

IN THE EXECUTIVE ETHICS COMMISSION  
OF THE STATE OF ILLINOIS

In re: WILMER CARABALLO

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OEIG Case # 09-00645

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the 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 Executive Ethics Commission (“Commission”) received a final report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency 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 Wilmer Caraballo at his last known address.

These recipients were given fifteen days to offer suggestions for redaction or provide a response to be made public with the report. Certain information contained in the proposed public response may have been redacted in accordance with the Commission’s determination that it should not be made public. The Commission, having reviewed all suggestions received, makes this document available pursuant to 5 ILCS 430/20-52.

**FINAL REPORT**

**I. Allegations**

The Office of Executive Inspector General (OEIG) received a complaint alleging Wilmer Caraballo (Caraballo), an Illinois Department of Transportation (IDOT) Yard Technician, abused State time by arriving late to work and leaving work early. The complaint further alleged that Caraballo abused State time by working at Vista Medical Center East (Vista Medical Center) during his IDOT work hours and driving his State assigned vehicle to Vista Medical Center in violation of IDOT policy.

## **II. Additional Violations**

Based on evidence adduced during the course of the investigation, the OEIG discovered that Caraballo also violated IDOT policy by permitting a friend to visit him during work hours and by using his State vehicle to transport a non-State employee.

## **III. Background**

Caraballo is an IDOT Yard Technician at IDOT's Gurnee Yard and supervises approximately 12 employees. Caraballo's position requires him to visit various job sites. Caraballo's normal hours are from 6:30 a.m. to 3:00 p.m. Pursuant to IDOT policy, Caraballo is entitled to a 30 minute lunch break and two 15 minute breaks.

Caraballo's job requires that he be on call 24 hours a day 7 days a week and, because of this requirement, he is assigned a State-owned vehicle, namely a 2008 Chevy Impala.

Caraballo has outside employment as a Security Guard at Vista Medical Center in Waukegan, IL and works two days per week from 5:00 p.m. to 11:00 p.m. Caraballo submitted a secondary employment form on September 4, 2007, which was approved by Caraballo's immediate supervisor, IDOT's Regional Engineer, and the Bureau Chief Personnel Management.

## **IV. Abuse of State Time**

### *A. Arriving to Work Late and Leaving Early*

OEIG investigators interviewed several of Caraballo's subordinates regarding allegations that Caraballo generally reports late to work and departs early. On August 4, 2009, the OEIG interviewed [redacted], a seasonal worker at IDOT's Gurnee Yard. On September 3, 2009, OEIG investigators spoke with former Gurnee Yard employee [redacted]. [Redacted] and [redacted] both confirmed that Caraballo generally arrives at the Gurnee Yard at approximately 6:30 a.m., leaves at approximately 7:30 a.m. and returns to the Gurnee Yard at approximately 2:15 p.m.

On September 28, 2009, the OEIG interviewed [another employee]. [This employee] informed OEIG investigators that she has witnessed Caraballo leave the Gurnee Yard at approximately 7:30 a.m.

On January 8, 2010, [another employee] informed OEIG investigators that Caraballo is frequently absent from the yard. [This employee] further stated that, although Caraballo may leave the yard to check on job sites, he generally leaves work early.

### *i. OEIG Surveillance of Caraballo*

The OEIG conducted surveillance of Caraballo on October 19 and 23, 2009 and on November 4, 13, and 20, 2009. On October 19, 2009, investigators saw Caraballo arrive to work

on time and depart on time. That day, the OEIG saw Caraballo take a one hour and thirty minute lunch break. Caraballo's timesheet, however, reveals that he took a 30-minute lunch break. OEIG surveillance conducted on the other days reflected the following:

- On October 23, 2009, Caraballo was scheduled to work from 6:30 a.m. until 10:30 a.m., after which he was scheduled to be off on furlough time from 10:30 a.m. until 3:00 p.m. OEIG investigators saw Caraballo arrive at work at approximately 6:12 a.m. and depart at 8:41 a.m. While performing surveillance, investigators saw Caraballo drive into the subdivision of a non-IDOT employee, whose home was subsequently identified as that of [a person]. At approximately 8:47 a.m., OEIG investigators lost sight of Caraballo.
- On November 4, 2009, Caraballo arrived at IDOT's Gurnee Yard at 6:14 a.m. At approximately 8:50 a.m., Caraballo departed the yard. After his departure, Caraballo was seen visiting a U.S. Cellular store, an insurance company, a residential complex, and a finance company. OEIG investigators also saw Caraballo depart Gurnee Yard for his residence at 2:47 p.m. and arrive home by 3:00 p.m. Caraballo's timesheet reflects that he worked until 3:00 p.m.
- On November 13, 2009, [the person] was seen entering Caraballo's office for approximately one hour. Caraballo's timesheet reflects that he took lunch from 11:00 a.m. to 11:30 a.m. His timesheet does not indicate that he took any additional breaks.
- On November 20, 2009, Caraballo was seen arriving at the Gurnee Yard at 6:30 a.m. and departing at 9:57 a.m. OEIG investigators saw Caraballo meet with [the person] at a grocery store parking lot for approximately 40 minutes (from 10:04 a.m. to 10:44 a.m.). At 11:03 a.m., investigators lost track of Caraballo and did not see him until approximately 12:55 p.m. when he was seen returning to the Gurnee yard. Caraballo's timesheet indicates that he took lunch from 11:00 a.m. to 11:30 a.m. and that he used leave time from 1:00 p.m. to 3:00 p.m.

*ii. OEIG's Interview of Caraballo's Supervisors*

On December 29, 2009, OEIG investigators interviewed [supervisor #1]. [Supervisor #1] informed OEIG investigators that IDOT yard employees, including Caraballo, are given 30 minutes for lunch and that employees need supervisory approval to combine their two 15 minute breaks with their 30 minute lunches. [Supervisor #1] also stated that Caraballo never requested to combine his lunch break with his two 15 minute breaks. Finally, [supervisor #1] informed OEIG investigators that Caraballo is expected to return to the yard even when he has been out in the field the entire day, and added that an employee should not arrive home earlier than their scheduled end time.

On December 14, 2009, OEIG investigators met with [supervisor #2]. [Supervisor #2] stated that it is a good practice for yard technicians to return to the yard at the end of their shift to ensure subordinates are not leaving their shift prior to their proscribed departure time. However,

[Supervisor #2] provided that yard technicians do have some discretion when deciding whether to return to the yard or proceed home at the end of the work day.

*iii. OEIG's Interview of Caraballo*

On February 4, 2010, the OEIG interviewed Caraballo. Caraballo stated that, on occasion, he takes extended lunches, explaining that the lunches varied from 1 to 2 hours, and that he rarely documents these breaks on his timesheets. Caraballo also stated that he does not recall conducting any personal errands while working.

During his OEIG interview, Caraballo also stated that visitors are permitted to visit employees at the Gurnee Yard for lunch and that a reasonable visit would be anywhere from 30 to 45 minutes. When asked about whether he had any personal visitors at the yard, Caraballo stated that, starting about 4 or 5 months ago, [the person] would visit him about once a week. Caraballo confirmed to OEIG investigators that [the person] was the non-IDOT employee who was seen visiting Caraballo at IDOT's Gurnee Yard. Caraballo also informed investigators that [the person] would stay at the yard for about 1 to 2 hours and that [the person] would occasionally bring lunch. Caraballo stated that he was not abusing IDOT or State policy by permitting [the person] to visit the yard and that he was working while [the person] was in the office.

*B. Caraballo's Secondary Employment*

Caraballo has secondary employment as a Security Guard at Vista Medical Center in Waukegan, IL. During his February 4, 2010 interview with OEIG investigators, Caraballo stated that his current hours at Vista Medical Center are Tuesday and Thursday from 5:00 p.m. to 11:00 p.m. Caraballo also stated that his scheduled hours at Vista Medical Center do not conflict with his normal IDOT schedule.

On days where Caraballo works his regular shift at IDOT, and his normal shift at Vista, he works a total of 14 hours per day. In his meeting with OEIG investigators, Caraballo stated that working 14 hours did not make him less effective at IDOT.

The OEIG reviewed Caraballo's hours for Tuesday, January 6, 2009, Tuesday, January 13, 2009, and Wednesday, January 14, 2009. On each of these three days, Caraballo worked a total of 17.5 hours between his two jobs.<sup>1</sup> When asked about the amount of hours he worked on those days, Caraballo stated that he did not believe that the hours he worked impacted his performance at IDOT. Caraballo informed investigators that he either goes home to sleep or sleeps while he is at the Gurnee Yard and that when he sleeps at IDOT, he is not signed in.

Caraballo stated that he falls asleep at his desk about one or two times a week for approximately 10 to 15 minutes on each occasion. Caraballo stated that his sleeping is not the

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<sup>1</sup> For each of the above cited days, Caraballo worked 3.5 hours of overtime at IDOT (from 3:00 a.m. to 6:30 a.m.), then his normal 8 hour shift at IDOT( from 6:30 a.m. to 3:00 p.m.), and 6 hours at Vista Medical Center (from 5:00 p.m. to 11:00 p.m.).

result of him having secondary employment. Rather, Caraballo stated that he has sleep apnea and is tired all day. However, Caraballo stated that he has not informed his supervisors of his sleep apnea or provided them with medical documentation related to his condition.

## **V. A Non-State Employee Visits IDOT's Gurnee Yard**

### *A. OEIG Interviews [a person]*

On February 11, 2010, OEIG investigators met with [a person], the non-IDOT employee who was seen visiting Caraballo at IDOT's Gurnee Yard. [The person] informed investigators that [the person] met Caraballo at a restaurant in the summer of 2009 and that, on occasion, [the person] would cook lunch for him and bring it to the yard. [The person] stated that [the person] visited Caraballo on approximately 2 or 3 occasions and that [the person's] visits lasted about one to two hours.

[The person] also informed OEIG investigators that Caraballo worked during [the person's] visits and said that [the person's] visits with Caraballo were not limited to visiting him at the yard. [The person] gave an example of when he picked [the person] up from home, took [the person] to breakfast, and dropped [the person] off. At the time, Caraballo was using his State vehicle.

### *B. OEIG Interviews Caraballo's Subordinates and Supervisor*

In the January 2010 interviews with Caraballo's subordinates, [four names redacted], each subordinate interviewed recalled seeing [the person's] vehicle parked outside Caraballo's office on various occasions. [One employee] stated that during the summer of 2009, he saw [the person's] vehicle parked at the Gurnee Yard approximately once a week.

The OEIG received information that [the person's] vehicle was seen at the yard on September 25, 2009, October 2, 2009, and October 16, 2010.<sup>2</sup>

According to [supervisor #2], non-IDOT vehicles are generally not allowed to park within the IDOT yard and employees with private offices are not permitted to abuse their privileges by having guests visit employees while at work.

## **VI. Wilmer Caraballo Interview Regarding Use of State Vehicle**

OEIG investigators asked Wilmer Caraballo questions regarding his use of his state issued vehicle. In response, Caraballo stated that he is familiar with IDOT's vehicle policies and that IDOT policy prohibits employees from using State vehicles for personal business. Caraballo stated that he does not use his State vehicle to conduct personal errands or to travel to his second job. Caraballo further explained that IDOT vehicles are limited to travel to and from an employee's work site, with allowances for getting meals within close proximity to the yard. Caraballo stated that he travels home to pick up his personal vehicle before heading to Vista

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<sup>2</sup> On September 25, 2009, Caraballo used 4 hours furlough time from 10:30 a.m. to 3:00 p.m., [the person] was seen at the Gurnee yard from approximately 8:40 a.m. through 10:00 a.m.

Medical Center. Caraballo also said that IDOT policy specifically prohibits employees from transporting non-State employees.

Later, during the same interview, Caraballo confirmed that he did use his State vehicle to conduct personal errands. Caraballo provided OEIG investigators with examples of personal errands he would run including, going to the bank, Walgreens, and his wife's job, all while on State time. Caraballo informed investigators that these errands were necessary and that he visits his wife's job every week. Caraballo also stated that he is always accessible by phone when he is running personal errands and that he combines his two 15 minute breaks with his 30 minute lunch break to complete his errands.

When asked about his use of his State-owned vehicle, Caraballo stated that he did use his State vehicle to transport [the person], a non-State employee. Caraballo did indicate, however, that sometime during the summer and fall of 2009, he picked up [the person] from [the person's] home and dropped [the person] back off using his State-owned vehicle.

## **VII. Analysis**

### *A. Time Abuse*

#### *i. Caraballo's Early Departures*

IDOT Order 3-1, Chapter 7-3 states in pertinent part, "[a]ll employees are expected to be at their work stations and ready to work at the appointed starting time to the appointed quitting time. Abuse of state time by an employee shall result in disciplinary action, up to and including discharge."

Caraballo's work hours are 6:30 a.m. to 3:00 p.m. According to at least three of his subordinates and the OEIG's surveillance, Caraballo generally arrives at work on time, but leaves prior to the end of his shift. For example, on October 23, 2009, Caraballo arrived at the Gurnee yard at 6:12 a.m. and left by 8:41 a.m. A review of his timesheet revealed that he used leave time from 10:30 a.m. to 3:00 p.m. Accordingly, Caraballo failed to account for nearly 2 hours of State time. Similarly, on November 4, 2009, the OIEG saw Caraballo arrive at his residence by 3:00 p.m., the time at which he should have been completing work. Caraballo's timesheet, nevertheless indicates that he worked from 6:30 a.m. until 3:00 p.m.

Caraballo violated IDOT policy as set forth in IDOT order 3-1, Chapter 7-3. Specifically, IDOT policy states that an employee is to remain at his or her workstation until their appointed quitting time. The policy does not provide discretion or authority to depart early. [Supervisor #2] stated that it is a good practice for Caraballo to return to the yard at the end of his shift. In addition, [Supervisor #1], advised that Caraballo is expected to return back to the Gurnee Yard at the end of his shift. The allegation that Caraballo abused State time is therefore FOUNDED.

#### *ii. Caraballo Falsified His Timesheet*

Chapter 10 of IDOT's Personnel Policy Manual states that employees are expected to report accurately and truthfully all information pertaining to employment, including timekeeping records.

During his OEIG interview, Caraballo confirmed that he was untruthful in reporting his breaks on his timesheets. OEIG investigators verified this statement by reviewing Caraballo's November 4, 2009 timesheet. On November 4, 2009, OEIG investigators saw Caraballo take several breaks throughout the day. These breaks, however, were not reflected on Caraballo's timesheet. Another example of Caraballo's timesheet falsification is evident by reviewing Caraballo's October 23, 2009 timesheet, where investigators saw Caraballo leave the Gurnee Yard at 8:41 a.m., but according to his time sheet his authorized leave was not to start until 10:30 a.m. A third example of Caraballo's timesheet falsification occurred on November 20, 2009. On that date, Caraballo met with [the person] on State time from 10:04 a.m. to 10:44 a.m. in the parking lot of a grocery store. Caraballo's timesheet for November 20, 2009 does not account for this meeting and reflects Caraballo taking lunch from 11:00-11:30 a.m. Thus, Caraballo falsified his timesheets in violation of IDOT policy and this allegation is FOUNDED.

*iii. Caraballo's Secondary Employment Conflicts with His State Employment*

IDOT Order 3-1, Chapter 19, Outside Employment states in relevant part that "[a]n employee may not hold outside employment which may cause mental or physical exhaustion to the extent that it demonstrably impairs the employee's efficiency or capabilities to carry out Department duties."

Caraballo's employment at Vista Medical Center appears to impair his ability to operate efficiently at IDOT's Gurnee Yard. On Tuesday, January 6, 2009, Tuesday, January 13, 2009, and Wednesday, January 14, 2009, Caraballo worked a total of 17.5 hours per day, including hours worked at IDOT and Vista. While these dates include overtime worked for IDOT, on days where Caraballo works his normal schedule, he still works a total of 14 hours per day. In fact, Caraballo acknowledged being tired, but attributes his napping to sleep apnea. However, Caraballo never previously mentioned sleep apnea to his supervisors. The OEIG concludes that Caraballo's employment at Vista Medical Center conflicts with his IDOT employee in contravention of IDOT policy.

*C. Caraballo misused his State Assigned Vehicle*

IDOT Order 11-2, Chapter 2, states that State vehicles are authorized for use only in the performance of essential travel duties related to the completion of official State business. The policy further states that, when in doubt, the decision must be based on whether the vehicles use will serve the best interest of the State.

Caraballo admittedly used his State vehicle to conduct personal errands, such as his activities of Nov. 4, 2009 of picking up money from his wife, going to U.S. Cellular, going to a finance company and going to an insurance company. The OEIG found no evidence that Caraballo used his state vehicle to commute to his secondary employment as alleged. Caraballo,

however, did use his State vehicle in violation of IDOT policy by running personal errands and transporting a non-State employee and this allegation is **FOUNDED**.

### **VIII. Conclusion**

- **FOUNDED** – Wilmer Caraballo violated IDOT Policy and abused State time by leaving work before his scheduled leave time, falsifying his timesheets, taking unscheduled breaks and extending his lunch hour.
- **FOUNDED** – Wilmer Caraballo violated IDOT policy by permitting his secondary employment to interfere with his IDOT responsibilities.
- **FOUNDED** – Wilmer Caraballo violated IDOT policy by using his State vehicle for his personal needs.
- **UNFOUNDED** – Wilmer Caraballo violated IDOT policy by driving his State vehicle to his secondary employment.

Based on the evidence the OEIG recommends that Wilmer Caraballo be disciplined for misconduct including, his abuse of State time, permitting his secondary employment to interfere with his IDOT employment, and using his State vehicle for personal errands. The OEIG also recommends that IDOT consider modifying or rescinding Wilmer's secondary employment authorization. Furthermore, IDOT should determine how, if at all, Caraballo's sleep apnea is affecting his ability to perform his job duties and responsibilities.

No further investigative action is warranted and this case is considered closed.



# Illinois Department of Transportation

Office of Quality Compliance & Review  
201 West Center Court / Schaumburg, Illinois 60196-1096

February 4, 2011

Mr. William Benz  
Supervising Assistant Inspector General  
Office of Executive Inspector General  
32 West Randolph Street, Suite 1900  
Chicago, Illinois 60601

Subject: OEIG Complaint # 09-00645

Dear Mr. Benz:

This letter is in response to your January 14, 2011 letter regarding case number 09-00645 in which you requested that we report to your office the actions taken to address your recommendations. Our office has been informed that District 1 Bureau of Personnel is in the process of scheduling a pre-disciplinary hearing with Mr. Caraballo and it is anticipated that the hearing will be scheduled for next week. We will provide to you a copy of the charges that are presented to him at the hearing after the hearing has taken place.

If you have any questions, or if I can be of further assistance to you or your staff, please do not hesitate to contact me at 847-221-3086.

Respectfully,

Daniel J. Kennelly  
Director



# Illinois Department of Transportation

Office of Quality Compliance & Review  
201 West Center Court / Schaumburg, Illinois 60196-1096

March 8, 2011

Mr. William Benz  
Supervising Assistant Inspector General  
Office of Executive Inspector General  
32 West Randolph Street, Suite 1900  
Chicago, Illinois 60601

Subject: OEIG Complaint # 09-00645

Dear Mr. Benz:

This letter is in response to your January 14, 2011 letter regarding case number 09-00645 in which you requested that we report to your office the actions taken to address your recommendations. Our office has been informed that on February 23, 2011, District 1 Bureau of Personnel held a pre-disciplinary hearing with Mr. Caraballo. As a result of the pre-disciplinary meeting Mr. Caraballo was suspended without pay for seven (7) days effective the close of business Friday, March 18, 2011 through close of business Friday, March 25, 2011 for misuse of state time, falsification of time records and violation of conflict of interest policy

If you have any questions, or if I can be of further assistance to you or your staff, please do not hesitate to contact me at 847-221-3086.

Respectfully,

Daniel J. Kennelly  
Director

cc: Secretary Gary Hannig  
Ann Schneider, Acting Chief of Operations  
Ellen Schanzle-Haskins, Chief Counsel  
Robert Anderson, Ethics Officer