IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

In re: RYAN McLEAN) OEIG Case # 09-00419

OEIG FINAL REPORT (REDACTED)

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

ALLEGATION

The Office of Executive Inspector General (OEIG) received a complaint alleging that Illinois Department of Transportation (IDOT) employee Ryan McLean (McLean) misused State property by sending numerous personal e-mail messages from his State e-mail account. The OEIG concludes that this allegation is FOUNDED.

SUMMARY REPORT OF THE OEIG INVESTIGATION

Between February 9, 2009 and March 4, 2009, McLean, an IDOT Engineering Technician V, and his then-girlfriend, former Illinois Department of Healthcare and Family Services (HFS) employee Amy Bryan (Bryan), e-mailed each other almost every workday, sometimes several times a day. During this time period, they sent 1,069 e-mails to one another through their State e-mail accounts.[1] A review of McLean's e-mails indicates that he often used his State e-mail to discuss wedding plans, social events and even argue with Bryan. For example, on February 11, 2009 at 8:32 a.m., February 19, 2009 at 1:16 p.m., and February 26, 2009 at 9:23 a.m., respectively, McLean sent Bryan the following e-mails:

{This section of the OEIG report has been redacted due to privacy concerns of the sender and recipient of the e-mails. What has been redacted is the text of four e-mails that are clearly unrelated to McLean's State employment. One of these e-mails contained a threat

[1] Bryan was terminated from HFS on March 24, 2009, based upon HFS' investigation into this matter. Therefore, the OEIG makes no finding or recommendation for disciplinary action concerning Bryan.

to send an e-mail containing hostile, offensive language to another State employee.}[23]

In response to the above e-mail, Bryan requested that McLean stop using profanity and that he stop e-mailing her, adding that he would get her in trouble. Nonetheless, McLean continued sending Bryan e-mails from 11 a.m. until 3:15 p.m., and thereafter he and Bryan e-mailed each other until well after 4:45 p.m. that day.

During his OEIG interview, investigators asked McLean about IDOT's policy on employees' use of their e-mail accounts. He stated that IDOT's e-mail system could not be used for personal purposes and that State equipment should be used for State business.

When questioned regarding his e-mail usage, McLean, an IDOT employee since 1998, readily admitted using his State e-mail account contrary to IDOT policy. However, when questioned regarding the number of e-mails he sent, McLean greatly underestimated the number, claiming that he sent under 100 personal e-mails in a month. McLean was therefore apparently surprised to learn from investigators that he and Bryan had sent more than 1,000 e-mails from February to March, 2009. In response, McLean advised investigators that he and Bryan were having problems during that period and that his behavior was atypical. McLean explained that before and after the monitored timeframe, his e-mails were generally limited to State business.

A review of McLean's personnel file revealed that he signed a form entitled "Illinois Department of Transportation Personnel Policies Manual" on April 18, 2001, attesting to his receipt of the manual and vowing to abide by its contents. Moreover, on August 25, 2000, McLean signed an acknowledgment of receipt form regarding IDOT's Departmental Order 8-2 related to Information Technology ("IT") Resources. By signing the form, McLean acknowledged that he had received either a printed copy or access to an intranet copy of the IT policy and that he agreed to adhere to its terms.

ANALYSIS

Chapter 11 of IDOT's Employee Handbook provides that employees shall not use State property for personal or private purposes and that State property is to be utilized only for conducting official State business.[4] When interviewed by OEIG investigators, McLean admitted using his State e-mail account for non-work related purposes and acknowledged that he knew he was prohibited from doing so by IDOT policy.

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[2] Upon further review of McLean's e-mails from February to March 2009, the OEIG observed e-mails between McLean and another State employee, [name redacted]. However, these e-mail communications appeared to be very limited given that they were contained within only one thread.

[3] [Redacted identifying information about the employee].

[4] IDOT Personnel Policy Manual, Chapter 11-3 - Rules for Employee Conduct, State Property.

While IDOT IT policy does allow for "reasonable use"[5] of the e-mail for personal reasons, McLean's e-mail exchanges do not fit within this exception. In less than a one month period, McLean sent or received over 1,000 personal e-mails. This hardly constitutes reasonable use because it showed that McLean and Bryan corresponded with each other via e-mail several times a day, using the State's e-mail system as their personal chat forum. As such, McLean's conduct is against IDOT policy.

McLean also violated IDOT policy when he threatened to send the hostile e-mail, containing explicit language, to [name redacted]. IDOT's policy specifically prohibits such conduct. It states, in relevant part, that e-mail messages should not contain offensive or harassing statements or language.[6] In addition, despite Bryan's protest, McLean continued sending Bryan messages. This also shows McLean's inappropriate e-mail use.

For these reasons, the allegation that McLean misused his State e-mail is FOUNDED.

CONCLUSION AND RECOMMENDATION

➢ **FOUNDED** – McLean misused State property by sending numerous personal and inappropriate e-mail messages through his State e-mail account.

Based upon the evidence, the OEIG recommends that McLean be subject to discipline, up to and including discharge, for abusing his State e-mail account in violation of IDOT policy.

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

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[5] IDOT Departmental Order 8-2, Electronic Mail. "Reasonable use" is generally defined as being limited in duration and scope.
[6] *Id.*

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

December 10, 2009

Received
OIG-Chicago
2009 DEC 14 PM 2:06

Mr. James A. Wright
Executive Inspector General
Office of Executive Inspector General
32 West Randolph Street
Suite 1900
Chicago, Illinois 60601
Attn: Sydney R. Roberts, First Deputy Inspector General

Subject: OEIG Complaint # 09-00419

Dear Mr. Wright:

As requested in your November 19, 2009 letter to Secretary Gary Hannig regarding case no. 09-00419 (IDOT employee Ryan McLean), we are reporting to you the action that we are taking to address your recommendations. We have reviewed the information that you provided and have forwarded the information to the appropriate offices so that the recommendations can be implemented. A Pre-Disciplinary Meeting is being scheduled to take place the week of December 14 -17, and it is anticipated the Department will pursue a low level suspension as discipline.

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

Respectfully,

Daniel J. Kennelly
Director

cc: Secretary Gary Hannig
Chief Counsel Ellen Schanzle-Haskins