

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

In re: ANDRE TOGUEM,) OEIG Case #12-00216

OEIG FINAL REPORT (REDACTED)

Below is an amended 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 the report’s factual allegations or legal conclusions before the Commission.

The Commission received this amended final report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, 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 Andre Toguem at his last known address.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

FINAL REPORT

I. INTRODUCTION

On January 26, 2012, the Office of Executive Inspector General (“OEIG”) received a complaint containing multiple allegations of wrongdoing involving Illinois Department of Human Services (“DHS”) employee Andre Toguem. The allegations involved alleged abuse of time and violations of multiple DHS policies.

II. BACKGROUND

Andre Toguem has been employed as a Public Service Administrator for DHS since about 2003. Through about 2009, Mr. Toguem worked in various Chicago DHS offices. In August 2009, he accepted a transfer to Springfield. Mr. Toguem works a four-day work week and is entitled to a one hour uncompensated lunch break and two compensated 20-minute break periods. Mr. Toguem is required to work 37.5 hours each week.

At all times relevant to this investigation, DHS required its employees to sign in and out each day on an attendance sheet. Employees, however, are not required to record their lunch and/or break periods. As of July 1, 2014, Mr. Toguem's salary was about \$113,664 per year.

III. INVESTIGATION

A. Interviews of Andre Toguem's Former Supervisors

On multiple occasions during the course of the investigation, the OEIG interviewed Mr. Toguem's former DHS supervisors [Supervisor 1] and [Supervisor 2]. [Supervisor 1] stated that all of Mr. Toguem's past supervisors, including himself, had questioned Mr. Toguem about his abuse of time, but it was "like pulling teeth" because he always provided excuses and denied abusing time. [Supervisor 1] also told investigators that:

- employees complained about Mr. Toguem being on his personal phone;
- when questioned about phone use, Mr. Toguem would say he was on break; and
- Mr. Toguem was counseled about his phone use at least three times by three different DHS supervisors.

In addition, [Supervisor 1] said he was unable to explain why supervisors failed to formally discipline Mr. Toguem regarding his personal phone use.

[Supervisor 2] said that when he supervised Mr. Toguem, his phone use probably exceeded his lunch/break times but was unable to explain why supervisors failed to address Mr. Toguem's phone use. He also said he was unaware of the degree of Mr. Toguem's phone use.

B. Andre Toguem's 2011 and 2012 Phone Use and Related Surveillance

The OEIG analyzed Mr. Toguem's personal phone use for a limited period (July 5, 2011 to August 16, 2012) and compared the records to his DHS time keeping records for the same time period. The analysis revealed that:

- on 1 workday, he spent about 4 hours on his personal phone;
- on 10 workdays, he spent more than 3 hours on his personal phone; and
- on 87 workdays, he spent more than 1 hour and 40 minutes on his personal phone;

Investigators compared the calls in Mr. Toguem's personal phone records with several public records databases and found that many of the calls during State time were to or from telephone numbers associated with Mr. Toguem's family members.

In addition, the OEIG also conducted limited surveillance on two days. On July 24, 2012, investigators saw Mr. Toguem on a personal phone, sitting in a car, and entering a restaurant for a total of 2 hours and 15 minutes. On July 25, 2012, they saw him for a total of 1 hour and 40 minutes on his personal phone.

C. Initial Interview of Andre Toguem

On April 23, 2013, investigators interviewed Andre Toguem. When asked about his personal phone use, Mr. Toguem estimated that he makes and receives four to six personal calls each day during his State workday and that most are to or from family members. Mr. Toguem said that he makes and receives calls while outside the DHS Office during his lunch or break periods and said his lunch or break periods are not at the same time each day. He also said he occasionally answers calls when not on a break but, with the exception of his daughter, always informs the caller that he will call back later.¹ He also said he does not monitor his personal phone use during his lunch/break periods because he “program[med]” himself to know when he needed to return to work.

Investigators showed Mr. Toguem various phone and DHS timekeeping records for several dates in 2011 and 2012. After reviewing the records, Mr. Toguem said he had no independent recollection of making or receiving any of the calls. However, he did say that almost all the calls were unrelated to DHS business, most were to or from family members including his wife, daughter, and uncle and said some calls were related to family medical issues.

D. Investigation Of Additional Allegations Against Mr. Toguem

From early 2012 until late 2014, the OEIG conducted its investigation into the multitude of additional allegations lodged against Andre Toguem. The OEIG investigation involved the review and analysis of a large number of documents, numerous interviews, and analysis of electronic data. Following its investigation, the OEIG determined that there was insufficient evidence to substantiate any of the additional allegations, and thus, they are all unfounded.

E. Mr. Toguem’s Continued Personal Phone Use and Subsequent Interview

In light of the additional time investigators needed to investigate the above-referenced allegations and because of the passage of time, investigators sought to re-visit Mr. Toguem’s personal phone usage and in particular sought to determine whether after his initial interview he stopped using his personal phone as much as he had before. Further analysis revealed that, between January 2014, and mid-July 2014 Mr. Toguem used his personal phone as follows:

- on 1 workday, he spent over 2.5 hours on his personal phone;
- on 7 workdays, he spent more than 2 hours on his personal phone; and
- on 11 workdays, he spent more than 1 hour and 40 minutes on his personal phone.

A review of the phone numbers associated with the calls revealed that the vast majority of numbers Mr. Toguem called appeared to be personal in nature.

On January 27, 2015, investigators re-interviewed Andre Toguem. Investigators informed him of their analysis and asked him if he agreed that this 2011 through 2012 personal phone use was an abuse of State time. In response, he said, “Yes.” Investigators then asked him if he agreed that his 2014 personal phone use was an abuse of State time. Again, he said, “Yes.”

¹ Mr. Toguem said he takes his daughter’s calls during State working hours because she has a medical condition.

but also said, "I wasn't consciously doing it." Finally, Mr. Toguem agreed that he violated DHS Administrative Directives requiring employees to be on site, performing work related duties during State working hours by using his personal phone in excess of his lunch and break periods.

IV. ANALYSIS -- Andre Toguem Abused State Time

The OEIG investigation revealed that, from July 2011 through August 2012, Andre Toguem abused time by using his personal phone in excess of that allowed by his employing agency. In fact, on some occasions, he spent more than 3 hours on his personal phone during his reported State working hours.

In addition and surprisingly, even after Mr. Toguem was initially interviewed by investigators about his excessive use of his personal phone, he continued to engage in this conduct. Specifically, the investigation revealed that from January 2014 through mid-July 2014, after he was interviewed about his personal phone usage, on no less than 11 occasions, Mr. Toguem spent nearly 2 hours on his personal phone.

To be sure, during his OEIG interview, Mr. Toguem admitted that he abused time by making personal phone calls during his State working hours on multiple days. In short, Mr. Toguem's abuse of state time has likely cost the state thousands in lost wage time and thus the allegation that he abused State time is **FOUNDED**.

V. FINDINGS AND RECOMMENDATION

Following due investigation, the OEIG issues this finding:

➤ **FOUNDED** – Andre Toguem abused State time on numerous occasions from July 2011 through mid-July 2014.

The OEIG recommends that DHS discipline Andre Toguem for his excessive personal cellular telephone use during his State working hours and take whatever additional steps it deems appropriate.

No further investigation is required and this matter is considered closed.

Date: **March 30, 2015**

Office of Executive Inspector General
for the Agencies of the Illinois Governor
607 East Adams, 14th Floor
Springfield, IL 62701

Melissa Rollins
Assistant Inspector General

Melissa Brandenburg
Investigator #160



Bruce Rauner, Governor

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

April 21, 2015

Via e-mail to:

Thomas Klein

Acting Executive Inspector General

Office of the Executive Inspector General for the Agencies of the Illinois Governor

RE: Response to OEIG Complaint Number 12-00216

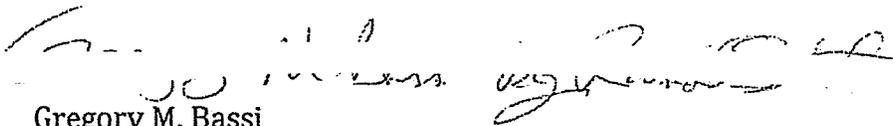
Dear Executive Inspector General Klein:

This letter responds to the Final Report for complaint number 12-00216. The Final Report details a Founded allegation of a three-year investigation that included two surveillance operations. According to the Final Report, DHS employee Andre Toguem has abused State time by making personal phone calls during his State working hours and has likely cost the State thousands of dollars in lost wage time. Your office recommended that DHS discipline Mr. Toguem for his excessive personal phone use during State working hours.

DHS is implementing OEIG's recommendation of discipline for Mr. Toguem. The Collective Bargaining Agreement specifies a process for discipline. Accordingly, a pre-disciplinary meeting is scheduled for May 6, 2015. At that meeting, the charges and their basis will be shared with Mr. Toguem. Mr. Toguem will be afforded a rebuttal period and possibly several review periods before a determination of the level of discipline is made and any final action can be taken. As you probably know, the process could take some time for resolution. The Department will provide you updates as the process moves along.

If you have any questions, please feel free to contact Ravinder Sahota, DHS' Ethics Officer.

Regards,


Gregory M. Bassi
Acting Secretary



Bruce Rauner, Governor

James T. Dimas, Secretary-designate

DHS 3rd LEVEL GRIEVANCE RESOLUTION

GRIEVANCE #: RC63-41-549466

GRIEVANT: Andre Toguem, Public Service Administrator

AGENCY: Department of Human Services
Bureau of Home Services

ISSUE: Last Chance Agreement

RESOLUTION: In full and complete resolution of the above-captioned matter, the parties agree:

1. The Discharge of the Grievant, Andre Toguem, shall be reversed. The Grievant, Andre Toguem, shall be returned to work on September 16, 2015, at the Bureau of Home Services, to a Monday-Friday/8:30am-5:00pm work schedule. Andre Toguem will not receive back pay and with time served from May 20, 2015 to September 15, 2015 being considered a disciplinary suspension.
2. Any further infractions commencing two years from the date of reinstatement regarding unauthorized use of his personal phone during work hours of will result in Andre Toguem resigning immediately. If Andre Toguem does not resign, a discharge will be processed and Andre Toguem and the union will waive all rights to use the collective bargaining agreement grievance procedure, Civil Service Commission or any other administrative body as a result of this discharge.
3. The Union and the Grievant, Andre Toguem, agree to refrain from initiating any grievance, administrative or other judicial proceedings arising out of this discharge action or the circumstances that led to the filing of charges of discharge.
4. This resolution constitutes a last chance agreement and is made without precedent or prejudice in the disposition of other cases.

Andre Toguem (5-19-166) Last Chance Agreement con't:

[Signature]
For DHS

Sept. 3, 2015
Date

A. A. [Signature]
For AFSCME Council 31

9/8/15
Date

[Signature]
Employee

9/8/15
Date