

STATE OF OHIO  
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF  
INVESTIGATION



AGENCY: INDUSTRIAL COMMISSION OF OHIO  
FILE ID NO.: 2016-CA00013  
DATE OF REPORT: OCTOBER 13, 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:** 2016-CA00013

**SUBJECT NAME:** Kathleen Hill

**POSITION:** Customer Service Assistant

**AGENCY:** Industrial Commission of Ohio

**BASIS FOR INVESTIGATION:** Complaint

**ALLEGATIONS:** Failure to Comply with State or Departmental Rules, Procedures, or Policies;  
Failure to Comply with State Law and/or Regulations; and  
Misuse or Abuse of State Property or Equipment.

**INITIATED:** April 7, 2016

**DATE OF REPORT:** October 13, 2016

## **INITIAL ALLEGATION AND COMPLAINT SUMMARY**

On March 30, 2015, the Office of the Ohio Inspector General received an anonymous complaint alleging that Industrial Commission of Ohio (ICO) Customer Service Assistant Kathleen Hill "... is engaging in activities for personal profit while on state time including breaks ..." by calling radio station contest phone lines and selling items for the Pleasant Treasures Flea Market. The flea market is allegedly owned by Hill's family. On April 7, 2016, the Office of the Ohio Inspector General opened a preliminary investigation into this matter.

Investigators compared Hill's ICO-assigned telephone call logs to her timesheets to identify all calls occurring during Hill's workday for the period of October 1, 2015, through April 11, 2016. For those calls, investigators researched the internet and other available sources to determine who were the owners of the identified phone numbers.

For the period under review, investigators found Hill used an ICO desk phone to make or receive calls unrelated to ICO business totaling 31 hours over the course of 127 work days. The telephone numbers identified included calls made to or received from a local radio station contest line, family members, and the Pleasant Treasures Flea Market.<sup>1</sup> The analysis also identified that Hill had called several law firms during the same period of time reviewed.

Investigators searched the OBWC claim management system, V3, to determine whether an OBWC policy existed for Pleasant Treasures Flea Market and whether Hill had any OBWC claims which would indicate calls made by Hill were for a business reason. Investigators determined from a review of V3, that the flea market did not have an OBWC policy or any injury claims before the ICO. In addition, V3 showed that Hill had personally filed two OBWC injury claims that were in active status, and that Hill was represented by a different attorney on each claim. The review of the call records for the ICO desk phone revealed that Hill had received or made 55 phone calls to the law firms representing her for the two OBWC claims. Due to the amount of time Hill spent conducting personal phone calls during the workday, the Office of the

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<sup>1</sup> The Pleasant Treasures Flea Market is owned by Hill's relatives. Hill did not receive compensation for working at the flea market on the weekends.

Ohio Inspector General is returning this matter to the Industrial Commission of Ohio for further review of any potential policy violations.

At the request of the Office of the Ohio Inspector General, the ICO provided a confidential personal information (CPI) access log report listing Hill's activity. This report showed that Hill had used her ICO user ID to access her OBWC claim files in three ICO internal computer systems a total of 75 times between May 10, 2011, and September 11, 2013. At the time of her access, Hill could have accessed non-public information including the identity of the hearing officer assigned to her case prior to the actual hearing; electronic notes made by the hearing officer prior to the hearing; or the hearing officer's decision prior to being mailed and becoming public.

On April 25, 2016, the Office of the Ohio Inspector General opened an investigation to review Hill's use of OBWC and ICO computer systems to access her OBWC claim files.

## **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. 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 the OBWC and ICO.

As a customer service assistant, Hill is responsible for responding to telephone and in-person internal and external customer inquiries; referring customers to other ICO departments or OBWC for assistance; assisting individuals with problems by using documents, statutes, rules, policies, and procedures; researching data to determine when an injured worker's address or attorney information requires updating; revising claim information for additional allowances; and tracking data to compile activity reports.<sup>2</sup> Hill used the following computer systems to perform these duties:

- Commission Adjudication System (CAS) – An internal system used by ICO staff to review and update claim information, record orders, assign hearing officers, and generate hearing notices.
- ECM – An internal ICO document management computer system containing all medical documents received by the ICO and those imaged by OBWC, including the hearing officer orders summarizing their decision.
- WorkFlow – An internal ICO computer system used to distribute work to employees responsible for completing an assigned task and to track the movement of the claim through the hearing process. This system also stores information provided to ICO hearing officers and commission members for consideration when adjudicating claims.
- Version 3 (V3) – An internal Ohio Bureau of Workers' Compensation computer system. Authorized ICO employees access OBWC claim files using their assigned OBWC login identification and password.

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<sup>2</sup> From Kathleen Hill's position description approved on September 18, 2012.

- OhioBWC.com (Dolphin) – An OBWC internet application which permits authorized users to review OBWC claim files and documents imaged within the file.

### *Relevant Statutes and Policies*

In response to a report of investigation issued by the Office of the Ohio Inspector General, the Ohio General Assembly passed House Bill 648, establishing Ohio Revised Code §1347.15. This section defines “confidential personal information” and identifies what personal information is not to be considered as a public record. Common examples of confidential personal information protected by this section include an individual’s Social Security number, driver’s license number, medical records, and records whose release is prohibited by state or federal law. Possible ramifications for an employee violating this code section by improperly accessing or releasing CPI range from administrative action to criminal charges and being permanently prohibited from state employment.

This section also mandates that all state agencies, excluding the judiciary and state assisted institutions of higher-learning, develop and adopt agency rules regarding the access of CPI that is maintained by the agency. The law specifies several requirements that agencies must incorporate into their rules concerning the handling of CPI, including but not limited to: a defined criteria used to determine an employee’s level of access to CPI and a list of the valid reasons as to when employees are permitted to access CPI; a procedure for logging and recording employee access to CPI and the requirement that a password or other authentication must be used to access CPI stored electronically; that agencies designate an employee to serve as the data privacy point-of-contact who ensures that CPI is properly protected; the requirement that agencies must provide on demand to an individual, a detailed listing of all CPI maintained by that agency concerning that individual, unless the CPI relates to an investigation; and a policy that requires agencies to notify individuals whose CPI has been accessed for an invalid reason.

Ohio Revised Code §1347.15 requires all applicable state agencies to establish a training program for all employees who access, or who supervise employees who access, or who authorize employees to access, confidential personal information, so that all employees are made

aware of all statutes, rules, and policies governing access to such information. To comply with this requirement, the ICO implemented:

Policy No ADM007 *Confidential Personal Information (CPI) Policy*, effective April 14, 2011, and revised on April 22, 2013, which defines CPI, identifies the procedures for logging access to CPI, and identifies the instances for which an employee may access CPI. ([Exhibit 1](#))

Article III Section (C) states the "... policy also applies to the CPI contained within the personal information systems of other state agencies and departments to which Commission employees have access in the normal course of their employment duties."

Additional rules, regulations, and policies reviewed during this investigation include:

- ICO Policy No HR062 *Computer Use*, which provides that the use of ICO "... computer-related resources shall not be used in a manner which is inconsistent" with ICO policies or "... interfere with the work or mission" of the ICO. ([Exhibit 2](#))
- Ohio Administrative Code §4121-15-03 defines the standards of conduct to be followed by ICO employees, including what is considered prohibited conduct, conflict of interest, and guidance on use of state resources, diligence and impartiality at work, and confidential information. This section is contained within the ICO Code of Ethics.

Hill acknowledged receipt of the ICO Code of Ethics on January 26, 2011; ICO Policy No ADM007 *Confidential Personal Information (CPI) Policy* on April 21, 2011; and ICO Policy No HR062 *Computer Use* on June 20, 2011, August 28, 2015, and again on December 1, 2015. Hill also completed an ICO CPI training video on October 25, 2012.

## **INVESTIGATIVE SUMMARY**

On April 14, 2016, the Industrial Commission of Ohio provided to the Office of the Ohio Inspector General confidential personal information (CPI) access logs showing that ICO Customer Service Assistant Kathleen Hill had accessed her Ohio Bureau of Workers' Compensation claim files using multiple ICO internal computer systems. The ICO internal computer systems contained information that is not available to the injured worker until either the hearing is held or the hearing officer's decision is mailed to them.

An analysis of the ICO CPI access logs revealed that Hill accessed her two OBWC claim files during the workday a total of 75 instances using ICO internal computer systems. Hill accessed her two claims using CAS in 10 instances. CAS displays the form type, filed date, issue, and allows for updating claim information. Hill also accessed her claims using WorkFlow in 17 instances. WorkFlow is used to track the movement of the claim through the hearing process and allows the user to see the assigned hearing officer and their decision. Lastly, Hill accessed her two claims using ECM in 48 instances. ECM allows the user to see all of the claim documents including orders summarizing the hearing decision.

Further examination of Hill's OBWC claim activity revealed that Hill had accessed the ICO internal computer systems after an appeal was filed, but prior to the mailing of a hearing notice to all parties to the claim; after the hearing notice was mailed, but before the hearing date; and after the hearing, but prior to the hearing officer's decision being mailed to all parties to the claim. These accesses may have provided Hill with the assigned hearing officer's name prior to attending the actual hearing; the ability to review a hearing officer's notations prior to and after the hearing; and the ability to review the hearing officer's decision prior to the mailing of the ICO order to the injured worker.

The Office of the Ohio Inspector General also requested OBWC provide Hill's CPI access log for her two active OBWC claims for the period of March 29, 2011, through January 6, 2016. Examination of these logs showed that Hill had created a personal user ID and used this user ID to access her two OBWC claims on July 5, 2011; on July 18, 2011; and several times between December 17, 2013, and November 10, 2015.

Further analysis of the OBWC CPI access log revealed that Hill used her ICO-assigned user ID to access her two OBWC claim files using the OBWC internet application Dolphin and an ICO computer a total of 512 times between April 14, 2011, and October 16, 2013. Investigators also determined that Hill used her ICO-assigned V3 user ID to access her two active OBWC claim files a total of 25 times between June 10, 2011, and October 24, 2013,<sup>3</sup> while using an ICO computer.

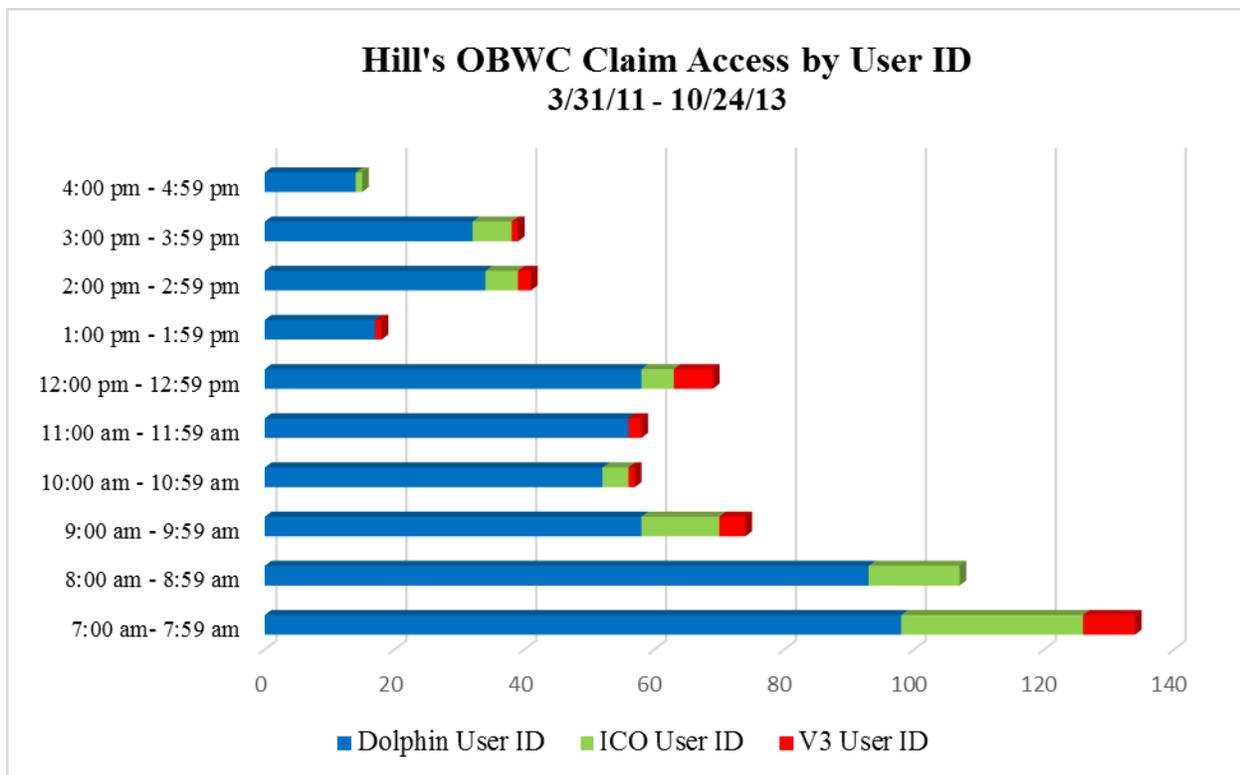
In addition, at the investigator's request, OBWC provided Hill's CPI access log for the period of May 3, 2011, through April 6, 2016. Investigators examined this CPI log and discovered that Hill had searched or used V3 to access injured worker claim files belonging to Hill's deceased mother, brother, and two other relatives a total of 17 times from November 18, 2011, through August 13, 2013.

On May 4, 2016, the Office of the Ohio Inspector General interviewed Kathleen Hill. Hill acknowledged she had two OBWC claims and that she had created a personal user ID to access her OBWC claim files from home. Hill admitted to investigators that she had accessed her OBWC claims using her ICO computer and believed these accesses occurred during her breaks or lunch period. However, an analysis of Hill's accesses using the OBWC Dolphin internet application (512 instances), V3 (25 instances), and ICO (75 instances) user IDs, depicted in the following chart, showed the accesses occurred throughout the workday:<sup>4</sup>

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<sup>3</sup> Investigators noted that Hill stopped accessing her workers' compensation claims using ICO and OBWC internal computer systems two days after an Office of the Ohio Inspector General presentation to the ICO Cincinnati regional staff.

<sup>4</sup> ICO Cincinnati Regional Manager Carma Callender provided the front counter coverage schedule for the period under review, showing Hill was scheduled for 15 minute breaks starting at 10:30 a.m. and 3:15 p.m., and for lunch from 1:30 p.m. – 2:00 p.m. A couple days a month, Callender stated Hill worked until 5:00 p.m. and would take her lunch from 1:00 p.m. to 2:00 p.m.



Hill was unable to recall why she accessed her two OBWC claim files using Dolphin. Hill did acknowledge that her V3 accesses of her OBWC claim files may have been to determine the status of a payment, since that information is not available on Dolphin. When asked why she used her ICO user ID to access her OBWC claim files in multiple ICO internal computer systems, Hill replied, "...to be perfectly honest, I just never thought the, the, the importance of the CPI. I would just say okay, I gotta go see if I got my hearing scheduled yet. Or uh see what the decision was." Hill also admitted to investigators that she had accessed injured workers' claim files belonging to her deceased mother, her brother, and other relatives because she was being "nosy", or was responding to her family members' questions.

During the investigation, the Office of the Ohio Inspector General determined that Hill's son had an OBWC claim and that his listed home address was Hill's residence. Hill confirmed to investigators that her son had filed an OBWC claim. Prior to the CPI policy being implemented by the ICO, Hill admitted to checking information in her son's OBWC claim file on his behalf. Investigators then showed Hill a note from her son's OBWC claim file which was entered by a

managed care organization (MCO)<sup>5</sup> representative on July 24, 2006. The note stated Hill and her son had called the MCO; that Hill had stated to the MCO representative that she worked for the ICO; and that Hill was assisting her son with reactivating his OBWC claim.

Investigators questioned whether the description in the note was something that Hill had done. Hill replied, "... it sounds like me." Hill further explained that "... it's just a matter of you gotta make the calls ... And that's probably why we did a three-way... and we got him-- got this MCO and said this is what he needs." Hill was unable to explain why she had told the MCO representative that she worked with the ICO. Hill had also noted earlier in the interview that it was rare for her to speak to a MCO representative as part of her work duties.

## **CONCLUSION**

The Industrial Commission of Ohio implemented Policy No ADM007 *Confidential Personal Information (CPI) Policy*, effective April 14, 2011, and revised on April 22, 2013, which defines CPI, identifies the procedures for logging access to CPI, and identifies the instances for which an employee may access CPI. Article III Section (C) further states the "... policy also applies to the CPI contained within the personal information systems of other state agencies and departments to which Commission employees have access in the normal course of their employment duties."

### **(Exhibit 1)**

On April 14, 2016, the Office of the Ohio Inspector General received from the Industrial Commission of Ohio a CPI access log showing that ICO Customer Service Assistant Kathleen Hill accessed her two OBWC claim files using multiple ICO internal computer systems and her ICO-assigned user ID 75 times between May 10, 2011, and September 11, 2013. At the time Hill accessed each of the claim files, the ICO may have considered some or all of the information contained in the claim file restricted and confidential, and not available for inspection by the injured worker or parties to the claim. Investigators also obtained Hill's CPI access log from OBWC. An examination of this log showed Hill accessed her two active OBWC claim files from her ICO-assigned computer using the OBWC Dolphin internet application 512 times, and

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<sup>5</sup> A managed care organization is responsible for managing the injured worker's medical expenses.

using the OBWC claim management program V3 25 times between June 10, 2011, and October 24, 2013.

Neither Hill's position description nor ICO policy authorized Hill to access her OBWC claim file using internal ICO computer systems, Dolphin, or V3. However, in a May 4, 2016, interview with the Office of the Ohio Inspector General, Hill admitted that she had used ICO internal computer system programs and an ICO computer during the workday, including her lunch period and breaks, to access her two OBWC claim files to determine whether a hearing date had been assigned<sup>6</sup> or if the hearing officer had issued a decision. The hearing officer's hearing date and decision is not public information until formally published by the ICO through a written notice or order. This access was not listed as one of the reasons permitted, as specified in ADM007 *Confidential Personal Information Policy* Section VII regarding accessing confidential personal information using ICO computer systems.

Hill also admitted to using an ICO computer during the workday, including her lunch period and break times, to access her two OBWC claim files using Dolphin and V3. Hill later admitted to accessing OBWC claim files belonging to her deceased mother, brother, and other family members' claims using V3 for a total of 17 times from November 18, 2011, through August 13, 2013. Hill explained that these accesses were due to her being "nosy" or that she was responding to a family member's question.

These accesses were contrary to ICO Policy No ADM007 *Confidential Information Policy* and ICO Policy No HR062 *Computer Use*.

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

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<sup>6</sup> Once a hearing date is set, the ICO sends written correspondence to all parties to the claim.

Ohio Administrative Code §4123-15-03(B)(1)(k) states that prohibited conduct includes,

... Use, or authorize the use of, his or her title, the name of the commission or the bureau, or the agencies logos in a manner that suggests, impropriety, favoritism, or bias by the commission or the bureau, or by a member or employee.

In addition, Section (G)(2), states,

... The overall intent of this code of ethics is that employees avoid any action, whether or not prohibited by the preceding provisions, which result in, or create the appearance of:  
(1) Using public office for private gain, or (2) Giving preferential treatment to any person, entity, or group.

Investigators determined through a review of OBWC's internal claim management system that Hill's son had an OBWC claim. Further review of the claim file revealed a July 24, 2006, note entered by a MCO representative summarizing a telephone conversation involving Hill and her son. The note stated that Hill had identified herself as an ICO employee and that she was assisting her son in reactivating his OBWC claim. V3 indicates that in July 2006, Hill's son was living at Kathleen Hill's residence at that time.

On May 4, 2016, Hill acknowledged to investigators that the note "... sounds like me." However, Hill was unable to explain why she mentioned to the MCO representative that she was employed by the ICO. Hill's contact with the MCO representative on behalf of her son about his OBWC claim file created the appearance that Hill used her ICO position for private gain and preferential treatment.

**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.

1. Review the conduct of the employee named in this report of investigation, and consider whether administrative action is warranted.
2. For non-adjudicating employees with access to ICO or OBWC injured worker claims or employer policy records, develop methods to prevent such access by those employees having potential conflicts of interest that might exist because of a relationship to an individual or entity named in any injured worker claim or employer policy record.
3. Require non-adjudicating employees with access to ICO or OBWC injured worker claims or employer policy records, to contemporaneously disclose potential conflicts of interest that might exist because of the employee's relationship to an individual or entity named in any injured worker claim or employer policy record.
4. Require employees with access to ICO or OBWC injured worker claims or employer policy records who are impaired by a conflict of interest because of a relationship to an individual or entity named in any injured worker claim or employer policy record to annually complete a written acknowledgement of impairments.

### **REFERRAL(S)**

This report of investigation will be provided to the Cincinnati City Solicitor and the Hamilton 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 #: 2016-CA00013**

**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 13, 2016**

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