



# OIEC QUARTERLY REVIEW

January - March 2008 (Issue 9)

Dear Friends,

We began our third year as a functioning agency on March 1, 2008, and I am pleased to report that we have matured into an agency well qualified to fulfill our statutory mandates. Our customer assistance program has progressed very well. The hiring and training of personnel is in its final stages and within a very short time we will have an excellent program in place. I have placed a great deal of emphasis on customer service due to the fact that they are the first contact that injured employees will have with our agency. The Customer Service Manager has completed the customer service part of OIEC's overall Management Plan that is being constructed at this time. Our goal is to provide a seamless transition of service to injured employees, which begins with our Customer Service Department.

I have communicated to all of our employees that creative and innovative thinking on their part is not only suggested but required. As a result our employees have responded with some outstanding suggestions about ways to do a better job of serving injured employees responsibly and using resources efficiently. Those employees have been rewarded with compensatory time and recognition within the agency. Our confidence in the commitment of our employees is being fully justified.

We have accumulated the necessary data to compare the Office of Injured Employee Counsel's (OIEC) services to other states that provide similar services. The Deputy Public Counsel is chairing a committee to analyze this information and make recommendations that might enable us to improve our service to the injured employees of Texas.

Sincerely,

Norman Darwin  
Public Counsel

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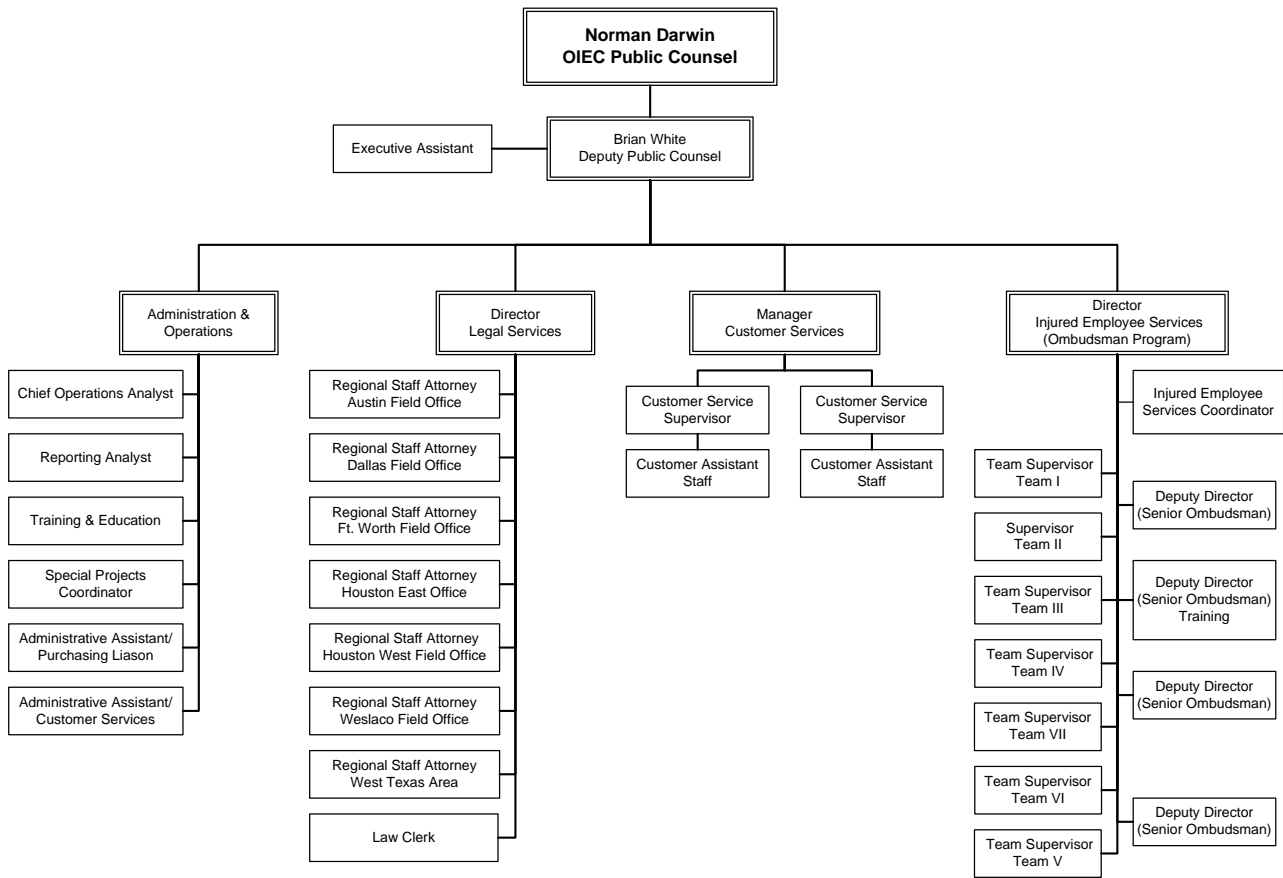
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# OIEC Organizational Changes

OIEC has been growing as new Ombudsmen and Customer Service Representatives join the OIEC team. The agency recently reorganized to reflect the agency's changing face and to increase efficiencies in fulfilling OIEC's mandate. The agency added a seventh Regional Staff Attorney (RSA) position to support the seven Ombudsman teams. The RSA addition allows one RSA to support each Ombudsman team. Each Ombudsman team consists of approximately 15 Ombudsmen. A law clerk position was also created to provide additional legal research support for the agency and to encourage law students to consider a career in workers' compensation and advocacy on behalf of injured employees. A Reporting Analyst position was created to ensure the agency keeps abreast of the many reporting requirements and produces meaningful, quality reports for the Legislature, the Governor's Office, the Legislative Budget Board, the State Auditor's Office, and other sister agencies. OIEC is also working on hiring a permanent internal auditor to identify business improvements to maximize the efficiency of OIEC's operations.

The General Counsel and Employee Relations positions were eliminated to free up funds from the Central Office and provide more resources in the field. The General Counsel functions were combined with the Deputy Public Counsel position while the employee relations functions were absorbed by the Director of Legal Services. These changes permit OIEC to direct additional resources to its efforts to assist, educate, and advocate on behalf of the injured employees of Texas. The following is OIEC's new organizational structure.



OIEC is proud of its accomplishments in the last two years and looks forward to continuing to serve Texas' injured employees. Please contact Brian White at (512) 804-4186 should you have any questions about OIEC's recent changes.



## Brian White Appointed Deputy Public Counsel

In January 2008, Brian White was appointed Deputy Public Counsel for OIEC. Norman Darwin, Public Counsel, stated, "I am pleased to express my confidence in the skills that Brian brings to the position and look forward to working with him in a mutual effort to fulfilling OIEC's statutory mandate."

Brian served as OIEC's General Counsel and has been with OIEC since March 2006. Prior to employment at OIEC, Brian served as Assistant General Counsel at the Division of Workers' Compensation and Staff Attorney in the Financial Counsel Section at the Texas Department of Insurance. Brian is a graduate of the University of Texas at Austin and South Texas College of Law in Houston.

## Agency Program Area Updates

**Customer Services.** The OIEC Customer Service Department is up and running! Although the Customer Service Department is not quite fully staffed, Customer Service Representatives (CSR's) are working with injured employees by phone and in person in nearly half of the field offices. It is rewarding to observe them using the knowledge that they gained through the training that they have completed as they interact with injured employees. Several of the CSR's have already expressed the desire to become Ombudsmen so that they can assist injured employees during the dispute resolution process. There are still several vacancies which should be filled within the next month or two.

Ongoing training includes bi-weekly teleconferences conducted by the Customer Service Supervisors and monthly training put together by the Regional Staff Attorneys (RSAs). The RSAs will also be presenting an extensive workers' compensation overview training session to all of the CSRs at the OIEC Conference scheduled in July.

OIEC is extremely proud of the progress made by these newly hired and highly motivated CSR's.

**Injured Employee Services.** Our new Ombudsman Associates, who were transferred from the Texas Department of Insurance, Division of Workers Compensation to OIEC, have successfully completed the second phase of their training program. Currently the Ombudsman Associates have entered the third phase of training, which includes obtaining an adjuster's license, and assisting injured employees in preparation appointments, Benefit Review Conferences, Benefit Contested Case Hearings, and Appeals. The expected date of completion of the training is August 31, 2008 or sooner. Effective September 1, 2008 all Ombudsman Associates will be Ombudsmen I. They will be assisting injured employees in the field offices around the state. The unrepresented injured employees of the state of Texas will benefit from these newly trained Ombudsmen. *(Continued on page 3)*

### Question of the Quarter



*My husband is still healing from his work-related injury and prefers that I make the phone calls regarding his workers' compensation claim. Can OIEC staff talk to me about his claim so we can get our questions answered and get the information we need?*

Absolutely! OIEC employees are always available to provide general information about workers' compensation and to answer general questions. OIEC protects the confidentiality of every claim. Only certain people are allowed to have claim specific information, and a spouse is not included as a party permitted to obtain confidential claim information. However, if your husband wants to give his permission for you to receive confidential information about his claim, he can do that.

The best thing would be to have that permission in writing. It doesn't have to be fancy, just a simple statement signed and dated by your husband that says something like this, "I give permission for my wife, Jane Doe, to receive confidential information regarding my workers' compensation claim." You can send it to your local OIEC field office and it will be documented and forwarded to the workers' compensation claim file.

After that, you will be able to call OIEC and receive information regarding your husband's claim. It would still be a good idea when you call to let your OIEC representative know that the permission letter has been submitted so that they can confirm that and then provide you with the information you need.



## Agency Program Area Updates (Continued)

**Legal Services.** In addition to answering legal questions of the OIEC team members assigned to them, one of the primary duties of the Regional Staff Attorneys (RSA) at OIEC is to provide small group training to the Ombudsmen. Training was given in six regional field offices in March 2008. The focus of the training was case development and dispute resolution prior to the benefit review conference. In addition to written materials, a lecture was given and the participants were afforded an opportunity to ask questions and engage in a discussion about the topics. There was also a hands-on exercise that required the participants to access various computer tools and resources. If the participants discovered that they had difficulty accessing various resources or navigating them once they had been accessed, the RSA trainer was available to assist them.

A second practical skills training session is being developed for delivery in May 2008. The topic of that training will be writing skills. The training will give practical suggestions to the Ombudsmen in assisting injured employees in drafting letters, motions, appeals, and responses. It will also emphasize how standard letters and documents that have been prepared as a resource for the Ombudsmen can be tailored to fit the particular circumstances of any given injured employee's case.

Finally, in an effort to ensure that training is targeted to be most beneficial, Legal Services and Injured Employee Services are working together to assess training needs and to develop training to address identified issues. Once training topics are identified, an agenda can be set for future training efforts, including the monthly teleconferences, practical skills training, and the annual OIEC conference in July.

## Case Study: Jurisdiction



Nick Perez, an Ombudsman in Dallas, recently assisted an injured employee (claimant) with a complex dispute that went to a Contested Case Hearing. This claimant was working in Oklahoma when a drill jerked back and hit his hand, breaking one of the bones in his finger. **The main issue in question at the hearing was whether the claimant, who was injured in Oklahoma, was entitled to all rights and remedies under the Texas Workers' Compensation Act.** The fact that the injury occurred was not in dispute. The insurance carrier was arguing that because the injury occurred in Oklahoma, that it would fall in the jurisdiction of Oklahoma workers' compensation and therefore the claimant would not be entitled to Texas Workers' Compensation benefits.

Nick knew that one of the key facts that needed to be brought to the Hearing Officer's attention was how Texas Labor Code Section 406.071 Extraterritorial Coverage applied to the claimant's case. This section defines the circumstances in which an injury which occurs in a location outside of Texas would be compensable. He showed the Hearing Officer, through the claimant's testimony and documentary evidence provided that the claimant was entitled to Texas Workers' Compensation benefits because: (1) the claimant's injury would have been compensable had it occurred in Texas (this was an uncontested work-related injury); and (2) the claimant did have significant contacts with Texas.

Section 406.071(b) states that an employee has significant contacts with Texas if the claimant was hired or recruited in Texas and was not injured later than one year after the date of hire. The carrier did not dispute the fact that the claimant was not injured more than one year after his date of hire, so the key issue was whether the claimant was hired or recruited in Texas.

The claimant was recruited through his local union (in North Texas, where he lived) to go and work in Oklahoma. This fact was supported by the testimony of the carrier's witness. The fact that the claimant had been recruited in Texas was the main argument that needed to be addressed. *(Continued on page 5)*



## Case Study: Jurisdiction (Continued)

The Hearing Officer found that the claimant had significant contacts with Texas, was recruited in Texas and concluded that the claimant was entitled to all rights and remedies under the Texas Workers' Compensation Act.

In preparing for and assisting at the Contested Case Hearing, Nick utilized the assistance of his assigned Regional Staff Attorney. He said that the Practical Skills Training that the Ombudsmen have received over the past two years from the Regional Staff Attorneys helped him develop his opening and closing statements, direct examination, as well as apply the Texas Labor Code and Division of Workers' Compensation rules.

The Ombudsman's expertise and the Regional Staff Attorneys' legal support helped assure the claimant prevailed in his jurisdiction claim.

## Employee Spotlight



*OIEC has a very important mission – to assist, educate, and advocate for the injured employees of Texas. The agency is only able to fulfill its mission with the experience and dedication of its employees. Each quarter, one of the agency's employees will be spotlighted to give a "behind the scenes look" at the faces of OIEC.*

Customer Assistance is the agency's newest program area and serves as the first point of contact with injured employees. OIEC's Customer Assistance Representatives are available to injured employees and are able to answer questions, provide resources, and assist with resolving disputes. A key member of this area is **Shawnee Ray**, Customer Service Supervisor. She manages, trains, and evaluates customer service employees.

Shawnee joined OIEC in January 2008. Prior to joining OIEC, she had worked for over eight years as the lead Ombudsman in the Texas Workers' Compensation Commission (now the Division of Workers' Compensation) Fort Worth Field Office, and then as a workers' compensation and liability claims adjuster for Lankton Claim Service and then Farmers Insurance. Here is a little bit more about Shawnee:

I am originally a Colorado girl who married a Weatherford, Texas boy, Gerald. He is a professional guitarist and we have been married 27 years, raised two children and have three wonderful grandchildren. We enjoy our huge holiday celebrations with our large extended family.

Being married to a professional musician, much of my personal life revolves around music. Though I am in no way musically inclined, I can identify almost any brand of guitar and love impressing our musician friends with my skill. Being a Colorado girl, I love the outdoors and enjoy nature and hiking with my girls, Libby and Iris. They, of course, are my chocolate labs and two loves of my life! I love cooking, but also enjoy candle crafting and jewelry making.

I strongly believe in giving back to the community. I took this year off but have been a Girl Scout leader for the past five years. Leading 14 girls ages 7-9 is quite challenging but so rewarding. I also enjoy participating in 5K run/walks benefitting charitable organizations.

I am excited to be back working and advocating for the injured employee. I hope I can provide some good input to the success and future of our new agency.

Shawnee's supervisor, Nancy Larsen (Customer Service Manager) is equally happy that Shawnee joined OIEC! Nancy said, "Shawnee's extensive experience in working on both sides of the workers' compensation system gives her unique insight into finding and explaining creative ways of resolving issues that develop between injured employees and adjusters." She added, "Shawnee's work experiences, her bubbly personality, and her quiet patience make her a wonderful addition to OIEC's Customer Service Department."

