

Inspector General's
Annual Report of Activity
*for the fiscal year ended
June 30, 2018*

September 24, 2018

Annual Report of Activity for Fiscal Year 2018
Montgomery County, Maryland · Office of the Inspector General

A Message from the Inspector General

Each year, the Office of the Inspector General (OIG) publishes formal reports which detail significant findings and recommendations. During fiscal year (FY) 2018, this office completed the following seven work products, six of which were made publicly available. One additional Confidential Investigative Report was provided to the Ethics Commission as a result of investigative work the OIG completed at the Commission's request.

- Report: *Urban Districts – Improper Procurement of Gateway Signage by the Wheaton Urban District*
- Advisory Memorandum: *Department of Correction and Rehabilitation – Personnel Complaints and Allegations*
- Preliminary Inquiry Memorandum: *Department of Technology Services – Allegation of Improperly Handled Computer System Data Breach*
- Report: *Inspector General's Mid-Year Report of Activity for Fiscal Year 2018*
- Report: *Montgomery County Employee Retirement Plans – Disability Retirement and Long-Term Disability Programs*
- Report: *Disposal of Surplus Scrap Metal by Montgomery County Offices*

Summaries of each publicly available work product are presented in the body of this report, with the exception of the *Inspector General's Mid-Year Report of Activity for Fiscal Year 2018* which is included in its entirety in Appendix A to this report.

The Office of the Inspector General also routinely responds to complaints and conducts proactive inquiries that do not result in formal reports.

During FY 2018, our office received 106 new complaints, which represents the highest number of complaints received in any fiscal year during my service as Inspector General. We closed 99 complaints including matters carried over from the prior year. Although most of these efforts did not result in OIG reports, each had an outcome, some of which are significant in terms of improving County Government and its services to the taxpayer.

Synopses of selected preliminary inquiries and referrals concluded during the second half of FY 2018 which did not result in formal reports are discussed in the body of this report. Preliminary inquiries and referrals that concluded during the first half of FY 2018 are discussed in the *Inspector General's Mid-Year Report of Activity for Fiscal Year 2018*.



Edward L. Blansitt III
Inspector General

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**Summaries of Unpublished Preliminary Inquiries and Referrals completed during the first half of Fiscal Year 2017 (July 2016-December 2016) are included in Appendix A*

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Summaries of FY 2018 Issued Reports

Report: Improper Procurement of Gateway Signage

OIG Report 18-001 (June 19, 2017)

Background:

Urban districts exist within the Montgomery County business districts of Wheaton, Bethesda, and Silver Spring. The purpose of these urban districts is to provide the services needed to maintain existing streetscape and streetscape amenities, and provide additional streetscape amenities and facade improvements; to promote and program public interest activities; to monitor activities to enhance the safety and security of persons and property in public areas; and to provide any capital project that promotes the economic stability and growth of the district.

The Wheaton Urban District (WUD) is a County government organizational unit operating within the Community Engagement Cluster with an approved budget of \$2,105,023 for FY2017.

The Bethesda Urban Partnership, Inc. (BUP) was created as an urban district corporation in 1993. With an approved budget of \$3,184,792 for FY2017, BUP serves as the commercial district management authority for Bethesda. An urban district corporation created pursuant to the Montgomery County Code (County Code) is not within the Executive or Legislative branches of the County government, and is an independent public instrumentality separate and distinct from the County.

An urban district corporation may provide any authorized service to another Corporation or urban district. While the requirements of the County's Procurement law would apply to WUD, they do not apply to procurements made by an urban district corporation such as BUP.

Key Points in the OIG Report:

In June 2015, WUD paid \$121,541 for three monument-style signs for the gateway entrances to Wheaton (the "Gateway Signs"). One of the three Gateway Signs, for which WUD paid \$38,684 in May 2015, had not been received as of February 2017. Indeed, the unassembled sign was, as of that date, stored in the sign fabrication and installation firm's (the "Sign Fabricator") warehouse, as an installation location had not yet been identified.

The purchase of the Gateway Signs did not follow the procurement regulations set forth in the Code of Montgomery County Regulations (COMCOR), nor did it follow procedures set forth in the Office of Procurement's Procurement Guide (Procurement Guide). The procurement was completed without contract, insurance, and review and approval by the Offices of the County Attorney and Procurement.

WUD paid for the Gateway Signs by submitting requests for three payments that would not normally be reviewed for propriety by the Office of Procurement or the Accounts Payable

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section of the Department of Finance. The largest (\$101,543) of the three installment payments was submitted as a reimbursement to BUP for Public Entity related expenses.

We found that the WUD procurement of a \$38,684 monument-style sign for the gateway entrance to Wheaton, paid for in June 2015 but not delivered as of February 2017, represents a wasteful and unnecessary expenditure of taxpayer dollars. In addition, this procurement demonstrated:

- Paying for goods not received;
- Paying different prices for goods based on the same quotation;
- Circumventing requirements for procurements greater than \$100,000;
- Splitting a procurement and charging an inappropriate account code to avoid detection;
- Mismanagement of some public funds; and
- Ambiguous public entity procurement guidance in County regulations and guidelines.

We recommended that Management hold WUD managers accountable for failing to observe the County's procurement regulations and guidelines and take appropriate remedial actions. We recommended that WUD managers also be held accountable for mismanagement of public funds, again taking appropriate remedial actions. We also recommended that Management provide specific and adequate guidance relating to public entity procurement regulations and guidelines for departments and agencies, to ensure they observe the intent of County public entity purchasing laws.

Key Points in the County Chief Administrative Officer's Response:

The Montgomery County Chief Administrative Officer (CAO) agreed that WUD management should have demonstrated better documentation and support of its procurement actions and that Department of Finance authorization should have been received before any advance payments for the procurement of goods and/or services were made.

The CAO also noted that although the County may enter a non-competitive contract with a public entity, Procurement has provided guidance for such non-competitive purchases to using departments through a Public Entity Checklist¹. The CAO stated that WUD management did not explicitly comply with the provisions of the checklist. The CAO also stated that as a corrective measure, appropriate WUD staff will enroll in Contract Administrator training and work with the Office of Procurement, the Office of the County Attorney, and the Department of Finance, as appropriate for future procurement matters.

¹ Office of Procurement Form PMMD-108

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***Advisory Memorandum: Department of Correction and Rehabilitation Personnel
Complaints and Allegations***

OIG Report 18-002 (August 11, 2017)

Background:

During 2015, 2016 and 2017, the Office of the Inspector General (OIG) received numerous complaints concerning alleged improprieties by Department of Correction and Rehabilitation (DOCR) management with respect to the administration of personnel. The complaints included allegations of insensitive and offensive conduct by top management; improper conduct with respect to a promotional examination; disparate treatment in personnel administration; insertion of false information in personnel and sick leave records; and improper supervisory instruction.

Key Points in the OIG Report:

In the course of the OIG's review of the matter, the Montgomery County Office of Human Resources (OHR) and DOCR jointly conducted a parallel inquiry concerning the administration of a promotional examination. Also, following initiation of the review, the OIG continued to receive complaints concerning DOCR management's administration of personnel. Due to the serious nature of and the cross section of staff filing complaints; the OIG expressed concerns regarding DOCR operations to County management.

As a result, County management engaged the services of a consultant to conduct an Appreciative Inquiry (AI) Intervention to assess the "work environment" within the Montgomery County Correctional Facility (MCCF) of DOCR with an eye toward developing "a strategy to ensure a successful organizational change management process." The consultant was (1) to conduct a thorough assessment of the MCCF work environment and its more than 300 employees, and (2) to lead an effort to explore and implement an organizational change management process at DOCR.

In light of the engagement of the consultant, the OIG suspended its review while continuing to consider and receive employee complaints as appropriate. The nature of the complaints received after the contracting of the consultant continued to fall into the same or similar general categories that prompted the OIG's initial review.

While we were unable to verify a number of the allegations, we did find sufficient evidence to substantiate allegations of insensitive and offensive conduct by some top DOCR managers. We also determined that applicants were not adequately informed of the standards by which their promotional examination tests would be evaluated.

We found a perception among staff of favoritism and discrimination by DOCR management in the administration of personnel.

Key Points in the County Chief Administrative Officer's Response:

In his response, the CAO indicated that sensitivity training was being established for some staff and that a mentoring component was instituted to provide guidance to applicants interested in taking promotional examinations.

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With respect to timekeeping and personnel scheduling related matters, the CAO stated that DOCR has entered into a contract to purchase Telestaff, an automated scheduling system used by other public safety agencies in the County.

The consultant's review, which in many instances corroborated OIG findings, was a constructive step to address staff concerns with respect to DOCR management's administration of personnel. The consultant's assessment was expanded to include DOCR's detention center. Management's intended adoption of an automated timekeeping/scheduling system, institution of sensitivity training and providing guidance concerning promotional examinations all appear to be constructive steps in addressing the concerns.

Preliminary Inquiry Memorandum: Allegation of Improperly Handled Computer System Data Breach

OIG PIM 18-001 (March 1, 2018)

Complaint Summary:

The OIG received a complaint that in May of 2016 a Montgomery County computer system was subjected to a data breach. The complaint stated that virtually any employee could access most of the data in the Enterprise Records Management System (ERMS) by using a latent security vulnerability in a commercial software package licensed by the County. This included personnel records, retirement records, health records, and other Personally Identifiable information (PII) such as tax records, social security numbers and dates of birth for any County employee.

The complainant stated that the breach was originally reported to the Department of Technology Services (DTS) and investigated by the County Enterprise Information Security Office (EISO) in 2016. The complainant advised that despite the vulnerability being reported in 2016, County employees were not, and had not been, notified that their personal information was accessible. Additionally, the complainant believed that the County failed to install a patch or identify the root cause of the breach, choosing instead to simply disable the access point.

Outcome:

OIG staff conducted extensive interviews with the complainant, witnesses, and the County CIO to identify and investigate specific details of the allegation. It was commonly agreed by all that in early May of 2016 a vulnerability existed and was explored. A witness claimed that data files were exported by people in DTS while exploring the vulnerabilities but specifically denied that any information was accessed from outside DTS. The CIO confirmed that in May of 2016 a vulnerability in a commercial off the shelf software product was explored or exploited by a contractor working for DTS. The CIO explained that the underlying vulnerability was immediately addressed with the vendor, and the issue continued to be under investigation by the EISO.

The CIO admitted that the initial inquiry identified a very small number of data files questionably accessed by a DTS contractor. The CIO provided assurances that the parties whose information was accessed were notified per the advice of the County Attorney's Office.

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According to County Attorney's Office, this notification was an exercise in an abundance of caution in trying to comply with the conflicting definitions of a data breach. The CIO explained that the investigation was still open with EISO due to requirements to examine each log entry to see who accessed various information, who they worked for, why they accessed the information and if they had both authorization and a reason to access the data.

The CIO explained that, regarding computer security, the County adheres to industry best practices in National Institute of Standards and Technology standard 800-53, and this is documented by EISO. The OIG concluded that although an actual “breach” of the data was confirmed, it did not appear to meet the legal definition of a “data breach” which triggers extensive reporting requirements.

Report: Montgomery County Disability Retirement and Long-Term Disability Programs

OIG Report 18-003 (April 9, 2018)

Background:

Prior reviews by the OIG and the County's Office of Internal Audit identified weaknesses in the County's administration of disability retirement benefits. County disability retirement is governed by the County Code and is subject to collective bargaining. Management of the disability programs has changed since the time periods in which those weaknesses occurred, and disability retirement benefits are now administered by the County's Employee Retirement Plans (MCERP).

This review examined the disability benefit process and determined whether certain County Code requirements related to the application, medical examination, income review, and workers' compensation offset processes were followed. MCERP has made significant progress since taking over the administration of disability benefits in 2012; however, the OIG made findings and recommendations related to medical examinations and the overall complexity of the process.

Key Points in the OIG Report:

Complexity

We found that the complexity of the County's disability benefits program made it costly and burdensome to administer and created opportunities for errors.

The Council receives fiscal impact statements with estimated costs of proposed legislation, but the statements are not completed until legislation is before the Council. For changes to disability benefits, this typically occurs after the Executive Branch's negotiations with labor unions have concluded. Some statements reviewed by the OIG did not include estimates of certain staff costs.

We recommended that the County not reach agreements on subjects of labor negotiations for which the costs and the consequences have not been determined.

Conducting Medical Re-evaluations as Required

The County Code requires medical re-evaluations of certain disability recipients in intervals of one or three years, depending on age, retirement group, and other factors, to determine if they continue to qualify for disability payments. We found that MCERP did not timely conduct 4 of the medical re-evaluations required for the 60 files we tested.

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We recommended that MCERP improve its data and databases to ensure medical re-evaluations are timely.

Making Use of Social Security Administration Examinations

We found that the County might simplify its processes and reduce costs by accepting determinations from and adopting parts of the federal Social Security disability process, which also requires medical evaluations. Simplified County processes might also lessen the inconvenience to disability recipients.

We recommended that MCERP and the CAO make use of Social Security disability processes where there is overlap with County definitions and processes, such as (a) determining certain medical evaluations and reevaluations are not needed, (b) determining less frequent medical re-evaluations are needed in certain cases, and (c) proposing a change in the law to require that all County disability applicants be required to apply for Social Security disability benefits.

Key Points in the County Chief Administrative Officer's Response:

Complexity

The CAO agreed that the County Code's disability provisions are complex but did not concur that this created opportunities for errors.

The CAO stated that a fiscal impact statement for recent legislation should have addressed additional administrative costs, but the CAO believed that the impact of these would not be significant.

Conducting Medical Re-evaluations as Required

The CAO stated that some of the medical re-evaluations were performed after they were due because of an error in a spreadsheet that has now been resolved. The CAO stated that MCERP was working on a new system that would replace the spreadsheets and would automate correspondence.

Making Use of Social Security Administration Examinations

The CAO stated that 13% of County retirees receiving service-connected disability payments also receive Social Security Disability payments. Currently, the data processing system cannot calculate these retirees' medical re-evaluation requirements differently from other retirees' requirements, but the CAO stated that this would be an enhancement that may be considered in the future. The CAO stated that the County would continue to discuss changes to the retirement provisions as part of the collective bargaining process.

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Report: Disposal of Surplus Scrap Metal by Montgomery County Offices

OIG Report 18-004 (June 15, 2018)

Background:

Chapter 11B, Article IX of the Montgomery County Code, entitled *Management and Disposal of Goods*, governs the disposal of surplus goods and authorizes the Director of the Office of Procurement (the Director) to sell, trade, or otherwise dispose of surplus goods. Surplus items may be sold either via a competitive method or private sale, depending on which methodology the Director determines is likely to bring the highest return to the County. After public notice, items may also be given, loaned, or sold to another public entity if the Chief Administrative Officer determines the disposition would benefit the residents of Montgomery County. The Director is authorized to dispose of surplus goods that have no resale value in any responsible manner.

The “*Procedures for Disposal of Goods*” provides guidance explaining the Office of Procurement’s authority in surplus property disposal. The document states that the Office of Procurement will coordinate with a County department to issue a solicitation for a specific sale of surplus items, or the Director may sell surplus goods by private sale. The document also describes the procedure for County departments to request approval to donate or sell surplus property to other public entities or to dispose of surplus goods with no resale or scrap value. In these cases, departments must both obtain permission for the disposal and provide a final disposition memo to the Director.

During the course of our investigation, we learned that the County also has at least two current contracts for the disposal of surplus goods. In addition, the Department of General Services, Division of Facilities Management maintains a warehouse for the storage of usable, surplus County property.

Key Points in the OIG Report:

Between March 2017 and January 2018, the Office of the Inspector General (OIG) received information indicating that four separate County offices may be selling scrap metal for cash. In each of these cases, the OIG investigated to determine whether appropriate cash control and surplus property disposal procedures were followed.

Based on our limited review of the specific allegations of improper scrap metal disposal that came to the attention of our office, it appears that multiple County offices are either unaware of or deliberately circumventing County policy and procedure concerning surplus property disposal and the maintenance of unauthorized petty cash funds.

We found that four County offices sold surplus scrap metal to various scrap metal processing facilities, without using an approved contract vehicle, or obtaining proper approval for the sales from the Director of the Office of Procurement as required by the policies and procedures. Additionally, three of the identified County departments utilized the cash proceeds from the sale

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of scrap metal to establish unauthorized petty cash funds in violation of County Administrative Procedures.

Because the OIG was not engaged in a planned review of the disposal of surplus property, but rather learned of these instances through multiple, separate complaints received by our office, we had concerns that there may be other locations within the County engaged in improper disposal of surplus property.

We recommended that the County government ensure managerial accountability and implement effective controls that promote adherence to proper procedures for the disposal of surplus property. We also recommended that the County government take steps to identify and remove unauthorized petty cash funds and hold managers accountable for circumventing policy.

We did not attempt to determine whether any other County offices were improperly disposing of surplus County property or utilizing County funds for expenses which are not routinely tracked or monitored by the County. However, the number of instances discovered by our office within a short period of time raised concerns that the improprieties discussed in this report may not be limited to the four offices identified by the OIG.

Although consideration of how the unauthorized petty cash funds were used was outside the scope of this review, we questioned whether some of the expenses reportedly funded from those unauthorized petty cash funds would be permitted under current County regulations and administrative procedures. For example, we were told that funds were used for employee morale events, staff appreciation luncheons, food purchases, and retirement gifts, which may not have been an appropriate use of County funds.

Key Points in the CAO's Response:

The CAO did not take issue with any of our findings or recommendations. Nothing in the CAO's response caused us to alter our report.

In response to our recommendations the CAO agreed to take the following actions:

- The County would reissue the "*Procedures for Disposal of Goods*" to County Departments, Offices, and Contract Administrators and include information concerning the current County contract for scrap metal disposal within the distribution.
- The Department of Finance would issue guidance on the difference between an approved Petty Cash fund which may be funded with County dollars and a "Sunshine Fund" which is generally funded with employee personal contributions and may be used for non-authorized County purposes such as staff parties and retirement gifts. Additionally, the Department of Finance will begin to require Departments to certify annually that no unauthorized petty cash funds exist.
- The County also agreed to review the expenditures made using the unauthorized petty cash funds and take appropriate action related to any expenditures that were not appropriate uses of County assets.

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Summaries of Unpublished Preliminary Inquiries

Summaries of unpublished preliminary inquiries closed during the second half of FY 2018 are presented here. See Appendix A, Inspector General’s Mid-Year Report of Activity for Fiscal Year 2018, for summaries of unpublished preliminary inquiries concluded during the first half of the FY 2018 reporting period.

It is OIG policy to respond to Complainants with the results or conclusions on each matter. In each of the following summaries, we have done so, unless the complaint was anonymous.

Preliminary Inquiry: Overpayment of Child Welfare Services Adoption Subsidy

OIG-17-079

Complaint Summary:

The OIG received a complaint alleging that \$600,000 was paid out illegally in the Montgomery County Department of Health and Human Services (DHHS), Child Welfare Services, Adoptions Unit. The complainant reported that this was discovered during an audit when someone was recently fired. No information was given regarding the source or nature of the payments.

Outcome:

The OIG initiated a preliminary inquiry to determine the veracity of the complaint, and whether DHHS had taken adequate steps to address any possible overpayments and prevent such mistakes in the future.

We learned DHHS had recently conducted an audit of case files within the Child Welfare Services, Adoptions Unit. DHHS found that a large percentage of case files contained missing, incorrect, or incomplete paperwork and were not in compliance with required standards.

Over the course of the audit, DHHS also found that during the annual recertification process, for some recipients there may have been an error in the way adoption subsidy payments were calculated for children who were receiving both a subsidy payment and Social Security benefits other than Supplemental Security Income (SSI).

The State funds and sets regulations for adoption assistance, and County Child Welfare Services uses State forms.

The State Adoption Assistance Agreement provides that: “If the child receives State-funded adoption assistance payments and other income or Social Security benefits other than SSI the child’s assistance payment shall be reduced to reflect receipt of this income.” DHHS learned that those Social Security benefits were not considered when determining whether benefits should be reduced during the annual recertification process. The DHHS Contract Compliance Team provided the OIG a spreadsheet indicating that there could be up to \$561,857 in overpayments based on this area of concern. However, DHHS also found that there was some confusion

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between the Adoption Assistance Agreements signed by the parents and Code of Maryland Regulations (COMAR regulations).

While the Adoption Assistance Agreements state “shall”, COMAR regulations say that these benefits “may” result in a reduction on the adoption subsidy. (See relevant COMAR excerpts below, emphasis added.)

IV-E Adoption Assistance – COMAR 07.02.12.05F(8)

- (a) The local department shall advise the family that, if the nonapplicable child receives SSI and adoption assistance at the same time, the SSI benefits will be reduced on a dollar-for-dollar basis in the amount of the IV-E adoption assistance.
- (b) If a child receives other Social Security benefits, such as survivor’s benefits, retirement benefits, or old age benefits, the amount of these benefits **may** be considered when negotiating the amount of the adoption assistance.
- (c) The adoptive family shall report their receipt of adoption assistance to the Social Security Administration.
- (d) The family shall report their receipt of benefits to the Administration while the adoption assistance agreement is in effect.

State Adoption Assistance – COMAR 07.02.12.06D(7)

- (a) If a child receives SSI and State-funded adoption assistance, the SSI shall be reduced dollar for dollar in the amount of the adoption assistance.
- (b) If a child receives other Social Security benefits, such as disability, survivor’s benefits or retirement benefits, or other income, the monthly adoption assistance payment **may** be reduced to reflect the receipt of the additional resources.

DHHS staff stated that in response to the audit findings it (1) developed new written guidance, entitled “*Quick Reference Desk Guide for Adoption Subsidy*”, (2) re-trained existing staff, and (3) took appropriate personnel and administrative actions to bring the unit into compliance. The OIG obtained evidence of the new written guidance and the training provided.

The matter was also referred to the Maryland Office of the Attorney General and the Maryland Department of Human Services, Office of the Inspector General. Based on the foregoing, we saw no reason for further inquiry regarding this matter, as DHHS, the Maryland Office of the Attorney General, and the Maryland Department of Human Services, Office of Inspector General appear to be working to appropriately address the issue.

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Preliminary Inquiry: DOCR Employees Prematurely Return to Work following Injury/Illness

OIG-18-025

Complaint Summary:

The OIG received allegations that the Department of Correction and Rehabilitation (DOCR) management routinely forced staff to return to work from disability leave prior to the employee making a full recovery. The complainant asserted that this practice sometimes results in personnel retiring, being terminated and/or otherwise being removed.

Outcome:

The OIG initiated a preliminary inquiry into the matter. As part of the inquiry, DOCR and other County staff familiar with the disability process and responsible for maintaining records on disability claimants and health related leave, as well as examining physicians, were interviewed, and relevant documents were reviewed. The OIG was unable to substantiate that personnel had been pressured or forced by management to approve staff to return to work following disability leave or that applicable regulations had been violated due to the process followed.

Specifically, physicians working for Occupational Medical Services (OMS), which is separate from DOCR, are responsible for examining employees to recommend whether they are able to return to work. We found no evidence that DOCR management exerted any pressure on OMS physicians to prematurely clear DOCR employees to return to work.

Preliminary Inquiry: Police Transporting Prisoners

OIG-18-029

Complaint Summary:

The OIG received a complaint alleging that local police officers were being utilized to transport inmates on behalf of the Department of Correction and Rehabilitation (DOCR), resulting in officers not being able to perform their regular duties. It was also alleged that the action violated local police policy and an opinion of the state attorney general.

Outcome:

A preliminary inquiry was initiated. We reviewed applicable authorities and laws, and determined that as the custodian of the inmates, the DOCR director is responsible for the wellbeing of inmates, and thus is authorized to provide transportation to medical facilities as needed (See § 13-1(e), County Code; Attorney General Opinion of January 7, 1994). The OIG has found no policy or law prohibiting the use of police officers for the transporting of inmates.

OIG staff also reviewed data regarding the total number of transports made for the Department of Correction and Rehabilitation (DOCR) for all of FY 2017 and more than half of FY 2018 (July 1, 2016 – January 31, 2018). The transport data was broken down by the number of transports to hospitals by sheriffs and police officers; and the number of transports handled by

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sheriffs and police officers between the Montgomery County Detention Center (MCDC) and the Montgomery County Correctional Facility MCCF).

An analysis of the data indicated that during FY 2017, more than 75% (992 of 1324) of the transports conducted were done by the sheriff's office and less than 25% (331 of 1324) by police officers. For FY 2018 through January 2018, the OIG analysis indicates that more than 80% (614 of 774) of the transports were performed by sheriffs and less than 20% by police officers.

With respect to practices of other surrounding jurisdictions, some of the jurisdictions contacted use police officers for transporting of inmates and some do not. It appears that the size of the facility is a determining factor in this regard. The larger ones tend to use the officers and the smaller ones do not. We determined that the practices within Montgomery County do not appear out of line with those of surrounding jurisdictions.

Preliminary Inquiry: Unfair HOC Practices

OIG-18-032

Complaint Summary:

A complainant reported that the Montgomery County Housing Opportunities Commission (HOC) issued a notice of termination for her benefits even though she qualified to continue receiving a housing voucher. The complainant protested the termination and requested an informal hearing.

The complainant further reported that she was not able to view the documents she presented during the re-certification process when she visited HOC to view her file in preparation for her informal hearing. She stated that multiple documents were missing. This issue was compounded by the fact that HOC sent her notice of Informal Hearing on November 6, 2017 for a hearing scheduled for November 13, 2017.

Outcome:

OIG staff reviewed HOC Grievance procedures which allow a voucher holder to "obtain documents or evidence in possession of HOC" but state that "requests for such documents or evidence must be received no later than 10 days before the hearing date." The OIG concluded that providing only six days' notice of the hearing date seems incongruous with this passage.

Our findings regarding the informal hearing timeline were referred to the HOC Internal Auditor for appropriate review and resolution. The HOC Internal Auditor later emailed that he reviewed a small sampling of the timing of notices, letters to residents and the scheduling of an informal hearings. His sample showed HOC to be in compliance with grievance procedures.

However, because of the experience reported by our complainant, the HOC Internal Auditor stated his intention to discuss our findings with the Director of the Housing Choice Voucher program and the Program Coordinator for Client Services, both of whom are responsible for coordinating informal hearings in order to remind them to remain in compliance with the HOC grievance process.

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Following the submission of her complaint to our office, the complainant was successful at her informal hearing, and her benefits were reinstated.

Preliminary Inquiry: Play Structure Built Without Proper Permits

OIG-18-035

Complaint Summary:

The OIG received a complaint alleging that the Department of Permitting Services (DPS) allowed a local businessman to complete portions of an interior build out to a large, public children's facility without securing proper permits. Although some of the interior work was permitted, certain climbing (hilly) structures were not included in the initial plans. Initial permits were released on the condition that permits would be sought for interior "hilly structures" at a later date. However, no permit was ever sought, and the entire project is now complete and open to the public. The complainant stated that multiple DPS employees have expressed concern that the hilly structures appear to be constructed in a way that does not meet the requirements outlined in the County Code.

Outcome:

Because the OIG does not have the necessary expertise to investigate the matter, initially, IG staff consulted with a private engineering firm to determine whether the allegations would be suitable for contractor involvement. We determined that this would not be an appropriate avenue to pursue.

Instead, the Inspector General discussed the matter with the DPS Director, who agreed to look into the project and provide more information. Following that discussion, the DPS Director and DPS Chief Operating Officer told OIG staff that DPS had revisited the site to inspect the hilly structures as a result of the complaint. The DPS Director stated that she was very comfortable that the structures were well constructed and that a secondary permit was not needed and could not be required, as there are no design standards under building code for this type of children's play equipment.

DPS provided updated photos and a number of related documents, including a field report from an outside engineering firm certifying that the structure could resist the loads imposed by the anticipated use. Based on this meeting and the evidence provided, we have determined that no further investigation was warranted.

Preliminary Inquiry: Noxious Odors at DOCR Facility

OIG-18-036

Complaint Summary:

The OIG received a complaint concerning Department of Correction and Rehabilitation (DOCR) management's handling of noxious odors emanating from the sewer system at the DOCR Montgomery County Detention Center (MCDC), resulting in, among other things, staff becoming sick. Staff complained to management which engaged the services of contractors and other County agencies to address the problem. However, the problem continued for several weeks, resulting in a DOCR staff member filing a complaint with the Maryland Occupational

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and Safety Health Administration (MOSHA). Due to the continued existence of the problem and its impact, the OIG opened a preliminary inquiry regarding the matter for the purpose of monitoring management's progress in addressing the situation and taking further action, if necessary.

Outcome:

In the course of monitoring the matter, the OIG sought and acquired updates on DOCR management's efforts and actions regarding the matter. DOCR believed the smell to be caused by gas expelled from the facilities pipes. We received correspondence indicating that the drains at the facility were checked and cleaned, air cleaning devices installed on the premises, and air quality tests were periodically performed. We continued monitoring the situation for several months, during which air quality tests indicated no existence or presence of gases, fumes or odors. Additionally, the services of contractors and other County agencies were enlisted to continue monitoring the situation for the purposes of determining if further action is required. Accordingly, we determined no further action was warranted by our office.

Preliminary Inquiry: County Overbilled for Legal Representation

OIG-18-046

Complaint Summary:

A complainant stated that the Office of the County Attorney (OCA) was both representing the County and providing legal advice to the Merit System Protection Board (MSPB) with respect to a grievance filed by the complainant. The complainant believes that this creates a conflict of interest for OCA. The complaint further asserted that the County contracted with an external law firm which has billed over \$100,000 to deliver sub-standard work.

Outcome:

The OIG opened a preliminary inquiry concerning the billing matter only, but declined to review the possible conflict by the OCA as this matter was previously argued in a separate proceeding.

The complainant provided a number of billing statements from the external law firm for the case referenced in the complaint. Although the billing was substantial, each bill was appropriately itemized and detailed the work performed on behalf of the County. OIG staff found nothing indicating a more in-depth review of these billing practices was warranted. Accordingly, the matter was closed.

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Preliminary Inquiry: Manipulation of Test Data for Green Streets Program

OIG-18-051

Complaint Summary:

An anonymous complainant wrote that the Department of Environmental Protection (DEP) was manipulating Green Streets project data from percolation tests in Kensington Estates so that DEP could move forward with that project, despite evidence that it would not work. The complainant alleged that the County was wasting millions of dollars on ill-conceived Green Streets projects. The complainant suggested that the OIG interview a former DEP Director who had recently resigned.

Outcome:

The OIG staff conducted an extensive interview with the former DEP Director regarding the Green Streets program. The former DEP Director said that DEP received numerous complaints similar to the allegations raised to the OIG from three specific neighborhoods. The former DEP Director stated that the Green Streets program follows a Maryland state requirement to accomplish specific tasks (i.e. storm water management permits). The former DEP Director stated that complaints have been repeatedly addressed orally and in writing to the residents.

The former DEP Director claimed not to be aware of any collusion or manipulation of data. The former DEP Director stated that the percolation tests are done by a contracted civil engineering firm and that other than paying for them, the County has no involvement in the testing.

We found publicly available, published data from an independent and licensed civil engineering firm which indicates that the Green Streets program complies with United States Department of Agriculture (USDA) and State of Maryland requirements. The OIG did not attempt to determine the usefulness or validity of the data, but was able to confirm that the reported numbers conform with published standards.

Absent specific information from a verifiable source, additional investigation by this office was not likely to uncover anything useful regarding this specific complaint.

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Preliminary Inquiry: Employee Leave Balances

OIG-18-054

Complaint Summary:

A complainant wrote alleging that County failed to fix the leave calculation errors noted in OIG Report 14-004 *Review of Employee Leave Balances*.

Montgomery County Personnel Regulations (MCPR) outlines the annual and sick leave to be earned by County employees. Report OIG-14-004 found that County employees were accruing both sick and annual leave at a rate slightly below that outlined in the regulations. As a result of our work on that report, the County indicated that it adjusted the sick and annual accrual rates for impacted employees and issued a leave credit to make up for the lapse.

Outcome:

In response to the complaint, OIG staff analyzed 26 pay slips (November 13, 2015 – October 28, 2016) for one of the employees used in original project. We found that the employee was accruing leave at a rate congruent with those outlined in the MCPR. Based our limited analysis, we determined that management had implemented the planned corrective action and fixed the previous problem with the leave accrual rate calculation.

Preliminary Inquiry: DHCA Preferential Treatment of County Employee

OIG-18-065

Complaint Summary:

An anonymous complainant submitted an email alleging that housing complaints made against a particular property were not entered into the Department of Housing and Community Affairs (DHCA) complaint system. The complainant states that the property contains an abandoned vehicle, inoperable boat, and other refuse which have been reported to DHCA. The complainant stated that the residence is the home of a County employee, who the complainant believed is getting preferential treatment.

Outcome:

OIG staff found no County employees with the address listed in the complaint. OIG staff also searched Maryland Department of Assessments and Taxation (SDAT) for the owners of the property address. We found no County employee with the same last name as the listed owners of the property.

OIG staff also searched the DHCA Code Enforcement Database for the address included in the complaint. We found that a DHCA complaint was recorded regarding the property in early 2018. DHCA inspected the property the next day and noted several actions to be completed by the resident as a result of that inspection including “repair and display valid tags or remove” regarding an automobile/vehicle and “remove and maintain grounds” in reference to solid waste.

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The matter was closed, as we found no evidence that a Montgomery County employee lived at the address provided by the complainant. Additionally, it appears that DHCA inspected the property and requested appropriate action from the resident for at least some of the matters referenced by the complainant.

Preliminary Inquiry: Elementary School Childcare Provider Contract

OIG-18-090

Complaint Summary:

The OIG received an email from the Director of a local Child Development Center (CDC), which recently lost a bid to continue to serve as the Childcare Provider at a County Elementary School. The email alleged that the bid process administered by the Montgomery County Office of Community Use of Public Facilities (CUPF) was flawed (no specifics given). The CDC was concerned that their appeal was denied because it was not received within the allotted timeframe. The CDC believed that CUPF incorrectly calculated the length of time allotted for an appeal of the decision.

The OIG received similar emails from two separate parents who alleged several specific ways in which they believe that the bid process failed to follow Montgomery County Executive Regulation 6-17 AM, *Community Use of Public Facilities*, which outlines the selection process and establishes a complaint management process to be administered by the Interagency Coordinating Board (ICB), which sets the policy guidelines for CUPF.

Outcome:

Because the governing regulation (Montgomery County Executive Regulation 6-17 AM, *Community Use of Public Facilities*, effective July 25, 2017) outlines how requests for reviews of CUPF's compliance with the selection process will be handled and assigns responsibility for such reviews to the ICB, we determined that it would not be appropriate for the Office of the Inspector General to conduct a review of the selection process or to investigate the merits of any of the complaints received regarding that process.

Our preliminary inquiry specifically focused on whether the CUPF incorrectly calculated the length of time allotted for the CDC to submit an appeal of the selection decision. The regulation states that an applicant may seek review by "submitting a written request for review within five (5) business days after a selection decision is posted by CUPF."

According to documents provided to the OIG by CUPF and the complainants, we determined that CDC submitted their request for review 12 business days after the likely public posting date of the selection decision. Therefore, we determined that one could reasonably deny the appeal, as it was received past the deadline stipulated in the regulation.

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Preliminary Inquiry: Refusal of Military Leave to County Employee

OIG-18-098

Complaint Summary:

The complainant, a County employee and a member of the US Army reserve, advised his supervisors that he would be absent for two days due to military service and provided some documentation. The complainant stated that his request for absence for military duty was denied, which he believed to be a violation of both federal law and County regulations.

Outcome:

The employee provided the OIG a memo digitally signed by his military supervisor (not his Commander) describing his upcoming duty. The County Department initially denied his military leave for various reasons related to the unusual documentation and the fact the military service was due to his volunteering for work and not for training. The County Department appropriately consulted with labor relations and the Office of the County Attorney (OCA), which provided advice based on County regulations and County personnel policies.

OIG staff contacted OCA and explained that although the OIG was not formally investigating the matter, our office staff has some experience with this issue. As a courtesy, the OIG provided OCA information regarding relevant portions of the federal law related to military service. Federal law preempts county regulations and laws and permits the employee to be absent from work in this situation. After considering the federal law, OCA advised the County Department to permit the employee to attend the military service, and the absence was approved.

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Summaries of Unpublished Referrals to Other Entities

Summaries of unpublished referrals closed during the second half of FY 2018 are presented here. See Appendix A, Inspector General's Mid-Year Report of Activity for Fiscal Year 2018, for summaries of unpublished referrals concluded during the first half of the FY 2018 reporting period.

It is OIG policy to respond to Complainants with the results or conclusions on each matter. In each of the following summaries, we have done so, unless the complaint was anonymous.

Referral: Administrative Leave in Exchange for Charitable Contributions

OIG-18-037

Complaint Summary:

The Office of the Inspector General (OIG) received a complaint alleging that the Office of Human Resources (OHR) was granting three hours of administrative leave to OHR employees who donate to the County's employee giving campaign. The complainant also stated that OHR planned to award administrative leave to OHR employees who work on a volunteer project throughout 2018.

Outcome:

In an attempt to understand any authority that might exist for such actions, OIG staff reviewed the Montgomery County Personnel Regulations (MCPR), Section 21. Administrative Leave. The only applicable regulation we found allowed the Chief Administrative Officer (CAO) to grant administrative leave "under other circumstances where the CAO determines that granting administrative leave is in the best interest of the County."

We wrote to the CAO to ask whether OHR employees and/or employees of any other County departments had been granted or will be granted administrative leave in exchange for charitable contributions and volunteer work and whether such leave had been approved by the CAO. We requested information regarding to whom and under what circumstances the CAO may have delegated the authority to grant administrative leave in exchange for charitable giving or volunteer work.

The CAO response indicated that the CAO delegated his authority to department directors to grant administrative leave when it is in the best interest of the County. The response also referenced Montgomery County Executive Order (MCEO) 233-08 that reads, in part, "it is in the public interest to permit and facilitate the solicitation of charitable contributions by County employees to human services charitable organizations...in a manner that will not unduly burden or interfere with the operation of County government."

The CAO indicated that the OHR Director had granted the administrative leave in question through the authority granted to her by the CAO, "following the spirit set forth in MCEO 233-

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08.” The CAO also stated that going forward the OHR Director does not plan to use administrative leave in the manner referenced in the complaint.

While it is not necessarily clear that MCEO 233-08 contemplates the granting of administrative leave to County employees in exchange for charitable work or charitable contributions, because the OHR Director does not plan to continue the practice, we found that no further action was warranted by our office.

Referral: Green Streets - Part 2

OIG-18-055

Complaint Summary:

The OIG received a letter alleging that the County is non-compliant with the state issued MS4 storm water management permit regarding various Montgomery County Green Streets initiative projects (i.e. rain gardens, bio-retention, tree box filters, etc.). The complainant believed that some projects did not meet the minimum size standards as outlined in the Maryland MS4 permit. As a result, the complainant believed that Montgomery County was in violation of the federal Clean Water Act (CWA) for not complying with the permit requirements.

Outcome:

Based on preliminary information obtained from the State of Maryland, OIG staff concluded that Montgomery County either is, or was, not in compliance with the MS4 permit which expired in 2015. The Maryland Department of the Environment (State DEP) told the OIG that the Montgomery County Department of Environmental Protection (County DEP) was operating under an administrative extension to the permit “to rectify past deficiencies” prior to issuing a new permit. State DEP also advised the OIG that a consent agreement was being worked out to resolve the prior issues.

As State DEP appeared to be aware of the relevant issues and was exercising appropriate oversight, and the OIG does not currently have access to the technical expertise necessary to assess the underlying engineering issues, we referred the matter to the CAO and asked that County DEP respond to the complainant directly. In that response, County DEP disagreed with the complainant’s contentions, in that the County classifies the Green Streets projects as retrofit projects, rather than new development or redevelopment. Retrofit projects are not subject to the same requirements as new development or redevelopment. Therefore, the DEP contends that some of the standards discussed by the complainant would not apply to these projects.

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Referral: HOC Fraud

OIG-18-082

Complaint Summary:

The OIG received a complaint alleging that a particular Montgomery County Housing Opportunities Commission (HOC) voucher recipient was committing housing fraud. The complainant stated that the resident works fulltime as an Uber Driver but did not report the income and pays no rent.

The complainant claimed that she paid the resident over \$700 per month in rent to live with her in her subsidized housing from February 2018 until April 2018. The complainant also alleged that the resident's daughter lives at the property but was not on the approved lease.

Outcome:

The matter was referred to the HOC Internal Auditor for appropriate investigation and resolution. In response, the HOC Internal Auditor wrote that HOC was aware that the resident resided in the apartment with her 4-year-old daughter. Additionally, the resident was reporting income and therefore is required to pay a portion of the rent. As the landlord had not contacted HOC to state that the tenant was behind on her rent, the Internal Auditor assumed that the resident was in fact paying rent.

The HOC Internal Auditor stated that he attempted to contact the complainant several times to learn about the other allegations in the complaint, but the complainant had not responded. Based on HOC's response, the matter was closed.

Referral: Fleet Employee Falsifies Timecard

OIG-18-083

Complaint Summary:

The OIG received an anonymous complaint alleging that an Equipment Maintenance Crew Chief within the Department of General Services, Fleet Management Services (Fleet) missed at least a day or two of work per week and did not take leave. The complainant stated that during the last snow storm, when all essential employees were required to report to work or use leave, the Equipment Maintenance Crew Chief was granted administrative leave even though he is an essential employee.

Outcome:

The matter was referred to the Office of the Chief Administrative Officer (CAO) for appropriate investigation and resolution. The CAO response to the OIG stated that DGS investigated the matter. The CAO reviewed the DGS investigative report and supporting documentation, and discussed the matter with the DGS Director and the DGS Office of Human Resources Liaison. The CAO concluded that the employee utilized appropriate leave and records hours worked in accordance with County policy and that the employee's timecard accurately reflected the actual hours worked.

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Referral: Poor Timekeeping Guidance for Snow

OIG-18-084

Complaint Summary:

The County government was closed due to snow on March 21, 2018. The Departments of Human Resources and Finance sent a guidance memo to County employees regarding recording time for this event in the County’s timekeeping system, MTime. The OIG found this memo to be confusing. The memo included the following chart:

Status	Beginning	Ending
Closed (General Emergency)	Wednesday, March 21, 2018 at 7:00 a.m.	Wednesday, March 21, 2018 at 11:59 p.m.

County employees are required to assign a timekeeping code for their time entered into the system, and this chart uses words from two different codes, “Admin Leave – Cnty Facility Clsd” and “Admin Leave – General Emergency”, so it was not clear which code employees should use.

An MTime staff member confirmed to the OIG that “General Emergency” was the correct code for March 21, when the County government was closed for a full day. The staff member stated that “Cnty Facility Clsd” is the appropriate code for a delayed opening, except for periods covered by a General Emergency. The OIG was initially told by MTime staff that “hundreds” of employees had used an incorrect code for March 21. A subsequent email from an MTime manager stated that it was not possible to estimate how many had used an incorrect code.

Correcting an incorrect code takes up the time of an MTime staff member, the employee reporting, and the employee’s manager. In addition, some people who use correct codes may spend time determining which code to use. Considering that there are likely to be multiple such events each year, and there are 12,600 workers keeping records in MTime, we would expect that the monetary impact of the cumulative time misspent could be significant. Because the corrective action of clarifying the guidance provided should require no additional cost, this issue was worth addressing.

Outcome:

We referred our concerns to the CAO for appropriate action. An Assistant CAO responded that in the future if the government is closed for the day for weather reasons, the guidance memo would indicate “General Emergency” instead of “Closed (General Emergency)”. The Assistant CAO also stated that the CAO’s office was developing a report to identify departments who initially incorrectly recorded “Admin Leave – Cnty Facility Clsd” for March 21, 2018 and would work with those departments to have timecards completed correctly the first time in the future.

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Referral: Tree Montgomery

OIG-18-088

Complaint Summary:

We received a complaint regarding the operation of the Tree Montgomery Program. In February 2017, the complainant had a tree installed on their property through the program but County contractors left metal wire around root ball.

The complainant provided an email chain indicating that Department of Environmental Protection (DEP), Trees Program Manager inspected the tree, stated that the metal wire should have been removed from the root ball, and agreed to have a contractor replant the tree. According to the emails provided by the complainant, the remedial work was initially intended to be completed during fall 2017 but had been delayed. The complainant stated that the problem has still not been addressed and he had not received responses to recent inquiries regarding the situation.

Outcome:

This matter was referred to the Office of the Chief Administrative Officer (CAO) for appropriate inquiry and resolution. In response, a representative of the CAO indicated that the former DEP Trees Program Manager with whom the complainant was communicating departed the County in March 2018. This likely resulted in the breakdown in communication between the County and the resident.

Following our referral, the new DEP Trees Program Manager and the County's tree planting contractor met with the resident and replaced the tree. According to the CAO's office, the issue related to the lack of communication between DEP employees and residents was also addressed.

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FY 2018 Organizational Accomplishments

Implementation of the FY 2018 – FY 2019 Work Plan

Work Plan Priorities

During FY2018, the OIG released our *Work Plan and Projected Budget for Fiscal Years 2018-2021*. Our highest priority each fiscal year is to promptly review each complaint that is received and respond to the complainant. Complaints are evaluated to determine whether there are reasonable grounds to suspect waste, inefficiency, or violation of policy or legal requirements.

Our work plan identified eight specific projects which we expect to complete during FY 2018 and FY 2019. All but one of the eight identified projects have been completed or are currently in progress.

Three of the eight identified reviews were completed during FY 2018, two of which are summarized in the body of this report. The third work plan item completed during FY 2018 was the provision of investigative assistance to the Ethics Commission. A confidential report was provided directly to the Ethics Commission as a result of our work related to this item.

Corrective Action Plans

As part of an ongoing goal to strengthen our recommendation resolution process, in FY 2018, we began asking management to provide us with a Corrective Action Plan (CAP) in response to each of our reports containing one or more recommendations. In order to ensure that each CAP addresses our recommendations within reasonable timeframes, we request progress updates until each CAP is fully implemented. At the beginning of FY 2019, we received a CAP progress update from the Office of Internal Audit for all FY 2018 recommendations. According to that update, all FY 2018 recommendations were either completed or in progress.

When appropriate, our office also engages in follow-up reviews to determine whether our recommendations have been implemented. One such review concerning OIG Report 14-004 *Review of Employee Leave Balances* was discussed earlier in this report.

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Budget vs Actual Expenditures

OIG Resources - Fiscal Year 2018	Budget	Actual	Unexpended
Personnel Expense:	1,033,498	977,048	56,450
Operating Expense:	44,295	13,718	30,577
Total Resources	1,077,793	990,766	87,027

Performance Metrics

Performance Metrics	Goal	2017 Actual	2018 Actual
Percent of complaints reviewed and action initiated within 5 business days	90%	97%	94%
Percent of initial inquiries (with no reports or memo) completed within 60 days	70%	79%	79%
Percent of audit/inspection/investigation reports completed within 180 days	50%	50%	53%

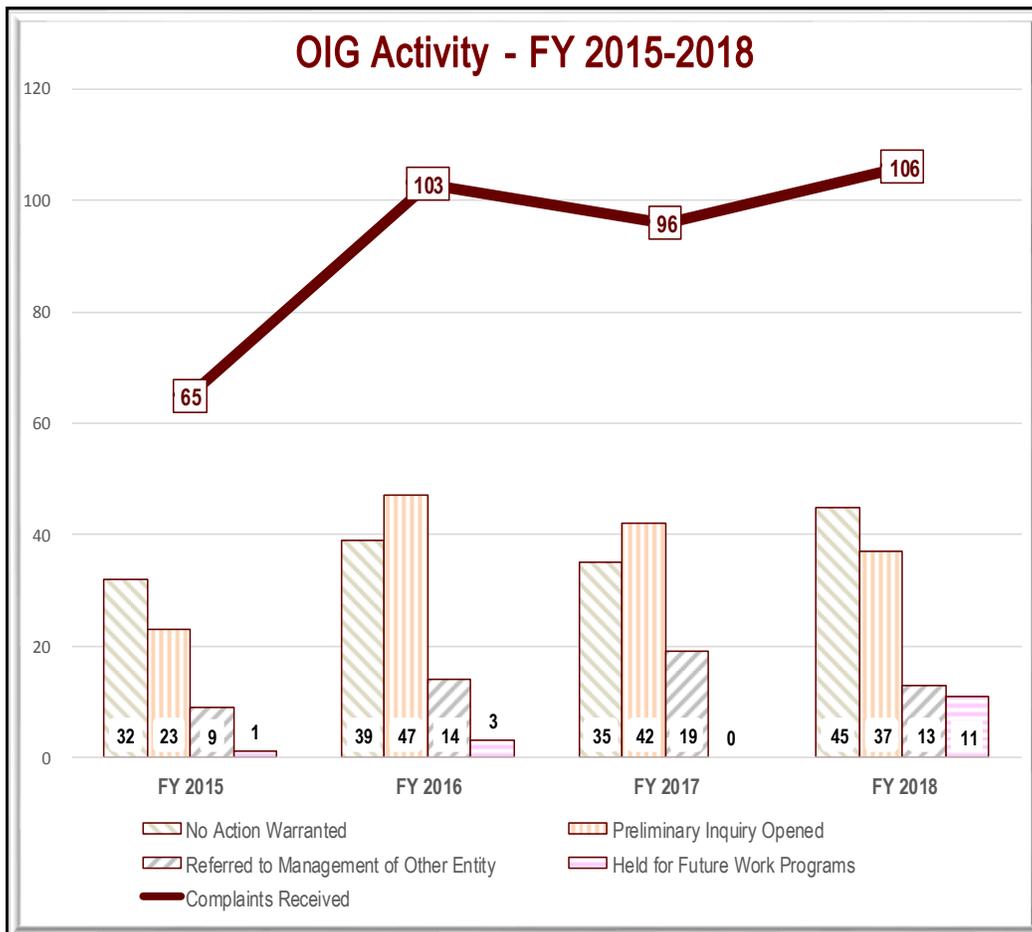
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Audit/Investigation/Inspection Activities

In our Mid-Year Report of Activity, we reported that from July 1, 2017 to December 31, 2017, we received 51 new complaints, and issued three reports, one of which was confidential. During that period, we opened 17 preliminary inquiries.

From January 1 to June 30, 2018, we received 55 complaints, opened 20 preliminary inquiries, and publicly issued three reports plus one Preliminary Inquiry Memorandum (PIM).

The chart below details OIG Activity from FY 2015 through FY 2018.



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Investigative Support to the Ethics Commission

The OIG receives both formal and informal referrals for investigation from the Ethics Commission. The OIG then exercises its independent judgment as to whether it will dedicate resources to the matter being referred.

In FY2018, the OIG provided investigative assistance to the Ethics Commission on three matters, one of which resulted in a formal report, which was provided confidentially to the Ethics Commission for its use. When a complaint to the Ethics Commission is formally referred for investigation pursuant to 19A-10(a)(3) of the ethics law, the OIG is bound by the confidentiality requirements of the law, including the requirement that the report of investigation be confidential.

Professional Relationships and Outreach

The OIG maintains memberships with the Association of Inspectors General (AIG), the Association of Government Accountants (AGA), and the Association of Local Government Auditors (ALGA) which enhance overall performance and broaden our staff's professional perspective. During FY 2018, our Inspector General served as the First Vice President of the District of Columbia Chapter of AIG. OIG staff members also voluntarily participate in the success of the AIG local Chapter. Investigative Analyst Mollie Habermeier serves on the AIG local Chapter Training Committee, and Investigative Analyst Michael Morgan worked with the AIG National Office to maintain the website for the AIG local chapter.

The Inspector General served on the Technical Committee of the "2018 Association of Government Accountants Professional Development Training" Sessions. He also made a presentation at the National AIG conference.

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Future Directions

Consistent with the County Code, in October 2017, the Inspector General submitted the *Work Plan & Projected Budget Fiscal Years 2018-2021*, which covers the entire four-year term, to the County Council and County Executive. The OIG has made significant progress on many of the projects identified in the four-year work plan to be completed during FY 2018 and FY 2019.

Because the projected work plan and budget covers the entire term of the current Inspector General, it would typically be updated annually to better reflect the shifting priorities within the OIG and the County government. However, at this time, we do not intend to revise the current workplan until next year, as that there will be many changes within the County government following the November 2018 election. We expect to issue an updated work plan after appropriate conversations with incoming and outgoing elected officials.

Montgomery County Code §2-151 – Inspector General Authorizing Legislation

Under Maryland State law, the Maryland-National Capital Park and Planning Commission (M-NCPPC) established an Office of the Inspector General on October 1, 2017, and the Washington Suburban Sanitary Commission (WSSC) will have one as of October 1, 2018. With these new oversight offices in operation, there may be a need to consider amending the OIG’s authorizing legislation to reflect the roles of these new entities and their relationship to our office.

Appendix A:

Inspector General's
Mid-Year Report of Activity
for the fiscal year 2018

Contains synopses of significant and
preliminary inquiries and referrals for
the period July - December 2017

Inspector General's
Mid-Year Report of Activity
for fiscal year 2018

July – December 2017

Montgomery County Maryland
Office of the Inspector General





A Message from the Inspector General

Each year, the Office of the Inspector General publishes a number of formal reports, which are publicly released and detail significant findings and recommendations. During the first half of fiscal year (FY) 2018, this office publicly issued two reports, which can be found at <http://www.montgomerycountymd.gov/oig/igproduct.html>, and one confidential report provided to the Ethics Commission. These items are not summarized in this report:

- *Department of Correction and Rehabilitation Personnel Complaints and Allegations*
- *Improper Procurement of Gateway Signage by the Wheaton Urban District*
- *A 2017 request from the Ethics Commission to conduct an investigation of a complaint received by the Commission*

During this same period, we also released our *Work Plan and Projected Budget for Fiscal Years 2018-2021*. Our work plan identified eight specific projects which we expect to complete during FY 2018 and FY 2019.

Four of those eight reviews are currently in progress, including:

- A review of the Montgomery County Disability Retirement and Long-Term Disability Programs
- A review of the County's Disposal of Surplus Material
- A review of the Business Innovation Network Incubator Program Funding Sources and Use.

The fourth in-progress specific item identified in our work plan for FY 2018 through FY 2019 is the provision of investigative assistance to the Ethics Commission based upon a 2018 request. The OIG receives both formal and informal referrals for investigation from the Ethics Commission. The OIG then exercises its independent judgment as to whether it will dedicate resources to the matter being referred. When a complaint to the Ethics Commission is formally referred for investigation pursuant to 19A-10(a)(3) of the ethics law, the OIG is bound by the confidentiality requirements of the law, including the requirement that the report of investigation be confidential.

The Office of the Inspector General also routinely responds to complaints and conducts proactive inquiries that do not result in formal reports. During the first half of FY 2018 our office received 51 new complaints and closed 41 complaints including matters carried over from the prior year. Although most of those efforts did not result in OIG reports, each had an outcome, some of which were significant. Synopses of select preliminary inquiries and referrals which concluded during the first half of FY 2018 are presented in the body of the attached report.

Mid-Year Report of Activity for Fiscal Year 2017

Selected Activities Between July 1, 2017 and December 31, 2017

Montgomery County, Maryland Office of the Inspector General

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Selected Activities Between July 1, 2017 and December 31, 2017

Montgomery County, Maryland Office of the Inspector General

Summaries of Preliminary Inquiries

(It is OIG policy to respond to Complainants with the results or conclusions on each matter. In each of the following summaries, we have done so, unless the complaint was anonymous.)

*Preliminary Inquiry and Audit Activity: **Computer Assisted Audit Techniques***

OIG-16-088

Complaint Summary: The OIG reviewed electronic data files for 977,524 Montgomery County transactions totaling almost \$19.8 billion in cash disbursements and accounts payable to 135,897 vendors during the period from July 2012 through May 2016.

This review marked the OIG's inaugural use of Computer Assisted Auditing Techniques (CAATs), also known as data analytics, to help identify anomalies in this large data set. Such anomalies could indicate errors that result from weak system controls and weaknesses in financial or management controls. However, our review was not designed to identify and test such controls, nor did the scope of our review contemplate the identification of all weaknesses and questionable payments.

Outcome: We engaged a Subject Matter Expert to run 79 standard CAATs tests against the entire data set, resulting in 40 separate reports which were analyzed by OIG staff. We utilized 20 of those tests to develop additional audit testing for duplicative payments, split transactions, or payments made to County employees who are also vendors to the County.

Duplicative Payments

Duplicative payments occur when the County pays more than once for the same goods or service. In testing for duplicative payments, there were 257,381 CAATs-identified anomalies. After filtering for false positives and recurring or installment payments, we identified 17 sets of transactions as possible duplicative payments. Those data sets were sent to the end user, with a request that the department identify the nature of the payments, whether they were in fact duplicative, and if duplicative, whether corrective action had previously been taken by the department. All 17 possible duplicative items were resolved during this process.

Split Transactions

Split transactions anomalies occur when there is an appearance that a payment has been divided into two or more smaller payments to mask the fact that the total procurement exceeds a level which would trigger closer scrutiny and additional approvals for the transaction.¹ There were 18,293 CAATs-identified split transaction anomalies. After ruling out false positives and

¹ Purchases up to \$10,000 can be made at the sole authority of the department's director. Purchases above \$100,000 typically require competitive bidding.

Mid-Year Report of Activity for Fiscal Year 2017

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multiple payments to known contractors or recurring vendors, we audited 80 transactions totaling \$2,563,931 paid to 25 vendors. Through our audit tests, we were able to eliminate all but one set of anomalous transactions, which resulted in OIG Report 18-001, *Improper Procurement of Gateway Signage by the Wheaton Urban District*, which was issued earlier this fiscal year.

Employee as Vendor

Our analytical reports also identified 290,729 anomalies where a County employee possibly acted as a vendor to the County. After applying various filters for false positives, we identified 107 true anomalies, from which we chose a judgmental sample to obtain back-up documentation and review in detail. Based on our review, three transactions necessitated further investigation by OIG staff, one of which resulted in a Notice of Finding and Recommendation (NFR).

The NFR addressed a County agency's procurement of goods and services from a business located at the same address as an employee of that agency. Based on the available evidence, we found that the agency procured goods and services from a business in which the employee held an economic interest. The Montgomery County Ethics Commission had not granted approval for the employee to engage in an outside business activity or issued a waiver allowing the employee's business to negotiate or contract with the County agency. We recommended that the County agency ensure that it had internal controls in place that require agency contract administrators to identify potential suppliers in which an employee may have an economic interest, and not to negotiate or contract with such suppliers unless the employee has first obtained appropriate approvals and waivers from the Montgomery County Ethics Commission.

*Preliminary Inquiry: DOT Discrimination**OIG-17-022*

Complaint Summary: The OIG received several complaints alleging improper practices regarding the processing of disability claims within the Transit Services Division of the Department of Transportation. It was specifically alleged that management failed to adhere to the disability accommodation requirements.

Outcome: OIG staff compared applicable law, regulation, and the applicable County collective bargaining agreement to information provided by the complainants and available documentation (pleadings, etc.) regarding each of the complainant's disability claims, which are still pending.

Based on our limited review, the OIG was unable to substantiate that management failed to follow or adhere to the requisite disability process. In fact, based on the review, it appears that management acted in accordance with the County's personnel regulations and the applicable collective bargaining agreement, including the provision of the required notifications regarding the disability claims and attempting to afford the opportunity for light duty assignment.

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*Preliminary Inquiry and Referral: Animal Control Services Division
Ketamine Storage Practices*

OIG-17-046

Complaint Summary: An employee of the Department of Police, Animal Services Division (ASD) requested an independent audit regarding how ASD is safeguarding the supply of Ketamine, a schedule III, controlled substance, within the ASD euthanasia suite.

The complainant believed that ASD has a “nonchalant” attitude regarding how many people have access to Ketamine. The complainant stated that ASD has a full-time staff of over sixty people, all of whom have access to the key to the safe where Ketamine is stored, even though not everyone is qualified to euthanize animals. The complainant reported that recently an Animal Services Officer was euthanizing an animal and noticed that 20cc's of Ketamine was missing or not recorded.

Outcome: Based on our initial research regarding the requirements for the storage of schedule III, controlled substances such as Ketamine, we determined that the complainant provided enough information to suggest that there could be an issue regarding the storage of Ketamine within the ASD euthanasia suite.

Because ASD falls under the Department of Police, the complaint was referred to the Department of Police, Internal Affairs Division (IA) for appropriate investigation and resolution. OIG management requested that IA contact the complainant directly and conduct appropriate investigative procedures to resolve the matter. The complainant gave permission for OIG staff to provide his name and contact information to IA.

IA responded that they had conducted a review of the matter, implemented safeguards, and were in the process of revising policy and implementing additional controls over medication at ASD. Subsequently, OIG staff contacted the complainant who stated that he had never been contacted by IA and was not aware of any changes in the way medications were stored. Additionally, OIG staff interviewed another ASD employee who was familiar with current ASD Ketamine storage practices. That employee stated that there had been no recent changes to policy and procedure for the handling and storage of ASD medication.

OIG staff discussed the matter with an Assistant Chief Administrative Officer, who arranged for the Office of Internal Audit to conduct a review of ASD's storage and control of Ketamine.

The Internal Audit review found that:

ASD had security and access control procedures that were consistent with DEA requirements for Schedule III controlled substances. The review did not identify any notable instances of missing quantities of either Ketamine or Telazol (another Schedule III controlled substance used at ASD). However, the review identified additional steps that ASD should consider taking to strengthen their control procedures, including the following:

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- *Development of standard operating procedures and documented policies for storing and recordkeeping of controlled substances,*
- *Assess the feasibility and cost of implementing an automated inventory management system to better secure access to controlled substances, and facilitate improved inventory management/control and improved recordkeeping.*

Based on the work of the Office of Internal Audit, we consider this matter appropriately addressed.

Preliminary Inquiry: Employee Watching Pornography at Work

OIG-17-063

Complaint Summary: The OIG received a complaint alleging that a named County employee watches pornography on their work computer using Google Remote Desktop.

Outcome: We obtained approval from an Assistant Chief Administrative Officer to access the employee's confidential data records. Based on network traffic for the employee's computer, Enterprise Information Security/ Department of Technology Services (EIS/DTS) was unable to identify any evidence of traffic that would support the complainant's allegations.

Subsequently, EIS/DTS completed a forensic analysis of the employee's computer and concluded that the Employee's activities were not producing any logs and could provide no evidence in support of the allegations.

Preliminary Inquiry & Referral: DOCR Supervisor Fails to Follow Procedure

OIG-17-073

Complaint Summary: The OIG received information alleging that an incident involving use of force against an inmate at the Clarksburg Correctional Facility of the Department of Correction and Rehabilitation (DOCR) had not been properly reported.

Specifically, it was alleged that,

- (1) Proper protocols were not followed in responding to an incident that required use of force against an inmate, and
- (2) The level of force used may have been inappropriate or unnecessary.

The incident involved a Sergeant and four Correctional Officers. The OIG interviewed several individuals who separately contacted the OIG regarding the incident.

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Outcome: OIG staff conducted an inquiry concerning the incident described by the complainants. We did not determine whether the use of force by any of the Correctional Officers was inappropriate, but rather focused our efforts on whether appropriate procedures were followed in documenting the incident.

At the conclusion of our inquiry, a memorandum detailing our findings was provided to the Chief Administrative Officer (CAO) and the DOCR Director. The memorandum requested that DOCR conduct an internal review of the incident to determine whether appropriate protocols and procedures were followed during the incident and if not, what steps will be taken to ensure that they will be complied with in the future. The State's Attorney's Office was consulted regarding the use of force portion of the complaint.

This incident is also discussed in OIG Report 18-002, *Department of Correction and Rehabilitation Personnel Complaints and Allegations*, which was issued earlier this fiscal year.

Preliminary Inquiry: Children's Residential Facility

OIG-17-092

Complaint Summary: The OIG received an anonymous complaint requesting that the OIG conduct a financial audit of a Montgomery County Department of Health and Human Services (DHHS) Child Protective Services contract with a children's residential facility, through Catholic Charities.

The complainant stated that the contract is intended to fund short-term child placements until permanent housing arrangements can be made. The complainant believed that DHHS' administration of the contract created financial incentives for the children's residential facility to delay securing permanent housing for children. The complainant stated that some children have been housed at the children's residential facility for over a year.

Outcome: The OIG opened a preliminary inquiry to determine the merits of the complaint. A review of County contracts indicated that DHHS had no active contracts with the named children's residential facility but does fund several contracts with Catholic Charities. We identified the DHHS contract administrator for Catholic Charities contracts and requested that they provide details for any contracts in which the children's residential facility was a recipient of contract funds.

The OIG received correspondence from the DHHS Chief Operating Officer (COO), on behalf of the contract administrator, indicating that DHHS does not have any contracts with Catholic Charities that fund activities at the named children's residential facility. The COO explained that the children's residential facility provides residential treatment in Baltimore County for children with behavioral and emotional needs. The COO indicated that the facility was outside of the area that DHHS serves and most likely under the jurisdiction of the Maryland Department

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of Human Resources. The complainant was provided with contact information for the Maryland Department of Human Resources.

Preliminary Inquiry: Police Officer Secondary Employment

OIG-17-094

Complaint Summary: A local attorney reported that an active Montgomery County Department of Police (MCPD) officer, who is also a licensed attorney, is practicing law in a way which may create an overlap or conflict of interest regarding his County employment.

Outcome: OIG staff first conducted a Maryland Judiciary Case Search, which confirmed that the named employee was actively practicing law during his employment with MCPD. We then determined whether the employee had sought proper approvals for the outside employment.

We determined that the police officer had completed a *Secondary Employment Request* form, which was signed and authorized for an indefinite period by the Chief of Police. Additionally, we obtained a copy of an approval for the outside employment granted by the Ethics Commission. We concluded that the employee had taken appropriate steps to ensure that his outside employment was properly reviewed and approved by the County.

Preliminary Inquiry: Free Ride On Bus Rides

OIG-18-027

Complaint Summary: A complainant reported that he witnessed an African-American RideOn bus driver wave African-American passengers on as they boarded without requiring payment, while at the same time requiring white and Hispanic passengers to pay. The complainant provided a specific time, date and bus number for the incident.

Outcome: OIG staff reviewed camera footage of the bus driver's actions for a period before, during, and after the time of the incident reported by the complainant. While for the specific stop referenced by the complainant, it appeared that African-Americans were permitted to ride without paying, while other races were not. OIG staff observed other stops where the opposite was true. In general, the bus driver appeared to be granting free rides to various passengers, not all of which were African-American. Based on the content of the video, the reason some passengers were permitted to board without paying was not immediately apparent to OIG staff.

OIG staff discussed the matter with the County Division Chief for Transit Services, who stated that the bus driver had violated DOT policy in that he appeared to invite passengers to ride for free. OIG staff requested that he address the issue with that employee.

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Preliminary Inquiry: Disability Fraud

OIG-18-007

Complaint Summary: The OIG received a complaint alleging that a Montgomery County Public Schools (MCPS) bus driver supervisor was fraudulently collecting disability benefits for a knee injury that occurred over a year ago. The source claimed that the employee had knee surgery and could return to work but continues to receive disability benefits. The source also claimed that they had witnessed the employee driving, gardening and performing other tasks which they believed would be considered incompatible with a disability claim.

Outcome: OIG staff met with Director of the Office of Risk Management, who informed us that the person named in the complaint was not a workers’ compensation, retirement, or disability retirement beneficiary from Montgomery County.

We also contacted the Maryland State Retirement Agency, which is responsible for MCPS disability retirements. A Retirement Benefits Specialist with Maryland State Retirement Agency told us that based on her review of records there was no retiree or member with the name given by the complainant. We found no basis to continue investigating the matter.

Preliminary Inquiry: Wrongful Termination of MFD-certified Vendor

OIG-18-033

Complaint Summary: The complainant, a certified vendor under the County Minority, Female and Disabled-Owned Businesses (MFD) Program, was included as a subcontractor on a County contract which provides services to workers’ compensation (WC) patients under the Montgomery County Self Insurance Program. The complainant stated that his company was wrongfully terminated as a subcontractor from the WC contract.

The complainant also believed that his company was selected as a “check the box” vendor for the prime and subcontractor to meet MFD contractual obligations. The complainant felt that the prime contractor never intended to actually do business with his company.

Outcome: OIG staff conducted lengthy telephone and in person interviews with the complainant and reviewed voluminous emails provided by, and in support of, the position held by the complainant.

The complainant’s termination from the contract and other issues described by the complainant primarily appeared to be contractual issues between the complainant’s company, the prime contractor, and another subcontractor on the contract. We determined that except for the assertion that the complainant had been hired only to “check the box” concerning the MFD

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contractual obligations, the complaint concerned private civil matters outside of the purview of the OIG.

Although the OIG cannot address the interpersonal conflicts, the interviews and document reviews revealed that the parties involved clearly had differing expectations of performance under the contract. The OIG identified no evidence to suggest any improprieties were involved which would have required OIG intervention. We concluded that the matter appears to be a private contractual dispute.

We found that the complainant's assertions regarding the improper application of the Montgomery County MFD program were based on perceptions and feelings. No evidence was provided supporting the complainant's beliefs. The complainant was advised that absent additional information this matter would be closed.

Preliminary Inquiry: Cell Tower Applications

OIG-18-045

Complaint Summary: A complainant asserted that the County's Telecommunications Transmission Facility Coordinating Group (TTF CG) does not receive and consider public comments as required by law.

The TTF CG is made up of representatives from the County government and certain County agencies, such as the Montgomery County Planning Board. It reviews and coordinates the siting of proposed telecommunications transmission facilities.

The complainant referred to COMCOR 02.58E.01.05b., which states, "The land-owning agency must: ...Receive and evaluate public input as part of the agency's decision process." The regulation also requires the land-owning agency to submit input to the TTF CG. The complainant provided examples of proceedings in which the TTF CG did not receive or consider public comments.

Outcome: The OIG concluded that the regulation does not require the TTF CG to receive and evaluate public comments. Instead, the regulation states that the land-owning agency must do this. The requirement that the land-owning agency submit input could simply refer to the agency's input, not public input. A Division Chief in the Office of the County Attorney agreed with these interpretations.

Furthermore, the regulation does not state when the land-owning agency must receive and evaluate public comments. The OIG researched one of the complainant's examples and saw that the Planning Board considered public comments *after* the TTF CG made its recommendation. The Office of the County Attorney Division Chief stated that the TTF CG may make a recommendation before public comments are received, and in some cases, it must do so as some

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land-use proceedings require the decision-maker to consider the TTFCG recommendation and receive public comments.

The OIG also considered County Code 2-58E(c), which states that as part of the TTFCG process, the Chair "must...assist public participation in the process." The Office of the County Attorney Division Chief stated that this refers to making information available to the public. The OIG determined that the TTFCG Chair does assist public participation. The TTFCG website explains how to provide public comments, and the Chair stated that the public may see TTFCG information on its website and in the TTFCG database. The OIG concluded that the law was not violated in this case.

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Summaries of Referrals to Other Entities

(It is OIG policy to respond to Complainants with the results or conclusions on each matter. In each of the following summaries, we have done so, unless the complaint was anonymous.)

Referral: DLC Employee Receives Workers' Compensation Benefits while Working Elsewhere

OIG-17-053

Complaint Summary: The OIG received a complaint alleging that a Department of Liquor Control (DLC) employee might be falsely claiming illness and/or injuries to get out of performing their duties with DLC. The complainant alleged that the employee was receiving workers' compensation benefits, despite working another job as a real estate agent. The complainant provided several documents to support these contentions.

Outcome: OIG staff conducted online research which supported the information provided by the complainant. Based on the employee's LinkedIn page and a professional Facebook page, it appeared that the DLC employee was actively working as a real estate agent. OIG staff found no evidence that the DLC employee had received permission for the outside employment from the Ethics Commission.

We referred the matter to the Department of Finance, Division of Risk Management (Risk Management) for appropriate investigation and action. The Risk Management Division Chief advised us that her office had also received information regarding the employee's employment as a real estate agent and had opened an investigation.

As a result of the investigation, at a workers' compensation hearing, Risk Management successfully argued for denial of four months of benefits for the period during which they were able to demonstrate the employee's outside employment activities. Additionally, the employee's request for permanent total disability was denied, although the employee was granted a temporary weekly payment for permanent partial disability.

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Referral: Misuse of Work Time by DHHS Employee

OIG-17-066

Complaint Summary: The OIG received a complaint regarding an Income Assistance Program Specialist within the Income Supports Division of the Department of Health and Human Services (DHHS).

The complainant alleged that the DHHS employee routinely utilizes County work time, sick leave, and FMLA leave to attend in person classes, complete field work, and complete online coursework related to her pursuit of a substance abuse counselor certification. The complainant further stated that the DHHS employee neglects her customers in order to complete personal coursework during the workday.

Outcome: The matter was referred to the Office of the Chief Administrative Officer (CAO) for appropriate inquiry and action. The CAO's Office provided a response to the referral indicating that the investigation was complete. They found some indication that the employee has spent some time on non-County business during her working hours, including accessing technologies not related to her daily job responsibilities. The CAO's Office indicated that they took appropriate corrective action regarding the matter.

Referral: Failure to Yield Right-of-Way

OIG-17-067

Complaint Summary: A complainant contacted the OIG and reported that a County vehicle driver failed to properly yield the right-of-way at the entrance to a one-lane bridge.

The complainant reported that the operator of a County vehicle initially stopped at the stop sign approaching a one lane bridge but then proceeded onto the bridge even though the complainant was approaching from a direction in which there was no sign. As a result, both the complainant and the County vehicle operator attempted to cross the one lane bridge at the same time.

The complainant reported that during an ensuing verbal altercation regarding which driver should back up to allow the other to pass, the County employee threatened to call the police because he was "a County employee" and told the complainant to back up. According to the complainant, the County employee eventually backed up and allowed the complainant to pass, and the police were not called.

Outcome: This matter was referred to the County Chief of Maintenance (Maintenance Chief), Department of General Services, Division of Fleet Management Services for appropriate inquiry and resolution.

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The Maintenance Chief reported that he gathered statements from the driver of the County vehicle and another County employee who witnessed the incident from his vantage point as a passenger in the vehicle. Both reported that the complainant's vehicle unexpectedly approached at a high rate of speed, and both vehicles came to a stop.

According to the Maintenance Chief, both the County vehicle operator and the witness state that the complainant became agitated, began cursing, and used a racial slur, which triggered the County employee to take a photo of the complainant's vehicle and threaten to call the police. The County vehicle operator stated that he remained calm and eventually backed up and allowed the complainant to pass in an effort to defuse the situation. The County vehicle operator reported the incident to a supervisor upon return to his job site.

It appears that the County vehicle operator likely did not intentionally enter the intersection while traffic was oncoming. Additionally, the operator eventually backed up the vehicle to yield the right of way and appropriately reported the matter to a supervisor. The Maintenance Chief stated that the County vehicle operator was provided supplementary guidance on successful interaction with disgruntled commuters and residents of the County.

Referral: Undeserved Tax Credit

OIG-18-006

Complaint Summary: A complainant contacted the OIG and identified two apartments that they believed were used as rental units but were recorded as "primary residence" according to the Maryland Department of Assessments and Taxation (SDAT). The complainant was concerned that the owner of each property was receiving an undeserved tax credit.

Outcome: To validate the information provided by the complainant, OIG staff searched the County Department of Housing and Community Affairs (DHCA) rental license and SDAT databases. It appeared that the owners of each property applied for a Rental Housing License, indicating an intent to rent out the property. Both properties were also coded as "principal residence" in SDAT.

The matter was referred to the Montgomery County Department of Finance Division of Treasury for appropriate action. Subsequently, a manager from the Division of Treasury told the OIG that both units were on the list for Income Tax Offset Credit (ITOC) removal for tax Levy Year (LY) 2018.

Based on the response, OIG staff determined that no further inquiry is warranted. The complainant was notified of the outcome.