



INVESTIGATIVE REPORT

David Cook, Inspector General

OFFICE: INDIANA DEPARTMENT OF CORRECTION (DOC)
TITLE: FORMER DOC EMPLOYEE GHOST EMPLOYMENT AND MISUSE OF STATE PROPERTY
CASE ID: 2023-10-0360
DATE: October 25, 2024

Indiana Office of Inspector General Staff Attorney Hope Blankenberger, after an investigation by Inspector General Special Agent Michael Lepper, reports as follows:

The Indiana General Assembly charged the Indiana Office of 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. BACKGROUND

On September 29, 2023, the OIG received a complaint concerning a DOC employee (Employee). The complaint alleged that Employee was reporting hours worked that he did not work, which implicated the ghost employment provisions in both the Code of Ethics and Criminal Code, and used a state-owned vehicle for unapproved travel, which implicated the Code of Ethics' misuse of state property rule.

Regarding ghost employment, the complaint alleged that Employee submitted twelve hours of overtime work that he did not work on nine different occasions from January to August 2023, totaling 108

hours. Regarding misuse of state property, the complaint alleged that Employee once took a state vehicle to Fort Wayne, Indiana without authorization. DOC terminated Employee.

II. OIG INVESTIGATION

Special Agent Michael Lepper investigated the allegations. He interviewed numerous witnesses and reviewed multiple documents including payroll records, vehicle GPS reports, daily work rosters of multiple DOC facilities and other DOC files. In an interview with Special Agent Lepper, Employee stated that his last DOC position was Parole Officer Supervisor. Employee stated that his main duties included making sure that staff were performing their duties, keeping the public safe from parolees and making sure DOC had a good relationship with stakeholders. Employee stated that his work frequently took him into the field.

Regarding the allegation of misuse of state property involving a state-owned vehicle, Special Agent Lepper found through GPS records that on May 12, 2023, Employee drove a state-owned vehicle, Commission #15413, from his home into Parole District #2, which includes Fort Wayne, Indiana. He left at 6:57 a.m. He did not return to his home until 10:02 p.m. He did not claim any overtime that day and claimed only his normal 7.5 working hours.

In an interview with Special Agent Lepper, a DOC Assistant District Supervisor (Assistant District Supervisor) stated that Employee told him that he was driving north into Parole District #2 at the request of a high-level supervisor (High-Level Supervisor). Employee told Assistant District Supervisor that the High-Level Supervisor asked him to try to repair relationships with agencies in the Fort Wayne District. Assistant District Supervisor stated that Employee was allowed to use a state-owned vehicle. High-Level Supervisor told Special Agent Lepper she did not assign Employee any duties outside his district to perform for her related to problems in other districts and would not have done so.

During his interview with Special Agent Lepper, Employee said he did not remember what he did specifically that day. Employee said several years ago he was involved in a car crash that caused memory

issues. Special Agent Lepper obtained the police report from the car crash that confirmed that Employee suffered a head injury during the crash.

When Special Agent Lepper asked if he told people he went up to Parole District #2 at the request of the High-Level Supervisor, Employee said he does not remember telling staff this. Employee stated that when staff asked what he was working on, he commonly told people he was working on assignments for the President, Queen of England or the High-Level Supervisor. Employee said that he was joking and just made this stuff up to show that “the boss could still do it”. When Special Agent Lepper asked about the state vehicle use policy and if he had been to different specific addresses that day, Employee said he was not supposed to drive the state car for personal reasons except if an errand happened to be on the way. Employee admitted to picking up his granddaughter that day on his way home.

Employee also stated that in general he would go to Parole District #2 to increase time in the counties with the parole agents, reassert field presence and reduce the number of parolees that were missing. Employee said that he went looking for more information on three missing parolees as he had received information that these parolees may be in Parole District #2. Employee stated that he was doing this work himself, instead of assigning it to a subordinate, to be a good example to his subordinates and to show by example DOC’s duty to keep track of these individuals.

Regarding the allegation that Employee engaged in ghost employment by claiming to work overtime at DOC facilities that he did not actually work, DOC reported that Employee claimed overtime that he did not work on nine occasions in 2023. In an interview with Special Agent Lepper, Assistant District Supervisor stated that parole agents are allowed to work overtime at penal facilities and hospitals to help ease staffing shortages at facilities.

Employee told DOC that he normally worked overtime for the Indiana Reformatory (IR), now known as the Pendleton Correctional Facility, or at a hospital guarding an IR inmate. Assistant District Supervisor stated that Employee told him this as well. Special Agent Lepper obtained the daily work

rosters for IR on those nine occasions, and Employee's name was not on any of them. A DOC Executive Director (Executive Director) stated that if a parole agent wanted to work at a penal facility, the parole agent would contact the penal facility, and the parole agent's name would appear on the daily work roster; however, Executive Director stated that each facility's system works differently.

Special Agent Lepper went back to 2019 and checked for overtime claimed by Employee. Special Agent Lepper checked penal facilities and hospitals records because Employee told DOC that he worked overtime at both types of facilities. Executive Director stated that in August 2019, parole agents were allowed for the first time to work paid overtime due to the shortages at penal facilities. Special Agent Lepper checked to see if Employee worked any overtime before his crash that he may have falsely reported. Special Agent Lepper found no evidence that Employee worked any overtime at penal facilities and hospitals before his car crash. In 2021, 2022 and 2023, Employee reported that he worked a total of forty-three overtime shifts at penal facilities and hospitals.

In an interview with Special Agent Lepper, DOC District Parole Supervisor (Parole Supervisor) stated that to work at penal facilities, parole agents can call ahead or just show up to fill a slot because the facilities always need people. Parole Supervisor stated that when parole agents finish shifts at the parole facilities, the shift captain gives them a signed overtime slip to give to their supervisor for verification they worked. Special Agent Lepper later found out from Executive Director and Employee's Supervisor that some facilities have this process in place but not all of them. Additionally, there is no DOC policy requiring these forms be used.

Special Agent Lepper obtained daily work rosters from six penal facilities at which Employee would have most likely worked overtime given where he resides. Special Agent Lepper found Employee's name on none of these penal facilities overtime rosters, though Special Agent Lepper did see other parole agents' names on some of the rosters. Executive Director mentioned that Employee had sent an email to Employee's Supervisor about how the shifts at IR were wearing him out.

Parole Supervisor stated that for DOC employees to work at a hospital they respond to an email sent out by DOC District Supervisor (District Supervisor), listing available shifts. Parole Supervisor said he believes District Supervisor keeps track of who requests and is assigned a shift.

Special Agent Lepper confirmed with District Supervisor that she helps facilities schedule parole agents at hospitals. District Supervisor stated that she assigned Employee two shifts totaling sixteen hours on December 9, 2021, and January 20, 2022. She believes he worked these two shifts because if he did not, the facilities would have contacted her to report that no parole agent showed up for the shift. District Supervisor said that the shifts taken at hospitals by parole agents may just say "Parole" rather than give a person's name. Employee's name did not appear on the two shifts District Supervisor gave Special Agent Lepper, nor did "Parole". Parole Supervisor stated that when parole agents worked at hospitals guarding inmates they were required to call in when they arrived and when they left. Special Agent Lepper interviewed the Communications Supervisor, who stated that the hospital overtime shift information is destroyed after the inmate returns to their facility from the hospital. District Supervisor also stated that parole agents sometimes call the facility themselves looking for overtime and if that was the case she would have no record of it.

Assistant District Supervisor notified Employee's supervisor (Employee's Supervisor) when he started getting complaints from the parole agents. Assistant District Supervisor said there were times when Employee told him he had been somewhere, and Assistant District Supervisor knew that was not true. Executive Director stated that Assistant District Supervisor told him and Employee's 2023 supervisor that Assistant District Supervisor began receiving complaints that Employee was never in the office and was difficult to get in touch with. Employee's Supervisor confirmed this.

Employee's Supervisor provided Special Agent Lepper a copy of an August 2023 text exchange with Employee where he told her that he was working a shift at IR every other weekend. Employee's supervisor from 2021 to 2022 has left DOC. Employee's Supervisor told Special Agent Lepper that was

the first time she knew he was working shifts at the IR, even though she had been approving his overtime since early 2023. Employee's Supervisor stated that parole agents are "encouraged" to use the comment field in PeopleSoft to note the reason for their overtime, but they are not required to do so. Assistant District Supervisor and Executive Director made similar statements about the comment field. Executive Director added that parole agents using the comment field is probably best practice.

Executive Director stated that parole agents do not report to an office everyday so there is no consistent log of a person coming in and out of work every day. Executive Director stated that a lot of parole agents and parole agent supervisors, like Employee, do most of their job in the field. Executive Director stated that 75% of the business that the parole department does is in the field. Executive Director stated that work logs are completed on the honor system, but managers conduct spot checks, using state vehicles' GPS records, camera systems, etc., to verify work logs. Employee's Supervisor stated that it is not unusual for a parole supervisor, like Employee, to log overtime. Employee's Supervisor stated that she usually does not ask for an explanation of the overtime because it is so common for a district supervisor, like Employee, to be out in the field. Employee's Supervisor trusts that the district supervisor will be honest about the hours that he or she works. Employee's Supervisor also stated that they use the honor system.

III. CONCLUSION

The allegations against Employee implicated the Criminal Code's Ghost Employment statute, found in Ind. Code §35-44.1-1-3. The allegations also implicated the following provisions of the Code of Ethics: the Ghost Employment rule, 42 IAC 1-5-13; and the Use of State Property rule, Ind. Code §4-2-6-17. The burden of proof for Criminal Code violations is beyond a reasonable doubt, and the burden of proof for violations of the Code of Ethics is preponderance of the evidence.

First, the OIG investigation found insufficient evidence that Employee violated Ind. Code §35-44.1-1-3. This statute provides that a person employed by a governmental entity who knowingly or

intentionally accepts property from the entity for the performance of duties not related to the operation of the entity commits ghost employment¹. The OIG found insufficient evidence that Employee intentionally accepted payment for hours he did not work. Although Employee's reported overtime hours were questionable, the OIG was unable to track the overtime work hours Employee actually worked and found insufficient evidence that Employee reported overtime hours he did not work, primarily because DOC does not have a consistent method to assign and keep track of overtime work.

Second, the results of the investigation revealed insufficient evidence that the Employee violated 42 IAC 1-5-13, the ghost employment rule. 42 IAC 1-5-13 provides that a state employee shall not engage in, or direct others to engage in, work other than the performance of official duties during work hours, except as a permitted by a general written agency, departmental or institutional policy or regulation. As noted previously, the OIG found insufficient evidence that Employee accepted payment for hours he did not work. The OIG also found insufficient evidence that Employee engaged in work other than his official duties during hours he reported working.

Third, the OIG found insufficient evidence that Employee violated Ind. Code §4-2-6-17. This rule states that an employee may not use state materials, funds, property, personnel, facilities or equipment for purposes other than official state business unless the use is expressly permitted by a general written agency, departmental or institutional policy or regulation that has been approved by the State Ethics Commission. The OIG found insufficient evidence that the Employee used a state-owned vehicle for a purpose other than official state business. The OIG found contradicting information regarding the purpose of the Employee's trip to Parole District #2 on May 12, 2023, and was unable to determine that the trip was not work-related.

For these reasons, the OIG is closing the case for insufficient cause. Furthermore, DOC terminated

¹ A public servant who violates Ind. Code §35-44.1-1-3 commits a level 6 felony.

Employee; therefore, he will not be able to engage in the alleged criminal or ethical violations as a state employee in the future.

Although the OIG is closing the case for insufficient evidence, the OIG found DOC had inconsistent, poorly documented or non-existent overtime processes and documentation. As a result, the OIG makes the following recommendations to improve these processes and documentation. Improved processes and documentation likely will help the OIG gather better evidence for future cases of suspected ghost employment. Additionally, the OIG makes the following recommendations to DOC going forward to help avoid the future appearance of impropriety or possible ghost employment. Furthermore, the Inspector General determined that publishing this IG Report is in the public's interest to encourage other state agencies to follow the recommendations below.

Recommendation 1

First, the OIG recommends that the DOC create a policy that requires employees to use comment fields for overtime work logs to state where they worked overtime and why they worked overtime. Supervisors should regularly review these comments prior to approving overtime hours and should question the employee when comments reported are inconsistent with other information the supervisor has obtained. These steps should help supervisors determine whether an employee actually worked the overtime he or she claimed and whether the overtime was justified.

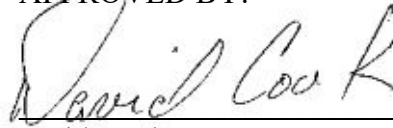
Recommendation 2

Second, the OIG recommends that for future DOC employee overtime work, DOC establish a consistent method to assign and track overtime work across all overtime types including overtime at penal facilities and hospitals. This method could include a remote work log, sign-up sheet or electronic device that tracks attendance records. Keeping track of employees' overtime work will help reduce doubt or speculation regarding who may or may not be working overtime. A DOC supervisor should review and verify all overtime hours before approving them. Supervisors should not use the "honor system" in place

of verifying overtime work. Although many state employee are honest and hard-working, using the “honor system” makes it difficult to hold employees who are not accountable for their actions.

Dated: October 25, 2024

APPROVED BY:

A handwritten signature in black ink that reads "David Cook". The signature is written in a cursive style with a large initial "D".

David Cook, Inspector General