



INVESTIGATIVE REPORT

David Cook, Inspector General

OFFICE: INDIANA DEPARTMENT OF CORRECTION (IDOC)

TITLE: DOC EMPLOYEE MISUSE OF STATE PROPERTY

CASE ID: 2018-01-0019

DATE: August 12, 2021

Indiana Office of Inspector General Chief Legal Counsel, Tiffany Mulligan, after an investigation by Inspector General Director of Investigations, Mark Mitchell, reports as follows:

The Indiana General Assembly charged the Office of the Indiana Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in the executive branch agencies of state government. Ind. Code §4-2-7-2(b). The OIG also investigates allegations of criminal activity and Code of Ethics (Code)¹ violations within state government. Ind. Code §4-2-7-3. The OIG may recommend policies and carry out other activities designed to deter, detect and eradicate fraud, waste, abuse, mismanagement and misconduct in state government. Ind. Code §4-2-7-3(2).

I. BACKGROUND

A. Complaint

On January 19, 2018, the OIG received a complaint alleging that Elston Boldery, a former Indiana Department of Correction (IDOC) parole agent, used his state-issued cell phone to (1) send a sexually explicit text message to a female parolee under his supervision; and (2) download

¹ The Code is found in Ind. Code 4-2-6 and 42 IAC 1.

pornographic images and other images unrelated to his official state duties onto his state-issued cell phone. The OIG opened an investigation into this complaint.

B. IDOC Investigation

IDOC first conducted an internal investigation into Boldery's actions after receiving a complaint alleging that Boldery sent a sexually explicit text message to a female parolee under his supervision. As part of IDOC's investigation, Jamie Raderstorf, Deputy Chief of IDOC's Investigations Section, seized Boldery's state-issued cell phone for further review. Deputy Chief Raderstorf issued an Internal Affairs Division Report of Investigation (Report), which is dated January 25, 2018.

According to the Report, Deputy Chief Raderstorf extracted data from Boldery's state-issued cell phone to Deputy Chief Raderstorf's computer using a Cellebrite machine. Cellebrite UFED Touch is software that law enforcement agencies use to extract data from devices. The Cellebrite machine automatically downloads the data from the device on to a flash drive. In the Report, Deputy Chief Raderstorf wrote, "In review of text messages, I found [Boldery] had several inappropriate conversations." Deputy Chief Raderstorf summarized several of the text conversations, which contained graphic sexual messages, in the Report.

Deputy Chief Raderstorf reported that he found approximately one thousand deleted photographs on Boldery's state-issued cell phone. According to the Report, "over 500 of these photos were pornographic material of all types." Deputy Chief Raderstorf also wrote that he found "numerous photos of girls who appear to be under the age of 10 in bathing suits/bikini type clothing."

According to the Report, IDOC found evidence that Boldery violated IDOC policies on Contact and/or Relationship with Offenders; Investigations and Duty to Report; Use of Slang,

Gestures or other Derogatory References; Reporting; Property, Equipment and Resources; and Conduct Unbecoming Staff.² Boldery resigned from DOC on January 27, 2018.

IDOC submitted Boldery's state-issued computer to the Indiana State Police's (ISP) Cyber Crime Unit (CCU) for review.

C. ISP Investigation

First Sergeant Chris Cecil of ISP CCU performed a forensic examination of Boldery's state-issued computer. First Sergeant Cecil recovered a series of images on Boldery's state-issued computer that depicted the top half of women, with the camera lens centered in on the women's breasts. The women's faces were entirely or partially cut out of the photographs.

ISP CCU did not perform a forensic examination of Boldery's state-issued cell phone. IDOC had inadvertently "wiped" the data from the phone as he was extracting it. As such Boldery's state-issued cell phone no longer contained the approximately one thousand deleted photographs that Deputy Chief Raderstorf discovered during his review.

II. OIG Investigation

The OIG investigated the complaint it received, along with additional allegations discovered during the investigation.³ OIG Director of Investigations, Mark Mitchell, discussed the IDOC investigation with Deputy Chief Raderstorf and the ISP investigation with First Sergeant Cecil.

The OIG learned that Boldery was an IDOC employee from September 15, 2014, through January 27, 2018. During that time, he served as a parole officer 3 at IDOC's Parole District 9 Madison, which serves various counties in southeastern Indiana. Boldery's duties as a parole agent

² These policies are found in Section IX. Standards of Conduct in IDOC's Policy #04-03-103 Information and Standards of Conduct.

³ The investigation into these additional allegations did not result in sufficient evidence to support a Code or Criminal Code violation; therefore, the allegations are not contained in this Investigative Report.

included monitoring parolees' compliance with the conditions of their parole as set by the Indiana Parole Board.

IDOC issued Boldery a state cell phone and state laptop to conduct IDOC business. Director Mitchell reviewed the photographs, videos and text messages that were found on Boldery's state-issued cell phone. He reviewed hundreds of images that were not related to Boldery's work for IDOC. These images included family photographs, adult pornography, pictures of school-aged girls and sexually explicit text messages. Director Mitchell also reviewed the photographs that ISP recovered from Boldery's laptop. These photographs depicted the top half of women, with the camera lens centered on the women's breasts and the women's faces entirely or partially cut out of the photographs.

III. USE OF STATE PROPERTY RULE VIOLATION

The investigation revealed evidence that Boldery violated Ind. Code § 4-2-6-17, the use of state property rule. Ind. Code § 4-2-6-17 prohibits a state employee from using state property or equipment "for purposes other than official state business unless the use is expressly permitted by a general written agency, departmental, or institutional policy or regulation that has been approved by the commission. . . ."

IDOC has a Policy on Limited Personal Use of State Property/Resources (Policy), which the IDOC Commissioner signed on May 26, 2015, and the State Ethics Commission (SEC) approved on June 11, 2015. The Policy allows for limited, personal use of state property and resources; however, such use must be "infrequent, of short duration, and, unless not reasonably practical, made on the State employee's or special State appointee's personal time." The Policy also includes a policy statement, which reads that "State employees and special State appointees occasionally need to use State property/resources for emergencies and other infrequent personal

activities that cannot reasonably be handled away from work. These activities might include communicating with schools, child-care providers, physicians and others.”

IDOC assigned Boldery a state phone and state computer for purposes of conducting IDOC business; however, Deputy Chief Raderstorf found Boldery was downloading a large volume of images that were unrelated to his IDOC employment and sending sexually suggestive text messages on his state phone. For example, Deputy Chief Raderstorf found that Boldery downloaded over five hundred images of adult pornography and numerous images of school-aged girls in bikinis/bathing suits on his state-issued cell phone. ISP CCU also found a series of images focused on women’s breasts on Boldery’s state-issued computer.

The OIG found that Boldery used his state-issued cell phone and computer to download or create the above-mentioned images. These images were clearly not related to Boldery’s state employment. The large volume of images does not comply with the Policy allowing IDOC employees to use state property for limited personal use that is “infrequent or of short duration”. Furthermore, the contents of the images do not comply with the Policy’s policy statement. Boldery’s use of his state-issued cell phone and computer to download pornography and pictures of school-aged girls and to send sexually explicit text messages was not an emergency or a personal activity that could not “reasonably be handled away from work.”

IV. CONCLUSION

The OIG presented the case to the Jefferson County Prosecutor for potential criminal charges. On February 10, 2021, the Jefferson County Prosecutor filed charges for criminal ghost employment, under Ind. Code § 35-44.1-1-3, and official misconduct, under Ind. Code § 44.1-1-11. The OIG discovered evidentiary problems with its ghost employment investigation and shared

the concerns with the Jefferson County Prosecutor. The Jefferson County Prosecutor filed a motion to dismiss the charges based on the new information on May 6, 2021.

The OIG presented the case to the SEC in an executive session on May 12, 2021 and sought probable cause to file an ethics complaint alleging that Boldery violated Ind. Code § 4-2-6-17, the Use of State Property Rule. The SEC found probable cause, and the Inspector General filed the ethics complaint with the SEC on the following day.

The Inspector General and Boldery signed an Agreed Settlement in which Boldery admitted to the violation of the Code as alleged in the ethics complaint. The agreed settlement bars Boldery from future state employment and fines Boldery five hundred dollars. The OIG filed the Agreed Settlement with the SEC, and the SEC approved it on August 12, 2021. Accordingly, this investigation is closed.

Dated: August 12, 2021

APPROVED BY:



David Cook, Inspector General