

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO DEPARTMENT OF REHABILITATION AND CORRECTION
FILE ID NO.: 2016-CA00030
DATE OF REPORT: OCTOBER 24, 2017

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

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Randall J. Meyer
Ohio Inspector General



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REPORT OF INVESTIGATION

FILE ID NUMBER: 2016-CA00030

SUBJECT NAME: Andrew J. Bernier

POSITION: Parole Officer

AGENCY: Ohio Department of Rehabilitation and Correction

BASIS FOR INVESTIGATION: Complaint

ALLEGATIONS: Abuse of Office/Position

INITIATED: August 3, 2016

DATE OF REPORT: October 24, 2017

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On August 3, 2016, the Office of the Ohio Inspector General received notice from the Ohio Department of Rehabilitation and Correction of possible wrongdoing by one of its employees. The notice alleged that Adult Parole Authority Parole Officer Andrew Bernier used his official position and credentials to facilitate the release of an offender incarcerated at the Montgomery County jail who was not under the supervision of the Adult Parole Authority.

BACKGROUND

The Ohio Department of Rehabilitation and Correction (ODRC) is charged with the supervision of felony offenders in the custody of the state, including providing housing, following their release from incarceration, and monitoring the individuals through the parole authority. The department also oversees the community control sanction system that provides judges with sentencing options to reduce the inmate population. There are currently 31 correctional institutions throughout the state. The director of ODRC is appointed by the governor and confirmed by the Ohio Senate. ODRC is funded through general revenue funds, federal funding, and revenue earned through sales from the Ohio Penal Industries.¹

The Ohio Adult Parole Authority (APA) is responsible for the release and supervision of adult felony inmates returning to local communities from prison, as well as assisting Courts of Common Pleas with supervision duties for felony offenders. The APA is comprised of the Parole Board and Field Services. The APA was created in 1965 and is responsible for the duties addressed in Chapter 5149 of the Ohio Revised Code. The APA has staff located in six regions of Ohio, with numerous district and satellite offices throughout the state. The APA supervises more than 27,000 offenders.²

Applicable Policy

ODRC Standards of Employee Conduct provide written guidelines and provide notification to all employees regarding the written rules of conduct, and specify prohibited behavior and penalties. All persons employed by the Ohio Department of Rehabilitation and Correction are expected to

¹ Source: Biennial budget documents.

² Ohio Department of Rehabilitation and Correction Adult Parole Authority website.

conduct themselves in a professional, law-abiding manner. All employees are required to follow the Standards of Employee Conduct, and failure to comply shall result in discipline, up to and including removal.

The ODRC Standards of Employee Conduct regarding government property states, in part: “Employees shall only use government property, including but not limited to automobiles, supplies, equipment, computers, email accounts, internet/intranet access, telephones, and facilities, for official purposes.”

The ODRC Standards of Employee Conduct regarding illegal activities states, in part:

Illegal conduct on the part of any employee, whether on or off duty, in addition to being unlawful, reflects upon the integrity of the Department and betrays the trust and confidence placed in it by the public. It is a reasonable expectation that employees will not only obey the letter of the law but the spirit of the law, whether engaged in personal or official activities.

INVESTIGATIVE SUMMARY

The Ohio Department of Rehabilitation and Correction (ODRC) alleged that Adult Parole Authority (APA) Parole Officer Andrew Bernier may have used his official position and credentials to facilitate the release of an offender incarcerated at the Montgomery County jail who was not under the supervision of the Adult Parole Authority. On August 3, 2016, the Office of the Ohio Inspector General reviewed the incident reports completed by Parole Services supervisors Lori Bonner and Tracy Williams of the APA Dayton office, documenting their contacts with Bernier. Bernier began his career as a parole officer on November 15, 1996. At the time of this investigation, Bernier was on disability leave, which began on June 24, 2016, and he was expected to return to work on August 26, 2016. The Ohio State Highway Patrol jointly investigated this incident.

On August 15, 2016, investigators conducted interviews with Parole Services supervisors Lori Bonner and Tracy Williams. Bonner stated that on August 2, 2016, she received a telephone call

from Sergeant Scott Chapman of the Montgomery County Sheriff's Office (MCSO) Jail Records Department. Chapman told Bonner that they were having issues with Bernier, who was making numerous telephone calls ("blowing up their phones") to the jail and was attempting to pick up an inmate at the jail. Chapman noted to Bonner that on July 29, 2016, Bernier had visited inmate Kathleen Driscoll as a professional visitor³ and gave her contraband items. Because of this incident, MCSO Major Scott Landis advised jail personnel on August 1, 2016, that Bernier was not permitted to enter the jail or to have any contact with inmates as a professional visitor. Bonner said Chapman told her that earlier that morning, August 2, 2016, Bernier drove his personal vehicle into the sally port⁴ at the Montgomery County jail, secured his weapon in the gun locker, and attempted to enter the jail where officers pick up inmates to transport them to other locations. Jail personnel denied Bernier access into the jail. Bernier then went to the jail's public entrance lobby where he was again denied access into the jail. Bonner stated that Chapman had informed her that Bernier had signed and faxed an APA Order of Release to the jail on August 1, 2016, instructing personnel to release Kathleen Driscoll to APA on August 2, 2016, at 7:30 a.m. Bonner said that during her phone conversation with Chapman, he asked that APA do something to stop Bernier's excessive phone calls to the jail, and told her that MCSO jail personnel would contact the Dayton Municipal court to determine the status of Driscoll's release. Bonner told investigators that Bernier had previously supervised Driscoll, but that Driscoll received a final release from post release control on March 28, 2014.

During her interview with investigators conducted on August 15, 2016, Parole Services Supervisor Tracy Williams stated that on August 2, 2016, while on her way to work, she had received a cell phone call from Bernier. Williams said that Bernier told her, "... he had had an offender by the name of Katie Driscoll some years ago that was off paper ..." and that Driscoll was in trouble and he "found her in jail." Williams stated that she asked Bernier, "What do you mean you 'found her in jail?'" and Bernier replied,

³ A professional visit is a visit concerning a professional matter involving the inmate and an attorney, a representative of a legal advocacy organization, department of correction staff from outside the facility, staff from another law enforcement agency and staff from a recognized community treatment program visiting in his or her professional capacity. Professional visitors are subject to all standard procedures of this policy, but have access to inmates all hours of the day.

⁴ Sally port – A secure entryway into a prison or other building.

I went on Justice Web^{5]} and checked and uh found her in jail. So I started working, trying to see what I could do about trying to find her a bed and um I got her into Woodhaven, a drug treatment facility here in Dayton. Um I contacted the court and told the judge that, you know, I could get her in to this program ... and the judge gave her to me and said that, you know, I could get her into this program.

Williams said Bernier continued, "So I go to the jail this morning to get her out and um and they tell me that um Major Landis won't let her go --- come --- be released to me until he talks to you." Williams stated that she had asked Bernier why Landis would want to talk to her.

Williams said Bernier told her that he had visited Driscoll in the jail on July 29th and that during his visit with her, he gave Driscoll a poem and some photographs.

Williams told investigators that she immediately called Landis regarding Bernier and stated, "Well, he's not even supposed to be working. He's off on disability. He's certainly not acting in the role of a Parole Officer at this point in time because he is off on disability. He has no cases assigned to him at this point in time. When they go off on disability anything more than two weeks, all cases have to be reassigned. Even if Katie Driscoll had been on supervision, he wouldn't have --- she wouldn't have been his."

During this conversation, Williams said Landis discussed the events of Bernier's July 29th visit with Driscoll at the MCSO jail. Williams said that Landis told her, "And then so Drew shows up here this morning at 7:30. Pulls in the sally port and um, and is, is there to get her." Williams said she asked Landis, "Well, what do you mean he pulls in the sally port? How, how were you releasing her to him?" Williams said Landis replied, "Well, he sent us a release order." Williams said she told Landis that an APA Order of Release should not have been sent to the MCSO because Driscoll was not under APA supervision. Williams said Landis expressed his frustration with Bernier because he passed contraband (poem and photographs) to Driscoll during the jail visit, attempted to enter the jail after being banned, and made excessive telephone calls to the jail about Driscoll's release. Williams stated that Landis then informed her of a previous incident involving Bernier in which he was hugging offenders and slamming a door.

⁵ A Montgomery County public records website.

Williams noted to investigators that she was aware that visitors are prohibited from exchanging items during a common visit, which prompted her to ask Landis how Bernier was allowed to visit Driscoll. Landis said, “Yeah, he came in as a professional visit.”

Investigators obtained a copy of the MCSO jail visitation policy, which states that inmates are permitted one visitation period per week with up to three visitors at one time. There are two separate sign-in logs; a visitor log and a professional visitor log. Investigators also obtained a copy of the MCSO jail professional visitor log for July 29, 2016, which revealed that Bernier signed in as an APA employee to visit Kathleen Driscoll. Investigators also obtained a copy of the inmate account record for Driscoll, which revealed that on July 29, 2016, Bernier deposited \$23 in her account.⁶

Williams told investigators that she called Bernier and told him that the jail personnel were upset with him and he should not attempt to go back inside the jail. Williams said she asked Bernier, “Why would you have made a professional visit? You’re not her Parole Officer.” Williams said Bernier responded, “Well, I did that because if I came in as a common visit... --- whatever the term is --- um her family wouldn’t have been able to visit.” Williams told investigators that on August 2, 2016, she received a call from Chapman complaining that Bernier was still calling the jail numerous times inquiring about Driscoll’s release. While Chapman was speaking to Williams, he said, “Here he is calling again.” Williams assured Chapman she would take care of the matter and then called Bernier. Williams told Bernier, “Stop calling.” Bernier responded, “Well, Tracy, you just told me not to go back into the jail.” Williams said Bernier told her that he waited outside the jail until he got frustrated and admitted to going back into the jail, only to discover that Driscoll had been released.

⁶ ODRC Standards of Employee Conduct state that employees shall not, “... show partiality toward or become physically, emotionally, or financially involved or establish a pattern of social fraternization with inmates, releasees, or offenders under supervision of the APA or any other individual currently under supervision of the Department, or with any individual within 6 months following their release from custody or from supervision of the Department or families of same.”

Williams said she relayed the details of these events to her supervisors and the decision was made that APA officials would go to Bernier's residence to collect all of his state-issued equipment, including his firearm. Williams added that the next day, Landis forwarded her a copy of an email Bernier had sent to him. Investigators obtained this email, in which Bernier admitted that while on disability leave he used his APA credentials for a professional visit with Driscoll, gave her contraband items during the visit, and faxed the APA Order of Release to MCSO in order to have Driscoll released to him.

Investigators obtained and reviewed a copy of the Montgomery County jail video of Bernier's presence at the jail. There was no footage of Bernier securing his weapon to support the initial statement made by Chapman.

On August 11, 2016, investigators conducted interviews with Susan Davis, admission supervisor at the Woodhaven Drug and Alcohol Treatment Center (Woodhaven), and Kimberly Scroggins, deputy bailiff for Dayton Municipal Court Judge Deirdre Logan.

Davis told investigators that on July 31, 2016, Bernier contacted her to verify that Woodhaven would accept Driscoll as a patient. Davis said she knew Bernier from previous contacts and that when he called, he identified himself as, "Hey, it's Parole Officer Drew." Davis said that during the call, Bernier told her that he was not Driscoll's parole officer. Davis told Bernier that Woodhaven would accept Driscoll "... but she needs to be here at 8 a.m. on the 2nd."

Scroggins told investigators that on August 1, 2016, she was contacted by Bernier prior to Driscoll's court appearance. Bernier explained that he wanted to get Driscoll released to him so he could get her admitted into Woodhaven for drug treatment. Scroggins told Bernier to speak to Driscoll's attorney. Scroggins said that Driscoll's attorney came into court and relayed to the judge that Driscoll had been accepted at Woodhaven, and requested that Driscoll be released to Bernier for transport to Woodhaven. The judge agreed and the court disposition paperwork was completed with special instruction that Driscoll was "... to be released 8-2-16 at 8:00 am to

parole officer.” Scroggins confirmed to investigators that Bernier told her that he was not currently Driscoll’s parole officer, but had been her parole officer at one time.

Scroggins said Bernier had called her on August 2, 2016, stating that the jail would not release Driscoll to him because he improperly used his credentials to visit Driscoll in jail, and “... used some paperwork from work or something to try to get her out of jail.” Scroggins said the jail called the court to report that Bernier’s supervisor had told them that Bernier “should not be doing what he was doing.” At that point, the judge ordered that Driscoll could be released on her own.

On April 7, 2017, investigators interviewed APA Parole Officer Andrew Bernier at his attorney’s office. During the interview, Bernier explained that he supervised Driscoll while she was on parole, from the fall of 2012 to her final release from parole on March 28, 2014. Bernier noted to investigators that he continued contact with Driscoll after her parole had ended, but denied any personal relationship with her. Bernier said that in July 2016, he became aware that Driscoll was incarcerated at the MCSO. During this time period, Bernier was on disability leave from APA. Bernier said he believed Driscoll might be receptive to entering a drug treatment program, so he went to the jail to convince her to enter the program. Bernier admitted to investigators that on July 29, 2016, he had used his APA credentials and signed the entry log as a parole officer to enter the jail to visit Driscoll. Bernier explained that he could have waited in line and visited Driscoll as a civilian, but he knew that the visit would be counted as her one weekly visit. Bernier acknowledged that during this visit at the jail he gave Driscoll four pieces of paper that were later determined to be contraband items. Bernier admitted that he faxed, “... our standard APA release order that we use as a coordination form very much, too, where you write on it the date and time... of a, of, of needing the person available to be picked up.”

Bernier told investigators that on August 2, 2016, he parked his personal vehicle in the MCSO jail sally port and identified himself at the holding area. Bernier said after waiting approximately 15 minutes, he was given a note to call “Inspector Landis,” which he did using his state cell phone. Bernier stated Landis asked him what he was doing there and Bernier responded that he

was on disability leave and "... was there via Judge Logan, Judge Logan's court or bailiff and that I was simply transporting Katie to Woodhaven." Bernier said Landis told him that he wanted to talk to Bernier's supervisor, so Bernier had Williams call Landis. Bernier noted Driscoll was released from jail without his knowledge and he did not take her to the treatment facility. Bernier said that when he had contacted Davis, Scroggins, and Driscoll's public defender, "I may have identified myself as a P.O., but made sure to tell them that I do not supervise Katie in any fashion."

CONCLUSION

APA Parole Officer Andrew Bernier was on disability leave from June 24, 2016, with an expected return to work date on August 26, 2016. On July 29, 2016, Bernier discovered that Kathleen Driscoll had been arrested and was in the Montgomery County jail. Bernier had previously supervised Driscoll under the post release control requirements, but that supervision ended on March 28, 2014.

On July 29, 2016, Bernier, while on disability leave and in his capacity as a parole officer, used his APA credentials to sign the MCSO professional visitor log to enter the Montgomery County jail to visit Driscoll. After this visit, MCSO discovered Bernier had given Driscoll items considered contraband. As a result, MCSO Major Scott Landis instructed jail personnel to prohibit Bernier from entering the jail.

Bernier contacted Admission Supervisor Susan Davis at the Woodhaven Drug and Alcohol Treatment Center and arranged for Driscoll to be accepted for in-house treatment. Davis told Bernier to have Driscoll transported to Woodhaven by 8:00 a.m. on August 2, 2016.

On August 1, 2016, Bernier contacted Municipal Court Bailiff Kimberly Scroggins, informing her that he could get Driscoll into treatment, but she had to be released to him. Scroggins instructed Bernier to contact the attorney⁷ assigned to Driscoll. Driscoll's attorney then presented the information provided by Bernier to the judge during Driscoll's arraignment

⁷ Public defender.

hearing. The judge agreed with the plan to have Driscoll admitted to Woodhaven and completed the court disposition paperwork releasing Driscoll, stating that Driscoll was, "... to be released 8-2-16 at 8:00 am to parole officer." Though Driscoll was not under APA supervision, Bernier faxed an APA Order of Release to the Montgomery County jail for Driscoll, with the instructions to "Release to APA only Tue 8/2/16 @ 7:30 am."

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

Andrew Bernier retired from the Ohio Department of Rehabilitation and Correction on September 9, 2017.

RECOMMENDATION(S)

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

- 1) Review the actions of Andrew Bernier to determine if he violated the terms of his disability leave benefits. If so, consider available remedies that may be deemed appropriate.

REFERRALS

The Office of the Ohio Inspector General has referred this report of investigation to the Montgomery County Prosecutor's Office for consideration.



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Department of Rehabilitation and Correction

FILE ID #: 2016-CA00030

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
October 24, 2017

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