



INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: INDIANA DEPARTMENT OF CORRECTION (DOC)
TITLE: DOC GHOST EMPLOYMENT
CASE ID: 2018-05-0147
DATE: May 23, 2019

Inspector General Staff Attorney, Heidi Adair; after an investigation by Inspector General Director of Investigations, Special Agent Darrell Boehmer, and Special Agent Jack Bedan; reports as follows:

The Indiana Office of Inspector General (OIG) investigates potential criminal activity and Code of Ethics violations within the executive branch of state government. Ind. Code § 4-2-7-3. The OIG is statutorily charged with recommending policies to deter, detect and eradicate fraud, waste, abuse, mismanagement and misconduct in state government. Ind. Code § 4-2-7-3(2). The OIG also may advise an agency on implementing policies and procedures to prevent and reduce the risk of wrongful acts within an agency. Ind. Code § 4-2-7-3(2).

On May 21, 2018, the OIG received an anonymous complaint alleging that various Indiana Department of Correction (DOC) employees were engaged in ghost employment by selling certain commercial products during work hours. A supervisor (Supervisor) was among the employees named in the complaint. Many of the reporting party's allegations in the complaint related to internal, human resources matters, such as concerns over spot bonuses, promotions, policies and inappropriate language. Initially, the OIG closed the complaint and referred it to DOC for internal review. The OIG requested that DOC report back to the OIG on their findings related to the allegations of ghost employment and/or misuse of state property.

After further review by DOC investigators, DOC provided its findings to the OIG. The

DOC report alleged that the Supervisor promoted and sold products to her subordinate staff members during state time and sometimes spent one to three hours per day discussing the products with staff. In October of 2018, the OIG opened an investigation into the Supervisor's activities.

OIG Director of Investigations Darrell Boehmer and OIG Special Agent Jack Bedan conducted the investigation. They reviewed the information and witness accounts provided by DOC and interviewed DOC employees.

Special Agent Bedan interviewed a DOC employee (Employee). Employee told Special Agent Bedan that the Supervisor first approached her about the products during a DOC meeting in 2017. During this meeting, she said the Supervisor gave her a product sample. Employee said the Supervisor frequently discussed the products during meetings and brought a book to the DOC facility showing various products that people could purchase. Employee also indicated that she saw another DOC employee give the Supervisor money during state time for what she assumed was payment for the purchase of essential oils. Employee alleged that the Supervisor recruited at least three other DOC employees to sell the products.

In an interview with Director Boehmer, the Supervisor confirmed that she began offering and promoting products through a private company (Company) during the fall of 2017. She said she stopped when the DOC internal investigation began. She also confirmed that three of her subordinates joined her in the business, and that outside of work, she engaged in Company-related activities with these subordinates. Director Boehmer also learned that the Supervisor received a percentage of the application fee for the three employees who obtained Company memberships directly through her. The Supervisor claimed that she did not use state equipment or resources to promote the Company and had not retaliated against anyone for not engaging in

or purchasing from her outside business.

Regarding misuse of state property, DOC investigators found an email the Supervisor sent from her state email relating to the business. They found no other email correspondence on her state email account involving her outside business. DOC policy allows for certain limited personal use of state property, but it prohibits all such use of state property/resources for outside commercial activity. Although the investigation revealed that the Supervisor engaged in limited misuse of state property and a violation of DOC policy, her misuse of state property was low in volume and spread over a time frame of several months.

Regarding ghost employment, the OIG found insufficient evidence to bring a complaint against the Supervisor before the State Ethics Commission (Commission). Although DOC estimated that the Supervisor spent one to three hours a day discussing products with her staff, the OIG found insufficient evidence to bring this claim before the Commission. The evidence did not clearly show how much state time the Supervisor spent promoting or offering products because some of this activity occurred during the Supervisor's lunch hours and after state work hours.

Therefore, the OIG is declining to bring an ethics complaint against the Supervisor before the Commission and is closing this case for insufficient cause. Should additional information be brought forward, the OIG may reexamine this evaluation.

The OIG appreciates DOC's efforts to investigate potential ethics violations within their facilities. The internal investigative report that DOC provided to the OIG contained helpful information that the OIG utilized in conducting its own investigation into ghost employment and misuse of state property.

Recommendations

Although the OIG declines to bring this matter before the Commission, the OIG makes the following recommendations to DOC. The goal of these recommendations is to help DOC employees understand the steps they should take to avoid violations of the ghost employment and misuse of state property rules and avoid the appearance of impropriety.

Recommendation 1

First, the OIG recommends that DOC's Appointing Authority or Ethics Officer distribute a written notice to all DOC employees reminding them that if they engage in any outside business, they must do so on their own time, without using state time or state property/resources. The reminder should note that while DOC's policy on Limited Personal Use of State Property/Resources permits limited use of state property for purposes other than official state business, it prohibits employees from using any state property for outside commercial activity and that doing so is considered both a violation of DOC's policy and the Indiana Code of Ethics.

Recommendation 2

Second, the OIG recommends that DOC caution the Supervisor and other DOC employees who are in positions of authority or exercise supervision over employees to use extra care when conversing with their subordinates about any outside business in which they have an interest. In addition to the allegations of Code of Ethics violations, the Supervisor was accused of giving preferential treatment to employees who participated in discussions about products, purchased products or attended business related events compared to those employees who refrained from such activity. Although DOC is in a better position than the OIG to address these management issues, the OIG encourages DOC to consider providing additional training or instruction for all DOC employees in supervisory or managerial roles on the ghost employment

and use of state property rules. Employees in authoritative positions often have the ability to wield undue influence over their subordinates, even if unintentional. As such, they should make efforts to avoid situations where a subordinate could feel pressure to engage in or purchase from a supervisor's outside business.

Dated: May 23, 2019

APPROVED BY:

A handwritten signature in black ink that reads "Lori Torres". The signature is written in a cursive style with a long horizontal stroke at the end.

Lori Torres, Inspector General