

THE EXECUTIVE ETHICS COMMISSION  
OF THE STATE OF ILLINOIS

In re: CAROL KRAUS and KERRIE PETZO ) OEIG Case # 08-00705

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission ("Commission") to redact information from this report that may reveal the identity of witnesses, complainants or informants and "any other information it believes should not be made public." 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut its factual allegations or legal conclusions before the Commission.

The Commission received a final report from the Executive Inspector General for Agencies of the Governor ("OEIG") and responses from the Secretary of the Department of Human Services and the Director of Central Management Services in this matter. The Commission redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Governor's Executive Inspector General and to Carol Kraus and Kerrie Petzo at their last known addresses.

These recipients were given fifteen days to offer suggestions for redaction or provide a response to be made public with the report. The Commission, having reviewed all suggestions received, makes this document available pursuant to 5 ILCS 430/20-52.

**FINAL REPORT**

**ALLEGATIONS**

The initial complaint received by the Office of Executive Inspector General (OEIG) alleged that Carol Kraus, (then) Chief Auditor of the Illinois Office of Internal Audits (IOIA), had hired a personal friend, Kerrie Petzo (Petzo), as an Internal Auditor for the IOIA and that Kraus was preventing the agency from disciplining Petzo in regard to her numerous attendance issues because of their friendship. During the course of the investigation, further allegations of retaliation and harassment by Kraus against various employees for attempting to track Petzo's attendance problems were reported to the OEIG. In addition, reports of Petzo's attendance

problems persisted throughout the investigation.<sup>1</sup> The OEIG concludes that these allegations are FOUNDED in part and UNFOUNDED in other parts.

## EXECUTIVE SUMMARY REPORT

In its investigation, the OEIG interviewed numerous IOIA and CMS employees including Chief Auditor Carol Kraus, former Auditor Kerrie Petzo, several Audit Managers, [identities of other employees redacted]. Documents examined included thousands of e-mails from several IOIA employees, Petzo's timekeeping records, and computer files obtained from the analysis of Petzo's state computer.

The OEIG legal analysis is based, in part, upon: CMS policies and procedures and the State Officials and Employees Ethics Act (Ethics Act).<sup>2</sup>

Following due investigation, the OEIG issues these findings:

- **FOUNDED** – Petzo violated several CMS policies regarding attendance, tardiness, rules of conduct, proper reporting of late arrivals and the failure to properly complete time off requests.
- **FOUNDED** – Petzo failed to obtain advanced approval to earn Earned Equivalency Time (EET) and her requests were not based upon the agency's operational needs in violation of CMS' EET policies.
- **FOUNDED** – Petzo utilized her state computer, internet and e-mail for personal use in violation of CMS' IT security policy.
- **FOUNDED** – Kraus gave preferential treatment to Petzo and failed to treat her staff with equal dignity in violation of CMS' Ethical Standards.
- **FOUNDED** – Kraus' managerial style of intimidation by threat or pressure discouraged and intimidated by threat or pressure the reporting of misconduct in violation of CMS' Standards of Conduct and constituted conduct unbecoming a CMS employee.
- **FOUNDED** – Kraus was inattentive in her supervisory duties in ignoring numerous attempts by employees to make her aware of Petzo's attendance problems and by her failure to adequately monitor the situation after it was brought to her attention.
- **UNFOUNDED** – Kraus took retaliatory action against [names redacted].

The OEIG makes no recommendation regarding Petzo's misconduct since she has already left state employment with no right to reinstatement with CMS.

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<sup>1</sup> Since this investigation was initiated, Petzo has been terminated by Central Management Services (CMS), Carol Kraus is now the Chief Financial Officer at the Department of Human Services (immediately prior to that position she was head of the Office of Accountability with CMS) and Debbie Abbott is the Acting Chief Auditor of the IOIA.

<sup>2</sup> 5 ILCS 430/1-1 et seq.

Based upon the evidence, the OEIG recommends that Carol Kraus, currently the Chief Financial Officer at the Department of Human Services, be subject to discipline, up to and including discharge, for intimidating her staff with her unprofessional conduct and regular “name dropping,” failing in her supervisory responsibilities to properly oversee the management of IOIA staff, and for the preferential treatment she gave to Petzo.

The OEIG also recommends that:

- CMS take the steps necessary to institute a positive timekeeping system that tracks employee arrival, departure and break times to the nearest quarter hour;
- CMS adopt a formal work at home policy to properly track employees’ work product and to ensure its equal availability to all employees rather than the current ad hoc system;
- IOIA conduct, at a minimum, one evaluation before the end of a new employee’s probationary period.

## SUMMARY REPORT OF THE OEIG INVESTIGATION

### SUMMARY OF INVESTIGATION

#### I. Kerrie Petzo

Kerrie Petzo (Petzo) left state employment with no CMS reinstatement rights on May 8, 2009. The agency based her separation on failure to: complete the Amistad Commission and Brainerd Community Development Center audits; provide timely updates on these audits; and follow call-in and attendance procedures during December 2008 and January 2009.<sup>3</sup> As this conduct has been already been the basis for disciplinary proceedings, this report will focus on Petzo’s activities prior to December 2008 and after January 2009 and will not detail any issues surrounding the two audits.

#### A. Attendance

Petzo started to work for the State on May 1, 2008, as an Internal Auditor at the Illinois Office of Internal Audits’ (IOIA) Chicago office.<sup>4</sup> At one time, she had worked for Pandolfi, Topoloski, Weiss & Co.<sup>5</sup> (PTW), a consulting and auditing firm where Chief Auditor Carol Kraus (Kraus)<sup>6</sup> was previously employed and had been one of Petzo’s managers.<sup>7</sup> At the time

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<sup>3</sup> Charges are detailed in a January 28, 2009, letter from [redacted] and pre-termination hearing documents the OEIG obtained from CMS.

<sup>4</sup> Petzo’s working title was Internal Auditor, but her payroll position was a Public Service Administrator (PSA) which was exempt from the *People v. Rutan* hiring requirements.

<sup>5</sup> Later merged with another firm and became Crowe Chizik.

<sup>6</sup> Kraus is no longer the Chief Auditor; Debbie Abbott has taken over that position. Kraus is currently the Chief Financial Officer at the Department of Human Services.

<sup>7</sup> John Filan was the Director of the Governor’s Office of Management and Budget in January 2003, then became the Chief Operating Officer for the Governor in January 2007 and the Executive Director of the Illinois Finance Authority in November 2008. Prior to working for the state he was a Partner at PTW and Kraus had reported to him. Several other former employees of PTW were hired by IOIA; [redacted], a partner at PTW, e-mailed Kraus on May 11, 2007, asking Kraus if she had any positions open for Petzo.

Petzo was hired, the IOIA Chicago auditors were co-supervised by Audit Managers [redacted], both of whom were located in the Springfield IOIA office.<sup>8</sup> [Redacted] explained that if other audit managers in Springfield had part of an audit to be completed in the Northern Illinois/Chicago area the Chicago staff would be assigned. That auditor would then report directly to the requesting audit manager who would track the auditor's time and work product. [Redacted] said he could not verify exactly what hours an auditor logged while working for another audit manager. [Redacted], would help [redacted], track the Chicago staff. [Redacted], confirmed [redacted], description of the office organization and explained that problems arose with Chicago auditors because he and [redacted] were signing off on projects that were actually being supervised by other audit managers. [Redacted] said that is why he and [redacted] used [redacted] and [redacted] to oversee the Chicago staff.

[Redacted] explained that [redacted] would send him an e-mail when people were late or called in sick and that she was responsible for ensuring auditors' weekly time reports had all the necessary fields completed before forwarding them for his signature and entry into the IOIA internal Audit Time Tracking System. The system tracks the status of audits and staff time (i.e. how many hours are charged to a particular audit), but not employees' arrival or departure times; [redacted] explained that the AFSME union contract prohibits use of sign-in/out timesheets<sup>9</sup> (an inaccurate interpretation of the contract and irrelevant for non-union employees). Employee time is tracked on the Central Systems Time and Attendance Summary, a computer generated monthly report that is signed by the employee, division manager (usually [redacted] for Petzo's forms) and [redacted]. A bi-monthly report is also generated for the timekeeper listing all time related entries (employee illness, vacation time, etc.) for each employee; this form is signed by [redacted] and a supervisor, [redacted], would sign Carol Kraus' name).

Petzo's attendance during her first two weeks at the IOIA is illustrative of her pattern of conduct during her entire tenure. During this timeframe, Petzo's scheduled work hours were 8:30 a.m. – 5:00 p.m. with a one hour lunch.

Date	Arrival Time at Work	Time Used	EET Earned <sup>10</sup>	Comments
5/1/08	10:00 a.m.			Arrived late because she got lost
5/2/08	11:00 a.m.			Spilled gas on herself, went home to change clothes
5/5/08	10:00 a.m.	1 hr. Personal Time (PE)		Called in shortly after 9:00 a.m. to say she would arrive late because a lab test ran late
5/6/08	Not at Work	7.5 hrs. Employee Illness (EI)		E-mail stated she was at a Pain Center (she did not call in sick until after 11:00 a.m.). Leave request filled in on 5/7/08

<sup>8</sup> As of May 1, 2009, Marcus Dodd was assigned to the Chicago office and supervises the Chicago auditors.

<sup>9</sup> [Redacted] said that the [redacted], is the person who told her that keeping a timesheet violated the AFSCME agreement. [Redacted] stated that CMS is aware that its negative reporting of time is in violation of the Ethics Act.

<sup>10</sup> Equivalent Earned Time is similar to overtime and can be earned by employees who are non-union, exempt from the Fair Labor Standards Act, and cannot earn paid overtime. An employee must work over his/her 40 hour work week to be eligible to earn EET time that can later be used as benefit time and cannot be paid out in cash. (paraphrased from 80 IL Adm. Code 310.100 and CMS memorandums dated July 27, 2007 and June 28, 2007)

5/7/08	10:00 a.m.		Late due to Metra delays, turned in Metra slip.
5/8/08			
5/12/08	9:40 a.m.	2.5 hrs.	
5/13/08	Not at Work	Unreported Absence (UR) in the timekeeping system.	Petzo did not call in and staff did not know where she was. Petzo later explained that she had a problem with some new medication and did not wake up until noon.
5/14/08		1.5 hrs.	
5/15/08		1.5 hrs.	
5/16/08	10:30 a.m.	4.5 hrs.	Called in sick at 9:25 a.m. saying she would be in later in the day

According to a May 7, 2008, e-mail, Petzo had been under the mistaken impression that she could simply make up time she missed without any sort of approval. But, as this was her first week, she was allowed to make up the time she missed by working an additional 8 hours and 30 minutes over May 5<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup>.<sup>11</sup> After Petzo failed to appear for work on May 13<sup>th</sup>, [redacted] e-mailed her about her attendance and told her to read the CMS policies regarding the use of sick leave; that she must call sick in within one hour of her start time.

[Redacted] noted in a May 30<sup>th</sup> e-mail to [redacted] that Petzo did not have any time banked to cover the time she missed on that day. Then, on June 2, 2008, Petzo submitted an Overtime Request and Report Form for ten (10) hours of EET time she accrued May 12<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>, and 16<sup>th</sup>. Petzo stated in an e-mail that she had not previously submitted paperwork for overtime because she did not know a separate form was required. In another e-mail, Petzo explained to [redacted] that five (5) of the recently earned EET hours would be used to cover the five (5) hours she took off May 30<sup>th</sup> and 3.5 hours would be used to cover time off on June 2<sup>nd</sup>. The OEIG obtained Petzo's timekeeping records and found what appeared to be a pattern of earning EET time and using it shortly thereafter.

Petzo admitted to the OEIG that she did not generally obtain pre-approval to earn EET time; she stayed late when she was behind on her work. She acknowledged that her repeated absences played a role in her inability to get the job done during the regular work day. When confronted with an e-mail she sent to Kraus on July 28, 2008, asking to work overtime that day in exchange for EET time to be used later in the week for personal business, Petzo denied intentionally manipulating the system. But, she did agree that she worked a lot more EET hours than other employees and that she was afforded much more leeway in doing so. When the OEIG asked Kraus about the same e-mail, Kraus said she probably did not read it carefully; she did not intentionally approve EET time so that Petzo could earn more benefit time, although the e-mail does make it look that way. Kraus did not recall why she was approving the EET time instead of [redacted].

<sup>11</sup> According to e-mails between [redacted] and [redacted] May 7, 2008.

On June 16<sup>th</sup>, Petzo's request for a flex hours schedule went into effect and her hours changed to 9:15 a.m. – 5:15 p.m. with a 30 minute lunch. This was an apparent attempt to help her make it to work on time,<sup>12</sup> but her erratic attendance pattern continued, as shown below.

Date	Arrival Time at Work	Time Used	Comments
10/1/08	Not at Work	EI	Petzo called in at 10:00 a.m. stating she would not be in, she was still in pain from a leg injury
10/2/08	2:15 p.m.	EET	11:54 a.m. e-mail from Blackberry, leg pain and cleaning up mess from puppy. E-mail 1:51 p.m. from Blackberry, driving into work slow going, had to pull over due to pain in leg.
10/7/08	11:15 a.m.	EET	She had an appointment
10/8/08	10:15 a.m.	EET	E-mail from Petzo's Blackberry at 10:19 a.m. stating she had a problem filling her prescriptions and would be in shortly.
10/9/08	10:15 a.m.	EET	E-mail from Petzo's Blackberry at 10:24 a.m. that she has a sore throat and will not be attending the CMS training scheduled to start at 8:30 a.m. that day. Instead she came into the office late and said she would attend a training session on October 16 <sup>th</sup> .
10/10/08	1:45 p.m. (lunch from 1:45 to 2:15 p.m.)	EET	Went to Doctor for sore throat. There was also a discrepancy as to when she actually arrived in the office (perhaps not until 2:40 p.m. instead of 2:15 p.m.), but Petzo claimed to have left after her quitting time that day.
10/14/08	10:30 a.m.	Vacation (VA)	Petzo called at 10:15 a.m. and said that she would be arriving at the office soon. She later explained that she still felt sick and had overslept.
10/16/08	9:30 a.m.		Arrived to CMS training 1 hour late (start time 8:30 a.m.). Petzo explained her tardiness in a lengthy one page e-mail to [redacted], [redacted] and [redacted]. In essence, her dog sitter left the dog outside so she had to return home to bring the dog in.

[Redacted] e-mailed Petzo on October 14<sup>th</sup> stating that he did not know why she was late that day, but that she had to arrive by her 9:15 a.m. start time. Petzo's hours were changed again in late October to 9:30 a.m. – 5:30 p.m. in a further attempt to address her tardiness.<sup>13</sup>

Petzo explained to the OEIG that, due to various health issues, she struggled with getting to work on time. She said she often felt unwell, had problems with various medications, and was simply unmotivated to come in to work. She acknowledged she did not discuss these problems with anyone at IOIA or request any help managing them. Petzo admitted that her consistent tardiness violated CMS rules and that she set a negative precedent for other employees. Petzo said that contributing to the problem was a lack of a manager in the Chicago office to tell her not to be late.

## B. Computer Usage

<sup>12</sup> According to: e-mails between [redacted] and Petzo June 10, 2008; Petzo's request for a flex hours due to train schedules: and statements made by Kraus to the OEIG.

<sup>13</sup> The OEIG also collected additional documentation for various late arrivals, days off and EET usage that is not detailed in this report.

While analyzing Petzo's state computer and e-mails, the OEIG discovered that Petzo sent several e-mails to a [redacted], an employee at the Argonne National Laboratory, with attachments of a school paper [redacted] had asked Petzo to edit. Petzo admitted she did so on her state computer as a favor to a friend. Initially, Petzo said she made the corrections while on lunch breaks, but later said that she also worked on the paper when she stayed late, potentially while she was earning EET time. Petzo, however, claimed that she subtracted any time she spent on personal work from the time she billed to the audit and from any EET time requests.

The OEIG also found files on Petzo's state computer unrelated to her work at the IOIA including: directions to a camping area near Shelbyville Illinois; personal photographs; her responses to interrogatories for a lawsuit involving a car accident; and a spreadsheet listing various personal medications. When the OEIG asked about her state computer usage, Petzo admitted that the personal photographs were for use as a desktop background for her computer. She also admitted to paying personal bills online, making travel arrangements, and tracking her medications – all while utilizing her state computer. Petzo was specifically asked about an e-mail [redacted] sent her which Petzo forwarded to [redacted] on Wednesday, September 17, 2008, wherein she complained about [redacted] asking for more timekeeping forms. Petzo said that she was just venting about work problems to a personal friend and that she did not really understand that forwarding state e-mails to a non state employee and using her state e-mail account and computer was a problem.

### **C. Work at Home**

Based upon the many e-mails, timekeeping records and interviews of IOIA employees, the OEIG found evidence that Petzo would sometimes work from home instead of coming into the office. Petzo gave a variety of reasons for this: the weather was bad, she was not feeling well, or that it was easier and a better use of her time to stay at home rather than packing up her various work papers and driving into work. [Redacted], believed that Petzo took permission from Kraus to work at home on one occasion as an open invitation to do so. Petzo generally received permission from Kraus to work at home, although some other audit managers did give her permission on occasion.

## **II. Supervisory Response to Petzo's Attendance Issues**

[Redacted] said he brought Petzo's habitual tardiness and failure to appear at work to [redacted] and was told by [redacted] that "something was being done." Both [redacted] and [redacted] said they did not feel comfortable preparing Petzo's 3 or 6 month performance evaluation because Kraus was the primary recipient of her work.<sup>14</sup> [Redacted] told the OEIG he did not report additional problems with Petzo because he did not want to "get my (expletive) chewed" by Kraus for reporting Petzo's tardiness, something he had heard Kraus describe as "picking on" Petzo. He was also worried that Kraus would retaliate against him for speaking out. [Redacted] explained that, per policy, managers are not allowed to address attendance

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<sup>14</sup> [Redacted] also said that Kraus preferred not to conduct interim evaluations (3 month) unless there was a specific problem with a probationary employee which might lead to termination; she said Kraus did not see any problems with Petzo. In addition, IOIA does not usually complete 6 month evaluations.

problems on their own; such issues had to be reported to [redacted]. He did talk to Petzo about her attendance and sent her e-mails about the requirement to come to work on time.

[Redacted] reported Petzo's tardiness problems during May 2008 to [redacted] and asked for her recommendation on how to handle the various situations. [Redacted] explained to the OEIG that because everyone was afraid of Kraus, they tried to go around her regarding Petzo's issues instead of raising them with Kraus. [Redacted] said that when she did point out improper conduct by Petzo to Kraus, she became angry. As an example, [redacted] told the OEIG that on one occasion Kraus was signing a blank overtime slip for Petzo, which [redacted] pointed out was a violation of policy, and Kraus told her that "[i]f you [expletive] with them (Petzo or [redacted]), you're [expletive] with me." [Redacted] e-mailed [redacted] on May 22, 2008, and referred to this incident, stating that Kraus "made it quite clear to me that I was to leave [redacted] and Kerrie alone."

[Redacted] explained that if the IOIA has an issue with an employee, the agency first approaches [redacted] who would then contact her. She and [redacted] would then discuss the facts and decide upon an appropriate method/level of discipline. Kraus had the authority to refuse implementation of recommendations for discipline. If [redacted] disagreed with Kraus' decision, she could go to her then immediate supervisor, [redacted].

[Redacted] said she talked to [redacted] about Petzo's unreported absence on May 13<sup>th</sup> and advised that Petzo should be counseled about reporting to work and instructed to properly notify supervisors when she was going to be absent. A few days later, [redacted] told [redacted] that Kraus refused to counsel Petzo. [Redacted] explained to the OEIG that when she informed Kraus of the situation she said "It's (expletive). We're not doing it. She (Petzo) overtook medication." [Redacted] then informed [redacted] of the situation. [Redacted] told [redacted] that she would address the issue with the [redacted]. [Redacted].

[Redacted], said she became aware of Petzo's attendance issues in June 2008. [Redacted] explained that [redacted] and [redacted] possessed documents showing that Petzo had not been at work a third of the time since beginning her state employment in May 2008. Toward October, she and [redacted] began putting documents together regarding Petzo's time related issues. [Redacted] was made aware of an e-mail Kraus sent to [redacted], [redacted], and [redacted] on October 21<sup>st</sup> stating (emphasis in original):

I am ORDERING ALL OF YOU THAT IF I FIND OUT THAT ANY MORE  
TIME IS SPENT OR [redacted] IS ASSIGNED TO MONITOR KERRI  
PETZO'S TIME, I AM GOING TO TOTALLY LOOSE MY TMEPER WITH  
EACH AND EVERY ONE OF YOU.

I am not playing, and who instructed [redacted] to do this and book time to it (sic)

I want an answer immediately . . .

What is your problem . . . . (sic)

[Redacted] replied to the e-mail that [redacted] monitors everyone's time because he and [redacted] are not physically in Chicago. Kraus then replied that paying a supervisor to monitor time is "ignorant," that she wanted to discuss this when she returned and she "can't believe how

petty people are.” [Redacted] called [redacted] on October 22<sup>nd</sup> regarding Kraus’ e-mail, complaining that it was harassing and that those involved felt threatened. [Redacted] informed [redacted] of the e-mail and asked to discuss the matter with the Director. [Redacted] and [redacted] met with the new CMS Director James P. Sledge (Sledge) the next day and informed him of Petzo’s attendance problems, her EET usage, and that Kraus was using John Filan’s name (insinuating that she could obtain any approval necessary due to his high level position), and intimidating staff who attempted to monitor Petzo. [Redacted] said she had recommended that Petzo not be certified at the end of her probationary period.

Kraus called a meeting at the Chicago office on October 23, 2008, which included [redacted], to discuss the management and oversight of the Chicago office.<sup>15</sup> According to notes from the meeting, Kraus explained that she and [redacted] would handle timekeeping for Chicago staff from that point on. She complained that the amount of time they were spending tracking people’s time was ridiculous and spoke repeatedly about [redacted] tracking arrival times, describing him as a “Walmart greeter.” Kraus also criticized [redacted] for raising concerns over an employee using and earning EET time in the same day. In Kraus’ view, if people came in late and made the time up, it should not be considered a problem.

Not long after this meeting, on October 27, 2008, [redacted] discussed Petzo’s attendance issues with Kraus. During the conversation, Kraus acknowledged that Petzo arrived late, as she had at PTW, because she had some medical problems, but said that she had used benefit time to compensate. Kraus went on to say that because he and [redacted] were making an issue over Petzo being late by 15 minutes, she could not certify her. She then told [redacted] she would fight any attempt to prevent Petzo from becoming a certified state employee because she was a good auditor; she would even go to Filan if she had to.

Kraus told the OEIG she became very upset when she learned that [redacted] was stationed at the entrance to the Chicago office to note Petzo’s arrival time instead of working on audits and because none of the managers were actually supervising the Chicago office. Kraus said that shortly after this meeting, she began to find out what was happening with Petzo. Kraus said that they had a serious discussion with Petzo and disciplined her; afterwards, she started to come into work on time. Kraus said she, therefore, asked about extending Petzo’s probationary period. When the OEIG asked Kraus if the discipline was documented, Kraus said it was not and she could not recall who was present to witness the counseling. Petzo was told she had to come in every day and report to [redacted]. Kraus denied telling anyone that she would go to Filan to keep Petzo employed.

By the end of Petzo’s probationary period, October 31, 2008, the decision was made not to take any disciplinary action against her.<sup>16</sup> Instead, an e-mail from [redacted] on October 31, 2008, explained, “per Carol Kraus, that due to Kerrie’s tardiness, the decision has been made that

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<sup>15</sup> Notes reflect that [redacted] was at the meeting, but when interviewed she denied she was present.

<sup>16</sup> There were also discussions between [redacted] and other employees between October 22<sup>nd</sup> and the 30<sup>th</sup> about extending Petzo’s probationary period past the 6 month October 31<sup>st</sup> date. 80 IL Adm. Code 302.300, states an employee must be absent from work for 15 consecutive days before the probationary period can be extended. Because Petzo did not have large amounts of unauthorized leave, due to her utilization of EET time, they believed that her probationary period could not be extended.

Kerrie will advise [redacted] when she arrives at work every day.” In addition, all of Petzo’s time slips and overtime requests were to be sent to [redacted], Kraus’ and [redacted], for Kraus’ signature instead of being routed through [redacted].

[Redacted]. In October, she volunteered to monitor Petzo and approve any EET time to help manage conflicts that arose between [redacted], but Petzo’s timekeeping was [redacted] responsibility. [redacted] said that Petzo frequently came in late, but she worked late to make up the time. [redacted] knew she stayed late because [redacted] worked late as well. [Redacted] did not know if Petzo was docked for her many late arrivals because [redacted] was in charge of the timesheets. [Redacted] said that if she did not receive anything from [redacted] to the contrary, she assumed Petzo was at work and on time. If [redacted] had not heard from Petzo, she would call [redacted] and they would go “around in circles” to figure out if she was working. Sometime in November or December this changed and Petzo was to call in every day and speak with her; if she did not call, [redacted] would try to contact her via phone and e-mail. If she did not hear from Petzo, she did not want to inform Kraus “who is busy,” but would instead tell [redacted]. When asked by the OEIG if she tracked Petzo’s call-in times, [redacted] said she was not as involved as she could have been. She said she had never had to do this for any other employee since she started with the IOIA in 2003.

On January 28, 2009, Kraus and [redacted] asked Petzo to resign her position during a phone conversation; the basis for which was her attendance issues, problems with two of her audits, failure to obtain prior approval to work from home, and not having adequate work product to substantiate her overtime and working at home. Petzo was told that if she did not resign that day that she would be placed on Administrative Leave and that charges would be brought against her which would lead to her discharge. Petzo did not arrive for work the following day and, shortly thereafter, Petzo requested and was granted, a non-service disability leave (a type of leave of absence). It was backdated to begin on January 20, 2009 to cover previous days she had been absent. In an e-mail on January 30<sup>th</sup> from explained that Petzo’s discipline had been put on hold and would be addressed once she was released and returned to work.

Petzo returned to work on April 16, 2009. [Redacted] said she learned that Petzo was late to work on her first day back and was 30 minutes late on April 22<sup>nd</sup> (claiming her car brakes were malfunctioning and she had to drive on the shoulder of the road to work). [Redacted] said that she had been involved with the disciplinary process for about five years and has never seen a disciplinary proceeding like Petzo’s; she thought it was all very unusual.

Kraus said she was surprised when the OEIG informed her that Petzo was late 10 out of her first 14 days working at IOIA. She knew that Petzo had serious attendance problems toward the end of her employment, but she was unaware it had been so pronounced from the beginning. Later in the interview, when Kraus heard Petzo was absent or tardy for at least 40 days from May to September, Kraus said she was “dumfounded” and said “it’s my fault because I should have known, but I didn’t.” Kraus also acknowledged that, although [redacted] was authorized to sign her (Kraus’) name on IOIA employee monthly timesheets, it was still her responsibility to ensure her they were accurate.

Kraus said [redacted] told her about a specific instance in which Petzo failed to attend an audit appointment and she knew about the day in May when Petzo overslept due to a medication problem. But, she said, other employees simply told her Petzo was tardy, without the specifics. She thought they meant 10 to 15 minutes, not habitually an hour late or more. Kraus knew Petzo had a history of being 10 to 15 minutes late at PTW, and she thought that was the sole extent of the problem. Kraus told the OEIG she first became aware it was more serious shortly before [redacted] took over Petzo's timekeeping, after CMS' Labor Relations audited Petzo's paperwork and discovered she had been awarded EET time incorrectly. Kraus said she was embarrassed to say that she had no idea how bad Petzo's attendance was in May, June and July. She agreed that it was unacceptable but claimed that she was unaware of the situation. Kraus said she did not personally oversee Petzo's attendance; it was the responsibility of the managers to bring any such problems to her attention. She now realizes that it may have appeared that she was giving Petzo special treatment, but she was not.

### **III. Intimidation/Retaliation by Carol Kraus**

[Redacted] said that everyone knew that Kraus was a good friend of Filan's (who at that time was on the State Internal Audit Advisory Board which oversees the IOIA and had close ties to the Governor's Office). Both also stated that Kraus talked about how she worked with and was friends with [redacted] and they, therefore, did not feel comfortable reporting to that agency. [Redacted] said he knew that Kraus had warned [redacted] that if you "[expletive] with them, you [expletive] with me," referring to Petzo and [redacted]. [Redacted] said he was frustrated with the situation involving Petzo, but did not feel that he could discuss it with Kraus because of her relationship with Petzo. [Redacted] said that he did not counsel Petzo for her repeated tardiness for fear of retaliation from Kraus. [Redacted] also deleted any e-mails he had on his computer relating to the situation because he feared that Kraus could access them.

[Redacted] believed it was part of her job responsibility to address personnel problems, but when she brought issues pertaining to some former PTW employees to Kraus' attention, Kraus would become very upset and lose her temper. [Redacted] described an event around Labor Day 2008 (September 1<sup>st</sup>) wherein Kraus demanded to know why Petzo's request for EET time had been denied (referring to a request Petzo made to earn EET time for driving Kraus to the airport).<sup>17</sup> Kraus confronted [redacted] about e-mails between [redacted] discussing Petzo's EET time for travel. [Redacted] said Kraus was very angry and told [redacted] that they were slandering Petzo. [Redacted] said that [redacted] later told her that Kraus was furious with [redacted] for what she said about Petzo in the e-mails and was going to "give [redacted] a bad evaluation" over it. At the time of her interview with the OEIG, [redacted] said that her evaluation was overdue. [Redacted] also told [redacted] that Kraus said she was going to look through [Redacted]' e-mail files to see what else [redacted] had said about Petzo. [Redacted] said that Kraus worked with Petzo and [redacted] at PTW and that they were given preferential treatment at IOIA. [Redacted] was also aware that Filan had worked at PTW with Kraus. [Redacted] was aware that [redacted] evaluation was overdue and Kraus had told her that she

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<sup>17</sup> EET policy specifically states that EET time cannot be earned for travel time (see CMS Memorandum from [Redacted] to all Agency Personnel Managers dated July 27, 2007). The request for 2 hours of EET time was made on August 1, 2008, and approved by Kraus August 5, 2008. On August 5, 2008, Petzo e-mailed Kraus apologizing for sending the request, she said she had tried to word the reason for the EET time discreetly.

thought [redacted] work had been “inconsistent” after the issues with Petzo surfaced. Kraus had never mentioned concerns with [redacted] work product prior to the problems with Petzo’s attendance. [Redacted] said she did not recommend discipline for Petzo due to fear of retaliation from Kraus. [Redacted] said that [redacted] told her they were afraid to report Petzo’s problems to Kraus for the same reason. [Redacted] said she explained her concerns to [redacted]. [Redacted] said she was very concerned that Kraus would retaliate against her if Kraus discovered she had spoken with OEIG investigators.

Kraus denied delaying [redacted] evaluations for retaliatory purposes. During her interview with the OEIG, she said, “No, that was me being an (expletive) with [redacted]. Is that what you’re talking about?” Kraus said [redacted] evaluation was a bit late, but that had nothing to do with Petzo. Kraus explained that [redacted] did not have many dealings with Petzo; her supervision was predominately [redacted] responsibility. Kraus admitted [redacted] evaluation was late, but said that was because she had been too busy to complete it. The evaluations for all three were completed and Kraus said she had apologized for their tardiness. The OEIG obtained copies of all three evaluations: [Redacted] received an overall rating of exceptional<sup>18</sup> on August 27, 2008; [redacted] received an overall rating of exceptional on November 14, 2008; and [redacted] received an overall rating of accomplished on March 26, 2009.

[Redacted] said Kraus frequently “dropped” Filan’s name in conversations with her, implying that she could go to him if she needed something. [Redacted] also worked with Kraus and Filan prior to state employment. On May 4, 2009, [redacted] told [redacted] about a conversation she had with [redacted] where Kraus had recently told [redacted] that [redacted] wanted Kraus to call her about having drinks together; [redacted] left Kraus’ office as Kraus was about to return [redacted] call. [Redacted] told the OEIG she wanted to mention this incident because people at IOIA were worried about retaliation from Kraus over the Petzo issue, especially since it appeared she had close ties to [redacted]. [Redacted] told the OEIG that Kraus mentioned that she had worked with Filan at PTW and that she was very cautious in her dealings with Kraus regarding problems with Petzo because she did not want Kraus to become angry with her as she had with other CMS employees.<sup>19</sup>

[Redacted], said that Kraus had complained to her that [redacted] were treating Petzo unfairly and that Kraus had referred to [redacted] as a “Walmart greeter.” When discussing Petzo’s problems in the fall of 2008, Kraus told [Redacted] that “You don’t (expletive) with my people because if you do you’re (expletive) with me.” Kraus told [redacted] that she was also one of her people. [Redacted] said she did not respond to Kraus’ statement because it was easier to say nothing. [Redacted] would not tell Kraus that she thought Petzo was receiving preferential treatment from Kraus because everyone knew that Petzo was the “chosen one” and [redacted] did not want Kraus to become angry with her. According to [Redacted] tried to tell Kraus about Petzo’s problems and [redacted] said they were treated in a more negative manner afterward. [redacted] remembered that Kraus said she was not giving [redacted] his evaluation on time, but not that it was specifically because of the Petzo issues. [Redacted] confirmed that Kraus told her that she was angry about e-mails between [redacted] that discussed Petzo. [Redacted] had heard

<sup>18</sup> Ratings, from best to worst, are: exceptional, accomplished, acceptable, and unacceptable.

<sup>19</sup> [Redacted] was interviewed by the OEIG in mid-January, before the alleged phone call between Kraus and [redacted] took place.

Kraus say that because of her relationship with Filan and Bob Greenlee (formerly a Deputy Governor) that she could get what she wanted, but never heard Kraus say she was untouchable; just that she would get rid of people and “heads will fall.”

[Redacted] told the OIEG that employees were afraid to come forward and report issues regarding Petzo for fear of losing their jobs. [Redacted] said she believed the Petzo issue was about politics because Kraus would repeatedly talk about being friends with Filan, she said she was friends with [redacted] at the OEIG and could find out anything she wanted to know, and she said she was friends with Governor Pat Quinn. [Redacted] said she was very afraid that she would lose her job by talking to the OEIG.

[Redacted] said she heard other managers say that Kraus has a temper, but she believed it was just frustration she had with perceived incompetence. She also knew about “talk” around the office that she and Petzo, as former PTW employees, were given preferential treatment. She said other IOIA employees were afraid and thought they would get into trouble if they reported Petzo’s misconduct to Kraus. [Redacted] said that Petzo thought she was untouchable and could go to Kraus for anything. [Redacted] thought Kraus should have addressed Petzo’s misconduct earlier, although she did not believe Kraus was aware of the complexity of the issue until October 2008. Based on the lack of discipline taken against Petzo, [redacted] believed Kraus did have a double standard when it came to Petzo. [Redacted] said there was always another issue with Petzo which prevented her from completing her work and that she always wanted to talk to an individual that was sympathetic and “could buy her a few more days.” [Redacted] said no one else would have been permitted to do this.

Kraus explained that she and Petzo were “working friends.” Kraus stayed at Petzo’s residence on one occasion when she could not find a hotel room and she went camping with Petzo and some other friends in September 2008. Kraus denied making the “if you (expletive) with them you (expletive) with me” statement. Kraus believed that part of the reason her employees were making these complaints was because they thought she was going to fire everybody and bring in private sector people. Kraus denied threatening her staff and explained that she was raising expectations for the level of work product expected from IOIA employees, from 2 to 3 audits a year to 10 to 12 audits. Kraus did admit to cursing at them and to supporting Petzo for her unreported absence in May, but otherwise denied being protective of Petzo.

Kraus told the OEIG she was not a “name dropper” and denied using Filan’s name in that context with IOIA staff. But, because Filan was on the State Internal Audit Advisory Board which oversees the IOIA, there were times she would need to talk to him in that capacity. Kraus said that if she felt adamant about something, she would say that she was going to Filan to discuss issues or get things resolved, but she denied that it was a political issue. Kraus acknowledged that she and [redacted] are friends; they became acquaintances when working together at the Department of Human Services and had gone out for drinks a couple of times. Kraus said her statements regarding [redacted] were in conjunction with cooperation in OEIG investigations. Kraus denied any improper contact, explaining that she would not want to put [redacted] “in the middle.” She also denied mentioning having drinks with [redacted] as a way to intimidate employees. Kraus said that she had not seen [redacted] in 6 to 8 months preceding the OEIG interview.

## ANALYSIS

### I. Kerrie Petzo

Petzo's behavior violated several CMS policies. First and foremost, she did not "report to work promptly each day in accordance with . . . her assigned work schedule."<sup>20</sup> Petzo was consistently late, not by minutes, but often by an hour or hours and, occasionally, did not appear during the entire day. In addition, she did not request time off in advance, also a violation of policy.<sup>21</sup> Further exacerbating the problem, when she did not come into work on time, Petzo often failed to call in within an hour of her scheduled start time, another policy violation.<sup>22</sup> Petzo also used her lunch time to adjust her start time, as she did on October 10<sup>th</sup>, to help make up for her late arrival, which was against policy.<sup>23</sup> Petzo's failure to follow CMS rules and regulations and her excessive absenteeism and tardiness were in violation of CMS' Rules of Conduct<sup>24</sup> and, as summarized by CMS policy: "[a]n employee is expected to arrive at work at the designated starting time and to leave the facility at the designated quitting time . . . [t]ardiness . . . may be cause for disciplinary action up to and including discharge."<sup>25</sup> The examples of Petzo's tardiness detailed in this report were not isolated occurrences, but are illustrative of a pattern of attendance problems which spanned from her first day at work to her last. The allegations that Petzo violated several CMS policies regarding attendance, tardiness, rules of conduct, proper reporting of late arrivals and the failure to properly complete time off requests are **FOUNDED**.

Petzo's frequent use of EET time to cover for her chronic tardiness and absenteeism violated CMS Equivalent Earned Time policy requires employees to request EET time ". . . before working in excess of 40 actual work hours . . ." and granting requests are ". . . based on the agency's operational needs."<sup>26</sup> Petzo failed to request and receive prior supervisory permission to work late and her requests to work EET time were not based on the agency's operational needs, but were often made so that she could catch up on work she failed to complete during her normal work hours, due to frequent absences and tardiness. The allegation that Petzo abused EET time in violation of CMS policy is **FOUNDED**.

CMS policy states that "Information Technology resources that are assets of the State of Illinois must be used for authorized state business purposes only."<sup>27</sup> Petzo admitted to using her state computer and e-mail for personal use. The OEIG found private photographs stored on her state computer, along with files regarding her private lawsuit, medications, internet directions to

<sup>20</sup> CMS Policy Manual, Absenteeism/Tardiness, Chapter 2, Section 3

<sup>21</sup> With the exception of sick leave or emergency personal leave, all time away from work must be approved in advance by the supervisor, or the supervisor's designee. CMS Policy Manual, Absenteeism/Tardiness, Chapter 2, Section 3

<sup>22</sup> An employee must notify the supervisor or other designated person within one hour of the start of the scheduled work shift. CMS Policy Manual, Personal/Vacation/Sick Leave, Chapter 2, Section 7

<sup>23</sup> Time off for lunch or rest periods shall not be used to adjust starting or quitting time. CMS Policy Manual, Rest/Lunch Periods, Chapter 2, Section 5

<sup>24</sup> Rules of Conduct, Chapter 1, Section 2, numbers 1 and 4

<sup>25</sup> CMS Policy Manual, Absenteeism/Tardiness, Chapter 2, Section 3

<sup>26</sup> CMS Policy Manual, Equivalent Earned Time, Chapter 2, Section 6.5. See also CMS Memorandums dated June 27, 2005; June 28, 2007; July 27, 2007.

<sup>27</sup> CMS Policy Manual, Information Technology (IT) Security, Chapter 4, Section 3

a campground. Evidence also indicated she used her state e-mail account to converse with a non-state employee regarding editing a school paper and to complain about timekeeping personnel. Personal use of computers, internet and e-mail are all prohibited therefore the OEIG finds that Petzo violated CMS's IT security policy. Thus, the allegation that Petzo utilized her state computer, internet and e-mail for personal use in violation of CMS' IT security policy is **FOUNDED**.

## **II. Intimidation**

CMS' Ethical Standards requires that CMS employees "treat all members of the public and other employees promptly, fairly, impartially, and with equal dignity."<sup>28</sup> The IOIA staff was clearly intimidated by Kraus' behavior. [Redacted] all said they were afraid of retaliation from Kraus if they attempted to impose any type of discipline against Petzo. Kraus told [redacted] and [redacted] that no one should "(expletive) with her people" or they were "(expletive) with her." Kraus told [redacted] that she would go to Filan to protect Petzo if necessary. Several IOIA employees mentioned her temper and that they did not want Kraus "mad" at them for fear of what she might do in return. Multiple employees told the OEIG that Kraus yelled and cursed at her staff and that she called [redacted] a "Walmart greeter." And, somehow, Kraus obtained e-mails sent between [redacted] angrily confronted [redacted] about them, and told [redacted] that she would to give [redacted] a bad evaluation because of them. Conversely, former PTW employee Petzo was allowed to work from home and could come and go with apparently little chance or fear of reprimand. The OEIG finds that Kraus did not treat her employees impartially or with equal dignity in violation of CMS' Ethical Standards.

CMS' Standards of Conduct state "[n]o employee shall be discouraged or intimidated by threat or pressure when making a report or alleged misconduct. Persons interfering or retaliating are subject to discipline and possible discharge."<sup>29</sup> Everyone that the OEIG interviewed was aware of Kraus' connection to Filan. In addition, many IOIA and CMS employees said that they heard Kraus mention consulting Filan on various issues. Several employees mentioned Filan's position on the State Internal Audit Advisory Board and his close ties to the Governor's Office and implied that Kraus used this fact to intimidate employees. For example, [redacted] said that Kraus told her that she could "get what she wants" because of her ties with Filan and Bob Greenlee (at that time a Deputy Governor) and [redacted] stated that IOIA employees knew that Kraus was "real tight" with Filan and that employees knew he was head of the Audit Board. Kraus also mentioned her friendship with [redacted] and with Governor Quinn. According to the OEIG's numerous interviews, all of this "name dropping" resulted in the perception that Kraus had powerful political connections and would not hesitate to call upon them to get what she wanted. Kraus' statement that people were afraid she was going to fire everyone was correct. Her staff were so afraid for their jobs they did not feel that they could candidly discuss Petzo's habitual tardiness and absenteeism. The OIEG finds that Kraus' hostile responses to any attempt to discuss problems with Petzo's attendance or work, her regular name dropping, and her generally antagonistic managerial style of yelling and cursing at employees "discouraged and intimidated by threat or pressure" the reporting of misconduct in violation of CMS' Standards of Conduct is **FOUNDED**

<sup>28</sup> CMS Policy Manual, Ethical Standards, Chapter 1, Section 1

<sup>29</sup> CMS Policy Manual, Standards of Conduct, Chapter 1, Section 2

### III. Supervisory Response

CMS' Rules of Conduct prohibit: "[i]ncompetency or inefficiency in the performance of a duty or inattention to or failure to perform a duty . . . [d]isorderly conduct during working hours, disrespect to or maltreatment of any person, including but not limited to harassment between a supervisor and fellow employee or among employees of the office . . . [c]onduct unbecoming a CMS employee."<sup>30</sup>

[Redacted] were technically responsible for supervising Petzo, but there were several impediments to their ability to properly monitor Petzo's work. First was the logistical issue - they were located in Springfield, but Petzo was in Chicago. [Redacted] had to rely upon second hand information from [redacted], which placed them in the middle of a difficult situation. Second, due to the structure of the IOIA, [redacted] were often responsible for signing EET approvals and timesheets for an auditor who was actually working on a project for a different audit manager: therefore, they were not always in a position to know what that auditor was doing on a daily basis or whether EET time was truly necessary for the completion of the audit. Third, their usual supervisory role was overshadowed by the perception that Kraus was protecting Petzo and that any attempt at discipline would result in, at a minimum, a very angry response from Kraus. No one felt they could discuss legitimate managerial issues with Kraus due to her constant intimidation of IOIA employees. Fourth, they did bring their concerns to [redacted] and were told that the action was being considered, but higher level management decided not to take any disciplinary action against Petzo. Due to the combination of these factors, all of which were beyond [redacted] immediate control, the OIEG makes no findings against either of them.

[Redacted] were also trying to track Petzo's chronic absenteeism and brought these problems to the attention of their respective supervisors, but Petzo was not terminated prior to the end of her probationary period.<sup>31</sup> Starting in November, [redacted] oversaw Petzo's time and attendance. At this point, management was aware of Petzo's pattern of excuses and tardiness, but Petzo was not disciplined, her flex schedule was not withdrawn,<sup>32</sup> and she was not put on proof status;<sup>33</sup> all of which were viable options to address Petzo's problems.

The one consistent factor throughout this process was Kraus' support of Petzo. Kraus told the OEIG that she did not know the extent of Petzo's tardiness. While agreeing that she should have known, Kraus also blamed the managers for not bringing the seriousness of the problem to her attention. But, the employees interviewed by the OEIG, even those who appeared to be friendly with Kraus - like [redacted], consistently stated that the problem was Kraus and that the only reason Petzo was not disciplined was because Kraus protected her. Whether Kraus actually protected Petzo for improper reasons or because she truly thought Petzo was a good

<sup>30</sup> CMS Policy Manual, Ethical Standards, Rules of Conduct, Chapter 1, Section 2, nos. 2, 13, and 17.

<sup>31</sup> Discharge of Probationary Employees - the Director may approve the discharge or suspension of a probationary employee. 80 Il Adm. Code 302.780

<sup>32</sup> If an employee abuses a flexible hour work schedule through tardiness, early departure, or by failing to meet work standards or requirements, approval for the flex time may be withdrawn at the beginning of the following pay period. CMS Policy Manual, Flexible Schedules, Chapter 2, Section 4

<sup>33</sup> CMS may require evidence to substantiate that sick days were used for allowable purposes. CMS Policy Manual, Personal/Vacation/Sick Leave, Chapter 2, Section 7

auditor is irrelevant. Kraus' behavior created the perception that Petzo was untouchable, and that perception became reality. The OEIG finds that Kraus violated CMS' Rules of Conduct in that she was inattentive in her supervisory duties by failing to listen to those employees that did bring disciplinary issues to her attention, did not adequately monitor the situation once she was made aware of the extent of the problems, and her behavior created an atmosphere of fear which stifled effective management. Kraus further violated the Rules of Conduct by harassing employees, especially [redacted]. Kraus admitted in her interview that she held up [redacted] evaluation because she was "being an (expletive) with [redacted]" and she repeatedly yelled at and intimidated [redacted]. The OEIG further finds that Kraus' behavior surrounding her October 21<sup>st</sup> e-mail discussing [redacted] monitoring of Petzo's time constitutes conduct unbecoming a CMS employee. Her tone in both the e-mail and meeting were unprofessional and only served to exacerbate existing tensions in the office. Thus, the allegation that Kraus gave preferential treatment to Petzo and failed to treat her staff with equal dignity in violation of CMS' Ethical Standards is **FOUNDED**.

#### **IV. Retaliation**

A finding of retaliation under the Ethics Act requires that: (i) the State employee engaged in protected activity as defined in Section 15-10; and (ii) that conduct was a contributing factor in the retaliatory action alleged by the State employee.<sup>34</sup> The reporting of Petzo's continuous violations of various CMS policies by [redacted] to their supervisors and their cooperation with the OEIG's investigation by providing information fall under the definition of protected activity under the Ethics Act.<sup>35</sup> But, the requisite retaliatory action required in part (ii) could not be shown. Retaliatory action under the Ethics Act requires ". . . the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment . . ." <sup>36</sup> Many employees were clearly afraid Kraus would retaliate against them if they challenged her or said anything negative about Petzo. In addition, there is evidence that the evaluations for [redacted] were delayed, and in [redacted] case Kraus admitted it was purposely delayed, but there was no evidence that their evaluation ratings, positions or salaries were negatively affected. [Redacted] were rated exceptional, the highest rating possible, and [redacted] received an "acceptable", the next best rating. The OEIG finds that the allegation that Kraus retaliated against IOIA employees for reporting Petzo's violations of CMS' policies is **UNFOUNDED**.

#### **V. Timekeeping**

The IOIA internal Audit Time Tracking System tracks the status of audits and staff time (i.e. how many hours are charged to a particular audit), but not employees' arrival or departure times. [Redacted] explained that she has been told the AFSCME union contract prohibits use of

<sup>34</sup> 5 ILCS 430/15-20. Burden of proof

<sup>35</sup> (1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation. (2) Provides information to . . . any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency, or other State employee. (3) Assists or participates in a proceeding to enforce the provisions of this Act. 5 ILCS 430/15-10. Protected activity.

<sup>36</sup> 5 ILCS 430/15-10, Retaliatory Action.

sign-in/out timesheets. [Redacted] stated that CMS is aware that its negative reporting of time is in violation of the Ethics Act. The OEIG recommends that CMS begin the process of instituting a positive timekeeping system to track employees' arrival, departure and break times to the nearest quarter hour to better track the time employees are physically at work.

## CONCLUSION AND RECOMMENDATIONS

Following due investigation, the OEIG issues these findings:

- **FOUNDED** – Petzo violated several CMS policies regarding attendance, tardiness, rules of conduct, proper reporting of late arrivals and the failure to properly complete time off requests.
- **FOUNDED** – Petzo failed to obtain advanced approval to earn Earned Equivalency Time (EET) and her requests were not based upon the agency's operational needs in violation of CMS' EET policies.
- **FOUNDED** – Petzo utilized her state computer, internet and e-mail for personal use in violation of CMS' IT security policy.
- **FOUNDED** – Kraus gave preferential treatment to Petzo and failed to treat her staff with equal dignity in violation of CMS' Ethical Standards.
- **FOUNDED** – Kraus' managerial style of intimidation by threat or pressure discouraged and intimidated by threat or pressure the reporting of misconduct in violation of CMS' Standards of Conduct and constituted conduct unbecoming a CMS employee.
- **FOUNDED** – Kraus was inattentive in her supervisory duties in ignoring numerous attempts by employees to make her aware of Petzo's attendance problems and by her failure to adequately monitor the situation after it was brought to her attention.
- **UNFOUNDED** – Kraus took retaliatory action against [redacted].

The OEIG makes no recommendation regarding Petzo's misconduct since she has already left state employment with no right to reinstatement with CMS.

Based upon the evidence, the OEIG recommends that Carol Kraus, currently the Chief Financial Officer at the Department of Human Services, be subject to discipline, up to and including discharge, for intimidating her staff with her unprofessional conduct and regular "name dropping," failing in her supervisory responsibilities to properly oversee the management of IOIA staff, and for the preferential treatment she gave to Petzo.

The OEIG also recommends that:

- CMS take the steps necessary to institute a positive timekeeping system that tracks employee arrival, departure and break times to the nearest quarter hour;
- CMS adopt a formal work at home policy to properly track employees' work product and to ensure its equal availability to all employees rather than the current ad hoc system;

- IOIA conduct, at a minimum, one evaluation before the end of a new employee's probationary period.



Pat Quinn, Governor

Michelle R.B. Saddler, Secretary

100 South Grand Avenue, East • Springfield, Illinois 62762  
401 South Clinton Street • Chicago, Illinois 60607

2010 AUG 26 PM 12:35

August 24, 2010

Mr. James A. Wright  
Executive Inspector General  
Office of the Executive Inspector General  
For the Agencies of the Illinois Governor  
32 West Randolph Street, Suite 1900  
Chicago, Illinois 60601

RE: OEIG Complaint No: 08-00705

Dear Inspector General Wright:

Reference is hereby made to OEIG Complaint No. 08-00705 wherein Carol Kraus allegedly gave preferential treatment toward an employee and engaged in a managerial style of intimidation by threat or pressure against subordinates if they reported employee misconduct. Furthermore, it is also alleged that Ms. Kraus was inattentive in her supervisory duties of an employee by dismissing other employees' attempts to make her aware of this employee's misconduct. One allegation was unsubstantiated as the OEIG found no evidence that Ms. Kraus took retaliatory action against employees who attempted to make Ms. Kraus aware of the misconduct. Although the allegations occurred while Ms. Kraus was employed at CMS, the OEIG has recommended that DHS impose disciplinary action against Ms. Kraus as she is currently employed with DHS.

Based on information provided by CMS, they would like to respond to some of the findings in this case. At this time, DHS would like to defer any action until all of the facts of this case are resolved. Once DHS has conferred with CMS, a follow-up report will be provided to your office. Therefore, DHS respectfully requests that the OEIG allow additional time for closure of this case until the findings are resolved.

Sincerely,

A handwritten signature in black ink that reads "Michelle R.B. Saddler". The signature is written in a cursive style and includes a small flourish at the end.

Michelle R.B. Saddler  
Secretary

cc: Grace Hong Duffin, Chief of Staff  
file



2010 AUG 31 PM 3: 09  
**OFFICE OF EXECUTIVE INSPECTOR GENERAL**  
for the Agencies of the Illinois Governor

*James A. Wright, Executive Inspector General • www.inspectorgeneral.illinois.gov*

**OEIG RESPONSE FORM**

Case Number: 08-00705

**Due 20 Days after Receipt of Report**

Please check the box that applies.

- We have implemented all of the OEIG recommendations:  
(Provide details regarding action taken.)

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- We are implementing the OEIG recommendations however, we seek to deviate as follows:  
(Provide details regarding action planned / taken and proposed alternate(s).)

Please see attached letter.

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We do not wish to implement any of the OEIG recommendations and seek to deviate as follows:

(Explain why and provide details of alternate plan.)

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Jay Brown

Signature

Ethics Officer, Central Management Services  
Print Agency and Job Title

Jay Brown

Print Name

8/26/10

Date

Return to Cheryl Cabiness, Office of Executive Inspector General, 32 W. Randolph St.  
Chicago, Illinois 60601



ILLINOIS

Pat Quinn, Governor

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

James P. Sledge, Director

CONFIDENTIAL

August 30, 2010

Deborah Ellis, Deputy Inspector General  
Office of Executive Inspector General  
32 West Randolph, Suite 1900  
Chicago, Illinois 60601

RE: OEIG Case No. 08-00705

Dear Deputy Inspector General Ellis:

We have reviewed the Office of the Executive Inspector General's (OEIG) Final Report regarding the above-referenced matter. Please accept this letter as CMS' response.

While we fully appreciate and respect the work of the OEIG in these difficult matters, we cannot fully concur with the findings specific to our former employee, Carol Kraus (Kraus). While we agree that the report shows certain situations were not appropriately handled on every occasion, the OEIG's findings against Kraus, if accurate, all suggest management errors, rather than ethical failings. We respectfully disagree with any assessment that these findings rise to the level of ethical violations. The evidence to justify the findings seems contradictory, at best. Specifically, the employees who felt they were not being treated with equal dignity were very highly rated in evaluations while the allegedly favored employee was disciplined and eventually asked to resign. Contrary to the findings, corrective actions were taken with regard to the allegedly favored employee. There was also no evidence to support the finding that Kraus' subordinates were in any way adversely affected by or prevented from reporting perceived misconduct due to Kraus' "managerial style".

The OEIG report also suggested several courses of action for CMS. We fully concur with your recommendations and in most cases had already implemented them.

- A positive timekeeping system was enacted for all CMS employees in December 2009.
- CMS will explore establishing protocols and guidelines for telecommuting.
- CMS agrees with the recommendation that the IOIA conduct an evaluation before the end of a new employee's probationary period and will make sure that this existing practice is adhered to.

Should you have any questions please contact our Ethics Officer, Jay Brown, at 312-814-5451.

Sincerely yours,



James P. Sledge

Director

cc: Grace Hong Duffin, Acting Secretary, Department of Human Services  
file



Pat Quinn, Governor

Grace Hong Duffin, Acting Secretary

100 South Grand Avenue, East • Springfield, Illinois 62762  
401 South Clinton Street • Chicago, Illinois 60607

October 15, 2010

Mr. Ricardo Meza  
Acting Executive Inspector General  
Office of the Executive Inspector General  
For the Agencies of the Illinois Governor  
32 West Randolph Street, Suite 1900  
Chicago, Illinois 60601

RE: OEIG Complaint No: 08-00705

Dear Acting Inspector General Meza:

The Department of Human Services (DHS) is in receipt of both the Final Report in the above-referenced matter and your letter of September 24, 2010 granting DHS' request for additional time to respond to the Office of the Executive Inspector General's (OEIG) recommendations contained in the Final Report. Thank you for granting DHS' request.

Having reviewed the Final Report and the recommendations, I want to reassure your Office that as Acting Secretary I take these allegations very seriously and strive to take all reasonable precautions to promote ethical conduct per the intent of the Ethics Act and other applicable laws/rules. Your report made specific allegations of misconduct at her former employer, Central Management Services.

Per your report, we have taken note of the concerns regarding allegations of improper instructions regarding time and attendance and the use of inappropriate language. In light of your findings and recommendations to her former employer, CMS, and the recent employment of the individual in question here at DHS, we have taken measures to closely monitor and detect your concerns. Namely, any improper instructions regarding time and attendance or use of inappropriate language; both are prohibited by our personnel rules and employee manual, as well as the Ethics Act with respect to time keeping.

DHS did not have authority or control over the employee at the time of the alleged conduct and cannot support an adverse employment action; however, as I do take your concerns with the utmost consideration, we have strongly counseled the subject on the use of inappropriate language and proper time keeping instructions conveyed to her staff. We will closely monitor to assure that if and/or when, similar conduct is exhibited by any of our employees, swift and strong discipline will be issued. Therefore, DHS respectfully asks that you consider closing this case.

Sincerely,

Grace Hong Duffin  
Acting Secretary

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2010 OCT 22 PM 1:10



ILLINOIS

Pat Quinn, Governor

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

James P. Sledge, Director

**CONFIDENTIAL**

November 9, 2010

Ricardo Meza, Acting Executive Inspector General  
Office of Executive Inspector General  
32 West Randolph, Suite 1900  
Chicago, Illinois 60601

**RE: OEIG Case No. 08-00705**

Dear Inspector General Meza:

Thank you for recently meeting with me regarding my response to the above-referenced matter. As mentioned in my original response on the matter, I agree that Ms. Kraus showed poor judgment by using inappropriate language with her staff, and by giving improper orders via e-mail. However, as of April 15, 2010, Ms. Kraus is no longer employed by CMS, thus we are not in a position to implement a punishment. As a result, your office did not request, nor did we offer, any direction or opinion regarding the issue of discipline. To the extent your office, or Ms. Kraus's current employer, the Department of Human Services (DHS), requests our input in that regard, we recommend a verbal reprimand. In recognition of DHS's authority to assess its operational needs and Ms. Kraus's current performance, we feel they are best suited to address the issue of discipline. We therefore leave it to them to adopt, reject or modify our recommendation.

Should you have any questions please contact our Ethics Officer, Jay Brown, at 312-814-5451.

Sincerely yours,

James P. Sledge  
Director

cc: Grace Hong Duffin, Acting Secretary, Department of Human Services  
file