

GOVERNMENT WATCHDOGS

How independent are Texas' inspectors general?

House panel meets today to discuss a possible statewide investigator's office.

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A camera at the entrance of the Texas Youth Commission Office of Inspector General captures the image of anyone who rings the doorbell.

Not even the commission's top officials can swipe their badges to unlock the door.

"Although they can't get past our doors, we can get into every TYC office," said Inspector General Bruce Toney, whose office is on the second floor of a state office building on North Lamar Boulevard where other commission employees work.

Toney isn't looking to win friends at the agency. His job — a position the Legislature created last year amid allegations of sexual abuse of incarcerated youths and an official cover-up of it — is to investigate crime and root out fraud, waste and abuse. He said security is key to maintaining independence from the agency his office investigates.

Four state agencies have offices of inspector general: the youth commission, the Texas Education Agency, the Health and Human Services Commission and the Texas Department of Criminal Justice. The amount of independence they have varies. Some major agencies — such as the Texas Department of Transportation — don't have such offices at all.

The state House Committee on Government Reform meets today to consider whether Texas should have a state office of inspector general, something Gov. Rick Perry called for in 2005 and 2007. About a dozen states have such an office, though functions vary.

State Rep. Dan Gattis, R-Georgetown, who is pushing for more independent inspectors general, said it helps to have them embedded in agencies so they're familiar with how things work but said inspectors general should report to someone outside the agency.

"I have serious concerns about whether or not an inspector general can actually do their job when they have to answer to or pass things through the agency which they're supposed to be having oversight of," Gattis said.

Gattis and fellow Central Texas House members Dawnna Dukes, D-Austin, and Patrick Rose, D-Dripping Springs, were among several lawmakers who tried last year to give more independence to offices of inspector general.

"Clearly, there was opposition from the agencies," Dukes said. They will always "have concerns that you're going to have a new sheriff that's going to come to town."

Opponents of creating a state office of inspector general say the state auditor's office performs many of the same functions.

Inspectors general are typically in the executive branch of state government; a state auditor is in the legislative branch.

"There is probably a turf battle between what does an (office of inspector general) do to what does our auditor do," Gattis said. "It's really a different function."

Gattis put it this way: getting investigated by the state auditor's office is like a visit from your accountant. An inspector general investigation "is more like the Texas Rangers walking in."

Melinda Miguel, Florida's chief inspector general, said she and the state's auditor general avoid duplicating each other's work.

"I find it works very well," she said.

Asked to comment on whether a state office of inspector general would conflict with his role, Texas State Auditor John Keel said: "I don't think it's appropriate for me to discuss that at this time."

Keel is scheduled to speak at today's hearing. That meeting comes amid a shake-up at the education agency's inspector general office, where two of the three remaining employees were recently fired.

Both of them, James Catazaro and Jim Lyde, said that since Robert Scott became commissioner last year, they'd been prevented from investigating fraud, waste and abuse at the agency.

Agency spokeswoman Suzanne Marchman, who confirmed that they were fired but declined to say why, denied that they were kept from doing investigations.

"There haven't been any allegations" of fraud, waste or abuse, Marchman said. "There needs to be something alleged before you can investigate it."

But Catazaro said they learned of many allegations, including a claim about possible kickbacks to a superintendent.

Marchman said that such an allegation "is not within the scope" of the office and would have been referred to another agency division.

The authority of Texas' inspectors general varies widely.

At the youth commission, Toney's staff members investigate every incident in which force is used at the state's juvenile lockups. If they learn about a fight going on, they can watch real-time video of the facility.

At the youth commission and the criminal justice department, the inspector general staff includes state police officers to investigate crime.

And it's a crime for anyone at the agencies to interfere with an investigation, Toney said.

"That is a tremendous amount of independence that (the youth commission) and (criminal justice department) have that (the Health and Human Services Commission) does not," Toney said.

When Health and Human Services Commission Inspector General Bart Bevers finds possible criminal activity, he turns it over to the attorney general's office.

Bevers' team investigates the state's \$25 billion-a-year Medicaid system. That can range from looking into whether health care providers bill for services they didn't provide to whether patients knowingly misstate information so they can receive benefits. He also investigates agency employees and contractors.

"We're charged with a very difficult job," Bevers said. "It's not easy telling the boss that his baby's ugly."

Bevers doesn't have administrative control of his budget, something Dukes is seeking to change.

"You really don't have authority unless you have authority to determine the budget," Dukes said.

Gattis said it's important to consider to whom inspectors general report.

That's not an easy question for some to answer.

Bevers, who was appointed by Perry, said he reports to Perry and his staff. However, Allison Castle, a spokeswoman for Perry, and Geoffrey Wool, a spokesman for Health and Human Services Executive Commissioner Albert Hawkins, both said Bevers reports to Hawkins.

Soon after the creation of the Health and Human Services Office of Inspector General in 2003, lawmakers questioned its independence.

Bevers' predecessor, Brian Flood, had reported on the state's troubled child and adult protective services.

A comparison of the reports Flood submitted to the commission and those the commission later gave the governor's office "reveal that several substantial findings from the (inspector general's) reports were not included" in the reports to the governor, according to a 2004 Senate Health and Human Services Committee report.

Flood issued several reports that were critical of the commission, including one in 2007 that said agency officials poorly managed a plan to modernize the system for enrolling Texans in public assistance. That report is nowhere to be found on the commission's Web site.

Texas Youth Commission

Created in 2007 in the wake of a sexual abuse scandal.

Has 38 employees, including law enforcement officers and administrative investigators.

Runs a 24-hour incident hot line.

Inspector General Bruce Toney, who was hired by former conservator Jay Kimbrough, reports to conservator Richard Nedelkoff; if the agency has a board in the future, inspector general's office would report to the board.

Texas Education Agency

Created in 2006 to investigate allegations of cheating on the Texas Assessment of Knowledge and Skills. Official duties also include investigating fraud, waste and abuse.

Currently has one employee, plus an interim inspector general, Bill Wilson, the agency's director of internal audits. In the past two years, four employees have left and two were fired.

Last year released a report questioning the agency's contracting process.

Texas Department of Criminal Justice

Created in 1999 amid allegations that the internal affairs division was tied too closely to the agency.

Has 130 employees, including peace officers.

Inspector General John Moriarty reports to the Board of Criminal Justice.

Health and Human Services Commission

Created by the Legislature in 2003 as part of a reorganization of health and human service agencies.

Inspector General Bart Bevers, who was appointed by Gov. Rick Perry, oversees 640 employees in 27 cities.

Investigates fraud, waste and abuse in programs such as Medicaid, food stamps and the Children's Health Insurance Program.

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