

STATE OF OHIO  
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF  
INVESTIGATION



AGENCY: INDUSTRIAL COMMISSION OF OHIO  
FILE ID NO.: 2015-CA00057  
DATE OF REPORT: SEPTEMBER 8, 2016

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*“Safeguarding integrity in state government”*

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Randall J. Meyer  
Ohio Inspector General



STATE OF OHIO

# OFFICE OF THE INSPECTOR GENERAL

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RANDALL J. MEYER, INSPECTOR GENERAL

## REPORT OF INVESTIGATION

**FILE ID NUMBER:** 2015-CA00057

**SUBJECT NAME:** John Matthews

**POSITION:** Director of Claims Support

**AGENCY:** Industrial Commission of Ohio

**BASIS FOR INVESTIGATION:** Complaint

**ALLEGATIONS:** Political Activity on State Time or Property; and Abuse or Misuse of Time

**INITIATED:** December 10, 2015

**DATE OF REPORT:** September 8, 2016

## **INITIAL ALLEGATION AND COMPLAINT SUMMARY**

On December 1, 2015, the Office of the Ohio Inspector General received an anonymous complaint alleging that Industrial Commission of Ohio (ICO) Director of Claims Support John Matthews "... spends his workday sleeping and fundraising for the Kasich campaign." On December 11, 2015, the Office of the Ohio Inspector General forwarded this allegation to the ICO for an administrative review.

On January 19, 2016, the ICO provided the Office of the Ohio Inspector General with the preliminary results of its administrative review. ICO management examined internet search records, assigned desk phone call logs, and ICO emails received and sent by Matthews. The administrative review found no evidence to support that Matthews had used the ICO's internet connection, his ICO-assigned desk phone, or his ICO email to engage in political activities. On January 6, 2016, ICO management interviewed ICO employees who were either supervised by Matthews or worked near his office. These interviews revealed that Matthews had accepted personal phone calls and texted frequently during meetings, and often used his cell phone during the day. Several of the employees stated they assumed a portion of these calls might be related to Matthews' involvement with the Marion County Republican Party.

On January 25, 2016, the Office of the Ohio Inspector General opened an investigation.

## **BACKGROUND**

The Industrial Commission of Ohio evaluates injured worker and employer appeals of workers' compensation claim determinations by the Ohio Bureau of Workers' Compensation (OBWC). Disputed claims typically involve conflicts over the extent of medical services provided or lost-time (otherwise known as indemnity) benefits. The commission is led by a panel of three commissioners, all of whom are appointed by the governor. Each commissioner must have at least six years of experience in workers' compensation, and at least one member must be licensed to practice law in Ohio. One member must represent employees, one must represent employers, and one must represent the public.

The ICO is responsible for providing a forum for fair and impartial claims resolution, conducting hearings on disputed claims, adjudicating claims involving an employer's violation of specific safety requirements, and determining eligibility for permanent total disability benefits. Hearings are conducted at three levels within the ICO: the district level, the staff level, and the commission level.

The Ohio General Assembly enacted Ohio Revised Code §121.52, effective September 10, 2007, which created the deputy inspector general for the Ohio Bureau of Workers' Compensation and the Industrial Commission of Ohio (ICO). This statute designated this deputy inspector general "... shall investigate wrongful acts or omissions that have been 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 Ohio Revised Code §121.42, §121.43, and §121.45 for matters involving OBWC and the ICO.

As the ICO Director of Claims Support, John Matthews is responsible for directing, coordinating, and overseeing claims training activities for ICO employees to ensure compliance with ICO and OBWC laws, rules, policies, and procedures; reviewing, evaluating, and analyzing claims processing performance using reports and on-site observations; making recommendations to improve production; and maintaining a familiarization with ICO claims processing. In addition, Matthews is responsible for compiling reports on the training programs delivered; meeting with parties to coordinate improvements in ICO systems; monitoring departmental budgets; calling staff meetings; and supervising his staff.<sup>1</sup>

### *Relevant Statutes and Policies*

On August 13, 2014, the Industrial Commission of Ohio posted a statewide announcement on the agency's intranet entitled "It's An Election Year! Remember to Follow our Political Activities Policy." This announcement stated "... (t)he statewide policy, issued on February 16, 2010,<sup>2</sup> is **still in effect.**" The announcement ([Exhibit 1](#)) further stated that "... this policy provides guidance for state employees who want to participate in political activities, make campaign

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<sup>1</sup> From Matthews position description approved on March 19, 2013.

<sup>2</sup> The February 16, 2010, *Political Activity Policy* memorandum was issued by Office of the Ohio Governor.

contributions or run for elected office.” The announcement noted that employees who have additional questions should either contact the ICO legal counsel or reference the attached copy of the *Political Activities Policy*. ([Exhibit 1](#))

ICO Policy HR059 *Telephone Policy*, Section IV(C) ([Exhibit 2](#)) states that the ICO recognizes that it may be necessary for an ICO employee to use their personal telephone while at work. However, the policy states “... the usage shall be kept to a minimum and if possible, this activity should occur during the employee’s lunch hour or approved breaks.”

### **INVESTIGATIVE SUMMARY**

On January 19, 2016, the ICO provided the Office of the Ohio Inspector General with the results of its administrative review and copies of two letters that Matthews had sent to ICO Chief Legal Counsel Rachel Black. In the first letter, dated December 1, 2015, Matthews notified the ICO of his intention to run for re-election for the Ohio 26<sup>th</sup> District Republican State Central Committee. Matthews’ second letter, dated December 16, 2015, requested the ICO accept the letter as serving notice “... to comply with the Political Activity memo, dated February 16, 2010.” The letter further stated that Matthews would appear on the March 15, 2016, primary ballot as a “... Presidential Delegate for John R. Kasich.”

On February 2, 2016, then-ICO Director of Human Resources Peter Renner<sup>3</sup> provided investigators with a copy of the *Political Activities Policy* referenced by the ICO in the August 13, 2014, announcement ([Exhibit 1](#)). Section 3 of this policy permits unclassified<sup>4</sup> employees, such as Matthews, to “... engage in partisan and election-related activities, unless otherwise specifically precluded by federal or state law.” In addition, Section 4 of this policy states that state employees participating in election-related activities “... may not, in general, engage in those activities while on state time, on state property, or using state equipment.” Section 4 further states that those employees should conduct such activities on the weekends or outside

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<sup>3</sup> Renner transferred to another state agency effective April 11, 2016.

<sup>4</sup> Matthews holds status as an unclassified employee as defined under Section 124.11 of the Ohio Revised Code. Classified civil servants may only be removed from employment with cause and are afforded specific due process rights. Unclassified employees may be removed from employment at any time by the appointing authority without cause or reason.

normal work hours and that in general, the state employee should only use "... a personal phone, computer or other communication device."

The Office of the Ohio Inspector General issued a subpoena to obtain a record of personal cell phone activity for Matthews. For the period October 1, 2015, through January 22, 2016,<sup>5</sup> investigators compared the subpoenaed cell phone activity to Matthews' ICO timesheets and his employee badge swipe information provided by OBWC. Further examination of Matthews' timesheets indicated that Matthews was not required to document the time he left for and returned from lunch. Instead, Matthews' ICO timesheets only documented the number of minutes used for lunch. ICO HR057 *Hours of Work Policy* Section IV (D) ([Exhibit 3](#)) states that, "... full-time employees shall take an unpaid lunch period of not less than thirty (30) minutes or more than sixty (60) minutes taken mid-day between 11:00 am and 2:00 pm." In this analysis, investigators noted that Matthews took a lunch ranging from 30 to 90 minutes in duration on 66 of the 77 work days reviewed.

The analysis of these records showed that Matthews used his personal cell phone between his work day start and end times to ([Exhibit 4](#)):

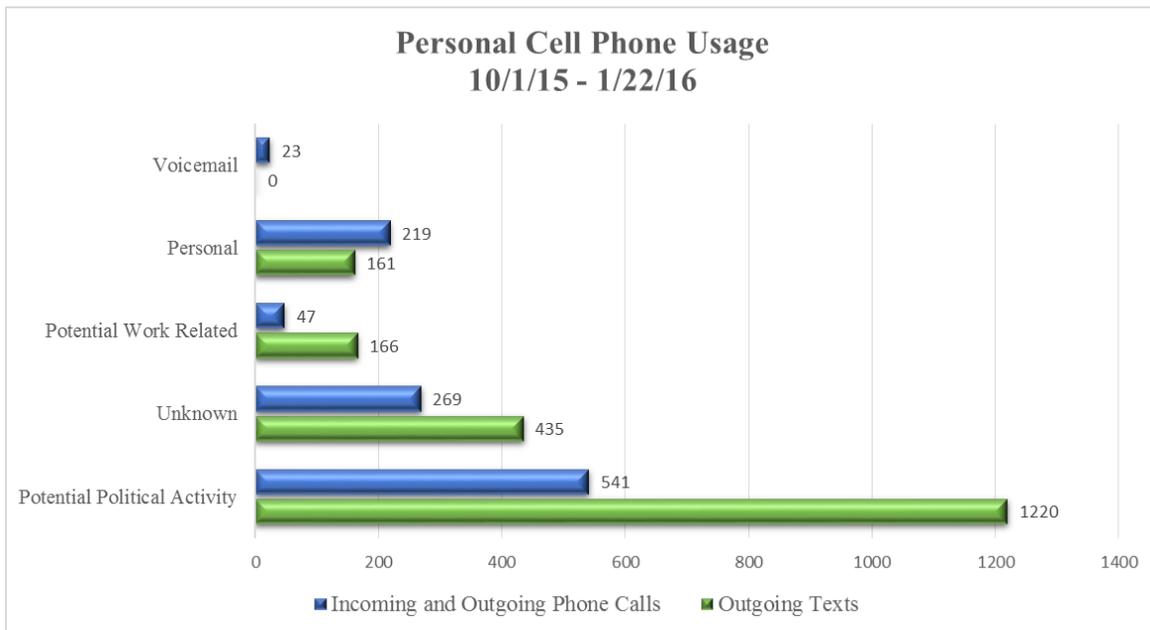
- Make 625 phone calls, with a total duration of the calls of 41 hours and 40 minutes;
- Answer 450 phone calls, with a total duration of the calls of 40 hours and 45 minutes; and
- Send 1,982 text messages.

Investigators analyzed the times when Matthews made or answered telephone calls and sent text messages using his personal cell phone to determine what part of the work day this activity occurred. This analysis determined that Matthews sent text messages and received or made telephone calls throughout the workday, not just during his breaks or lunch period. For example, between 9:00 and 9:59 a.m., Matthews sent 289 text messages and made or received 117 phone calls during the 77 days under review.

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<sup>5</sup> Records provided contained the date, time, and duration of phone calls for the period October 1, 2015, through January 13, 2016, and the date and time of text messages for the period October 1, 2013, through January 22, 2016. The records did not contain the content of the text messages sent or received by Matthews.

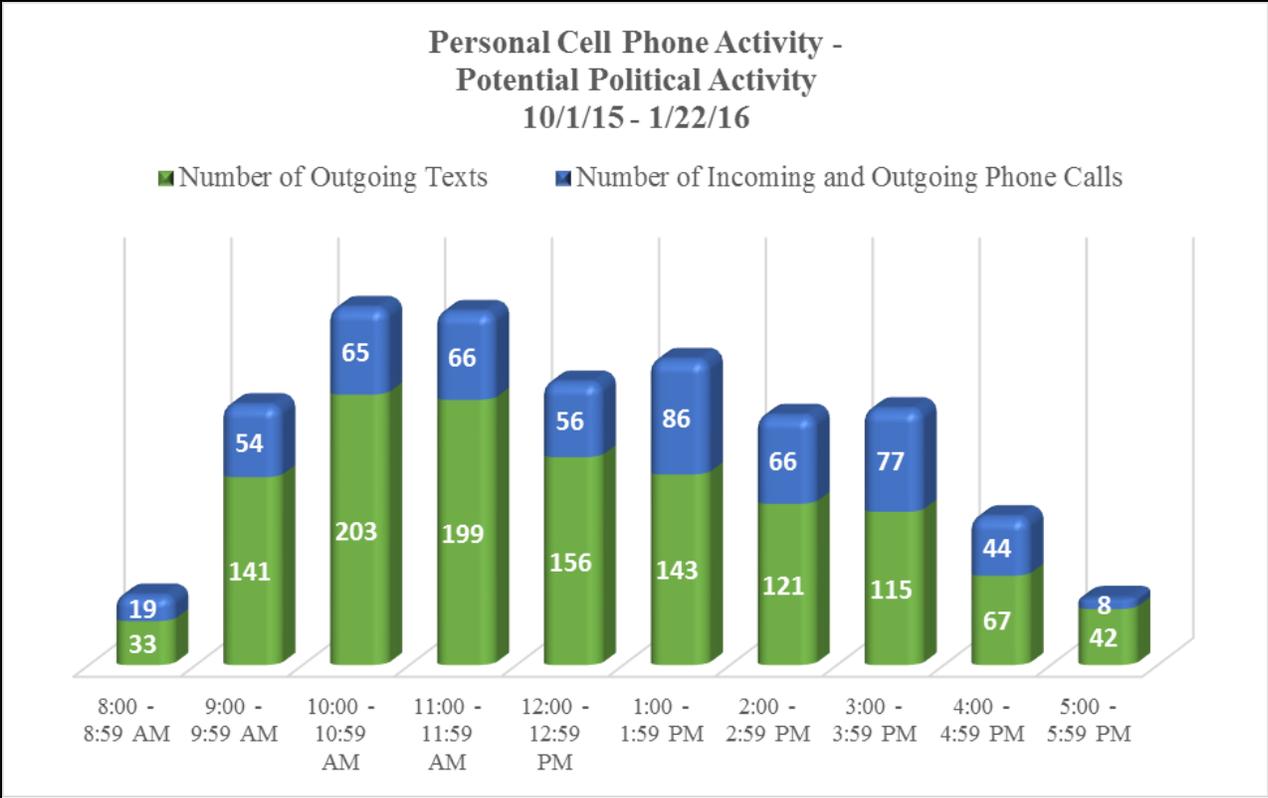
Using the internet and other available sources, investigators identified the owners of the phone numbers that Matthews contacted using his personal cell phone. Based on this research, investigators classified the incoming and outgoing phone calls and outgoing text messages into the following categories:



For the category “Potential Political Activity,” in the chart above, the phone numbers identified were associated with:

- Past or present candidates for elected office affiliated with the Republican Party;
- Officers, representatives, or office locations for the Marion County Republican Party, the Ohio Republican Party, or Republican National Committee; or,
- Organizations involved with political campaigns, or other politically related activities.

The *Political Activities Policy* Section 4.3.3 ([Exhibit 1](#)) clarified that state employees should “... interpret the terms ‘property’ and ‘equipment’ broadly to include state offices, conference rooms, computers, printers, office supplies, email systems, telephones, copiers, fax machines, vehicles, or any similar place or item.” Investigators examined the potential political activity phone call and text data to identify the part of the work day that this activity occurred. The results of this analysis are summarized in the following table:



A social media search revealed that Matthews posted or shared a post for 23 of the 69 individuals or businesses whose phone calls and text messages were classified as potential political activity. In addition, investigators noted that Matthews had posted on his Facebook timeline a campaign flyer indicating that he had been endorsed by six local elected officials, one state senator, two U.S. congressmen, and the Ohio Republican Party. Further review of Matthews’ cell phone activity identified a total of 48 phone calls and 215 text messages with four of the local elected officials and the state senator named on the campaign flyer. These text messages and phone calls occurred between the start and end times of Matthews’ work day, including while at lunch.

[\(Exhibit 5\)](#)

The analysis also revealed that Matthews had called All Occasions Catering and Banquet located in Waldo, Ohio on Monday, October 19, 2015, at 10:26 a.m. A review of the Marion County Republican Party’s website revealed an October 6, 2015, news release with an attached flyer announcing that the 2015 Marion County Republican Century Club was holding a fundraiser for the local Republican Party on October 21, 2015, at the All Occasions Banquet facility in Waldo,

Ohio. The news release stated that local candidates would be in attendance. The flyer attached to the news release included a brief statement from Matthews about the upcoming event.

(Exhibit 6)

On March 7, 2016, investigators interviewed Matthews' supervisor, Director of Hearing Services Tom Connor, who stated that the department supervised by Matthews was responsible for identifying best practices in claims processing, providing training on policies and best practices, and managing the indexing of documents statewide. While Matthews' job responsibilities may have included gathering information to respond to a claim or policy inquiry, Connor stated that the ICO typically responds to inquiries either through customer service or the legislative area.

Connor stated that in the last year there would not be a "reasonable reason" for Matthews to have interactions with groups outside of the ICO, with the exception of OBWC. Additionally, Connor could not cite an ICO business reason for Matthews to use his personal cell phone to call or text local government officials and party candidates; other state agencies; local, state, or national political party representatives; the ICO Rules Advisory Group; or the Ohio Industrial Commission Nominating Council.

When Matthews was hired, Connor recalled a discussion with Matthews about making sure he kept his ICO business and his involvement with politics separate. Connor further explained to investigators that Matthews knew he could not engage in political activities while on state time and that "... there's no question in my mind he'd --- he came in knowing what the rules were." Connor further stated, "... this isn't his first place where's he worked. He knows that that's the rules."

On March 30, 2016, the Office of the Ohio Inspector General interviewed ICO Director of Claims Support John Matthews. As part of his job duties, Matthews explained he interacts with his staff daily; his supervisor, Tom Connor, on a regular basis; and other ICO employees on an as-needed basis. With the exception of OBWC, Matthews stated that he did not have recent interaction with other state agency personnel except for his friends employed by other agencies

and did not have contact with the ICO Rules Advisory Board; the Ohio Industrial Commission Nominating Council; constituent complainants; employers; state representatives or senators.

Matthews told investigators that he recalled seeing the August 14, 2014, announcement that discussed the OIC political activity policy. Matthews explained that the policy described what one can and cannot do as an exempt<sup>6</sup> or non-exempt employee. Matthews acknowledged that as an exempt employee, he could not perform partisan activities while being paid for his regular<sup>7</sup> ICO work hours and that he could not use state property such as phones, computers, or his office to perform partisan activities. Matthews further acknowledged that he was prohibited from soliciting classified employees for campaign contributions

Matthews also recalled that the ICO has a policy stating employees are not supposed to use state telephones for personal use. Matthews explained the policy addresses the use of personal cell phones and he recalled the usage should not be excessive. Because of recent family illnesses and deaths of close friends, Matthews stated there was an increased number of personal phone calls on his cell phone during the day. However, Matthews stated that these calls did not take him away from completing his job duties. Matthews acknowledged that on occasion, he left a meeting to take a personal call, but stated it did not happen frequently. When asked about the volume of text messages during the day, Matthews stated he has a Twitter® account and received text alerts when there was a new tweet.<sup>8</sup>

Investigators told Matthews it had been alleged that he spent time during his workday fundraising for the Kasich campaign. Matthews denied this and said he “almost never” used his personal cell phone to make or answer calls to individuals involved with Kasich’s campaign. Matthews explained that if anyone from the Kasich campaign called, he told them that he was unable to talk and requested they call back after his work hours. Matthews further stated he did

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<sup>6</sup> An exempt employee is appointed to a position of employment which is not subject to civil service examination or civil service tenure.

<sup>7</sup> Regular hours do not include approved leave used by the employee, including but not limited to vacation, sick, personal, or compensatory leave used.

<sup>8</sup> Investigators excluded incoming text messages from the analysis of Matthews cell phone activity including the Twitter® text message notifications.

not recall responding to text messages from individuals involved with the Kasich campaign. Matthews stated that these activities would not be acceptable during the work day. During the interview, investigators noted the names of several Republican candidates running for office in Marion County in the 2015 general election and the 2016 primary election. Investigators asked Matthews whether he had exchanged phone calls or text messages with these individuals during his workday. Matthews responded that "... I'm not sure, to be honest with you." Matthews acknowledged to investigators that making such calls or sending text messages would not be acceptable per the ICO *Political Activities Policy*.

Matthews explained that he would leave the building if someone needed to talk and then make sure there was a gap on his timesheet for that time. Investigators questioned Matthews about whether the breaks he referenced would be documented as a gap in the workday on his timesheet. Matthews replied that as an ICO employee, he was allocated a 15-minute break in the morning. Further review of Matthews' timesheets noted that the timesheets did not show any 15-minute breaks. Later in the interview, Matthews stated that he tried to limit his personal cell phone usage to times during breaks and lunch.

Matthews explained that his lunch period typically began around 11:45 a.m. if he had lunch with his staff. If he was meeting other people for lunch, Matthews stated he generally took his lunch break from 12:00 p.m. to 1:00 p.m., but it could be as early as 11:30 a.m. Investigators then showed Matthews a chart detailing the number of calls he either made or received for each hour of his workday over the 77-day period under review. Investigators told Matthews that the chart reflected approximately 80 hours on the telephone and approximately 2,000 text messages sent between his ICO start and end work hours as recorded on his submitted timesheets. Matthews expressed surprise over the amount of activity on his personal cell phone. Matthews declined to respond as to whether this activity throughout the entire work day was permissible per the ICO's *Telephone Use Policy*.

Investigators informed Matthews that the analysis of his personal cell phone records for the period October 1, 2015, through January 22, 2016, showed that he received or made 541 phone calls and sent 1,220 text messages to individuals that were:

- Past or present candidates for elected office affiliated with the Republican Party;
- Officers, representatives, or office locations for the Marion County Republican Party, the Ohio Republican Party, or Republican National Committee; or,
- Organizations involved with political campaigns, or other politically related activities.

Matthews was asked how his actions were permissible under the ICO *Political Activity Policy*, given this activity occurred while he was in the William Green Building, a state-owned facility, and was being compensated by the ICO. Matthews declined to respond to this question.

During his interview, Matthews confirmed to investigators that he had notified the ICO that he was running for re-election to the Ohio 26<sup>th</sup> District Republican State Central Committee position. Investigators noted that Matthews' cell phone activity identified 48 phone calls and 215 text messages occurring during Matthews documented work day to or from five of the individuals who had endorsed him for this position. Matthews stated that any text messages or phone calls identified with the individuals endorsing him for election to the Ohio 26<sup>th</sup> District Republican State Central Committee made during his work day did not involve Matthews asking the individuals for their endorsement.

Investigators determined that Matthews made and received 541 phone calls during the period October 1, 2015, through January 22, 2016, from individuals or companies associated with partisan politics between the start and end of Matthews' workday, including lunch. During his March 30, 2016, interview, Matthews told investigators that he took 30-minute lunch breaks from approximately 11:45 a.m. to 12:15 p.m. with his staff, and that one or more times a week he would have lunch with other people from either 11:30 a.m. to 12:30 p.m., or 12:00 p.m. to 1:00 p.m.

Further analysis of the information provided by Matthews regarding his lunch and the 541 personal cell phone calls identified that 460 calls, for 37 hours and 50 minutes, were outside of his identified lunch period. Additionally, 38 calls totaling 3 hours and 36 minutes were made or received by Matthews using his personal cell phone. The times these calls occurred were either

not during the lunch period identified by Matthews during the interview conducted on March 30, 2016, or were not supported by Matthews' employee entry badge swipe access time records.

## **CONCLUSION**

On January 25, 2016, the Office of the Ohio Inspector General opened an investigation into the actions of Industrial Commission of Ohio Director of Claims Support John Matthews after receiving an anonymous complaint alleging Matthews "... spends his workday sleeping and fundraising for the Kasich campaign." On February 2, 2016, the ICO provided a copy of an August 13, 2014, intranet announcement stating that the February 16, 2010, statewide *Political Activities Policy* ([Exhibit 1](#)) was still in effect. This policy provided guidance to state employees who wish to participate in election-related activities. Section 4.3.3 of this policy provided clarification that a state employee should "... interpret the terms 'property' and 'equipment' broadly to include state offices...."

Investigators determined Matthews made or received 541 phone calls and sent 1,220 text messages to several Republican candidates in Marion County or the Ohio 26<sup>th</sup> District Republican State Central Committee running for office in the 2015 general election and 2016 primary election; were Officers, representatives, or office locations for the Marion County Republican Party, the Ohio Republican Party, or the Republican National Committee; or companies involved with political strategy, campaigns, and voter information.

On March 30, 2016, the Office of the Ohio Inspector General interviewed John Matthews. Matthews acknowledged that he does participate in partisan politics, that he cannot participate in these activities while being paid his regular work hours by the ICO, and that he could not use state property such as phones, computers, or his office for such activities.

Matthews denied he had spent time during his workday fundraising for the Kasich campaign. During the time at work for the ICO, Matthews stated that he "almost never" used his personal cell phone to make or answer calls to individuals involved with the Kasich campaign. Had anyone from the Kasich campaign called him during work hours, Matthews stated he requested they call him back after his ICO work hours. Again, during working hours at the ICO, Matthews

could not recall instances of responding to text messages from individuals involved with the Kasich campaign.

Matthews then stated that he was unsure whether he had used his personal cell phone to make or answer phone calls during ICO work hours from candidates running for an elected city position in the 2015 fall election or county officials running in the 2016 March primary. Matthews told investigators that making such calls or sending text messages would not be acceptable under the statewide *Political Activities Policy*.

During the interview, Matthews explained to investigators that he tried to make these types of phone calls during his breaks and lunches. Matthews noted that if someone needed to talk to him, he would reflect the times spent engaged in these conversations on his timesheets.

Investigators then showed Matthews their analysis indicating that all of his personal cell phone call and text message activity had occurred throughout his reported workday, and not just during his breaks and lunches. Specifically, investigators showed Matthews a chart specifying the 541 phone calls and 1,220 text messages he had sent to individuals or vendors involved in partisan politics that had occurred during his reported work times. Matthews declined to answer whether these activities were acceptable under the statewide *Political Activities Policy* and the ICO *Telephone Policy*.

Investigators determined that Matthews was compensated by the ICO for days and times he claimed to be at work for the state of Ohio while he was using his personal cell phone to talk with individuals or companies associated with partisan politics during the workday.

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

#### **RECOMMENDATION(S)**

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

1. Review the conduct of the employee named in this report of investigation, and consider whether administrative action is warranted.
2. Consider revising the ICO HR057 *Hours of Work* policy to require ICO employees to document the start and end times of their lunch period.
3. Consider incorporating the *Political Activity Policy* issued by the Office of the Ohio Governor as an ICO policy; and at a minimum, the commission should require employees to annually complete acknowledgements stating that they have read and understand the policy.

**REFERRAL(S)**

This report of investigation will be provided to the Columbus City Attorney and the Franklin County Prosecuting Attorney for consideration.



STATE OF OHIO  
**OFFICE OF THE INSPECTOR GENERAL**

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RANDALL J. MEYER, INSPECTOR GENERAL

**NAME OF REPORT: Industrial Commission of Ohio**

**FILE ID #: 2015-CA00057**

**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**  
**September 8, 2016**

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