

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
FILE ID NO.: 2012-CA00087
DATE OF REPORT: JULY 18, 2013

The Office of the Ohio Inspector General ... The State Watchdog

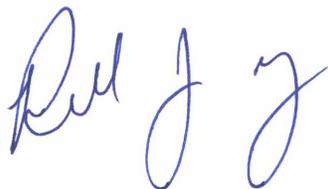
“Safeguarding integrity in state government”

The Ohio Office of the Inspector General is authorized by state law to investigate alleged wrongful acts or omissions committed by state officers or state employees involved in the management and operation of state agencies. We at the Inspector General’s Office recognize that the majority of state employees and public officials are hardworking, honest, and trustworthy individuals. However, we also believe that the responsibilities of this Office are critical in ensuring that state government and those doing or seeking to do business with the State of Ohio act with the highest of standards. It is the commitment of the Inspector General’s Office to fulfill its mission of safeguarding integrity in state government. We strive to restore trust in government by conducting impartial investigations in matters referred for investigation and offering objective conclusions based upon those investigations.

Statutory authority for conducting such investigations is defined in *Ohio Revised Code §121.41* through *121.50*. A *Report of Investigation* is issued based on the findings of the Office, and copies are delivered to the Governor of Ohio and the director of the agency subject to the investigation. At the discretion of the Inspector General, copies of the report may also be forwarded to law enforcement agencies or other state agencies responsible for investigating, auditing, reviewing, or evaluating the management and operation of state agencies. The *Report of Investigation* by the Ohio Inspector General is a public record under *Ohio Revised Code §149.43* and related sections of *Chapter 149*. It is available to the public for a fee that does not exceed the cost of reproducing and delivering the report.

The Office of the Inspector General does not serve as an advocate for either the complainant or the agency involved in a particular case. The role of the Office is to ensure that the process of investigating state agencies is conducted completely, fairly, and impartially. The Inspector General’s Office may or may not find wrongdoing associated with a particular investigation. However, the Office always reserves the right to make administrative recommendations for improving the operation of state government or referring a matter to the appropriate agency for review.

The Inspector General’s Office remains dedicated to the principle that no public servant, regardless of rank or position, is above the law, and the strength of our government is built on the solid character of the individuals who hold the public trust.



Randall J. Meyer
Ohio Inspector General



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF INVESTIGATION

FILE ID NUMBER: 2012-CA00087

SUBJECT NAME: Jean A. Bourk

POSITION: Customer Service Representative

AGENCY: Ohio Department of Job and Family Services (ODJFS)

BASIS FOR INVESTIGATION: Referral by ODJFS Office of Chief Inspector

ALLEGATIONS: Failure to comply with state or department rules, procedures or policies.

INITIATED: August 7, 2012

DATE OF REPORT: July 18, 2013

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On June 12, 2012, the Office of the Ohio Inspector General received a complaint from the Ohio Department of Job and Family Services (ODJFS) Chief Inspector's Office, alleging Jean A. Bourk, customer service representative for ODJFS Employment Services, improperly accessed and distributed the confidential personal information (CPI) of an unemployment compensation beneficiary in violation of Ohio Revised Code §1347.15 and Ohio Admin. Code 5101:9-22-16, *ODJFS Employee Access to Confidential Personal Information*. The ODJFS Chief Inspector's Office alleged Bourk accessed the beneficiary's confidential personal information through the ODJFS unemployment beneficiary database and disclosed the CPI in an April 25, 2012, fraud complaint which Bourk filed with the Ohio Auditor of State. In the fraud complaint, Bourk reported the unemployment compensation beneficiary was incarcerated at a correctional facility and was, at the same time, fraudulently receiving unemployment benefits.

BACKGROUND

The Ohio Department of Job and Family Services is responsible for developing and overseeing adoption, child care, child and adult protective services, child support, public assistance, unemployment compensation, and workforce development programs. Most of these programs are supervised by ODJFS, but are administered by county and local agencies. The majority of the programs are federally mandated and funded. The director of ODJFS is appointed by the governor and confirmed by the Ohio Senate. ODJFS is funded through general revenue funds, federal funds, and fees charged for services performed.¹

The State of Ohio classification specifications state that ODJFS customer service representatives, or "incumbents":²

... register and provide job referrals to employment services applicants, process unemployment compensation claims for benefits and provide specialized services to improve employability of applicants. At the first level, incumbents provide claims intake services, process new monetary, additional and non-monetary (i.e., non-separation and

¹ Biennial budget documents; http://media.obm.ohio.gov/OBM/Budget/Documents/operating/fy-14-15/bluebook/budget/Section-D_JFS.pdf

² State of Ohio (DAS) Classification Specification; ODJFS Customer Service; Series Number 6428; Effective 02/26/2012; <http://www.das.ohio.gov/LinkClick.aspx?fileticket=4GjFFdS4mm4%3d&tabid=144>

separation) claims, process job orders, register/update customer information in Ohio Jobnet, perform related employment services duties (e.g., profiling, testing, verification of TRA/NAFTA eligibility and operating personal computer to enter/update/retrieve customer information), and perform daily clerical tasks. The first full performance level class works under general supervision and requires working knowledge of customer service/public relations, office practices and procedures, state and federal laws and departmental policies and procedures governing eligibility for and processing of monetary and non-monetary claims for unemployment insurance and for employment services ...

The Ohio Auditor of State (AOS), an elected official, is responsible for auditing all public offices in Ohio including cities, villages, townships, school districts, universities, state agencies, boards, and commissions. The office's primary responsibility is to ensure that public funds are spent legally and appropriately by Ohio governments and affiliated entities, through financial audits conducted on an entity's accounts and financial statements. In addition to financial audits, the AOS conducts performance audits, which are reviews of governmental entities to identify ways to maximize programs or services by reducing waste and duplication of services. Other types of audits conducted by the AOS include Medicaid provider audits, and special audits when there is suspected fraud, waste, and abuse of public funds. The AOS is also responsible for financial supervision of schools and local governments placed in fiscal emergency.³

ORC §1347.01, *Personal information systems definitions*; paragraph (E) states:

Personal information means any information that describes anything about a person, or that indicates actions done by or to a person, or that indicates that a person possesses certain personal characteristics, and that contains, and can be retrieved from a system by a name, identifying number, symbol, or other identifier assigned to a person.

³ Biennial budget documents; http://media.obm.ohio.gov/OBM/Budget/Documents/operating/fy-14-15/bluebook/budget/Section-D_AUD.pdf

ORC §1347.15 *Access rules for confidential personal information*; paragraph (A)(1) states:

“Confidential personal information” means personal information that is not a public record for purposes of section 149.43 of the Revised Code. (B) Each state agency shall adopt rules under Chapter 119 of the Revised Code regulating access to the confidential personal information the agency keeps, whether electronically or on paper. The rules shall include the following: (1) Criteria for determining which employees of the state agency may access, and which supervisory employees of the state agency may authorize employees to access, confidential personal information; (2) A list of the valid reasons, directly related to the state agency’s exercise of its powers or duties, for which only employees of the state agency may access confidential personal information.

Adapting the language in the *Ohio Admin. Code 5101-22-15, Release of personal information held by the Ohio Department of Job and Family Services (ODJFS), ODJFS’s internal guidance IPP.3925. Data Access Policy (ODJFS)*; paragraph B states, in part:

Valid Reasons for Accessing CPI. Some examples of when accessing CPI is prohibited include, but are not limited to, access that results in personal or political gain, and commercial use unrelated to official departmental business. Below is a list of valid reasons for accessing CPI (regardless of whether the CPI is maintained electronically or on paper) that are common across all lines of business.

f. Complying with an agency policy or a state administrative policy issued by the Department of Administrative Services, the Office of Budget and Management or any other similar state agency.⁴

ORC §117.103 *Auditor of state’s system for reporting fraud*; paragraph (A) states:

The auditor of state shall establish and maintain a system for the reporting of fraud, including misuse and misappropriations of public money, by any public office or public official. The system shall allow Ohio residents and the employees of any public office to make anonymous complaints through a toll-free telephone number, the auditor of state’s website,

⁴ As used in this passage, the acronym “CPI” is an abbreviation for confidential personal information: IPP.3925. Data Access Policy - <http://emanuals.odjfs.state.oh.us/emanuals/>

or the United States mail to the auditor of state's office. The auditor of state shall review all complaints in a timely manner.

Paragraph (B)(1) states: "A public office shall provide information about the Ohio fraud reporting system and the means of reporting fraud to each new employee upon employment with the public office."

ODJFS established a web page, <https://unemployment.ohio.gov/fraud>, on October 31, 2011, for Ohioans to report fraud. Individuals can also report possible unemployment fraud by submitting a complaint by mail, email, fax, or by calling the ODJFS fraud hotline.

INVESTIGATIVE SUMMARY

On September 25, 2012, the Office of the Ohio Inspector General conducted an interview with Jean Bourk, ODJFS employment services customer service representative. Bourk has been employed by the State of Ohio for 25 years, and has served as an ODJFS employment services customer service representative for the past six years. Bourk works in the Lima office of ODJFS four days each week, and each Wednesday at the Putnam County Job and Family Services Office in Ottawa, Ohio.

Bourk stated that on or about April 25, 2012, Beth Coleson, Putnam County child support services representative, approached Bourk and inquired whether a person who was incarcerated was eligible to receive unemployment benefits. Though Bourk serves as an ODJFS One Stop Center⁵ employment services representative and does not work in the ODJFS Office of Unemployment Services, Bourk responded that an incarcerated person was not eligible for unemployment benefits. Coleson then informed Bourk that an individual involved in one of the child support cases Coleson was administering was incarcerated, and Coleson believed the individual was receiving unemployment benefits. Upon receiving this information, Bourk accessed the ODJFS database to confirm that the individual in question was receiving unemployment benefits. Bourk then proceeded to file a fraud report with the Auditor of State's

⁵ There are 88 One Stop Centers in Ohio. One Stop Centers are an initiative managed by the Office of Workforce Development of ODJFS. <http://jfs.ohio.gov/owd/JobSeekers/One-Stop-Services.stm>

Office. On April 24, 2012, the day before Bourk was informed of the alleged unemployment compensation fraud, she completed AOS fraud notification training, which detailed the manner in which fraud is reported to the Ohio Auditor of State. ([Exhibit 1](#)) Bourk believed that, according to the AOS directive, and being advised by an ODJFS fraud hotline representative, she should report this fraud allegation to the Ohio Auditor of State's office. This initial transmission was not received by the AOS, so Bourk accessed the ODJFS database four more times over the period of May 7-10, 2012, until the AOS confirmed receipt of the fraud allegation. ([Exhibit 2](#)) Bourk logged each of these accesses as required by ODJFS policy, and Bourk stated she was only trying to do the right thing. ([Exhibit 3](#))

Bourk said she had no knowledge of the individual allegedly receiving unauthorized unemployment compensation, and acted on the matter because of the information she obtained. Bourk stated she now realizes it would have been better to use the ODJFS internal reporting system and not accessed the ODJFS unemployment database.

On September 25, 2012, the Office of the Ohio Inspector General conducted an interview with Jennifer Recker, ODJFS employment services customer service supervisor. Recker has held this position for the past seven years and Bourk is among the 10 customer service employees that Recker supervises. Recker was aware of an ODJFS internal process for reporting suspected fraud which defines the ODJFS Benefit Payment Control and Compliance Office as the appropriate internal division for investigating unemployment fraud allegations. Recker stated the guidance provided by the AOS training for reporting fraud caused Bourk to be confused about the best way to proceed. As a result of this conflicting guidance, Recker said that Marge Benton, ODJFS assistant deputy director of local operations, sent out an email on May 16, 2012, ([Exhibit 4](#)) to all district offices and supervisors explaining the proper fraud reporting standard. Recker reiterated this information to her employees in order to clarify the fraud reporting process.

During the course of the investigation, there was no evidence found to indicate Bourk accessed the unemployment beneficiary's confidential personal information for personal or political gain as defined in ODJFS policy and the revised code, or for commercial use unrelated to official

departmental business. After being informed of potential fraud, Bourk said she was authorized to access the unemployment compensation database in the normal course of her work duties, and expressed a belief that she was complying with agency and state administrative policy in accessing background information on the allegation received and then reporting what appeared to be fraud, to a state investigatory agency. Bourk informed her supervisor of this action.

[\(Exhibit 5\)](#) Additionally, ODJFS acknowledged that:

Local Ops is comprised of Call Centers (CC), Processing Centers (PC) and One Stops. CCs and PCs deal directly with Unemployment Insurance (UI) claim issues and all staff are trained extensively regarding UI issues, including suspected fraud. One Stops, on the other hand, deal primarily with re-employment issues. Again, our Training Coordinator verified One Stop Center employees do not receive UI- specific training and therefore do not receive specific training regarding how to necessarily address suspected claimant fraud issues. Because One Stop Center employees are rarely exposed to actual UI claims issues, their training has understandably been focused on the area of re-employment, for which they are responsible. [\(Exhibit 6\)](#)

CONCLUSION

On April 25, 2012, Jean Bourk was informed by an employee of the Putnam County Children's Services office that an incarcerated individual was allegedly receiving unemployment benefits. Viewing this as a potentially fraudulent unemployment compensation violation, Bourk accessed the unemployment compensation benefit database to verify the incarcerated individual was receiving these benefits and then reported the alleged fraud to the Ohio Auditor of State. The day before filing the fraud report, on April 24, 2012, Bourk had completed fraud notification training provided by the Ohio Auditor of State, which details the manner in which fraud should be reported. Bourk's supervisor, Jennifer Recker, acknowledged Bourk also informed her of this alleged unemployment fraud. Recker recalled being aware of the ODJFS internal process for properly reporting suspected fraud and that the ODJFS Benefit Payment Control and Compliance Office was the appropriate internal division of ODJFS for investigating unemployment compensation fraud allegations. However, Recker believed the Ohio Auditor of State guidance for reporting fraud caused Bourk to be confused about the correct course of action. Recker stated that, after this incident occurred, she reiterated the proper process to the ODJFS employees

she supervises. Furthermore, ODJFS stated that email correspondence was sent to all personnel after this incident outlining proper fraud-reporting procedures. These multiple emails and communications from several sources outlining the procedures for reporting fraud caused confusion among staff and suggest agency-wide misunderstanding of appropriate reporting procedures. This confusion coupled with failing to have One Stop Center customer service personnel participate at the formal ODJFS unemployment compensation fraud training led to this fraud allegation being reported to the Ohio Auditor of State instead of ODJFS Benefit Payment Control and Compliance. In this case, Bourk attempted to follow the appropriate guidance and, in doing so, was referred by her agency to the Ohio Auditor of State's Office. The Ohio Auditor of State's Office referred this matter to ODJFS for proper adjudication. ([Exhibit 7](#))

Accordingly, the Office of the Ohio Inspector General finds no reasonable cause to believe wrongful acts or omissions occurred in these instances.

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendations and asks the Ohio Department of Job and Family Services to respond within 60 days with a plan detailing how the recommendations will be implemented. The Ohio Department of Job and Family Services should:

1. Review management controls to ensure all supervisors and departmental personnel are trained on the internal protocols for reporting fraud related to unemployment benefits.
2. Review agency processes by which supervisors and departmental personnel are trained on the requirements of internal and external reporting procedures.
3. Consider developing or revising policies addressing the degree of detail which is required and permissible when reporting suspected fraud.
4. Review methods by which important departmental information is communicated and consider alternative feedback methods to ensure receipt and understanding of guidance.

Email correspondence should not be the sole method of communicating department policy to all employees.

[\(Click here for Exhibits 1 – 7 combined\)](#)



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RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Department of Job and Family Services

FILE ID #: 2012-CA00087

KEEPER OF RECORDS CERTIFICATION

This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.

Jill Jones
KEEPER OF RECORDS

CERTIFIED
July 18, 2013

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