were related to OIG cases.

##### **2. Developments in Prior Charged Criminal Cases**

During this quarter, there was significant development in two previously reported criminal cases.

###### **(A) United States v. John Bills, Martin O'Malley, and Karen Finley, 14-CR-135(NDIL)**

On November 10, 2016, U.S. District Court Judge Virginia Kendall sentenced Karen Finley, former chief executive officer of Redflex Traffic Systems Inc., to a 30-month term of imprisonment for her role in a multi-year kickback scheme perpetrated in connection with the City's red-light camera program. *United States v. Karen Finley*, 14-CR-135-3 (ND IL). As part of the sentence, Judge Kendall also entered an order of restitution for \$2,032,959.50 for which Finley is jointly and severally liable with her co-defendants, and for which Finley must make an initial lump sum payment of \$35,000. Finley was the third and final defendant to be sentenced as the result of an investigation conducted jointly by OIG, the Federal Bureau of Investigation, and

<sup>14</sup> OIG may issue summary reports of investigation recommending administrative action based on criminal conduct prior to, during, or after criminal prosecution.

DMR's website describes HRB as follows, "The three-member board is appointed by the Mayor and is charged with the responsibility of conducting hearings and rendering decisions in instances of alleged misconduct by career service employees. The Board also presides over appeal hearings brought about by disciplinary action taken against employees by individual city departments." See [http://www.cityofchicago.org/city/en/depts/dhr/autodivisions/departmental\\_structure.html](http://www.cityofchicago.org/city/en/depts/dhr/autodivisions/departmental_structure.html) (accessed July 9, 2015)



the Internal Revenue Service, and a prosecution by the United States Attorney for the Northern District of Illinois. Through the City's original contract award and a corrupted sole-source procurement process, Redflex ultimately received payments and contracts of over \$100 million.

OIG began investigation of this matter in 2012, soon after the Chicago Tribune revealed the existence of an internal Redflex whistleblower memo. OIG investigators quickly developed critical evidence of criminal activity beyond what was reported by the Tribune, which OIG brought to the United States Attorney for the Northern District of Illinois. OIG continued to conduct numerous in-person interviews, review documents, and perform extensive forensic analysis of financial records. OIG's efforts helped to expose a major bribery scheme and contributed to two guilty pleas as well as the conviction and 10-year term of imprisonment of a City employee who abused his position of power for gross personal benefit.

*(i) Redflex Traffic Systems, Inc.*

On December 27, 2016, the Department of Justice and the United States Attorney's Offices for the Northern District of Illinois and the Southern District of Ohio (collectively, "DOJ") entered into a Non-Prosecution Agreement with Redflex Traffic Systems Inc. The agreement was reached in part due to Redflex's cooperation with the successful prosecutions of Bills, O'Malley, and Finley.

As part of the Non-Prosecution Agreement, Redflex accepted responsibility for its conduct related to the illegal activities of its employees in recent investigations. Redflex agreed to pay restitution and compensatory damages to the City of Chicago, the amount of which will be determined either by a final judgment or a settlement agreement in Chicago's pending civil lawsuit against Redflex.

The company further agreed to address deficiencies in its compliance code, to adopt new policies to ensure that it maintains a rigorous anti-bribery and anti-corruption compliance code, and to install procedures designed to detect and deter violations of such laws. During the term of the agreement, Redflex must prepare at least four follow-up reports and submit them to DOJ. If DOJ determines that Redflex has violated any provision of the Non-Prosecution Agreement, Redflex shall be subject to prosecution for any applicable violation of U.S. law, including perjury and obstruction of justice. In exchange for Redflex's fulfillment of its obligations under the agreement, DOJ agreed that it would not criminally prosecute Redflex for any of the conduct arising out of investigations in Chicago and Columbus, O.H.

*(B) United States v. Roberto Uribe, 16 CR228 (ND IL)*

On October 20, 2016, former City of Chicago Building Inspector Roberto Uribe pleaded guilty to one count of attempted extortion, 18 U.S.C. § 1951, for soliciting a bribe from a building owner in the course of his official duties. United States v. Roberto Uribe, 16 CR228 (ND IL). Uribe was arrested on April 5, 2016, and had resigned from his City position earlier this year as a result of this incident. DHR placed him on the ineligible for rehire list.

*Page 14 of 30*

*OIG Quarterly Report -Fourth Quarter 2016*

Uribe solicited and received a \$300 bribe from a city property owner in exchange for allowing renovation work without a permit. Uribe initially approached workers performing renovations at the building and asked if they had a permit to work on the front window facade. The workers put Uribe in touch with the building owner. In a recorded conversation Uribe

explained to the owner, that paying a bribe to avoid a permit would save money and benefit both of them. Obtaining a permit, Uribe told the owner, "will stop you for six months and it'll cost you starting at \$3,500 for an architect and plans." Uribe further said, "I'm looking out for you, we're looking out for each other." As a condition of the plea, Uribe agreed to return the \$300 bribe to the victim property owner.

The charge, which was brought by the U.S. Attorney for the Northern District of Illinois, stems from a joint investigation by OIG and the Federal Bureau of Investigation. The charge carries a maximum sentence of 20 years in prison and a maximum fine of \$250,000. Sentencing before U.S. District Judge Jorge L. Alonso is scheduled for March 15, 2017, in the Dirksen Building, Rm 1219.

### **3. Synopses and Results of Administrative Appeals, Grievances, or Other Actions**

To date, OIG has been notified of one update regarding appeals to HRB or an arbitrator occurring or other actions in the quarter regarding discipline imposed as a result of OIG investigations.

#### *(A) Update of OIG Record #14-0303 (Residency Violation)*

An OIG investigation previously found that a Department of Water Management (DWM) Operating Engineer lived in Darien, Illinois, in violation of the MCC. OIG had recommended that DWM terminate the Operating Engineer as mandated by the Residency Ordinance and Personnel Rules, and designate and refer the employee for placement on the ineligible for rehire list maintained by DHR. As previously reported, DWM terminated the Operating Engineer. After first filing a request for a hearing with HRB, the employee later moved to withdraw the appeal. On November 17, 2016, HRB issued a decision to dismiss the employee's appeal with prejudice.

### **4. Recoveries**

This quarter OIG received no reports of cost recovery actions or other financial recoveries related to OIG investigations.

## **E. 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 the programs and operations reviewed.

The following summarizes two audits and one follow-up inquiry released this quarter.

A) *Chicago Department of Public Health Food Establishment Inspection Audit (OIG M5-0107)*<sup>16</sup>

OIG evaluated the frequency of food establishment inspections conducted by the Chicago Department of Public Health (CDPH). Food establishments subject to inspection include restaurants, grocery stores, bakeries, delis, daycares, hospital kitchens, and school cafeterias.

The audit found that CDPH did not conduct routine inspections of food establishments as frequently as required. CDPH inspected only 3,566, or 43.9%, of high-risk establishments the required minimum of two times in 2015; only 2,478, or 80.1%, of medium-risk establishments the required minimum of one time in 2015; and only 1,078, or 24.8%, of low-risk establishments the required minimum of one time in 2014 or 2015.

Although the Department did not conduct routine inspections as frequently as required, OIG found that CDPH did conduct timely, reinspections of establishments with violations identified during initial inspections and also responded in a timely manner to public complaints received through the City's 311 system.

OIG recommended that CDPFI collaborate with the Illinois Department of Public Health (IDPH) to design and implement a permanent food inspection schedule that promotes food safety and is feasible from resources that can be made available to CDPH. The Department agreed with this recommendation and committed to pursue the matter with IDPH. Absent a new schedule, CDPH stated that it would collaborate with OBM to "develop an implementation plan, including resources, to bring [CDPH] into compliance" with existing rules.

B) *Office of Emergency Management and Communications Public Safety Cameras Audit (OIG #14-0568)*<sup>17</sup>

OIG reviewed the functionality and maintenance of City-owned public safety cameras, as well as whether the Office of Emergency Management and Communications (OEMC) provided camera network access to only the appropriate personnel. OEMC manages nearly 2,700 City-owned cameras and safeguards access to a network of more than 27,000 public and private surveillance cameras.

<sup>1</sup> Published November 29, 2016. See <http://chicoinspectorieneral.org/publications-and-press/audit-of-cdp-h-food-establishment-inspections/>.

<sup>17</sup> Published December 13, 2016. See <http://chicoinspectoriencrill.org/publications-and-press/Audit-of-ocmc-public-safety-cameras/>.

OIG found that OEMC did not comply with citywide policies regulating access to information systems. As a result, OEMC could not, in most instances, determine which individuals accessed the camera system or how those individuals used the cameras. The audit also found that OEMC did not establish operational objectives for the public safety cameras. OIG further found that although OEMC's project manager-PBC-received and reviewed deliverables as required, minor deficiencies in PBC's vendor monitoring prevented it from fully executing its responsibilities as a project manager.

OEMC agreed with the findings of the audit and will continue creating individual logins for all camera users and develop policies that regulate camera network access. In addition, OEMC will develop performance measures that allow the Department to assess the major components of the camera system and work with PBC to improve contractor oversight while also exploring program management alternatives.

(C) Department of Family and Support Services Homeless Services Audit Follow-Up Inquiry (OIG #16-0378?/\*

OIG completed a follow-up to its August 2015 audit of the Department of Family and Support Services (DFSS) homeless services. Based on the Department's responses, OIG concludes that DFSS has begun implementation of corrective actions related to the audit findings.

The purpose of the 2015 audit was to determine how DFSS selected and monitored homeless service providers, called "delegate agencies." Our audit found that, due to multiple errors in DFSS's evaluation of Request for Proposal (RFP) respondents, DFSS may not have selected the most qualified agencies. In addition, because of gaps in the audit process, DFSS failed to hold agencies fully accountable for program inadequacies and inaccurate reporting.

Based on DFSS's follow-up response, OIG concluded that DFSS has implemented the corrective actions to address one finding concerning the Department's audit tool, and has begun implementing the corrective actions to address the remaining two findings regarding RFP scoring and delegate agency performance reporting. Once fully implemented, OIG believes the corrective actions reported by DFSS may reasonably be expected to resolve the core findings noted in the original audit. OIG expects this will likely be accomplished in 2017.

<sup>1b</sup> Published October 24, 2016. See <http://chicagoinspcatoracncral.ori2/publications-and-press/161016/v-up-of-dfss-homeless-seivices-audit/>.

Page 17 of 30

OIG Quarterly Report -Fourth Quarter 2016

#### F. Advisories and Department Notification Letters

Advisories and department notification letters describe management, operational, and other issues observed by OIG in the course of its activities including audits and investigations. These are issues that OIG believes it should apprise the City of in an official manner. OIG completed two notifications this quarter.

(A) *Notification regarding CANVAS Database Security, (OIG #14-0060 & #14-0586)*

Recent OIG investigations revealed that individual employees of debt collection law firms engaged by DOL had unnecessary edit capabilities in DOF's Central Adjudication, Noticing, and Violation Administration System (CANVAS) database and, in two separate instances, inappropriately edited collections accounts in order to hinder the City's collections efforts. In the first case, a collections agent, shortly before resigning from the collections firm, edited the name and contact information associated with 200 tickets making the tickets difficult to link to an individual debtor. The affected tickets reflected a combined total of approximately \$33,000 in amounts due. In the second case, a collections

firm manager, in her last week before being laid off from the firm, zeroed out balances due in 37 accounts without appropriate documentation, affecting 295 tickets with a combined balance due of over \$46,000. In both instances, DOF, DOL, and the law firms took steps to address the inappropriate edits, and the debts remained collectable.

As a result of these incidents, DOF reported that, in late 2015, the Department reviewed all individual CANVAS user roles and functions and adjusted individual user roles to provide the lowest level of edit capability necessary. DOF also conducted an audit to ensure that the employees who were granted editing capabilities were appropriately using their credentials. Finally, DOF reported that it had implemented a quarterly review of user role access in which law firm supervisors are required to review and revalidate the continued business need for individual employee access and permissions.

OIG commended DOF and DOL for their work to address the security issues. However, OIG recommended DOF further consult with the Department of Innovation and Technology (DoIT) to ensure these controls and the debt collection firms' use of City data comport with the City's Information Security and Technology (IST) Policies.<sup>19</sup> OIG further recommended that DOF continue to closely monitor CANVAS user roles and permissions and, in conjunction with DOL consider auditing CANVAS user edits on an annual or other routine basis.

In response, DOF reported that, according to DoIT, the policies and protocols put in place by DOF and DOL reasonably comply with the relevant ITS policies. DOF noted that it is working with DoIT and DOL to further strengthen compliance and audit programs and to reinforce data security and access protocols. DOF outlined some of the policies and procedures that it is working on including a requirement that third-party collection firms conduct quarterly audits and

<sup>19</sup> The Information Security and Technology Policies are available at [http://www.ciivolchicaao.org/ciiv/en/depts/doit/siipp\\_info/is-and-it-policies](http://www.ciivolchicaao.org/ciiv/en/depts/doit/siipp_info/is-and-it-policies) <[http://volchicaao.org/ciiv/en/depts/doit/siipp\\_info/is-and-it-policies](http://volchicaao.org/ciiv/en/depts/doit/siipp_info/is-and-it-policies)>.html.

Page 18 of 30

*OIG Quarterly Report -Fourth Quarter 2016*

maintain backup data for all changes made in CANVAS as well as a commitment by DOF and DOL to conduct annual audits, beginning in 2017, of changes made to CANVAS data.

*(B) Notification regarding DSS Leave Policies (OIG # 15-0520)*

An OIG investigation revealed a discrepancy as to how the Department of Streets and Sanitation (DSS) applied its Work Rules for Trade Union Employees. According to the Work Rules, the only unscheduled paid leave available to DSS trade union employees is sick leave. However, two senior DSS managers reported that there was an informal, unwritten policy of allowing the use of unscheduled vacation time in certain emergency situations at the discretion of a division superintendent. Notably, without this unwritten policy, employees may be vulnerable in the event of a genuine emergency where no one is ill, but there was no guidance on what, if any, limitations existed on the discretion to grant such leave.

The notification followed an OIG investigation in which a DSS employee was permitted to take unscheduled paid leave for an absence due to incarceration that continued over several days. Under the written policy, sick time is the only unscheduled time allowed. However, given the nebulous nature of the practice allowing unscheduled, emergency leave, incarceration potentially qualified for unscheduled paid leave under the unwritten policy. Further, OIG's investigation revealed confusion over how such emergency leave, if granted, should be classified in the timekeeping system, and as a result, the incarcerated employee's absence was partially classified as sick time.

Given the ambiguity regarding the use of emergency leave, OIG's investigation did not lead to a disciplinary recommendation. Nonetheless, OIG urged DSS to resolve the discrepancy by formalizing the unwritten policy regarding unscheduled emergency leave when the emergency is not related to illness, or otherwise ensure that the Department's practice conforms to its written policy. Further, OIG suggested that DSS take measures, such as training, to ensure that employees and supervisors have an accurate perception of timekeeping policies. In addition, the fact that DSS had inconsistent rules about the application of Collective Bargaining Agreements, which are applicable to employees working in multiple departments raised concerns about how leave time is granted and coded across all departments. As a result, OIG also sent the notification to the Office of the Mayor, DHR, and the Comptroller for broader examination of the implications of these inconsistencies.

In response, DSS updated the Trade Union Employee Work Rules General Order 09-005, Time and Attendance Policy to allow for emergency, non-illness related leave for an employee who does not have accrued paid time, when approved by the deputy commissioner. DSS reported that in the event an employee without accrued time qualifies for approved, unscheduled emergency leave, timekeepers will use the "absence excused" timekeeping code. These changes do not set guidelines or limitations on the deputy commissioner's discretion in granting such leave and do not address whether accrued vacation time can be used on an emergency basis. In addition, DSS reported that all timekeepers and supervisors were trained on the new Guide for Using CATA Codes, implemented citywide on September 1, 2016, which aligns with DSS's formalized-absent-excused policy.

*Page 19 of 30*

*OIG Quarterly Report -Fourth Quarter 2016*

## **G. Other Reports and Activities**

As an expert in government oversight and as part of its mission to promote economy, effectiveness, efficiency, and integrity, OTG may periodically participate in additional activities and inquiries in the service of improving accountability in City government. This section is reserved in order to describe such activities as they occur.

### ***A) Inquiry regarding Board of Ethics Advisory Opinions***

On October 14, 2016, OIG sent a letter to BOE Executive Director Steven Berlin, as well as Board Chairman William Conlon and the other Board members, raising an issue of concern regarding the opinions and advice that Board personnel provide to City officials and employees. This issue arose after BOE issued an informal opinion, dated October 4, 2016, addressing the Chicago Cubs's offer of face-value playoff tickets to elected officials. Based on its interpretation of the MCC, BOE refused to provide OIG information about the opinion without first securing written waivers from not only the subject of the opinion, but also anyone else whose conduct was at issue, which in this case would have included all 50 aldermen, among other elected officials, and/or Cubs management. OIG expressed concern that this interpretation of the law hindered effective and efficient ethics enforcement, a problem compounded by a lack of clarity in the distinction between inquiries that result in BOE advisory opinions, which must be made public, and those that result in BOE informal opinions, which remain wholly confidential.

After OIG sent its letter, BOE clarified its position on the face-value tickets, issuing a revised memorandum, dated October 21, 2016, and posting it publicly, which allowed OIG and others to understand and apply BOE's interpretation of the Ethics Ordinance.<sup>20</sup> The revision established that the "reasonable hosting" exception to the Ethics Ordinance's gift restriction, as it applies to high-market value event tickets, is limited to events where the City official or employee is attending "to perform an official, appropriate, ceremonial duty or action," and there is "a clear and direct connection"

between the ticket recipient's attendance and the performance of the duty. BOE followed this revised memorandum with the public release of a formal advisory opinion, dated November 16, 2016,<sup>21</sup> which included a copy of the original informal opinion, and further explained how the Ethics Ordinance applies to City officials and employees' purchase of tickets to high-demand events at or below face value.

B) *Request for a Formal Opinion from Board of Ethics*

On November 18, 2016, OIG submitted to BOE Executive Director Berlin, Chairman Conlon, and the other Board members a request for a formal opinion regarding the following hypothetical:

- Entity A is a 501(c)(3) corporation operated as a partnership between the City of Chicago and private local business interests. Entity A's mission is to drive regional economic

" The October 21, 2016, revised memorandum is available at

<https://www.ciivolchicago.org/conlciU%5e%5e> <<http://www.ciivolchicago.org/conlciU%5e%5e>>

<sup>21</sup> The November 16, 2016, formal advisory opinion is available at

<https://www.ciivolchicago.org/conlciU%5e%5e> <<http://www.ciivolchicago.org/conlciU%5e%5e>>

<https://www.ciivolchicago.org/conlciU%5e%5e> <<http://www.ciivolchicago.org/conlciU%5e%5e>>

Page 20 of 30

OIG Quarterly Report -Fourth Quarter 2016

growth and promote the City's participation in the global economy. In addition to funding from other sources, each year Entity A receives more than \$1 million from the City.

- Official B is both a City official and the ex officio chairman of Entity A's board of directors, whose members are all appointed by Official B.
- Father C, a local religious leader, is scheduled to be honored at a ceremony hosted by the leader of an international church. Numerous federal, state, and local officials are travelling overseas to attend this event.
- Entity A is paying the travel expenses for Official B, as well as his wife and staff, to attend the ceremony honoring Father C. According to Official B, Entity A is not using any City money to pay for the trip; rather, Entity A is purported to have raised private funds for this purpose, however the identity of those funding sources (as well as whether and what form of business relationship they may have with the City of Chicago) has not been disclosed nor is such disclosure susceptible to a request pursuant to the Illinois Freedom of Information Act because Entity A does not regard itself as subject to FOIA.

In response to OIG's request, BOE issued a formal advisory opinion, dated December 19, 2016. BOE determined that the trip described in the hypothetical would be related to official City business or a public purpose. Thus, the travel arrangement would be allowed under either of two exceptions to the Ethics Ordinance's gift restriction provided in MCC § 2-156-142-as a gift accepted "on behalf of the City" or as a "travel expense for meetings related to a public...purpose." BOE also noted that "public confidence in the transparency of governmental operations would be enhanced if City officials and the City's Law Department would work with Entity A so that it voluntarily and publicly discloses the precise source and legal provenance of the funds used to underwrite travel taken by City officials."""

H. Hiring Oversight

Under Chapter XII of the City of Chicago General Hiring Plan, Chapter XI of CPD Hiring Plan, and Chapter IX of the Chicago Fire Department (CFD) Hiring Plan,"<sup>3</sup> OIG is required to review and audit various components of the hiring process and report on them quarterly. 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."

" The December 19, 2016, formal advisory opinion can be found at

<<https://www.cityofchicago.org/city/cn/depts/ethics/supp%20info/AdvOpin-BdElections1.html>.

<sup>23</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 refilled, 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."

Page 21 of 30

*OIG Quarterly Report -Fourth Quarter 2016*

## 1. Hiring Process Reviews

### A) *Contacts by Hiring Departments*

OIG tracks all reported or discovered instances where hiring departments contacted DHR or CPD 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 fourth quarter of 2016, OIG received 1 report of a direct contact.

### B) *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 fourth quarter of 2016, OIG received notice of 6 political contacts:

- An alderman provided a candidate with a generic letter of support for employment.
- An alderman contacted a DOL employee to inquire about the status of a candidate's placement in the training academy for the covered position of Firefighter.
- An aldermanic official contacted DHR to inquire about the application status of a candidate for the position of Project Manager.
- An alderman contacted DHR to inquire about the status of a former city employee's placement on a recall list.



- An alderman contacted DHR to inquire about the status of candidates' applications for city positions.
- An alderman contacted a CPD-HR employee to inquire about the status of a candidate's petition for reinstatement on a referral list for the covered position of Police Officer.

*(C) Exemptions*

OIG tracks all reported or discovered Shakman Exempt appointments and modifications to the Exempt List on an ongoing basis from DFIR. OIG received 49 notifications of exempt appointments in the fourth quarter.

Page 22 of 30

*OIG Quarterly Report -Fourth Quarter 2016*

*D) Senior Manager Hires*

OIG reviews hires pursuant to Chapter VI covering the Senior Manager Hiring Process. Of the 44 hire packets OIG reviewed in the fourth quarter, 19 pertained to Senior Manager positions, 2 of which contained errors. One packet was for a position title which was not listed as a Senior Manager title on DHR's website. OIG contacted DHR to notify them of this oversight, and in response DHR stated that they had begun the process of adding the title to the Senior Manager list. However, as of the end of the fourth quarter, the title had not yet been added to the list. The other packet did not contain the required Justification Memo. OIG contacted the responsible Recruiter, who obtained the memorandum from the Hiring Department and provided the document to OIG. Both packets contained incomplete Hire Certifications, which DHR ensured were completed after being informed of the error by OIG.

Due to the nature of the errors and the corrective actions taken, OIG had no further recommendations.

In addition, during the fourth quarter, OIG determined that a title used by OIG no longer fit the Senior Manager definition per the OIG Hiring Procedures. OIG notified DHR and eliminated the title from the Senior Manager list.

*E) Written Rationale*

When no consensus selection is reached during a Consensus Meeting, a Written Rationale must be provided to OIG for review.<sup>24</sup>

During the fourth quarter of 2016, OIG received 2 Written Rationales for review. OIG reviewed both notices and did not have concerns or objections.

*F) Emergency Appointments*

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

The City reported no emergency appointments during the fourth quarter of 2016.

*G) Review of Contracting Activity*

Prior to offering any contract or other agreement terms to any business, individual, not-for-profit agency, or other organization or entity for services to the City, the requesting department shall give OIG advance notification. OIG is also 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 draft contract or agreement terms to assess whether they are in compliance with the Policy. This review includes analyzing the contract for common law employee risks and ensuring the inclusion of the Shakman boilerplate language. In addition to

"4 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.

Page 23 of 30

OIG Quarterly Report -Fourth Quarter 2016

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 received notice of 35 Task Order Requests during the fourth quarter. OIG received notice of 9 contracts or agreements. The chart below details contracts OIG received notice of in the fourth quarter of 2016.

**Table #6 - Contract and Volunteer Opportunity Notifications**

Contracting Department	Contractor, Agency, Program, or Other Organization	Duration of Contract or Agreement
Mayor's Office	Personal Service Contract	1 year
Independent Police Review Authority	Professional Dynamic Network, Inc.	12 weeks
Independent Police Review Authority	Professional Dynamic Network, Inc.	16 weeks
Budget Management	M3 Medical Management Services	7 weeks
Public Health	M3 Medical Management Services	9 months
Public Health	M3 Medical Management Services	10 weeks
Public Health	Locum Tenens	3 months
Public Health	Locum Tenens	3 months
Public Health	Locum Tenens	3 months

## 2. Hiring Process Audits

### A) *Modifications to Class Specifications,<sup>25</sup> Minimum Qualifications, and Screening and Hiring Criteria*

OIG reviews modifications to Class Specifications, minimum qualifications, and screening/hiring criteria. In the last quarter, OIG received notification that DHR changed the minimum qualifications for seven titles within the following departments: Chicago Department of Aviation (CDA), CFD, Department of Procurement Services (DPS), and COPA. OIG reviewed all instances of a change to minimum qualifications, and did not have concerns or objections.

### B) *Referral Lists*

OIG audits lists of Applicants/Bidders who meet the predetermined minimum qualifications generated by DHR for

City positions. Each quarter, OIG examines a sample of referral lists and notifies DIIR when potential issues are identified. OIG recognizes that aspects of candidate assessment are subjective and that there can be differences of opinion in the evaluation of a candidate's qualifications. Therefore, our designation of "error" is limited to cases where, based on the information provided, OIG found that,

<sup>23</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.

Page 24 of 30

*OIG Quarterly Report -Fourth Quarter 2016*

- a candidate who did not quantitatively meet the minimum qualifications was referred for hiring;
- a candidate who failed to provide all of the required information and/or documents listed on the job posting was referred for hiring; or
- a candidate who quantitatively met the minimum qualifications was not referred for hiring.

*In the last quarter, OIG audited four referral lists, none of which contained errors. (C) Testing*

The Hiring Plan requires OIG conduct an audit of DHR test administrations and scoring each quarter. In the fourth quarter, OIG audited testing administration materials<sup>26</sup> for 29 completed test administrations<sup>27</sup> covering 13 City departments completed during the third quarter of 2016.

OIG found errors affecting three test administrations and reported them to DHR. These errors did not affect any candidates' placement on position eligibility lists or any final candidate selection decisions. None of the errors constituted a violation of the Hiring Plan. The individual errors and DHR's response to each error are detailed below.

i. Fleet and Facilities Management- Chief Operating Engineer

OIG observed that there were zero markings (including a final score) on the Test of Supervisory Skills (TOSS) answer sheets for all candidates, so OIG was not able to confirm the candidates' scores. The test results as sent to DFIR only list whether a candidate passed or failed. DHR downloads a summary spreadsheet of the candidate responses from the REMARK system and scores are kept in the spreadsheet. DHR agreed that in the future the spreadsheet and scores will be placed on the answer sheets.

ii. Finance - Parking Enforcement Aide

The audited testing materials did not include a referral or bid list for this sequence. Candidates invited to take the test were internal applicants and the Interview Notification Form (INF) identified the tested candidates. The absence of the referral or bid list is considered an error because it was requested as a part of the testing administration materials. DHR agreed with this assessment and provided the referral list.

<sup>2h</sup> "Testing administration materials" include (1) the test booklet (or booklets, if multiple versions of the test were administered); (2) the sign in/sign out sheets; (3) the answer key; (4) the final cut score(s)-the threshold score for passing the exam-and any documentation regarding the change of a cut score(s); (5) the individual test scores for each candidate for each test that was administered; (6) the finalized test results sent to the DHR Recruiter; (7) the answer sheets completed by the candidates; (8) the rating sheets completed by the interviewers as part of the Foreman Promotional

Process; (9) any additional emails or notes identifying issues surrounding the test administration or scoring (e.g., documentation identifying the individual test score changes for tests that are rescored, memos to 11 le regarding non-scheduled candidates being allowed to test, etc.); and (10) the Referral List.

A "test administration" is considered to be completed when a test has been administered and the final candidate scores have been sent from the DHR Testing Division to the DHR Recruiting Division for candidate selection and processing.

*Page 25 of 30*

*OIG Quarterly Report -Fourth Quarter 201d*

### iii. Library- Library Page

OIG observed that the grading of a candidate's answer sheet did not conform to the answer key. The Candidate circled two answers in response to a multiple choice question and was given credit for the response. DHR confirmed that the Candidate should not have received credit for this item and rescored the exam correcting the oversight. The rescore did not affect the selection decision.

#### *D) 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: DSS, DWM, CDA, the Chicago Department of Transportation (CDOT), the Department of Buildings, 2FM, 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 fourth quarter of 2016, OIG completed an audit of hire packets for 25 hiring sequences completed during the third quarter. OIG selected these hiring sequences based on risk factors such as past errors, complaints, and historical issues with particular positions. These 25 hiring sequences involved 16 departments and 82 selected candidates. Of the 25 hire packets audited, 3 errors were identified affecting 2 hiring packets. These errors involved incomplete Hire Certification forms and Candidate Assessment forms. In both sequences, OIG provided these findings to DHR, which took steps to correct the errors by obtaining completed Hire Certification and Candidate Assessments forms. The documents were submitted by the Hiring Departments and placed with the corresponding hire packet. No further action was required.

#### *E) 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 a total of 44 hire packets in the fourth quarter. In those 44 packets, there were 4 errors related to Hiring Certifications. All four errors involved participants in the hiring sequence failing to initial the Hiring Certification. OIG provided these findings to DHR, and corrective steps were taken to correct the Hire Certifications and complete the hire packets. No further action was required.

#### *F) 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

Page 26 of 30

*OIG Quarterly Report -Fourth Quarter 2016*

ensure compliance with this Hiring Plan. Generally, OIG audits assignments not covered by a collective bargaining unit and 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 & E of the CPD Hiring Plan. OIG selects a risk-based quarterly sample of assignment packets for completed process review after selections have been made and the candidate has begun their assignment.

OIG received a response to its third quarter assignment audit during the fourth quarter. OIG's third quarter audit covered ten assignment sequences from the second quarter and identified two errors in two of those sequences. Each error involved missing, incorrect, or incomplete documentation. OIG recommended that CPD-HR develop an assignment checklist to be distributed and posted at the district level. OIG also recommended that CPD-HR establish protocols to address coding errors. Lastly, OIG recommended CPD-HR implement Appendix D and E training on processing paperwork and the proper execution of hire certification forms for unit/command secretarial staff. CPD-HR agreed with our recommendations.

OIG's fourth quarter audit covered 19 assignment sequences from the third quarter and identified 1 error in 1 sequence. The error involved missing documentation. Due to the nature of the error OIG did not have any specific recommendations. In their response to the audit, CPD-HR stated the Department will continue to ensure proper documentation is submitted for future audits.

G) *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 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 fourth quarter of 2016, CFD did not issue a specialized unit assignment transfer order. Therefore, OIG did not conduct an audit.

H) *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 past quarter, OIG monitored 16 intake meetings, 1 test administration, 12 sets of interviews, and 9 consensus meetings. The table below shows the breakdown of monitoring activity by department.<sup>2N</sup>

<sup>28</sup> If a department is not included in this table, OIG did not monitor any elements of that department's hiring sequence(s).

Page 27 of 30

OIG Quarterly Report -Fourth Quarter 2016

January 15, 2017

**Table #7 - Fourth Quarter 2016 OIG Monitoring Activities**

Department	Intake Meetings Monitored	Tests Monitored	Interview Sets Monitored	Consensus Meeting Monitored
Administrative Hearings			1	1
Buildings			2	2
Family Support Services			1	1
Finance			2	2
Human Resources			1	
Civilian Office of Police Accountability	13		1	
Library				1
Mayor's Office			1	1
Police	1	1	3	
Public Health	1			
Transportation	1			1
<b>Totals</b>	<b>16</b>	<b>1</b>	<b>12</b>	<b>9</b>

*(I) Acting Up"*

OIG audits the City's compliance with Chapter XI of the General Hiring Plan and the Acting Up Policy.

OIG received notice of 19 DHR-approved waiver requests to the City's 90-Day Acting Up limit in the fourth quarter of 2016.<sup>30</sup> The following chart details those waivers.

**Table #8 - Acting Up Waivers**

Department	Position	Number of Employees	Date of Response	Duration of Waiver
Public Health	<b>Administrative Assistant III</b>	1	11/04/2016	12/31/2016
Public Health	CDCI - Supervisor	1	11/04/2016	12/31/2016
Transportation	Foreman of Asphalt Helpers	3	12/20/2016	12/31/2016
Transportation	Foreman of Bridge/ Structural Iron Workers	3	12/21/2016	12/31/2016
Transportation	Foreman of Cement Finishers	6	12/21/2016	12/31/2016
Transportation	Foreman of Concrete Laborers	32	12/21/2016	12/31/2016
Transportation	Foreman of Machinist	2	12/21/2016	12/31/2016

~ "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.

"" 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.

*Page 2,S of 30*

*OIG Quarterly Report -Fourth Quarter 2016*

<b>Department</b>	<b>Position</b>	<b>Number of Employees</b>	<b>Date of Response</b>	<b>Duration of Waiver</b>
Transportation	General Foreman of Painters	1	12/21/2016	12/31/2016
Water Management	Assistant Chief Operating Engineer	1	12/01/2016	12/31/2016
Water Management	Chief Mason Inspector	1	12/07/2016	12/31/2016
Water Management	Chief Operating Engineer	1	12/01/2016	12/31/2016
Water Management	Foreman of Carpenters	1	12/22/2016	12/31/2016
Water Management	Foreman of Machinist	1	12/01/2016	12/31/2016
Water Management	Foreman of Pipe Yards	1	12/13/2016	12/31/2016
Water Management	Foreman of Water Pipe Construction	3	12/16/2016	12/31/2016
Water Management	Operating Engineer (Group A)	1	10/05/2016	11/30/2016
Water Management	Operating Engineer (Group A)	1	10/13/2016	11/30/2016
Water Management	Operating Engineer (Group A)	2	12/01/2016	12/31/2016
Water Management	Operating Engineer (Group A)	2	12/16/2016	12/31/2016
Water Management	Operating Engineer OEA	2	12/13/2016	12/31/2016
Water Management	Supervising Drain Inspector	1	12/01/2016	12/31/2016

During the fourth quarter, 2FM reported two incidents of Acting Up violations. In 1 instance, a Sheet Metal Worker acted up into the covered position of Foreman of Sheet Metal Workers for a total of 109 days. The vacancy was filled on November 1, 2016, so no further action was required. In the second instance, a Machinist-Automotive received a waiver to act up beyond 90 days through September 30, 2016, but continued to act up through October 31, 2016, in violation of the Acting Up Policy. 2FM stopped the Machinist-Automotive from acting up and is in the process of interviewing for the vacancy. OIG requested no further action.

In addition, CDOT continued its ongoing failure to accurately provide monthly acting up reports. CDOT also failed to timely submit multiple 90-day waiver requests. This continued pattern by CDOT resulted in several employees acting up beyond 90 days without an approved waiver to do so. OIG has previously identified these errors and asked CDOT to fix the systemic problems in its acting up reporting structure. Over the course of the past year, both OIG and DHR have had several meetings with CDOT senior staff to discuss these unresolved issues. DHR has trained CDOT personnel on multiple occasions. Despite these efforts by OIG and DHR, CDOT has not corrected these issues, related to the Acting Up Policy, that OIG identified over a year ago.

*(J) Arbitrations and Potential Resolution of Grievances by Settlement*

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

OIG received 3 notices of settlement agreements from DHR during the fourth quarter of 2016. OIG reviewed the matters and did not have objections.

### 3. Reporting of Other OIG Hiring Oversight Activity

#### (A) Escalations

Page 29 of 30

OIG Quarterly Report -Fourth Quarter 2016

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.

OIG did not receive any escalations in the fourth quarter of 2016.

#### (B) 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 inquiry, OIG identifies a non-hiring-related process or program that could benefit from a more comprehensive audit, OIG may consider a formal audit or program review.

OIG received two complaints related to the City's hiring practices in the past quarter. The chart below summarizes the disposition of these complaints as well as the complaints and cases from the previous quarter that were not closed when OIG issued its last report.

**Table #9 - Disposition of Hiring Oversight Complaints Received in the Fourth Quarter of 2016**

Status	Number of Complaints and/or Cases
Cases Pending at the End of Quarter 3, 2016	18
Complaints Received in Quarter 4, 2016	2
Complaints Declined without Inquiry in Quarter 4, 2016	0
Complaints Pending at the End of Quarter 3, 2016	1
Cases Referred by OIG Investigations in Quarter 4, 2016	0
Total Cases Closed in Quarter 4, 2016	4
Closed by Referral to OIG Investigations	0
Closed by Referral to DHR/Department	0
Closed with Recommendations to the Hiring Department and/or DHR	0
Cases Pending with OIG Hiring Oversight as of December 31, 2016	17



*Page 30 of 30*