



State of Ohio  
**Office of the Inspector General**

---

THOMAS P. CHARLES, Inspector General

## **REPORT OF INVESTIGATION**

**FILE ID NUMBER:** 2009124

**AGENCIES:** Ohio Department of Transportation,  
Ohio Department of Health

**BASIS FOR INVESTIGATION:** Anonymous Complaint

**ALLEGATIONS:** Theft of Time, Misuse of Time

**DATE INITIATED:** April 21, 2009

**DATE OF REPORT:** January 5, 2010

## **Executive Summary**

### **File ID Number 2009124**

On April 13, 2009, the Ohio Department of Transportation (“ODOT”) received an anonymous complaint alleging ODOT Management Analyst Supervisor 2 Darreyl D. Davis conducted personal and political business on state time. ODOT forwarded the complaint to the Office of the Inspector General (“OIG”).

In addition to Davis’ full-time job with ODOT, he was a council member for the City of Trotwood for eight years before being elected Mayor, a part-time post, beginning in January 2008. The anonymous complainant claimed to have met with Davis several times to discuss Trotwood city business, always on weekdays, raising suspicions about Davis’ availability despite his employment with ODOT. The complaint didn’t include specifics or documentation to support the allegation. We reviewed electronic mail messages, time sheets and leave usage history, phone records and Trotwood city appointment calendars.

Our investigation confirmed that over several years Davis spent hundreds of hours at work exchanging e-mails and phone calls that were personal or political in nature. Even allowing for personal time, such as lunch and breaks, Davis collected at least \$14,990 in state pay for 379 hours of work time he spent on personal phone calls, dating back to April 2007.

Additionally, Davis recorded on his calendars dozens of Trotwood appointments and events that took place during his ODOT workdays; his attendance at Trotwood events during his ODOT workday could be readily verified in some but not most instances.

The person with whom he most frequently spoke and corresponded during work hours was Sheila Edwards, an Executive Secretary 1 with the Ohio Department of Health (“ODH”). Particularly troubling, Davis used his ODOT e-mail account, and his position as Mayor of Trotwood, to help Edwards secure a \$5,000 share of a \$50,000 contract he orchestrated between the City of Trotwood and a development consultant.

When questioned by the OIG, Davis denied intentionally using his position as Mayor to benefit Edwards or the development consultant, though he admits he ultimately found himself caught uncomfortably in the middle. As for his appointment calendars, Davis added that he commonly listed Trotwood city events for his own organizational purposes, not necessarily because he attended them. In general, Davis said he made efforts to separate his ODOT and mayoral duties, but acknowledged it became increasingly difficult. As a result, Davis said, he retired from ODOT effective September 1, 2009.

Edwards also denied trading on her friendship with Davis as a means to receive payment from the development consultant. A former Trotwood city secretary, Edwards said she provided local expertise and insight commensurate with the \$5,000 payment, albeit without any written agreement or tangible work product. Trotwood city officials, aside from Davis, were unaware that she was involved in the project.

Edwards also said she scrupulously limited personal conversations and e-mails to break times, a claim not entirely borne out by the records. While Edwards was much more conscientious than Davis, she still logged at least 105 hours talking with Davis while being paid, at a cost to ODH of \$2,404. ODH laid off Edwards on August 30, 2009, as part of staff reductions.

Our investigation substantiated the allegation that Davis misused state time for personal and political purposes, misconduct that was exacerbated because Davis engaged another state employee in the activities. A copy of this report is being forwarded to the Montgomery and Franklin County Prosecutor Offices, the Columbus City Prosecutor's Office, the Ohio Ethics Commission, and the Ohio Department of Health.

## TABLE OF CONTENTS

	Page
I. BASIS FOR INVESTIGATION.....	1
II. ACTION TAKEN IN FURTHERANCE OF INVESTIGATION .....	1
III. DISCUSSION.....	1
Allegation 1: Darreyl D. Davis conducted personal and political business during his ODOT workday. ....	2
IV. OTHER MATTERS.....	4
V. CONCLUSION.....	7
VI. RECOMMENDATIONS.....	7
VII. REFERRALS.....	8
EXHIBITS	
E-mail, Office and Cell Phone Activity .....	A
E-mails Regarding Political Activity .....	B
Trotwood Appointments on State Time.....	C
Policy for Working Hours, Leave Approval and Daily Time Tracking .....	D
Edwards' Draft Proposal for Stonehenge .....	E
Edwards' Lease with Stonehenge .....	F

## **I. BASIS FOR INVESTIGATION**

On April 13, 2009, the Ohio Department of Transportation (“ODOT”) received an anonymous complaint alleging ODOT Management Analyst Supervisor 2 Darreyl D. Davis conducted personal and political business on state time. ODOT forwarded the complaint to the Office of the Inspector General (“OIG”). In addition to Davis’ full-time job with ODOT, he was a council member for the City of Trotwood (“Trotwood”) for eight years before being elected Mayor, a part-time post, beginning in January 2008. The anonymous complaint lacked specifics or supporting documentation, but a preliminary review suggested the allegations merited further investigation.

## **II. ACTION TAKEN IN FURTHERANCE OF INVESTIGATION**

We obtained from ODOT records of Davis’ calls from his desk phone dating back to December 2008, as well as e-mail records from his ODOT account, including messages archived or recovered from as far back as 2007. We also reviewed and analyzed his electronic appointment calendars and leave-usage history back to January 2007. Additionally, we requested or subpoenaed records from the Ohio Department of Health (“ODH”), Trotwood, and private businesses.

## **III. DISCUSSION**

As an ODOT Management Analyst Supervisor 2, Davis worked for extended periods at a temporary office of a road construction project. His responsibilities included ensuring projects proceeded according to ODOT plans approved by the federal government. Davis’ supervisors worked in the district office, and despite Davis’ status as a supervisor himself, no employees reported to him. Therefore, Davis’ daily activities were not closely monitored or necessarily apparent to supervisors. His performance evaluations, with few exceptions, were favorable during his nearly 30 years with ODOT.

Davis reported working 7:30 a.m. to 4 p.m. with a half-hour lunch break. The timesheets, he said, are generally accurate but don't necessarily reflect actual lunch times, or even the true start and end of his ODOT workdays, which he said fluctuated according to the demands of his job and outside responsibilities.

During the time period examined by this office, Davis worked on the site of a major road construction project on Interstate 75 near downtown Dayton, about a 15-minute drive from Trotwood city hall. Davis was a Trotwood City Council member when he was elected Mayor in November 2007. As Mayor he continued serving on Council with added ceremonial and leadership responsibilities, while a full-time City Manager ran the city on a day-to-day basis.

**Allegation: Darreyl D. Davis conducted personal and political business during his ODOT workday.**

A review of Davis' phone and e-mail records, appointment calendars, and leave-time requests shows he spent an inordinate amount of state time on personal and political matters. Indeed, the majority of the e-mails he sent, and time he spent talking on the phone during the workday, were unrelated to his ODOT duties. He also attended Trotwood-related appointments at times he was being paid by ODOT, as evidenced by records noting Davis' attendance without any corresponding ODOT leave requests.

Of 1,665 e-mails Davis sent from his ODOT account dating back to 1997, more than 60 percent were unrelated to ODOT (Exhibit A). Most of those were sent to ODH Executive Secretary 1 Sheila Edwards, along with hundreds of other e-mails to friends, relatives and Trotwood city officials and constituents. In an interview with this office, Davis explained that when he received personal e-mails at work, he would either respond very briefly if able, or would forward the messages to his personal e-mail account so he could reply outside of work hours. We found that many of the e-mails were brief or simply forwarded to his personal account, but the volume exceeded his ODOT-related e-mails. Davis also used his ODOT e-mail account repeatedly over several years to search for job openings for himself, friends and relatives. To a much lesser

extent, Davis also sometimes conducted political business with his ODOT e-mail account, proofing campaign advertisements and brochures, among other things (Exhibit B).

A similar share of the phone calls from Davis' desk was unrelated to ODOT. During a seven-month period reviewed by this office, Davis averaged about 35 minutes a day on the phone, of which 21 minutes were unrelated to ODOT. There were 26 calls that lasted a half-hour or more, none related to ODOT. In all, 61 percent of Davis' time on his ODOT phone was for personal calls – a total of 52 hours dating back to December 2008.

More often, Davis spoke on his personal cell phone throughout the workday, almost never for ODOT purposes. During the period of more than two years reviewed by this office, Davis averaged more than an hour a workday on personal calls on his cell phone, not counting calls during his reported half-hour lunch break. There were 66 workdays when Davis spent more than *two* hours a day on personal calls. In all, Davis spent 601 hours of his workdays on personal conversations on his cell phone.

When totaling the time on his desk and cell phones, this office documented 653 work hours that Davis spent on personal calls. Davis, like other employees, was entitled to a half-hour of break time each day, which isn't recorded on timesheets. If Davis were credited for using all of his break time only for these personal calls, and never taking any other breaks, the total lost time would be reduced to 379 hours resulting in \$14,990 in undeserved pay. This is the analysis most favorable to Davis, and an especially generous interpretation given his personal e-mails on state time, and the personal and Trotwood-related paperwork we found in his ODOT office.

Finally, Davis also attended Trotwood-related meetings and events during his ODOT workday. Quantifying these transgressions is difficult, given the sheer volume of Davis' appointment calendars and his stated practice of recording events he didn't attend. But some Trotwood-related appointments that conflicted with his ODOT work schedule could be readily corroborated by e-mail confirmations to invitations, or meeting minutes and event announcements noting his attendance (Exhibit C). In his own defense, Davis said it was not unusual for him to adjust on the fly the times he started and ended his ODOT shift, and when he took lunch breaks, to ensure he

put in a full day's work while juggling his responsibilities. This is possible, given the proximity of Trotwood to his ODOT work site, and may explain at least some of the apparent gaps in his work day. But Davis' admitted failure to record the actual hours worked on his timesheets makes the claim impossible to verify, and improper nonetheless, since he was not permitted to make such informal adjustments to his work schedule (Exhibit D). His timesheets, as he described them, amounted to falsified documents.

Accordingly, we find reasonable cause to believe a wrongful act or omission occurred in this instance.

#### **IV. OTHER MATTERS**

While investigating the allegations in the complaint, we also found evidence of conflicts of interest, as well as a breach of confidentiality by a personnel manager for the Ohio Department of Health.

##### **Potential conflicts of interest**

Davis' transgressions were complicated and magnified by involving another state employee. Much of his personal e-mail traffic involved Edwards of ODH, who was a longtime friend and former Trotwood city employee. Of the hundreds of hours Davis spent on personal calls during the workday, 105 hours was spent talking with Edwards while she was being paid by ODH, based on a review of Davis' calls from his desk phone dating back to December 2008, and his cell phone back to 2007. That amounted to \$2,404 in improper pay to Edwards, on top of what ODOT paid Davis.

Particularly troubling, Davis used his ODOT e-mail account, and his position as Mayor of Trotwood, to help Edwards secure a \$5,000 share of a \$50,000 contract he orchestrated between the City of Trotwood and The Stonehenge Company ("Stonehenge"), a Gahanna-based development consultant. When questioned by our investigators, Davis denied intentionally using

his position as Mayor to benefit Edwards or Stonehenge, though he admitted he ultimately found himself caught uncomfortably in the middle.

By all accounts, Edwards introduced Davis to officials at Stonehenge, which owned her condominium, and Davis in turn introduced Stonehenge officials to Trotwood city officials. At the same time Trotwood officials considered a proposal from Stonehenge, Davis helped Edwards draft a contract that would involve the development consultant paying Edwards to be the consultant's "liaison" with Trotwood (Exhibit E).

On December 15, 2008, Trotwood City Council approved a \$50,000 contract with Stonehenge. While Edwards never formalized an agreement with Stonehenge, and apparently never submitted her proposal to be the "liaison," she ultimately was paid \$5,000. There wasn't a contract or even an informal agreement in writing. Stonehenge described the payment as a "finder's fee" and for Edwards providing expertise and insight on Trotwood. The development consultant planned to pay Edwards \$5,000 outright but eventually applied it as a credit toward unpaid rent when she fell behind on payments for the condominium she rented from the company (Exhibit F). Bank records and the company's rent ledger suggest the credit may have exceeded \$5,000.

Davis, in an interview with this office, said he never attempted to exert his influence and stressed that his was just one of seven votes approving the contract. Stonehenge officials agreed, and said there was nothing unusual about paying Edwards for her assistance. Edwards, for her part, said she never solicited payment but believed it was justified.

Nonetheless, the deal was not entirely aboveboard. Davis acknowledged that when he personally introduced the consultant to his city hall colleagues, he didn't tell them that he also was helping Edwards secure payment in the event of a city contract. By essentially playing both sides of the deal without disclosing it, Davis created at the very least the appearance of impropriety.

Accordingly, we find reasonable cause to believe a wrongful act or omission occurred in this instance.

## **Breach of confidentiality**

The OIG requested Edwards' personnel records from ODH as part of this investigation. Okwudili Anekwe, who manages ODH personnel matters as Deputy Director of Employee Services, discussed our request with at least one other person at ODH, who subsequently mentioned it to Edwards. This breach caused two serious problems. First, Edwards learned that we had obtained her personnel records before we interviewed her, potentially compromising the investigation. Second, when Edwards was laid off shortly after we requested the records, it understandably created the impression, with Edwards at least, that she was being punished by ODH because of the OIG's inquiries. This is significant because she was laid off before ODH had any idea about the nature of our investigation or where Edwards fit in, much less knowing how the investigation ultimately would conclude.

ODH maintains Edwards was laid off because of staff cutbacks and her comparatively low seniority, not because we requested her records. But ODH acknowledges the breach by Anekwe, and says it verbally admonished Anekwe for the lapse.

R.C.121.44 requires that all information pertinent to an OIG investigation be kept confidential until a final report is made public. In turn, R.C. 121.47 prohibits any person from releasing information designated as "confidential" pursuant to 121.44, unless the person receiving the information is legally entitled to that disclosure. In this case, there is no reason for Anekwe to have discussed the OIG case with any ODH personnel. As human resources manager, Anekwe should have known that the matters he disclosed were confidential and that he was potentially subject to any penalties that might be imposed for a violation of R.C. 121.47.

Accordingly, we find reasonable cause to believe a wrongful act or omission occurred in this instance.

## **V. CONCLUSION**

Davis abused his position with ODOT by conducting personal and political business on state time. He frequently misused his state phone and e-mail account, and spent unreasonable amounts of time on personal calls on his personal cell phone.

By calling and e-mailing Edwards, in particular, Davis magnified the problems by involving an ODH employee. In addition to idle conversations, Davis and Edwards conducted business related to a Trotwood city project, in a manner not entirely aboveboard.

Davis acknowledged with regret his increasing difficulties with juggling and separating his duties for ODOT and Trotwood, but even so said he was surprised by the extent of e-mails and phone calls documented by this investigation. To his credit, Davis recognized the problem – albeit, belatedly – and retired from ODOT to avoid future conflicts.

Meanwhile, Anekwe, ODH's top personnel official, improperly discussed our inquiries with at least one other employee, which led to Edwards learning of our investigation before we contacted her.

## **VI. RECOMMENDATIONS**

Based upon the results of our investigation, we are making the following recommendations and request that ODOT and ODH respond to this office within sixty days with a plan on how these recommendations will be implemented.

1. We recommend that ODOT take measures to limit unsupervised work sites, and, where they exist, require employees to keep a daily work log or other tangible verification of work product.
2. We recommend that ODOT distribute to hourly employees a written reminder of the need to record on timesheets the actual hours worked, and periodically audit or spot-check the time reporting of employees at unsupervised work sites.

3. We recommend that ODH take measures to ensure employees respect the confidentiality of investigations and sensitive personnel matters.

## **VII. REFERRALS**

Copies of this report are being forwarded to the Montgomery and Franklin County Prosecutors' Offices, the Columbus City Prosecutor's Office, the Ohio Ethics Commission, and the Ohio Department of Health.