

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: BOWLING GREEN STATE UNIVERSITY
OHIO FILE ID NO.: 2015-CA00048
DATE OF REPORT: MARCH 28, 2017

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

“Safeguarding integrity in state government”

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Randall J. Meyer
Ohio Inspector General



STATE OF OHIO

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REPORT OF INVESTIGATION

FILE ID NUMBER: 2015-CA00048

SUBJECT NAME: Alan Atalah, Ph.D.

POSITION: Associate Dean/Professor
College of Technology,
Architecture and Applied Engineering

AGENCY: Bowling Green State University

BASIS FOR INVESTIGATION: Agency Complaint

ALLEGATIONS: Criminal Conduct; Miscellaneous (including other
criminal conduct or general misconduct)

Unprofessional Conduct or Improper
Conduct/Appearance of Impropriety

INITIATED: September 23, 2015

DATE OF REPORT: March 28, 2017

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On September 21, 2015, the Office of the Ohio Inspector General received a complaint from the Ohio Department of Transportation (ODOT) Office of Investigative Services (OIS) concerning a Bowling Green State University (BGSU) researcher. ODOT staff reported that the researcher, Alan Atalah Ph.D., had been conducting research on a project titled “Evaluation of ODOT’s Culvert Boring Process.” During the course of the project, the ODOT Office of Statewide Planning and Research made the decision to terminate the contract and asked Atalah to cease all work and send all existing project files to ODOT on a portable USB drive. The USB drive was received by the ODOT Office of Statewide Planning and Research via the United States Postal Service (USPS) on April 2, 2015. On September 21, 2015, while downloading the project data files to an encrypted drive to share with consulting firms for bids to complete the work, the ODOT program administrator discovered narrative within the file that was unrelated to Atalah’s project research for ODOT; specifically, a file titled “Conversations.doc.” The “Conversations.doc” file was seven pages of narrative that described sex acts involving adults, children, and animals.

The Office of the Ohio Inspector General opened an investigation on September 23, 2015.

BACKGROUND

Ohio Department of Transportation

The Ohio Department of Transportation (ODOT) is responsible for maintaining the state’s system of highways, as well as overseeing the state’s rail, aviation, and public transportation systems. The department has 12 districts along with a central office located in Columbus, Ohio. The director is appointed by the governor and confirmed by the Ohio Senate. The majority of ODOT’s funding comes from federal sources, state taxes on motor fuels, and bond revenue.¹

The Ohio General Assembly enacted Ohio Revised Code 121.51, effective July 3, 2007, which created the deputy inspector general for the Ohio Department of Transportation (ODOT). This statute designated this deputy inspector general “... shall investigate all wrongful acts or omissions that have been committed or are being committed by employees of the department”

¹ Source: Biennial budget documents.

and provides the deputy inspector general the same powers and duties regarding matters concerning the department as those specified in sections 121.42, 121.43, and 121.45 of the Ohio Revised Code for matters involving ODOT.

Bowling Green State University IT Policy

The IT policy for Bowling Green State University states, in part:

1. All usage of information technology resources is to be consistent with all other relevant policies at BGSU.
2. Users must be aware of and comply with all Federal, State, local, and other applicable laws, contracts, regulations and licenses.
 - US Code
 - Ohio Revised Code
 - Digital Millennium Copyright Act (DMCA)
 - Electronic Communications Privacy Act (ECPA)
 - Computer Fraud and Abuse Act (CFAA)
 - Family Educational Rights and Privacy Act (FERPA)
 - Health Insurance Portability and Accountability Act (HIPAA)
 - Gramm-Leach-Bliley Act (GLBA)
 - House Bill 104
3. Use of information technology to access resources other than those supporting the academic, administrative, educational, research and service missions of the University or for more than limited social purposes is prohibited.

INVESTIGATIVE SUMMARY

On September 21, 2015, the Office of the Ohio Inspector General received a telephone call from ODOT-OIS Investigator Ed Waters and Program Administrator 2 Kelly Nye of the ODOT Office of Statewide Planning and Research. At the beginning of the telephone conversation, Waters stated that Nye was in his office. Nye explained to investigators that the BGSU Department of Construction Management had been working on research related to culvert boring on a federal and state grant administered by ODOT. Nye noted that ODOT was dissatisfied with the research completed by BGSU researchers. ODOT directed the BGSU researchers to cease work and send all work product completed as of that date to the ODOT Office of Statewide Planning and Research. The work product was received by ODOT on April 2, 2015, and arrived on a USB

drive delivered by the USPS. On September 21, 2015, while transferring the data to an encrypted hard drive to distribute to additional potential researchers, Nye discovered a word file named “Conversations.doc.” Suspecting this file might contain contract negotiation or trade secret information, Nye said she opened it and began reading what she described as a graphic first-person account of sexual child abuse. Nye stated that she closed the document and contacted ODOT-OIS, who called the Office of the Ohio Inspector General. Investigators scheduled a meeting with Nye for September 22, 2015.

On September 22, 2015, the Office of the Ohio Inspector General met with Kelly Nye and ODOT Program Administrator 3 Jacquelin “Jill” Martindale of the ODOT Office of Statewide Planning and Research. Nye provided investigators with a copy of the research abstract for a project titled “Evaluation of ODOT’s Culvert Boring Process” ([Exhibit 1](#)) which was awarded to Bowling Green State University. Nye noted that BGSU Professor Alan Atalah, Ph.D., was the researcher assigned to the project and that he had been struggling with providing a responsive report to ODOT. Nye said that on March 6, 2015, she sent an email to Atalah notifying him that the preliminary report submitted to ODOT was not satisfactory. ODOT terminated the project on March 10, 2015. On March 12, 2015, Nye said she sent a letter to BGSU directing them to cease work on the project and submit all project data files to ODOT on a USB flash drive provided by ODOT. Atalah was instructed, through certified mail, to provide all project data collected up to that point in time to ODOT. ([Exhibit 2](#)) Martindale added that Atalah contacted ODOT to request permission to purchase a larger USB flash drive, because the one provided by ODOT did not have sufficient capacity to hold all of the project files. Atalah was granted permission to make the purchase.

Nye stated that on April 2, 2015, the project data was received by ODOT on a USB flash drive, and on April 3, 2015, she had sent an email to Atalah to confirm receipt. Also on April 3, 2015, Nye said the USB flash drive data was copied onto the ODOT research project server and provided to Kevin White at E.L. Robinson, a local engineering consulting firm, a few days later. Nye noted that on August 18, 2015, another copy of the data was generated from the ODOT research project server to an external hard drive. The hard drive was then sent to researchers at the University of Cincinnati (UC). Nye and Martindale said that no additions or deletions to the

data were made during any of this processing. Nye and Martindale both indicated that the project data was provided to E. L. Robinson and UC for evaluation for project completion. Nye said that on September 21, 2015, while downloading project files from the ODOT projects server to an external encrypted drive to share with other consulting firms, she noticed a document within a folder that possibly should not be shared with other vendors (such as signed contracts, trade secrets, or notes from contract negotiations). While reviewing these documents, she opened one titled "Conversations.doc." The file was a text narrative describing sex acts with children. Nye indicated that she stopped reading the narrative and closed the file. She then notified ODOT-OIS and was present when OIS Investigator Waters called the Office of the Ohio Inspector General.

Martindale provided investigators with a copy of the "Conversations.doc" document for review. She said that the complete project data files were shared with Dr. Hazem Elzarka at the University of Cincinnati and Kevin White of E. L. Robinson. Neither party notified ODOT about opening the "Conversations.doc" file.

On September 22, 2015, the Office of the Ohio Inspector General met with Transportation Systems Administrator Scott Phinney from the ODOT Office of Statewide Planning and Research. Phinney stated that he would contact Kevin White at E. L. Robinson directly and obtain the USB flash drive. Phinney said he would also advise White to delete any files he may have copied. Phinney stated he would also contact Elzarka at the University of Cincinnati and request that he delete the project data files he was sent on the external hard drive.

Scott Phinney advised investigators that Kevin White was currently traveling out of the country but White's staff located the USB flash drive and delivered it to ODOT. Phinney brought the drive to the ODOT/OIG office where it was marked, sealed in an envelope, and receipted into the custody of the Office of the Ohio Inspector General. Phinney stated the University of Cincinnati researchers deleted the original set of project data files which contained "Conversations.doc."

On September 25, 2015, investigators contacted Scott Phinney to verify the source of the USB flash drive used in the project data transfer. Phinney stated that his staff at ODOT had included a

two-gigabyte USB flash drive with the certified letter to Atalah requesting that he cease work on the project and submit the project data to ODOT. The two-gigabyte USB drive was too small, so the data was sent to ODOT on a 30-gigabyte USB flash drive provided by Atalah at BGSU.

On October 1, 2015, the Office of the Ohio Inspector General conducted internet research for the email address found in the introduction to “Conversations.doc.” Investigators discovered a link to an internet site that appeared to be a repository for erotic literature and found that stories attributed to the possible author’s email address appeared on the site in the tab for “Kristen’s collection - erotic stories.”

On October 1, 2015, the Office of the Ohio Inspector General interviewed Kelly Nye. Nye clarified that she did not search the actual USB flash drive received from Atalah, but conducted her review from the files previously copied to the ODOT server from the drive. Nye noted she was looking for files that should not be copied onto media for dissemination to other potential project contractors and consultants. Nye said she found signed contracts as well as the “Conversations.doc” during her review. Nye stated she made no changes to the USB flash drive or any of the copied files. Nye stated she believed the USB flash drive was used by Atalah to send ODOT the project data files. Nye added she did not know where the BGSU USB drive was from – she just assumed it was either purchased new or was recycled at BGSU. Nye noted that it was not an ODOT-provided USB drive. Nye said she had no knowledge, nor had she ever heard of, the email link to the erotic literature repository or the internet site itself.

On October 22, 2015, the Office of the Ohio Inspector General met at BGSU with Sean FitzGerald, BGSU general counsel; Matt Haschak, BGSU director of IT security; Lt. John Stewart, BGSU Police Department; and Jim Lambert, BGSU director of Internal Audit to discuss the case. At this meeting, a plan was decided to acquire a forensic image of the laptop used by Alan Atalah.

Haschak reported to investigators that on November 9, 2015, he directed Jim Lambert and a help desk support employee to acquire Atalah’s laptop and image the device to assure compliance with the ODOT grant. Haschak said Atalah initially refused to release the laptop, claiming that

he needed the device to complete work for a conference he was attending later that week. Lambert and Haschak stated they contacted the university general counsel who contacted the provost and Atalah was directed to release the device. Haschak informed investigators that they acquired the laptop on November 11, 2015, and that the laptop had been imaged, but no forensic examination had been performed.

Investigators traveled to BGSU and met with Erik Evans, BGSU IT Security. Evans provided a 250-gigabyte Western Digital hard drive containing a forensic image of the hard drive from Atalah's laptop. The hard drive was secured upon return to the Office of the Ohio Inspector General.

The Office of the Ohio Inspector General conducted a forensic examination of Alan Atalah's university-issued laptop for sexually explicit material based on the original information provided by ODOT. In an effort to develop a keyword list, investigators ran a cursory search of Atalah's laptop and identified four Word documents, one of which was "Conversations.doc," containing content of a sexually explicit nature. Investigators also developed a keyword list and ran it against Atalah's laptop to determine if any other sexually explicit materials could be located. The keyword searches resulted in no additional documents; however, registry entries associated with Atalah's user profile were noted and investigators identified several potentially sexually explicit video files (mp4) that had been last modified in April 2014 and March 2015.

Investigators reviewed the BGSU information technology policy. In addition, investigators reviewed the Ohio Department of Administrative Services' (ODAS) internet usage policy which states that internet use "... *if permitted* by an agency, shall be strictly limited and can be restricted or revoked at an agency's discretion at any time."² The ODAS policy continues to define unacceptable use as, "... (A)ny personal use of IT resources that disrupts or interferes with government business, incurs undue cost to the state, could potentially embarrass or harm the state, or has the appearance of impropriety is strictly prohibited."³

² ODAS internet use policy, IT-04, effective May 4, 2015, section 2.1 (emphasis added).

³ ODAS internet use policy, IT-04, effective May 4, 2015, section 2.2.

On March 2, 2016, the Office of the Ohio Inspector General conducted an interview with Bowling Green University Professor Alan Atalah. Atalah described the two phases of the ODOT research project; the horizontal boring process, using an auger boring machine and the pipe bursting process. Atalah said the first phase of the project was to determine if it was more economical for ODOT to purchase the boring equipment and do the work themselves or to hire contractors with the boring machine to do the work. Atalah added that when the first phase of the project was completed, there was money remaining to increase the scope of the project to also examine the pipe bursting method. ODOT approved the increase in the scope of the research and the second phase of the project. Both methods were to evaluate techniques to replace culverts without closing roadways.

Atalah stated that all the files he created related to the project were kept in the same location, in one folder, on his BGSU laptop computer. Atalah noted that when the ODOT Office of Statewide Planning and Research terminated the project and requested all the project data, the USB flash drive that ODOT provided him was not large enough to hold all the project data. Atalah said he contacted ODOT to get permission to purchase the larger drive. Atalah added that ODOT gave him permission to acquire the larger drive, which he did, and copied all the project files onto the drive.

Atalah was asked about his understanding of the BGSU policy on internet usage. Atalah said that he assumed there was a policy, but he did not recall ever reading or signing off on one. Atalah told investigators that he equated it to signing credit card agreements without reading them.

Atalah was asked if he knew or communicated with the author of "Conversations.doc" or sent or received email from the author of the erotic literature website. Atalah replied that "... it does not ring a bell." Atalah was then asked about "Conversations.doc" and shown a printed copy of the document. Investigators asked Atalah if this was his document, or was an email he may have received or sent. Atalah said, "I don't recall," adding "... it seems like an erotic story or something." Atalah was then asked if he wrote erotic literature. He replied, "No, do I look at

some erotic every now and then, yes. Is it possible that I copied it and put it in, it's possible, I probably did that a few times.”

Atalah said he did not write the story, adding, “It doesn't register in my head.” When asked if the document was on his computer and had been copied by mistake onto the USB flash drive, Atalah said, “I cannot tell, I didn't look, didn't see and if I have something like this and I'm aware of it on the thumb drive, would I give it to ODOT?” When asked again by investigators if he had copied “Conversations.doc” from his computer onto the USB flash drive for ODOT, Atalah said, “I honestly don't know.”

When questioned about having additional erotic literature, or photos and videos involving sexual activity with children, adults, or animals, etc., on his computer at home or work, he responded “no.” Atalah continued, “Is it possible that sometimes I would be interested in looking at porn sometimes, or looking at erotic stories.” Atalah admitted to investigators that he sometimes copied erotic stories from internet sites and would save them for later.

When Atalah was asked by investigators if he ever sent erotic literature or similar items from his home Hotmail account to his university email account, he replied, “... possibly, I don't usually select them but they all come to the same university email.” Atalah informed investigators that he had his personal Hotmail forwarded to his university Outlook account.

Atalah could not explain to investigators whether the document was created on his computer, by him, and viewed on February 19, 2015. Atalah said, “Can I recall the specifics of this, no ... The most plausible scenario would be at a certain point I got interested in something like this, I looked at it, maybe I copy it.”

When trying to explain to investigators how the document got added to the ODOT project working folder, Atalah said, “I don't know how this came into this ODOT folder.” When asked about the other erotic documents that were discovered on his computer that had apparently been deleted, Atalah said, “... everybody has a personal stuff ... I don't do anything that is illegal ... I

don't consider this illegal ... For me it's just entertainment for a short period of time or entertainment for whatever.”

When questioned further about the “Conversations.doc” he was shown, Atalah replied, “I didn't recognize the specific, I recognized that is of erotic and of a sexual nature. I didn't recognize the material.” Atalah continued, saying,

Did I do this something like this before, yes? I'm not denying that I did. Did I do this specific one, I cannot affirm or deny but ... based on the things that you showed me, it has my name on it ... it's probably mine, if it quacks like a duck and walks like a duck, it must be a duck.

CONCLUSION

On September 21, 2015, the Office of the Ohio Inspector General received a complaint from the Ohio Department of Transportation Office of Investigative Services concerning a Bowling Green State University researcher. ODOT staff reported that the researcher, Alan Atalah, Ph.D., had been conducting a research project evaluating ODOT's culvert boring process. The ODOT Office of Statewide Planning and Research made the decision to terminate the contract and asked Atalah to cease all work and send all existing project files to ODOT on a USB flash drive.

On September 21, 2015, while downloading the project data files to an encrypted drive to share with consulting firms for bids to complete the work, the ODOT program administrator noticed there were documents within the file that should not be shared with other potential vendors. During the review of these documents, a file titled “Conversations.doc” was discovered. The “Conversations.doc” file was seven pages of narrative that described sex acts involving adults, children, and animals.

The Office of the Ohio Inspector General conducted interviews with ODOT staff to affirm that no items on the drive were added, deleted, or changed. Arrangements were made with BGSU to obtain a forensic image of the laptop hard drive used by Atalah.

The Office of the Ohio Inspector General conducted forensic examinations on the USB flash drive and the hard drive from Atalah's BGSU laptop computer. "Conversations.doc" was the only item of erotic literature discovered on the USB drive. Four erotic literature stories were found during the examination of the hard drive of Atalah's laptop. Additionally, evidence of deleted stories and deleted mp4 erotic videos was also discovered.

During the interview with Atalah, he admitted to the investigator that he had an interest in erotic literature and has read, copied, and saved stories on his laptop and home computer. Atalah said he was not familiar with any specific internet usage policy at BGSU and does not recall being asked to read or sign any policy. Atalah stated that nothing he did was illegal and while recognizing the "Conversations.doc" story as erotic literature, he did not recall saving the document nor could he provide any explanation as to how it was saved in the ODOT project file. When the investigator told Atalah that he believed he (Atalah) immediately recognized the document when it was shown to him, Atalah replied, "I didn't recognize the specific, I recognized that is of erotic and of a sexual nature. I didn't recognize the material." Atalah continued, saying,

Did I do this something like this before, yes? I'm not denying that I did. Did I do this specific one, I cannot affirm or deny but ... based on the things that you showed me, it has my name on it ... it's probably mine, if it quacks like a duck and walks like a duck, it must be a duck.

On March 7, 2016, the investigator from the Office of the Ohio Inspector General who interviewed Atalah received a follow-up email from him. Atalah thanked the investigator for his professionalism during the interview and described how he was sickened when he went back and read the stories. [\(Exhibit 3\)](#) The investigator did not provide Atalah any of the stories cited in this investigation.

Section 3 of the BGSU Information Technology Policy states:

3. Use of information technology to access resources other than those supporting the academic, administrative, educational, research and service missions of the University or for more than limited social purposes is prohibited.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendations and asks that the provost of Bowling Green State University respond within 60 days with a plan detailing how these recommendations will be implemented.

1. Review the actions of Alan Atalah, Ph.D., to consider whether administrative action is warranted.
2. Conduct a review of the current university internet usage policy with the goal of having a structure similar to the policy of the Ohio Department of Administrative Services for State of Ohio government agencies.

REFERRAL(S)

The Office of the Ohio Inspector General chief legal counsel has reviewed the matter with the assistant United States Attorney and the Federal Bureau of Investigation supervisor assigned to the Internet Crimes Against Children Task Force. The federal authorities have determined that the erotic literature does not meet the criteria for criminal charges. The Office of the Ohio Inspector General has asked the Wood County Prosecutor's Office to review the computer forensics report for this matter.



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Bowling Green State University

FILE ID #: 2015-CA00048

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
March 28, 2017

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.OHIO.GOV

INTERNET

WATCHDOG.OHIO.GOV