

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO BUREAU OF WORKERS' COMPENSATION
FILE ID NO.: 2013-CA00067
DATE OF REPORT: DECEMBER 2, 2014

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: 2013-CA00067

SUBJECT NAME: Demetrius Finney, Claims Service Specialist
Karen Haines, Claims Service Specialist
Elmer Bly, Claims Representative 4
Wendy Kelly, Claims Representative 4
Brett Trela, Claims Service Specialist
Mark Zenisek, Claims Service Specialist

AGENCY: Ohio Bureau of Workers' Compensation

BASIS FOR INVESTIGATION: Referral

ALLEGATIONS: Misuse or Abuse of State Property or Equipment;
Misuse of Position or Office, Other than to Harass
or Threaten;
Failure to Comply with State Law and/or
Regulations;
Criminal Conduct

INITIATED: September 3, 2013

DATE OF REPORT: December 2, 2014

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On August 20, 2013, the Ohio Bureau of Workers' Compensation (OBWC) contacted the Office of the Ohio Inspector General with allegations involving OBWC Garfield Heights Service Office (GHSO) Claims Service Specialist (CSS) Demetrius Finney, who is also an Ohio Civil Service Employees Association (OCSEA) union steward. OBWC stated that Finney filed a union grievance form on June 26, 2013, alleging that supervisors, who are non-bargaining unit employees, were continuing to perform duties reserved for bargaining unit employees under the bargaining unit labor agreement. During the grievance process Step 1 hearing on July 23, 2013, Finney provided GHSO Manager Sheilah Hampton with a one-page list of claims, claims documents, and computer screenshots to support his grievance.

OBWC alleged that Finney accessed injured workers' claim files using the OBWC internal claim system, known as V3, to obtain support for the June 26, 2013, union grievance. On August 22, 2013, OBWC provided to the Office of the Ohio Inspector General a confidential personal information (CPI) Access log showing Finney accessed claim files that he was not assigned for a total of 41 instances during the period of June 14, 2013, through July 8, 2013.

BACKGROUND

The Ohio Bureau of Workers' Compensation (OBWC) is responsible for providing workers' compensation insurance to all public and private employees except those that qualify for self-insurance. It is the largest exclusive workers' compensation system in the United States. The administrator/chief executive officer of OBWC is appointed by the governor. OBWC is also overseen by an 11-member board with members experienced in financial accounting, investments and securities, and actuarial management. OBWC is funded through assessments paid by employers.¹

The Ohio General Assembly enacted Ohio Revised Code (ORC) §121.52, effective September 10, 2007, which created the deputy inspector general for the Ohio Bureau of Workers' Compensation (OBWC) and the Industrial Commission of Ohio (ICO). This statute designated this deputy inspector general, "... shall investigate wrongful acts or omissions that have been

¹ Source: OBWC annual report.

committed by or are being committed by officers or employees” of both OBWC and the ICO and provides the deputy inspector general the same powers and duties as specified in ORC §121.42, §121.43, and §121.45 for matters involving OBWC and the ICO.

The job description for an OBWC claims service specialist includes, but is not limited to, duties such as managing claims, performing initial and subsequent claims investigations, and assisting injured workers with their claims. The claims representative 4 job position has the same duties as claims service specialists.

Ohio Revised Code §1347.15 (B) requires each state agency to adopt rules in accordance with Chapter 119 of the ORC which regulates “... access to the confidential personal information the agency keeps, whether electronically or on paper.” This section requires the agency to maintain a confidential personal information access log for instances related to official agency purposes and to define criteria of when an employee may access CPI. This section also requires the agency to establish a training program to make the employees aware of “... all applicable statutes, rules, and policies governing their access to personal information.” To comply with this requirement, OBWC implemented Memo 4.42 *Confidential Personal Information (CPI) Access and Logging*. This policy, revised and reissued in July 2013,² defines CPI, identifies the computer systems that automatically log the employee accessing CPI, and specifies in which instances an OBWC employee is required to manually log their access to CPI. ([Exhibit 1](#))

The table below summarizes the dates certain employees’ acknowledgment receipts of OBWC CPI policies and computer training were received:

Employee	Memo 4.42 Issued June 2011	Memo 4.42 Reissued July 2013	Computerized CPI Training
Demetrius Finney	6/2/11	10/08/13	6/21/11
Karen Haines	none ³	09/18/13	6/17/11
Elmer Bly	6/2/11	07/11/13	6/14/11
Wendy Kelly	6/1/11	10/15/13	6/15/11
Brett Trela	6/1/11	09/17/13	6/16/11
Mark Zenisek	6/1/11	09/17/13	6/01/11

² This policy was originally issued on June 1, 2011.

³ No record exists showing Haines completed her acknowledgement in June 2011.

OBWC also posted articles on its Intranet when it is permissible for an employee to access CPI, when it is not, OBWC CPI policies, and the logging of CPI access by OBWC computer systems. Articles were posted to the Intranet on April 4, 2011; April 19, 2011; June 1, 2011; June 14, 2011; June 28, 2011; August 18, 2011; and July 11, 2013.

INVESTIGATIVE SUMMARY

Finney's accessing claim files not assigned

During the July 23, 2013, Step 1 grievance hearing, Finney provided Garfield Heights Service Office (GHSO) Manager Sheilah Hampton a one-page list of claims alleging supervisors had performed CSS work in those claim files. In a phone call to Labor Relations Officer 3 Ruth Rehak, Hampton expressed her concerns about Finney accessing claims he was not assigned. Hampton forwarded the list to Rehak who requested OBWC's Digital Forensics Unit (DFU) to review the claim files. On July 26, 2013, DFU completed its review and determined that Finney accessed 24 claim files once and one claim file twice on June 14, 2013, prior to filing the grievance on June 26, 2013. Between July 2, 2013, and July 8, 2013, Finney accessed nine claim files once and three claim files twice, prior to the Step 1 grievance hearing.

On August 20, 2013, the Office of the Ohio Inspector General requested OBWC review the claim files in question and determine whether Finney would have had a business reason to access these claim files. After reviewing the claim files accessed by Finney, GHSO Injury Management Supervisor Karen Betley stated in an August 22, 2013, email:

These claims were at no time assigned to Demetrius, nor to his backup. A majority of the claims were at one time assigned to Karen Haines for the period of 1/29/2013- 4/24/2013 (I've noted next to those particular claims "K.H. claim"). Karen is in his "swim lane,"⁴ however, his access to these claims was when they were assigned to Beverly Young, who is not in his swim lane, nor does he back her up for any reason.

⁴ OBWC manages injured workers claim using a claims triage system. This system consists of claims service specialists being assigned to "swim lanes" called intake, Return to Work 1, Return to Work 2, and Remain at Work.

The Office of the Ohio Inspector General interviewed OBWC Garfield Heights Service Office (GHSO) management and employees involved with the union grievance filed by Claims Service Specialist (CSS) Demetrius Finney on April 14, 2014, and April 15, 2014. The following table summarizes the information obtained during these interviews:

Date	GHSO Employees Involved in Activity	Activity
5/01/2013	Service Office Manager Sheilah Hampton; and Acting Union President/ Claims Representative 4 Wendy Kelly	Discussion of the union’s concerns that supervisors were performing CSS duties. ⁵
6/26/2013	CSS Demetrius Finney	Filed a grievance alleging supervisors were performing CSS duties and requested 20 hours of compensation for each CSS to resolve the issue. Parties agreed to extend the response date of this filing to July 23, 2013.
7/23/2013	Hampton, Finney, and possibly Injury Management supervisors (IMS) Pat Connors and Karen Betley	Step 1 – Discussed the grievance. At this meeting, Finney provided evidence supporting his grievance. The grievance was not resolved and was submitted to OBWC Labor Relations on August 2, 2013. A Step 3 hearing was rescheduled to September 5, 2013.
9/05/2013	Hampton; Finney; Betley; OBWC Labor Relations Hearing Officer Ruth Rehak; and OCSEA Staff Representative Lynn Kemp.	Step 3 - Discussion of three examples where IMS Connors and one example where IMS Betley performed CSS. Finney had requested a remedy to the grievance as a flat sum of 20 hours compensation time but could not explain how he (Finney) arrived at this amount.

Of the 41 accesses reflected on the one-page list of claims Finney provided to Hampton, Betley identified 34 accesses involving claims that were either currently or had been previously assigned to GHSO CSS Karen Haines. Additionally, during an interview with the Office of the Ohio Inspector General on September 20, 2013, Betley also expressed concerns that Finney accessed a claim on June 7, 2013, assigned to a CSS off on disability leave. Betley added that Finney used information from this claim as evidence to support his June 26, 2013, grievance against OBWC management. Betley reiterated that Finney was not assigned this claim as a primary or backup CSS, and the assigned CSS was not in Finney’s “swim lane.”

⁵ Note: The job descriptions for supervisors and claims service specialists identify the types of duties to be performed by each class of employee.

On September 20, 2013, the Office of the Ohio Inspector General interviewed GHSO Injury Management Supervisor Patrick Connors about documents, in particular, a copy of a letter attached to Finney's June 26, 2013, grievance. Connor stated he was concerned how Finney accessed and obtained a copy of a letter he (Connor) had sent to an injured worker. Connor noted that Finney was not assigned to the claim; the assigned CSS was not in the same "swim lane" as Finney; and Finney was not under Connors' supervision at the time he (Finney) obtained the letter. Finney stated in an April 15, 2014, interview with the Office of the Ohio Inspector General that this document had been placed on his desk by another employee and that he did not want to identify the employee.

The Office of the Ohio Inspector General interviewed GHSO CSS Karen Haines on September 20, 2013, about accessing injured worker claim files not assigned to her. Haines explained that OBWC policy states a CSS is supposed to enter a note to explain why he or she accessed a claim,⁶ but admitted that this did not always occur. Haines confirmed that Finney requested information from her to support the union grievance he was compiling and that she had provided him with claim information. During an April 15, 2014, interview, Haines admitted she provided Finney with an exam scheduler worksheet and a computer screenshot from a claim file that was assigned to CSS Beverly Young, who was off on disability leave. Haines confirmed that the documents she provided to Finney were those he had attached as support for his (Finney's) June 26, 2013, union grievance.

For the seven of the 41 accesses of claim files which were not previously assigned to Karen Haines, the Office of the Ohio Inspector General reviewed the V3 assignment history for each claim and determined Claims Services Specialist Young was assigned to claims involving six accesses, and Claims Representative 4 Elmer Bly was assigned to one claim accessed once by Finney.

During a December 5, 2013, interview with the Office of the Ohio Inspector General, Young was informed that Finney accessed claim files assigned to her in June and July 2013. Young

⁶ The OBWC Note Refresher manual is available to all OBWC employees on the Intranet and explains the purpose of entering notes into a claim and states when such notes should be entered.

explained from June 4, 2013, through September 4, 2013, that she was off on disability leave and did not know who her claims were reassigned to, or if they were reassigned. When asked whether Finney had spoken with her about union matters or whether he had asked her for information to file a grievance, such as examples from claim files, Young replied, “No.” When asked during an April 14, 2014, follow-up interview whether other GHSO employees had asked her for examples prior to her disability leave, Young replied, “No.”

During an interview conducted on December 5, 2013, Claims Representative 4 Elmer Bly stated to investigators that Finney had asked him (Bly) if he knew of information Finney could use to support his belief that supervisors were performing CSS work. Bly stated he that he told Finney that he was aware of an instance involving a Cleveland Service Office injury management supervisor. Bly could not recall whether he gave the claim number to Finney and thought he may have given it to another union member, Claims Representative 4 Wendy Kelly. Bly noted that he did not print off any documents and only provided the claim number to either Finney or Kelly.

During an April 15, 2014, interview with the Office of the Ohio Inspector General, Kelly denied receiving a claim number from Bly. However, during a separate interview with investigators, Finney stated that he may have mentioned the grievance he was filing to Bly.

On September 26, 2013, the Office of the Ohio Inspector General interviewed CSS Demetrius Finney. When asked about the June 26, 2013, union grievance he filed, Finney stated he suspected non-bargaining unit employees (supervisors) were doing the work of bargaining unit employees (CSSs). Finney indicated that he provided OBWC management with a one-page list of claims, identifying the claim number, a description of the activity, and the claim file target dates in V3. Finney stated he was given this list from an individual, who he refused to name, alleging the claims were assigned to and accessed by a particular supervisor; and that he “went down the list” to prove the supervisor accessed the claims. Finney indicated that is “... about all I did with the claims.”

During this interview, Finney initially stated that OBWC's CPI policy had just been issued approximately two months ago and later stated in the interview that he did not know anything about the CPI rules until Field Operations Chief Tina Kielmeyer covered the topic at an all-hands meeting. When Finney was reminded that he had acknowledged and read the CPI policy in 2011, Finney explained his understanding was that he was not to give out claim information if the individual did not have his or her claim number, ID number, etc. When asked about the acknowledgement indicating that he had read the employee handbook, Finney replied, "Don't recall it, but if I signed off a yes, uh yeah, and probably clicked off."

Prior to filing the June 26, 2013, union grievance, Finney admitted to accessing the claims for the 33 instances in order to obtain support for his allegation that non-bargaining unit personnel completed work on these claims beyond their supervisory capacity. Finney also stated he had a second list of claims that he "... hadn't gone in yet, until I request a CPI [access log] from management for this particular supervisor and then I'll ask for permission to go into the other claims." Finney provided the Office of the Ohio Inspector General with a copy of both lists.

When asked why he accessed these claims on his own, Finney explained, "... it was because, again, I'm thinking because a [union contract article] 2905 I can get the information to prove the grievance and this is when I was writing a grievance up. I can't write the grievance up without having information." Finney later stated that, "I wouldn't have been in these claims if it wasn't for me being in the union" and that he got in the claims because he was the union steward.

Finney defended his actions by stating he was authorized to access these claims containing confidential personal information by Article 25.09 of the OCSEA contract with the state of Ohio. Finney stated that he thought that, "... by the contract I have the right to investigate the grievance" and that "... part of investigating a grievance is to go through these claims." Finney explained that he did not want to file a grievance with just a list of claim numbers and that he wanted to include documentation supporting the allegation contained in the grievance.

Article 25.09 of the OCSEA contract with the state of Ohio provides guidance that, "... the Union may request specific documents, books, papers or witnesses reasonably available from the

Employer and relevant to the grievance under consideration. Such request shall not be unreasonably denied.” ([Exhibit 2](#)) OBWC provided, in response to an Office of the Ohio Inspector General request, three emails⁷ Finney submitted to Labor Relations Officer 3 Ruth Rehak requesting records to support a union grievance. In both the July 28, 2011, and August 20, 2013, emails, Finney referenced Article 25.09 of the OSCEA contract with the state of Ohio allowing the union the ability to obtain records from OBWC management.

When asked during an April 15, 2014, interview how a union steward obtains evidence to support their grievance and what the contract requires, Claims Representative 4 Wendy Kelly, who was the acting union president in May 2013, replied, “We contact Labor Relations.” When asked to confirm that there was not a provision for an union steward to start researching claims in V3 to obtain evidence, Kelly replied, “... not that I’m aware of.”

During an April 15, 2014, interview, Finney was asked why he did not request information from the claim files from management as he had in the August 20, 2013, email request for information to support his June 26th grievance. Finney responded that he was concerned that management would delete notes from the claim before providing the information in response to his request. This investigation determined that there is a process in place for supervisory review and approval for note deletion.

On January 8, 2014, OBWC provided a CPI Access log showing all claims Finney accessed between March 29, 2011, and December 13, 2013. The Office of the Ohio Inspector General then compared the claims accessed on this OBWC CPI Access log to the claims listed on the two pages Finney provided during his interview on September 26, 2013. This comparison identified the following dates and number of times Finney accessed the claim files of injured workers, without authorization, to find evidence to support his union grievance:

- On June 14, 2013, 33 instances, which occurred prior to the June 26, 2013, union grievance filing;
- On July 2, 2013, 12 instances, and on July 8, 2013, 56 instances, prior to the July 23, 2013, Step 1 grievance meeting; and

⁷ These emails were dated July 28, 2011; July 17, 2012; and August 20, 2013.

- On August 22, 2013, 55 instances prior to the Step 3 union grievance hearing held on September 5, 2013.

On February 28, 2014, the Office of the Ohio Inspector General sent a list of 156 accesses to GHSO management to review and determine whether there was a business reason for Finney to access these claims. On March 28, 2014, GHSO management responded that there was no business purpose for Finney to access any of the identified claims.

Of the 156 unauthorized instances of access GHSO identified, the investigation determined Finney accessed several injured worker claims consecutively in a short amount of time. On April 15, 2014, Finney was shown the list of claims that he accessed in a short amount of time that he was not assigned. Finney replied that his access may have been an error, but that if it pertained to the grievance, it may have been a situation where someone either left it on his desk or asked him to review it. When questioned why he accessed the same claim not assigned to him in June, July, and August, Finney replied that he "... probably went through them twice because I didn't have the information." When asked if he went back into or accessed claims before the July hearing or the Step 3 grievance hearing, Finney replied, "... yeah, may have went into some because there were some that I didn't get a chance to go through."

The investigation determined that Finney spent a total of 304 minutes⁸ on the four dates accessing claims identified on the two lists he provided to the Office of the Ohio Inspector General during his interview on September 26, 2013. When asked whether he notified his supervisor that he was working on union business such as investigating a grievance or other union business instead of his normal work, Finney replied that he would work on grievances at his desk and "... just turn them in."

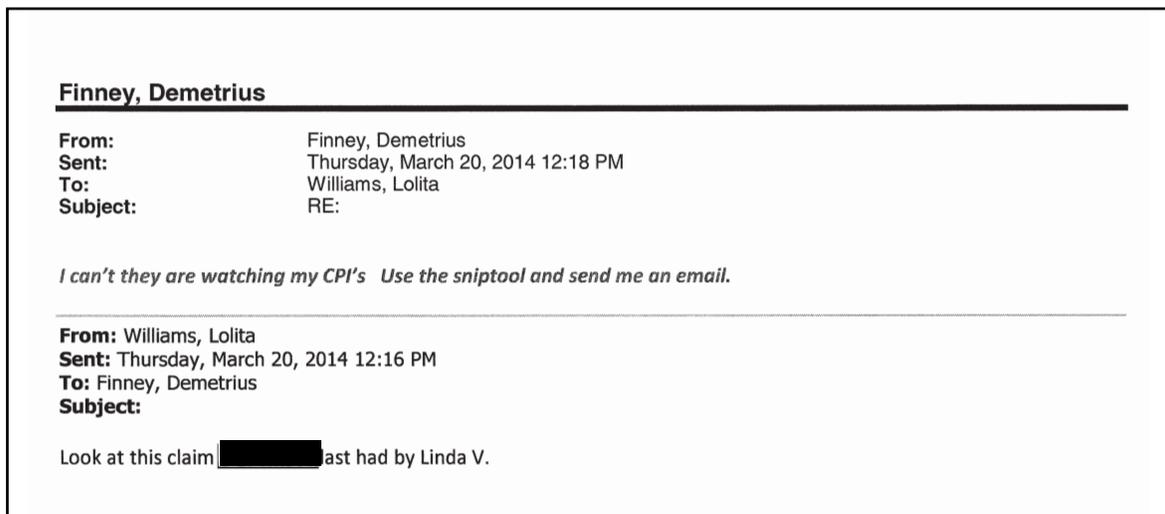
The OSCEA contract with the state of Ohio Article 25.07 provides, "... the steward shall not leave his/her work to investigate, file or process grievances without first notifying and making mutual arrangements with his/her supervisor or designee as well as the supervisor of any unit to

⁸ This included 28 consecutive minutes on June 14, 2013; 13 consecutive minutes on July 2, 2013; six consecutive minutes and at a later time 100 consecutive minutes on July 8, 2013; and 117 consecutive minutes, at a later time 12 consecutive minutes, and an additional 28 consecutive minutes on August 22, 2013.

be visited. Such arrangements shall not be unreasonably denied.” ([Exhibit 2](#)) Contrary to this provision, GHSO management representatives interviewed on September 20, 2013, and April 14, 2014, stated Finney only notified them of time spent away from his desk when he was attending a union meeting or sitting in on an investigatory interview or if he was going to talk to another employee about a union matter. The supervisors stated that it was unlikely that Finney would have had extra time at his desk to work on union matters since GHSO was short-staffed.

Finney also stated that he would “... never use this information for any personal gains ... for outside gains ... only intention was to make my grievance credible.” However, when noted by investigators that his grievance could have resulted in him personally receiving 20 hours of pay should the grievance be established, Finney replied, “... like I say, not me (laughs) personally... but --- no, actually it’s, it’s not even about the money.” Finney stated that sometimes the only way to make some people react is to mention money.

At the conclusion of the April 15, 2014, interview, Finney provided documents to support some of his statements. The following is an excerpt from a March 20, 2014, email sent by CSS Lolita Williams to Finney supporting that CSSs sent him information for consideration:



The Office of the Ohio Inspector General reviewed emails sent to and by Finney between March 1, 2014, and April 14, 2014. This investigation determined CSS Lolita Williams, the assigned CSS, sent Finney the specified claim’s CSS assignment history and correspondence for an unknown reason and that Finney was not assigned to the claim at the time of William’s access.

Finney's email also reflected instances where he captured claim information using the Snipping Tool⁹ for claims he was assigned and sent the picture to himself in the form of an email for an unknown reason.

Additional issues – Unauthorized Claim Access

During the interview conducted on September 26, 2013, Finney stated he had collected information before he filed his June 26th grievance and that the collection of this information had occurred in 2013. Finney also provided to investigators a list of 88 claims he had accessed for his grievance. The Office of the Ohio Inspector General reviewed the 88 claims files in V3 and determined that the claim files Finney accessed were assigned to CSSs Karen Haines, Beverly Young, Elmer Bly, Wendy Kelly, Brett Trela, and Mark Zenisek.

On February 4, 2014, in response to an Office of the Ohio Inspector General request, OBWC provided CPI Access logs and claim-assignment histories for Haines, Bly, Kelly, Trela, and Zenisek. For the period of May 1, 2013, through June 30, 2013, the Office of the Ohio Inspector General compared the CPI Access log against the claim-assignment histories for these five CSSs and identified several instances where the five CSSs accessed claim files that were not assigned to them. These claims, for the most part, were unrelated to the claims accessed by Finney in support of his union grievance.

On February 28, 2014, the Office of the Ohio Inspector General requested GHSO management to review the instances to determine whether the five CSSs had accessed claim files that were not assigned to them and, if so, whether they had a business reason for the accesses. GHSO Service Office Manager Sheilah Hampton and Injury Management supervisors Jill Polly and Michael D'Amico reviewed and evaluated these claim files accesses. When reviewing these instances, Polly and D'Amico noted to investigators that if there was some evidence the CSS had completed a task in the claim file, or there was some evidence that the CSS may have accessed the claim file as a back-up or swim lane/team member, the CSS was given the benefit of the doubt, and the access was determined to be for a business purpose.

⁹ Snipping Tool is software available on OBWC computers that is used to copy the selected portion of the screen. The user can then paste the copy of the screen in an email or a Word document.

In April 2014, the Office of the Ohio Inspector General requested GHSO Injury Management Supervisor Karen Betley to review the accesses previously identified by Polly, Hampton, and D'Amico as unauthorized to determine whether the CSS had a business reason to access the claim. For each of the five CSSs who were determined to have accessed injured worker claim data for no business reason, the following respectively summarizes GHSO's review of claim file accesses and interviews conducted by the Office of the Ohio Inspector General:

Elmer Bly

The Office of the Ohio Inspector General requested GHSO management to review the 296 instances identified as accessed by Claims Representative 4 Elmer Bly, during the period from May 1, 2013, through June 30, 2013, but not assigned to him. GHSO responded on March 26, 2013, that Bly did not have a business purpose to access 163 of the 296 instances reviewed. During her interview, Injury Management Supervisor Polly noted that Bly's access of 18 claims in 12 minutes for claims that had been identified as an unauthorized access by GHSO management was "awfully quick." Polly stated that if these accesses were for a business reason, Bly would have needed to spend more time in the claims based on his job duties.

The Office of the Ohio Inspector General interviewed Bly on December 5, 2013, and April 15, 2014. When asked what claims he could access in V3, Bly replied he could access any claim assigned to him or another Intake CSS, but that he could only work on those assigned to him. Bly stated that while he did not serve as CSS Beverly Young's backup, he often set the wages within claims assigned to Young. When asked if he entered a note into the claim in V3 when an injured worker called, Bly replied if the injured worker wanted to know something about the claim, or if they had been paid, Bly would probably not have entered a note. However, Bly added that he would have likely entered a note if the injured worker was complaining about their CSS.

When questioned about the quick accesses of claims, and when informed that the GHSO management could not find any activity completed by him in the claims, Bly explained that he was probably helping Young. Bly explained that he would access claims to determine whether there were wages that needed to be processed and, if not, he would move to the next claim. Bly

was also informed that GHSO management had identified him accessing claims that were assigned to other OBWC Service Offices. Bly stated that he would have to look at the claims. Bly explained that some of the CSSs may have been off on disability leave; or maybe the claims were on somebody's work list for him which allowed him to access them.

The Office of the Ohio Inspector General further reviewed the 163 unauthorized accesses initially identified by GHSO management and determined 16 instances of claim access were possibly typing errors made by Bly when he accessed the claims and, as such, these accesses were considered accidental.

The Office of the Ohio Inspector General requested GHSO Injury Management Supervisor Karen Betley to further review the remaining 147 claims in V3 to determine whether there was evidence that Bly had a business reason to access the claims. On April 21, 2014, Betley replied that 20 accesses made by Bly may have been to assist Young in setting wages. Additionally, Betley stated that 45 accesses made by Bly contained security diaries entries¹⁰ and noted that it appeared that Bly had opened claims on Young's work list to determine what had been completed in the claims.

Based on GHSO's review of the accesses of claims, this investigation found no evidence to support a business reason for Bly's accesses in 115¹¹ instances.

Wendy Kelly

On February 28, 2014, the Office of the Ohio Inspector General requested GHSO management to review the 56 instances identified as accessed by Claims Representative 4 Wendy Kelly, but not assigned to her. GHSO responded on March 26, 2013, that Kelly did not have a business purpose to access all 56 instances during the period from May 1, 2013, through June 30, 2013. During her interview, Polly noted that several of Kelly's accesses were very quick, and was surprised by the number of claims opened on a Saturday when Kelly was working overtime.

¹⁰ Security diaries are notes posted by V3 to the injured worker's claim file notes reflecting an action taken within the claim. If the assigned CSS is not completing the action, the system will require the CSS to select a reason and will enter the Assigned CSS Unavailable security entry.

¹¹ This includes the 45 accesses of claims with specific diary entries and 70 claims which GHSO could not identify a business reason why Bly accessed the claim.

GHSO management explained when a CSS is offered overtime, it is for a specific purpose, and that only claims identified by the supervisors are to be worked on during the period. When asked whether CSS should be working on union matters while working scheduled overtime, Hampton and Polly both replied, "... absolutely not."

The Office of the Ohio Inspector General interviewed Claims Representative 4 Wendy Kelly on April 14, 2014. Kelly stated that she was aware that Finney had filed a union grievance but was not aware of the list of claims Finney provided to GHSO management. Kelly noted she did not ask anyone for examples of supervisors performing CSS work. Finney stated in his April 15, 2014, interview that he did not discuss his request for examples to support the grievance with Kelly, and that he had told her that he was filing a grievance.

Kelly was shown a list of the 56 claims in which GHSO management was unable to determine a business reason for her accesses. When asked why she accessed the claims, Kelly replied, "... someone told me to review it" or that it was on her work list at that time. Kelly then stated that the claims could have been related to a claim she was working on, or that an injured worker may have multiple claims which required her review, or that the claims may have crossed service offices.

Kelly was asked to explain the instances when she accessed several claims within a short period of time. Kelly stated that her access may have been because she was looking for a specific item in the claim or to determine if it was a duplicate claim. Kelly was asked why she was accessing claims when she was scheduled for overtime for claims cleanup and there was no evidence in the claim showing why she accessed the claim in which she was not assigned. Kelly replied, "... if it was a cleanup project that would be the reason why I would be in the claim." When informed these claims were not on the claims' cleanup list per GHSO management, Kelly replied, "It may be a reference claim for that. I don't know."

The Office of the Ohio Inspector General further reviewed the 56 unauthorized accesses identified by GHSO management. Investigators determined six instances of claim access were possibly typing errors made by Kelly when she accessed the claims and, as such, these accesses

were considered accidental. The Office of the Ohio Inspector General requested GHSO Injury Management Supervisor Karen Betley to further review the remaining 50 accesses in V3 to determine evidence that Kelly had a business reason to access the claims. On April 17, 2014, Betley replied that of 50 accesses reviewed, she determined Kelly could have accessed seven of the claims for a business purpose. For the remaining 43 instances, Betley found no evidence to support a business reason for Kelly's accesses.

Karen Haines

The Office of the Ohio Inspector General requested GHSO management to review the 53 instances identified as accessed by Claims Service Specialist Karen Haines, during the period from May 1, 2013, through June 30, 2013, but not assigned to her. On March 26, 2013, GHSO stated that Haines did not have a business purpose to access 33 of the 53 instances reviewed. GHSO's management review also noted:

- Twenty accesses occurred while Haines was working overtime for a claim clean-up project.
- Haines accessed three claims within 15 seconds on June 14, 2013; and accessed the same three claims again on June 15, 2013, within the span of one minute and nine seconds.

The Office of the Ohio Inspector General interviewed Haines on April 15, 2014. When asked to clarify the comment she made during her September 20, 2013, interview that she did not always enter a note in the claim, Haines explained that she periodically receives phone calls forwarded to her phone because another CSS does not answer his/her phone. Haines added that, with these calls, an injured worker would have a quick question and she would access the claim to answer the question without checking whether the claim was assigned to her. Haines stated that if the issue from the injured worker involves a complex issue, she would "... get a little more detailed with the note," but if it was just a quick question, she would not enter a note.

Investigators informed Haines that GHSO management had determined she accessed injured workers' claims for no business reason in 33 instances. Haines was unable to provide an explanation for her access in these 33 instances. Haines was then asked why she accessed the same claims so quickly on June 14 and 15. Haines replied, "I have no idea," and then stated it

could have been something as simple as answering a question or renaming a document, but that she would have to look at the claim.

Based on information obtained during the interviews, the Office of the Ohio Inspector General reviewed the 33 unauthorized accesses initially identified by GHSO management and determined four instances of claim access were possibly typing errors made by Haines when she accessed the claims, and as such, these accesses were considered accidental. The Office of the Ohio Inspector General requested GHSO Injury Management Supervisor Karen Betley to further review the remaining 29 accesses in V3 to determine evidence that Haines had a business reason to access the claims. On April 17, 2014, Betley replied that she found no evidence to support a business reason for Haines' accesses in 29 instances.

Brett Trela

The Office of the Ohio Inspector General requested GHSO management to review the 496 instances identified as accessed by Claims Service Specialist Brett Trela, during the period from May 1, 2013, through June 30, 2013, but not assigned to him. GHSO stated that Trela did not have a business purpose to access 78 of the 496 instances reviewed. The Office of the Ohio Inspector General reviewed the 78 instances and noted several instances where Trela accessed multiple claims in a short period of time.

The Office of the Ohio Inspector General interviewed Trela on April 15, 2014. Trela stated he was unaware of the recent grievance filed by Finney, but recalled a similar grievance was filed approximately 2 – 2½ years ago. Trela stated later in the interview that he had overheard a rumor that Finney was going to file a grievance and ask for 20 hours of compensation time. When asked whether Finney had asked him to provide examples where a supervisor had performed CSS work in V3, Trela responded, “I don't speak to that man.” When asked whether he recalled anybody asking him for examples to use to support a grievance, Trela replied, “No.”

During the interview, investigators reviewed with Trela the 78 instances of accesses identified by GHSO management. Investigators also noted to Trela the several instances where he accessed multiple claims in a short period of time and the corresponding CPI Access logs reflecting his

accesses. Investigators informed Trela that there was no evidence indicating that he did any work in the claims. Trela explained that he was performing clean-ups very quickly for processing errors; removing unnecessary documents or diary entries; and that his supervisor may have given him pages of claims to clean up.

Trela also stated that he has poor vision, occasionally mistypes claim numbers, and selects claims inadvertently and eventually realizes that he had accessed the wrong claim. Trela explained as part of his job duties that he is often helping other CSSs when they are behind, and has had CSO¹² (Customer Service Office) authority to access anyone's work list to assist with clean-up projects.

In a separate interview conducted on April 14, 2014, by the Office of the Ohio Inspector General, Betley was asked to confirm Trela's statement that the claims' clean-up lists he was given had already been processed. Betley stated the clean-up lists did not exist in 2013 and have been used recently.

The Office of the Ohio Inspector General requested GHSO Injury Management Supervisor Karen Betley to further review the 78 accesses in V3 to determine evidence that Trela had a business reason to access the claims. On April 16, 2014, Betley replied that she was unable to determine for 60 instances, Trela's accesses were for business reasons.

Mark Zenisek

The Office of the Ohio Inspector General requested GHSO management to review the 135 instances identified as accessed by Claims Service Specialist Mark Zenisek, and assigned to CSS Young during the period from May 1, 2013, through June 30, 2013. GHSO stated that Zenisek did not have a business purpose to access 40 of the 135 instances reviewed.

¹² "CSO authority" is given to a CSS and allows the CSS to access claims assigned to multiple teams within the service office. This authority is typically given to V3 coordinators, or those on special clean-up projects. This authority can only be assigned by the service office manager, assistant service office manager, and the team leaders.

Of those 40 instances, the Office of the Ohio Inspector General noted that Zenisek accessed four claims within 52 seconds on June 12, 2013; and accessed another four claims within 2 minutes and 16 seconds on June 27, 2014.

During an April 15, 2014, interview with the Office of the Ohio Inspector General, Zenisek stated that he remembered overhearing that Finney had filed a union grievance alleging that supervisors were performing CSS work. Zenisek stated that Finney had approached him for examples from claims to support this allegation. Zenisek noted that he did not provide Finney with any examples.

When questioned about his access of the 40 claims assigned to Young with no evidence that he accessed the claims for a business purpose, Zenisek stated that he and Young often backed each other up when the other CSS was off; that he often accessed her claims on the work list to determine what needed to be completed. Zenisek explained that while Young was off, he and other CSSs periodically received lists of claims to process. However, Zenisek said he did not retain these lists.

The Office of the Ohio Inspector General requested GHSO Injury Management Supervisor Karen Betley to further review the remaining 40 accesses in V3 to determine evidence that Zenisek had a business reason to access the claims. On April 21, 2014, Betley replied that of the 40 accesses reviewed, she determined Zenisek could have accessed claims in 35 instances for a business purpose. For the remaining five instances, Betley found no evidence to support a business reason for Zenisek's accesses.

CONCLUSION

On August 20, 2013, OBWC provided 41 instances where CSS Demetrius Finney, using the OBWC internal claims management system, V3, accessed claims and provided claim documents from four claims to support his June 26, 2013, union grievance. On August 22, 2013, Garfield Heights Service Office (GHSO) Injury Management Supervisor (IMS) Karen Betley stated that these claims were neither assigned to Finney nor Finney's back-up, but rather, were assigned to CSS Beverly Young, who was not in Finney's swim lane. Additional concerns were raised by

Betley and IMS Patrick Connors during interviews with investigators as to how Finney obtained the documents attached to his June 26th grievance. OBWC provided Finney's acknowledgement for Memo 4.42, initially issued in June 2011 and updated in July 2013, and when he completed the computerized training.¹³

This investigation determined Claims Service Specialist Demetrius Finney:

- Failed to comply with OBWC Memo 4.42 *Confidential Personal Information Access and Logging policy*. GHSO management determined Finney did not have a business reason to access injured worker claims in 33 instances prior to filing his June 26, 2013, grievance; accessed claims in 68 instances prior to the July 23, 2013, union grievance Step 1 hearing; and accessed claims in 55 instances prior to the Step 3 union grievance hearing held on September 5, 2013.
- Failed to follow the process described in Article 25.09 of the OCSEA contract with the state of Ohio to obtain information for the claims files accessed in the 156 instances. However, this investigation determined Finney followed the prescribed process on other occasions to obtain requested information from OBWC management.
- Failed to notify his supervisors when he was working on a union grievance at his desk during assigned work hours as required by Article 25.07 of the OCSEA contract with the state of Ohio. Instead, GHSO management stated Finney only notified them of time spent away from his desk to attend union matters or meetings.

Finney explained in a September 26, 2013, interview with investigators, that he suspected supervisors were doing work that was designated for CSSs and he had provided a one-page list of claims identifying the claim number and other information supporting his allegations to OBWC management in his June 26, 2013, union grievance. Finney admitted that he accessed the claims on the list to prove the allegation that the supervisors accessed claims beyond their

¹³ See page 3 of this report for the table with the dates for the identified OBWC employees.

supervisory capacity prior to filing the June 26, 2013, grievance and admitted to accessing the claims again to obtain additional information.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe wrongful acts or omissions occurred in these instances.

During this investigation, Finney stated he did not want to provide the Office of the Ohio Inspector General the names of the individuals who provided him with the list of claim numbers and attachments provided to GHSO management. The Office of the Ohio Inspector General reviewed the claims files in V3 for the 88 claims documented on the two pages¹⁴ provided by Finney during his September 26, 2013, interview, and determined in addition to Haines, claims accessed by Finney were also assigned to CSSs Beverly Young, Elmer Bly, Wendy Kelly, Brett Trela, and Mark Zenisek. During the period of June 4, 2013, through September 4, 2013, Young was on disability leave and could not have accessed these claims.

The Office of the Ohio Inspector General compared, for the period of May 1, 2013, through June 30, 2013, the claims accessed per the CPI Access log to the claims assignment history for these five CSSs and identified instances where the CSSs accessed claims they were not assigned which for the most part, had not been accessed by Finney to support his union grievance.

The Office of the Ohio Inspector General requested GHSO management representatives to review these discrepancies before and after the interviews were conducted with the five CSSs to determine whether the identified CSSs had a business purpose to access the claims. OBWC also provided the acknowledgement for Memo 4.42, initially issued in June 2011 and updated in July 2013, and when each of the five CSSs¹⁵ completed the computerized training. GHSO management identified the following instances where the CSS accessed an injured worker's claim once or multiple times for no business purpose, contrary to OBWC Memo 4.42: \

(Exhibit 1)

¹⁴ This included the page Finney had provided to Garfield Heights Service Office Manager Sheilah Hampton during a July 23, 2013 meeting.

¹⁵ See page 3 of this report for the table with the dates for the identified OBWC employees.

Employee	No. of Unauthorized Accesses Identified by GHSO Management
Elmer Bly	115
Wendy Kelly	43
Karen Haines	29
Brett Trela	60
Mark Zenisek	5

Haines also admitted to investigators to printing an injured worker’s Exam Scheduling Worksheet, printing a screen capture of an injured worker’s claim information, and providing this information to Finney. Haines defended her actions, stating that this “... grievance was ongoing, that it was a work issue ...”, and “... so I didn’t feel that I was passing out this information and I know, the big obvious one is Joe the Plumber. It wasn’t ... for those types of reasons. We have an office issue going on.” Haines then expressed that the documentation “... really doesn’t have anything confidential on it ... other than the injured worker’s name.”

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe wrongful acts or omissions occurred in these instances.

RECOMMENDATIONS

The Office of the Ohio Inspector General makes the following recommendation(s) and asks the director of the Ohio Bureau of Workers’ Compensation to respond within 60 days with a plan detailing how the recommendations will be implemented. The Ohio Bureau of Workers’ Compensation should:

1. Review the employees’ conduct identified in this report and determine whether administrative action is warranted.
2. Determine whether a reminder or refresher training should be held explaining when and the type of claim information that can be shared between OBWC employees.

3. Monitor the granting of Customer Service Office authority for special projects to ensure that when the project is complete, this authority is rescinded.
4. Consider, as part of the upcoming training on the new computer system, integrating into the training a refresher training on when notes should be entered into a claim with an additional emphasis on when notes should be entered if the employee is accessing a claim they are not assigned.
5. Continue to monitor the completion of policy acknowledgements and ensure all employees have completed the required policy acknowledgements within a reasonable timeframe from the release of the new policy.
6. Consider the benefits of implementing a procedure for supervisors to periodically perform random reviews of CSS CPI access logs to ensure the CSSs are accessing claims assigned to them and or entering notes into claims accessed, but not assigned.

REFERRALS

This report of investigation will be provided to the City of Garfield Heights Attorney for consideration.

[**\(Click here for Exhibits 1 – 2 combined\)**](#)



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Bureau of Workers' Compensation

FILE ID #: 2013-CA00067

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
December 2, 2014

MAILING ADDRESS

OFFICE OF THE INSPECTOR GENERAL
JAMES A. RHODES STATE OFFICE TOWER
30 EAST BROAD STREET – SUITE 2940
COLUMBUS, OH 43215-3414

TELEPHONE

(614) 644-9110

IN STATE TOLL- FREE

(800) 686-1525

FAX

(614) 644-9504

EMAIL

OIG_WATCHDOG@OIG.STATE.OH.US

INTERNET

WATCHDOG.OHIO.GOV