



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 2018
Selected Activities Between July 1, 2017 and December 31, 2017
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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.

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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 RideOn 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 (TTFCG) does not receive and consider public comments as required by law.

The TTFCG 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 TTFCG. The complainant provided examples of proceedings in which the TTFCG did not receive or consider public comments.

Outcome: The OIG concluded that the regulation does not require the TTFCG 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 TTFCG made its recommendation. The Office of the County Attorney Division Chief stated that the TTFCG 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.