



# INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: INDIANA DEPARTMENT OF CORRECTION (DOC)

TITLE: DOC PAROLE AGENT POLITICAL ACTIVITY

CASE ID: 2020-02-0047

DATE: September 1, 2020

*Indiana Office of Inspector General Chief Legal Counsel, Tiffany Mulligan, after an investigation by Inspector General Special Agent Michael Lepper, reports as follows:*

The Indiana General Assembly charged the Office of the Indiana Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in the executive branch agencies of state government. Ind. Code §4-2-7-2(b). The OIG also investigates allegations of criminal activity and Code of Ethics violations within state government. Ind. Code §4-2-7-3. The OIG may recommend policies and carry out other activities designed to deter, detect and eradicate fraud, waste, abuse, mismanagement and misconduct in state government. Ind. Code §4-2-7-3(2).

## **I. Complaint and Background**

On February 11, 2020, the OIG received a complaint alleging that an Indiana Department of Correction (DOC) parole agent (Employee) tried to use his official DOC position for personal gain. The complaint alleged that the Employee is running for political office and wanted a reporter (Reporter) to support his campaign. The complaint alleged that the Reporter asked the Employee to lighten a parolee's (Parolee) parole stipulations and allow the Parolee to attend the Reporter's church at a specific time. It further stated that the Employee asked the Parolee's assigned parole agent (Agent) to allow the Parolee to attend the church service as a favor to the Reporter. The

complaint inferred that the Employee made this request so that the Employee could gain the Reporter's support for his political campaign.

## **II. OIG Investigation**

OIG Special Agent Michael Lepper conducted an investigation into the allegations. Special Agent Lepper obtained and reviewed documents, including DOC policies, DOC caseload documents, DOC reports and the Employee's emails. Special Agent Lepper also interviewed several individuals, including the Agent, the Reporter and the Employee.

Special Agent Lepper interviewed the Agent. The Agent described three conversations he/she had with the Employee regarding the Parolee. The Agent stated that the first conversation occurred after the Parolee asked the Agent for permission to attend a specific church. The Agent said that the Employee overheard the Agent discussing the request with the Agent's supervisor. The Employee asked the Agent what the Parolee wanted to do. When the Agent explained that the Parolee wanted to attend the church, the Employee offered to contact the Reporter to see if the Reporter knew why the Parolee wanted to attend that particular church. The Agent told the Employee not to contact the Reporter. Later that day, the Agent approved the Parolee to attend the 8:15 to 9:15 a.m. church service.

The Agent also said he/she had a second conversation with the Employee regarding the Parolee. The Agent stated that the Employee approached him/her in the office and told him/her that the Agent might want to "watch his/her back." According to the Agent, the Employee said that the Agent might want to get the Parolee off the Agent's assigned caseload. The Agent said he/she believed the Employee was trying to intimidate him/her.

The Agent stated that the third conversation occurred after the Agent received a phone call later that same evening from a colleague, who said that the Employee wanted the Agent to call him. When the Agent called the Employee, the Employee told the Agent that he talked with the

Reporter and confirmed that the church the Parolee wanted to attend was the church the Reporter attends. The Agent said that the Employee asked the Agent to change the time the Parolee could attend the church service so the Parolee could attend the same service as the Reporter. The Agent said that the Employee also mentioned that the Reporter was volunteering for the Employee. The Agent stated that he/she was uncomfortable with the phone call. Upon the advice of the Agent's supervisor, the Agent filed a DOC incident report, which described the Agent's phone call with the Employee.

Special Agent Lepper obtained a copy of the Agent's incident report. It provides additional details regarding the Agent's call with the Employee, including details about the Employee asking the Agent about politics. The Agent did not include the previous conversations with the Employee in the DOC incident report.

The Agent did not change the approved time for the Parolee to attend the church service, and the Parolee attended the service at the time the Agent originally approved.

Special Agent Lepper interviewed several other DOC employees, including the Agent's partner, supervisor and colleagues. They all stated that the Agent told them about his/her conversation with the Employee and that the Agent was upset by the conversation; however, none of these individuals directly heard the conversations between the Employee and the Agent.

Special Agent Lepper interviewed the Reporter. The Reporter said he/she knows the Employee through social media, but he/she does not recall ever meeting the Employee in person. The Reporter said that the Employee reached out to him/her on Facebook and asked the Reporter whether the Reporter was comfortable having the Parolee attend church with him/her. The Reporter said that he/she was angry that the Employee asked this question. The Reporter told the Employee that the Reporter wanted the Parolee to go to church with the Reporter and his/her family, but they go to a later service than the service for which the Parolee was approved to attend.

The Employee told the Reporter that he would see what he could do to change the time. The Reporter later learned that the Employee did not get the time that the Parolee could attend church changed, and the Parolee went to the 8:15 a.m. church service as originally approved. The Reporter told Special Agent Lepper that he/she has never been involved in any of the Employee's campaigns, and the Reporter does not recall the Employee ever asking the Reporter to be involved in his campaign.

Finally, Special Agent Lepper interviewed the Employee. According to the Employee, the Agent stopped him when he was walking by the Agent, asked him if he was friends with the Reporter and asked him to get in touch with the Reporter. The Employee stated that he did not recall the Agent telling him not to contact the Reporter. The Employee said he reached out to the Reporter through Facebook, and the Reporter asked him to call him/her. The Employee stated that during their conversation, the Reporter said he/she had invited the Parolee to go to church. The Employee said he then relayed his phone conversation with the Reporter to the Agent.

The Employee said that he received a phone call from the Reporter later the same day asking if DOC could switch the time that the Parolee was approved to attend church. The Employee said that he recommended the Agent change the church time so that the Reporter did not do a "hit piece" against DOC. Special Agent Lepper asked the Employee if he mentioned politics at the start of the phone call with the Agent, and the Employee said he vaguely remembered mentioning politics, but he meant office politics.

The Employee told Special Agent Lepper that he was running for political office. He also said he performs volunteer work for several organizations. The Employee said he needed to recruit someone to participate in one of his volunteer activities, unrelated to his campaign. He stated that he had hoped to ask the Reporter to participate in the volunteer activity at a later date; however, he never made the request. The Employee stated that he knew the Reporter only through Facebook.

He also stated that he never asked the Reporter to participate in his campaign, and the Reporter never assisted with nor attended one of his fundraisers.

Special Agent Lepper learned that DOC counseled the Employee against engaging in political activity while on state duty or acting in his official capacity. DOC placed a written statement in the Employee's file that documented the counseling.

### **III. Conclusion**

Special Agent Lepper's investigation found insufficient evidence that the Employee violated any provision of the Criminal Code or Code of Ethics. Although the Employee admitted to talking with the Agent and contacting the Reporter about the Parolee's case, Special Agent Lepper found insufficient evidence that the Employee offered the Reporter a favor in exchange for either political or financial gain. The investigation confirmed that the Employee is running for political office; however, both the Reporter and the Employee denied that the Employee ever asked the Reporter to support his campaign. The Employee admitted that he wanted to ask the Reporter to participate in the volunteer activity, but he never made this request. Furthermore, Special Agent Lepper found no evidence that the Reporter ever endorsed the Employee for political office or volunteered for him.

Special Agent Lepper also found insufficient evidence that the Employee violated 42 IAC 1-5-4. This rule prohibits a state employee from engaging in political activity while on duty or acting in his official capacity. The Employee admitted that he asked the Agent to allow the Parolee to attend church with the Reporter; however, he denied doing so for political purposes. Instead he claimed that he recommended the change to protect DOC from the Reporter reporting an unfavorable story on DOC. Moreover, the Employee stated that when he mentioned politics during his conversation with the Agent, he meant office politics. Several other individuals stated that the Agent shared his/her concerns with them regarding the Agent's conversations with the Employee;

however, none of these individuals directly heard the conversations between the Agent and the Employee. Special Agent Lepper also found insufficient evidence that the Employee used any state property for political purposes.

Finally, Special Agent Lepper found insufficient evidence that the Employee violated Ind. Code §4-2-6-5.5. This statute prohibits a state employee from using or attempting to use his official state position to “secure unwarranted privileges or exemptions that are: (A) of substantial value; and (B) not properly available to similarly situated individuals outside state government.” The Agent had already approved the Parolee’s request to attend the 8:15 a.m. church service when the Agent received the call from the Employee asking her to change the approved time. Although changing the approved time may have been a convenience for the Parolee and the Reporter, it is unlikely to be considered an “unwarranted privilege” that is “of substantial value . . . and not properly available to similarly situated individuals outside of state government.”

In summary, the OIG found insufficient evidence to support a violation of the Criminal Code or Code of Ethics, and DOC already has counseled the Employee on the Code of Ethics’ political activity rule. Accordingly, the OIG is closing this case for insufficient cause.

Dated: September 1, 2020

APPROVED BY:



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Lori Torres, Inspector General