

PUBLICATION OF REDACTED VERSION
OF THE OEIG FOR THE AGENCIES UNDER THE GOVERNOR
INVESTIGATIVE REPORT

Case # 21-00397

Subject(s): Jason Garnett

Below is the redacted version of an investigative summary report issued by the Executive Inspector General for the Agencies of the Illinois Governor. Pursuant to section 20-50 of the State Officials and Employees Ethics Act (Act) (5 ILCS 430/20-50), a summary report of an investigation is required to be issued by an executive inspector general when, and only when, at the conclusion of investigation, the executive inspector general determines reasonable cause exists to believe a violation has occurred. If a complaint is not to be filed with the Commission for adjudication of the alleged violation, the Act further requires the executive inspector general to deliver to the Executive Ethics Commission (Commission) a statement setting forth the basis for the decision not to file a complaint and a copy of the summary report of the investigation and of the response from the ultimate jurisdictional authority or agency head regarding the summary report. 5 ILCS 430/20-50(c-5). The Act requires that some summary reports be made available to the public and authorizes the Commission to make others available. 5 ILCS 430/20-52. Before making them available, however, the Commission is to redact from them information that may reveal the identity of witnesses, complainants, or informants and may redact “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

Some summary reports delivered to the Commission may contain a mix of information relating to allegations with respect to which the executive inspector general did and did not determine reasonable cause existed to believe a violation occurred. In those situations, the Commission may redact information relating to those allegations with respect to which the existence of reasonable cause was not determined.

The Commission exercises its publication responsibility with great caution and seeks to balance the sometimes-competing interests of transparency and fairness to the accused and others uninvolved. To balance these interests, the Commission has redacted certain information contained in this report and identified where said redactions have taken place and inserted clarifying edits as

marked. Publication of a summary report of an investigation, whether redacted or not, is made with the understanding that the subject or subjects of the investigation may not have had the opportunity to rebut the report's factual allegations or legal conclusions before issuance of the report. Moreover, there has not been, nor will there be, an opportunity for the subject to contest or adjudicate them before the Commission. The subject merely has the opportunity to submit a response for publication with the report.

The Commission received this report and a response from the ultimate jurisdictional authority and/or agency in this matter from the Agencies of the Illinois Governor Office of Executive Inspector General ("OEIG"). The Commission, pursuant to 5 ILCS 430/20-52, redacted the OEIG's final report and responses and mailed copies of the redacted version and responses to the Attorney General, the Executive Inspector General for the Agencies of the Illinois Governor, and each subject.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52. By publishing the below redacted summary report, the Commission neither makes nor adopts any determination of fact or conclusions of law for or against any individual or entity referenced therein.

– THE REDACTED VERSION OF THE EIG'S SUMMARY REPORT
BEGINS ON THE NEXT PAGE –

I. INTRODUCTION AND ALLEGATIONS

The Office of Executive Inspector General (OEIG) received a complaint on March 7, 2021, which alleged that temporarily assigned [IDOC Employee 1] sexually harassed [IDOC Employee 2] by calling him “boo” and “love” and engaging in other actions that belittled him and made him feel uncomfortable.

[Redacted.]

As part of this investigation, the OEIG also investigated whether [IDOC Employee 2]’s incident report was properly handled by IDOC management and looked at how IDOC generally handled reports alleging discrimination, harassment, and sexual harassment. Although the OEIG found insufficient evidence of sexual harassment or [redacted], the OEIG determined that IDOC failed to address the complaint in accordance with IDOC Administrative Directives.

II. BACKGROUND

IDOC’s Parole Division is comprised of five districts. Chief of Parole Jason Garnett presides over the Parole Division, which employs a total of about 425 people. [IDOC Employee 3] supervises District 1, which includes the [Redacted] County Parole Office, where [IDOC Employee 2] works. From October 1, 2020 to December 31, 2020, [IDOC Employee 1] was temporarily assigned as [Redacted] County [Redacted].

IDOC’s sexual harassment policy provides that all employees are entitled to work in an environment free from sexual harassment and prohibits any form of sexual harassment.¹ Further, IDOC’s discrimination and harassment policy prohibits all forms of discrimination and harassment based on a protected class.² Any IDOC employee who engages in or knowingly condones sexual harassment or discrimination or harassment shall be subject to disciplinary action including discharge.³ IDOC policy provides that employees are to document any unusual incidents, including incidents of sexual harassment and discrimination and harassment, on IDOC incident reports.⁴

¹ IDOC Administrative Directive (AD) 03.01.310 - Sexual Harassment, eff. Aug. 1, 2020. The policy was updated effective October 1, 2021, but this provision of the policy was unchanged.

² IDOC AD 03.01.307 – Discrimination and Harassment, eff. Oct. 1, 2020. The policy specifies that all employees are entitled to a work environment free of discrimination and harassment on the basis of race, color, religion, gender, national origin, ancestry, age, marital status, citizen status, sexual orientation, military status, unfavorable military status, arrest record, language, order of protection status, pregnancy or disability. The policy was updated effective October 1, 2021, but this provision of the policy was unchanged.

³ IDOC AD 03.01.310 and IDOC AD 03.01.307.

⁴ See IDOC AD 03.01.310 and IDOC AD 03.01.307; also see IDOC AD 01.12.105. IDOC incident reports are also called “DOC 0434” forms or “434s.” The form asks the reporting staff member to record the name of the facility or program; record the date and time of the incident; list the names of the offenders and/or staff involved, as well as any witnesses; and write a narrative of the incident being reported. For purposes of this OEIG report, 434s will be referred to as “incident reports.”

Section II.H.4. of the sexual harassment policy provides that when the Chief Administrator is notified of a report of sexual harassment, the Chief Administrator can take actions such as “refer[ring] the incident to the Office of Affirmative Action for formal investigation” or “other corrective action.”⁵ However, section II.H.6. of the sexual harassment policy further provides, “in all cases, the Chief Administrator shall: ... [s]ubmit to the Office of Affirmative Action a copy of any written complaint, a summary of any verbal complaint, and a copy of the response to the alleged victim.”⁶ IDOC’s discrimination and harassment policy contains similar language, providing that the Chief Administrator can take certain actions, but in all cases must submit a copy of *any* written complaint of discrimination or harassment to the Office of Affirmative Action.⁷ IDOC’s Office of Affirmative Action coordinates IDOC’s Equal Employment Opportunity/Affirmative Action Program and investigates complaints of discrimination and sexual harassment.⁸

III. INVESTIGATION

A. [IDOC Employee 2]’s Incident Report Regarding Interactions with [IDOC Employee 1]

IDOC records reflect that [IDOC Employee 2] emailed [IDOC Employee 3] at approximately 11:56 AM on December 15, 2020, requesting to meet to discuss an issue. [IDOC Employee 3] replied that he was unavailable, and the following day, at approximately 12:16 PM, [IDOC Employee 2] emailed him an incident report, dated that day—December 16, 2020. The incident report described an office incident, occurring on December 15, 2020, involving [IDOC Employee 1] and stemming from a disagreement about Parole Division policy. First, [IDOC Employee 2] alleged that he went to speak to [IDOC Employee 1] about an email she sent to him that he felt was “offensive and belittling.” Specifically, [IDOC Employee 1] wrote an email, which included the Webster Dictionary definition of the word, “verify”; [IDOC Employee 2] wrote in his incident report that he found this very unprofessional and berating and that he wanted to bring this to [IDOC Employee 1]’s attention. [IDOC Employee 2] said [IDOC Employee 1] felt agitated and told him to leave her office, which also made him feel belittled. [IDOC Employee 2] asserted, however, that the conversation never turned hostile or unprofessional.

Second, [IDOC Employee 2] reported that [IDOC Employee 1] called him “boo” and “love” and that these references made him feel uncomfortable. [IDOC Employee 2] wrote:

According to sexual harassment training, the first step in addressing this behavior is to tell the person you are uncomfortable by the person’s actions. Agent was not able to inform T/A [IDOC Employee 1] that Agent is uncomfortable with her calling Agent “boo” due to her instructing Agent to leave her office.

B. [IDOC Employee 3]’s Response to [IDOC Employee 2]’s Incident Report

⁵ IDOC AD 03.01.310.

⁶ *Id.*

⁷ See IDOC AD 03.01.307, II.H.6 and II.H.8 (emphasis added).

⁸ IDOC AD 03.01.307.

In response to [IDOC Employee 2]’s incident report, [IDOC Employee 3] replied to [IDOC Employee 2] less than an hour later, stating “I have addressed your concerns.”

On the Administrative Assessment part of [IDOC Employee 2]’s incident report, [IDOC Employee 3] wrote, “T.A. [IDOC Employee 1] was verbally counseled, and directed to refer to staff by title and name. Placed on file.” The notation was signed by [IDOC Employee 3] and dated December 16, 2020 at 2:33 PM.⁹

Review of IDOC incident reports from January 2019 to August 2021 did not reflect any reports of incidents about [IDOC Employee 1]’s use of terms of endearment or about her interactions with Parole Division staff prior to [IDOC Employee 2]’s incident report. Further, [IDOC Employee 1]’s personnel history did not reflect any discipline related to such behavior.

C. [IDOC Employee 1]’s Incident Reports Regarding Interactions with [IDOC Employee 2]

Review of IDOC records reflected that [IDOC Employee 1] filed two incident reports concerning [IDOC Employee 2] on December 16th. The first incident report, dated and time-stamped December 16, 2020 at approximately 4:08 PM, described a phone call incident with [IDOC Employee 2] that occurred on December 14, 2020, around 12:20 PM. According to this incident report, [IDOC Employee 2] called [IDOC Employee 1] referencing the earlier emails she had sent about establishing face-to-face contact with offenders in [Redacted] County custody. [IDOC Employee 1] described in her incident report that [IDOC Employee 2] became argumentative, loud, and used a disrespectful tone over the phone and asserted that others in the office were telling her what to do. The report reflects that [IDOC Employee 1] disconnected the call and informed [IDOC Employee 3] about the situation.

The second incident report, dated and time-stamped December 16, 2020 at approximately 6:23 PM, described the office incident with [IDOC Employee 2] that occurred on December 15, 2020. The report also noted that [IDOC Employee 2] told [IDOC Employee 1] that he had discussed [IDOC Employee 1]’s order to conduct in-person visits for parolees at the [Redacted] County Jail with his [redacted] and that she agreed that the email directives were offensive. According to the report, during that December 15th meeting, [IDOC Employee 2] accused [IDOC Employee 1] of being condescending and became disrespectful, very irate, and loud. [IDOC Employee 1] alleged that she became intimidated by [IDOC Employee 2]’s physical size and behavior, as he continued to move his hands while speaking in a demanding voice and stood up after being asked to sit down twice. The report reflects that [IDOC Employee 1] asked [IDOC Employee 2] to leave and that she reported this incident to [IDOC Employee 3].

The incident reports attached nine separate email chains and other documentation. IDOC records reflect that [IDOC Employee 3] accepted both reports at approximately 9:00 AM on December 17, 2020.

⁹ During his interview, [IDOC Employee 3] confirmed that he wrote the statement in the Administrative Assessment section and that he signed off on the incident report at 2:33 PM.

D. [Redacted]

[Redacted.]

[Redacted.]

[Redacted.]

[Redacted.]

[Redacted.]^{10 11}

[Redacted.]

E. Interview of [IDOC Employee 2]

1. Interactions with [IDOC Employee 1]

The OEIG interviewed [IDOC Employee 2] on March 15, 2021 and August 18, 2021.¹² [IDOC Employee 2] said that [IDOC Employee 1] became the temporarily assigned (T.A.) Commander and his supervisor on [Redacted]. [IDOC Employee 2] said he did not know her prior to becoming his supervisor and he did not meet her for the first time until mid-October 2020 when he went to introduce himself. He said it was on the day they met that [IDOC Employee 1] started referring to him by terms of endearment, saying something to the effect of, “goodbye boo” or “love.” [IDOC Employee 2] said he did not say anything to [IDOC Employee 1] at this time and that he did not want to make a big deal about it, but he felt awkward. [IDOC Employee 2] said from that point forward, most of their phone or face-to-face communications ended with her calling him nicknames, such as “love,” “beloved,” “honey,” and “boo.” He said he interacted with [IDOC Employee 1] approximately two to three times per week, mostly over the phone. [IDOC Employee 2] said she also used these names to address others at the office. [IDOC Employee 2] said that [IDOC Employee 1]’s use of these names made him feel awkward, uncomfortable, belittled, and humiliated. He explained that it had an impact on his work because he “dreaded” having conversations with [IDOC Employee 1] because she would call him by these names. However, he denied that [IDOC Employee 1] ever touched him or did anything else that made him feel uncomfortable.

[IDOC Employee 2] said in mid-December 2020, [IDOC Employee 1] sent an email to staff with a directive about how parole agents are supposed to visit parolees in custody, on a non-warrant status, at the [Redacted] County jail. Specifically, the email directed staff to report to the jail monthly to make face-to-face visits with their parolees. [IDOC Employee 2] said he believed this directive conflicted with an IDOC Administrative Directive (AD), which merely required parole agents to verify that their parolees were in custody, so he responded to [IDOC Employee

¹⁰ [Redacted]

¹¹ [Redacted]

¹² For this report, the OEIG will refer to statements made during both interviews as statements made during his “OEIG interview.”

1]'s email including the language from the AD. [IDOC Employee 2] said there was a COVID-19 outbreak at the [Redacted] County jail, and he believed that jail staff did not want people in the facility. [IDOC Employee 2] said on December 14, 2020, [IDOC Employee 1] responded to his email, including a Webster's Dictionary definition of "verify," which he felt was condescending.

[IDOC Employee 2] said at this point, [IDOC Employee 1]'s conduct was getting to him, so he decided to confront [IDOC Employee 1] about her email and use of nicknames on December 15, 2020. However, he said he was never able to confront [IDOC Employee 1] about the use of nicknames because she became angry and told him to leave her office after he told her that he thought her email was unprofessional. [IDOC Employee 2] said he then attempted to bring the matter to [IDOC Employee 1]'s supervisor, [IDOC Employee 3]. However, when [IDOC Employee 3] was unavailable, [IDOC Employee 2] said he felt he had no other option than to file an incident report.

2. [Redacted]

[Redacted]

F. Interview of [IDOC Employee 1]

1. Interactions with Others Generally

The OEIG interviewed [IDOC Employee 1] on September 23, 2021. She confirmed she was the T.A. [Redacted] for the [Redacted] County Parole office from [Redacted] to [Redacted]. [IDOC Employee 1] said she uses terms of endearment such as "boo," "love," "beloved," "dear," "pumpkin," "cupcake" and "peanut" when talking to people she knows at work and at home for both men and women. She explained that it is part of her culture. [IDOC Employee 1] said she has used the terms with parole agents; for example, she may say, "hey love, how [are] you doing?" She said that her intention when using these terms is to express her "friendship" or "endearment" or to uplift her co-worker's spirits. She said no one has ever complained or had a negative reaction to her use of these terms and that people usually repeat the terms back to her. For example, she added that prior to her OEIG interview when she was attempting to set up the internet connection through her computer, the lieutenant who was helping her said, "hey, heads up sweetheart, this is not going to work." She said she has referred to her supervisor, [IDOC Employee 3], by these names and has referred to other staff in Parole by these names.

[IDOC Employee 1] said that a day or two after the two incidents with [IDOC Employee 2], [IDOC Employee 3] called her and told her only to refer to people by their names or titles. She said she was not sure what prompted [IDOC Employee 3] to call her and tell her this, but she suspected that someone might have said something or complained about her use of terms of endearment. Nevertheless, she said she told [IDOC Employee 3] she would do as directed. [IDOC Employee 1] said she stopped referring to people by terms of endearment during the duration of her time in Parole. She added she thought her use of the terms was harmless but could see how someone might be offended. [IDOC Employee 1] said she did not think it was sexual harassment but acknowledged someone might think it was.

2. Incidents Involving [IDOC Employee 2]

[IDOC Employee 1] said regarding the phone incident with [IDOC Employee 2], [IDOC Employee 2] became “very argumentative,” and began to “yell, scream, and curse at her.” According to [IDOC Employee 1], [IDOC Employee 2] said she “did not know what she was doing” and he was “sick of T.A. Commanders.” She said she told [IDOC Employee 2] that her order was “going to stand” and ended the call. [IDOC Employee 1] said that at that time, she thought it was “just a disagreement” between herself and [IDOC Employee 2] and did not feel the need to contact her supervisor about disciplining [IDOC Employee 2] about his behavior.

Regarding the office incident, [IDOC Employee 1] said that [IDOC Employee 2] continued the same conversation they had the previous day about her order and [IDOC Employee 2] became “very upset” and began yelling at her. She said he became “belligerent,” “disrespectful,” and began to “cuss” at her. [IDOC Employee 1] added that during the conversation, [IDOC Employee 2] was “brushing” his gun with his hand, which prompted her to tell him to leave her office. [IDOC Employee 1] explained that she thought [IDOC Employee 2] was using “his position as a white male” and she was a “black woman sitting in that seat,” and this was a problem because she was giving direction to the parole agents.

[IDOC Employee 1] said she called [IDOC Employee 3] immediately after [IDOC Employee 2] left her office, and she was “so upset and crying” that [IDOC Employee 3] told her to calm down and to go home for the rest of the day if she needed to. She said she knew the two incidents with [IDOC Employee 2] needed to be documented, but she was not sure about the process, and [IDOC Employee 3] advised her to document the events in two separate incident reports. [IDOC Employee 1] said she completed the incident reports the next day because she needed time to calm down and finish her other job duties for the day. She said that after filing the incident reports, she did not see the reports again and did not know that [IDOC Employee 2] was referred for an employee review hearing. [IDOC Employee 1] said she never had a conversation with [IDOC Employee 3] about referring [IDOC Employee 2] for an employee review hearing.

G. Interviews with Other Parole Commanders

The OEIG interviewed [IDOC Employee 4] and then-[IDOC Employee 5]¹³ to learn about their interactions with [IDOC Employee 1] and their knowledge of any altercations between [IDOC Employee 1] and [IDOC Employee 2].

1. Knowledge of [IDOC Employee 1]’s Use of Terms of Endearment

[IDOC Employee 5] said he has known [IDOC Employee 1] for about five years and that during every conversation he has had with her, she has referred to him as “boo” or “love.” [IDOC Employee 5] explained that [IDOC Employee 1] refers to people she knows or her friends as “boo” or “love,” but probably would not refer to a stranger with these names. He also said [IDOC Employee 1] uses these names for both men and women. According to [IDOC Employee 5], no one in the Parole office, including [IDOC Employee 2], told him they were uncomfortable when

¹³ The OEIG interviewed [IDOC Employee 4] on June 22, 2021 and [IDOC Employee 5] on June 15, 2021. [IDOC Employee 5] retired from IDOC effective [Redacted].

[IDOC Employee 1] referred to them by names such as “honey,” “boo,” or “love.” [IDOC Employee 5] said he personally was not uncomfortable when [IDOC Employee 1] referred to him by these names.

Similarly, [IDOC Employee 4] said that [IDOC Employee 1] calls her “beloved,” “all the time,” which does not make her feel uncomfortable. [IDOC Employee 4] characterized [IDOC Employee 1]’s use of these names as terms of endearment, explaining that it is [IDOC Employee 1]’s way of speaking and that it is not to belittle you or to sexualize you. She said she was not aware of any issues or complaints about [IDOC Employee 1]’s use of these terms or that it had made anyone uncomfortable.

2. Knowledge of the Office Incident

Both [IDOC Employee 5] and [IDOC Employee 4] said they were aware of the office incident between [IDOC Employee 2] and [IDOC Employee 1]. [IDOC Employee 5] said he was aware, both because he was the union President at that time, and because [IDOC Employee 1] told him about it several weeks after it occurred. He remembered [IDOC Employee 1] telling him that [IDOC Employee 2] was “loud” and “being aggressive.” [IDOC Employee 5] said he could tell that [IDOC Employee 1] was upset about the incident by the way she told him about it, adding that [IDOC Employee 2] should have been referred if he had been loud and shouting during the incident.

[IDOC Employee 4] said in her interview she became aware of the office incident between [IDOC Employee 1] and [IDOC Employee 2] when [IDOC Employee 1] told her about it sometime after it occurred. She described [IDOC Employee 1] as being upset, frustrated, and annoyed because her authority was being challenged. [IDOC Employee 4] said she did not advise [IDOC Employee 1] to do anything, she just listened and tried to calm [IDOC Employee 1].

H. Interview of [IDOC Employee 3]

1. Handling of Discrimination and Harassment Complaints

The OEIG interviewed [IDOC Employee 3] on March 30, 2021. He said he is familiar with IDOC’s ADs for sexual harassment, and discrimination and harassment. He said that both policies are covered at monthly staff meetings, as well as monthly parole commander meetings with parole agents and monthly Deputy Chief meetings with parole commanders. He added that a supervisor’s responsibilities are also addressed in annual training on sexual harassment and discrimination and harassment. [IDOC Employee 3] said that if he received an incident report with an allegation of sexual harassment, he would send the report to Chief Garnett. He also said he was familiar with IDOC’s Office of Affirmative Action, but he has never referred a report involving sexual harassment to that office. He also said, to his knowledge, Chief Garnett has not referred any incident reports to the Office of Affirmative Action but that if an investigation is required after an incident report is completed, Chief Garnett would be the person who would refer the incident to another IDOC division for investigation.

2. [IDOC Employee 2]’s Incident Report

[IDOC Employee 3] acknowledged receiving [IDOC Employee 2]’s incident report and that the report included an allegation that [IDOC Employee 1] had referred to [IDOC Employee 2] by terms of endearment. [IDOC Employee 3] said that the report was the first time [IDOC Employee 2] had mentioned to him that [IDOC Employee 2] was uncomfortable being referred to by these names. He said he did not believe [IDOC Employee 1]’s use of terms such as “boo” and “love” amounted to sexual harassment because [IDOC Employee 1] used those names with everyone and had done so for “20-plus years” at IDOC. [IDOC Employee 3] also said that in his opinion, it was not sexual harassment because [IDOC Employee 1] had been [IDOC Employee 2]’s T.A. Commander for about three months and [IDOC Employee 2] only decided that it bothered him after getting into a heated conversation with [IDOC Employee 1] on two separate days. Nevertheless, [IDOC Employee 3] said that it was “not right” for [IDOC Employee 1] to address staff by these names, which is why he counseled [IDOC Employee 1] after receiving [IDOC Employee 2]’s report and ordered her not to refer to staff as “boo” and “love,” but to refer to staff by their title and name. He said he did not tell [IDOC Employee 1] that [IDOC Employee 2] was the employee who had complained about her use of terms of endearment. Further, he said this was the first time he had received an incident report or email indicating that [IDOC Employee 1]’s use of these terms made someone feel uncomfortable, though he knew that eventually someone would be uncomfortable with her pet name calling and that he would have to address it.

[IDOC Employee 3] confirmed that he did not refer [IDOC Employee 2]’s report to the Office of Affirmative Action but said he “may have” talked to Chief Garnett about it.

3. [Redacted]

[Redacted.]

[Redacted.]

I. Interview of Chief Garnett

1. Handling of Discrimination and Harassment Complaints

The OEIG interviewed Chief of Parole Jason Garnett on August 3, 2021. He said he is familiar with IDOC’s ADs for sexual harassment, and discrimination and harassment, and that he would be considered the “Chief Administrator” or “Chief Administrative Officer” (CAO) for the Parole Division referred to in the ADs. Chief Garnett said that when a supervisor receives a report with an allegation of discrimination and harassment or sexual harassment, the supervisor is supposed to move the report up the chain of command to the Deputy Chief, who will then send it to either the Office of Affirmative Action or to Chief Garnett. Chief Garnett said that if the Deputy Chief did not send the report to the Office of Affirmative Action, then he would send it. He said he believed he has received about ten incident reports involving sexual harassment since 2017 when he became the Chief, and many more reports involving discrimination and harassment. Chief Garnett added that although the ADs provide that a supervisor may take other administrative action when addressing a report, all the reports involving discrimination and harassment, or sexual harassment, should have been sent to the Office of Affirmative Action. He clarified that he does

not investigate the allegations in the incident reports he receives, but rather he just forwards them either to that office or IDOC's Investigations and Intelligence Division, as appropriate. Chief Garnett said even if he personally does not believe that the alleged conduct aligns with definitions in the discrimination and harassment AD or sexual harassment AD, he will nevertheless send the complaint to Affirmative Action as a matter of practice.

2. [IDOC Employee 2]'s Incident Report

When shown a copy of [IDOC Employee 2]'s incident report, Chief Garnett acknowledged having seen the report and having discussed it with [IDOC Employee 3]. He said he was aware that [IDOC Employee 1] frequently addressed people as "boo" and "love," and added that she addressed "everyone," both men and women that way. He said he did not advise [IDOC Employee 3] how to handle the report but believed that [IDOC Employee 3] told him that [IDOC Employee 1] was counseled for referring to staff as "boo" and "love." Chief Garnett said he also believed that [IDOC Employee 3] had a conversation with [IDOC Employee 2] about the incident report but was not aware of what was discussed. According to Chief Garnett, [IDOC Employee 3] told him that he did not refer [IDOC Employee 2]'s incident report to the Office of Affirmative Action because he ([IDOC Employee 3]) counseled [IDOC Employee 1] and ordered her to address staff by their title and name. Chief Garnett believed that [IDOC Employee 2]'s report had been taken seriously by [IDOC Employee 3] and was appropriately addressed when [IDOC Employee 1] was counseled. Chief Garnett said he did not forward [IDOC Employee 2]'s report to the Office of Affirmative Action because he felt the administrative action taken by [IDOC Employee 3] was appropriate.

3. [Redacted]

[Redacted]

J. Incident Reports Forwarded to the Office of Affirmative Action

The OEIG also investigated whether IDOC's Parole Division was appropriately referring incident reports and other complaints of discrimination and harassment, including sexual harassment, to the Office of Affirmative Action in accordance with IDOC policy.

1. Review of Incident Reports and Office of Affirmative Action Records

OEIG investigators reviewed incident reports from Parole Division employees to determine whether any of the reports should have been forwarded to the Office of Affirmative Action but were not. IDOC provided a total of over 800 incident reports filed by Parole employees from January 2020 to April 2021. Of those over 800 incident reports, the OEIG found ten reports that included allegations of discriminating or harassing behavior, or sexual harassment, or that referenced IDOC's sexual harassment or discrimination and harassment policies—including the three incident reports filed by either [IDOC Employee 2] or [IDOC Employee 1] previously

discussed in this report.¹⁴ Only one of these ten reports from Parole reflected that the incident report was referred to the Office of Affirmative Action. This sole incident report, dated January 2020, generally alleged that the complainant was being targeted, experiencing prejudice, and being subjected to a hostile work environment.¹⁵ Documentation from the Affirmative Action Office does not show that it ever received the other nine incident reports.

2. Interview of [IDOC Employee 6]

On January 12, 2022, the OEIG interviewed [IDOC Employee 6], [Redacted], regarding how incident reports and other complaints are sent to IDOC's Office of Affirmative Action and how those are tracked. [IDOC Employee 6] stated she became [Redacted] in [Redacted] and that part of her duties was to oversee the Office of Affirmative Action. She added she began serving as [Redacted] in or about [Redacted] when the previous Chief retired. [IDOC Employee 6] confirmed that IDOC's discrimination and harassment and sexual harassment policies, ADs 03.01.307 and 03.01.310, respectively, provided two ways complaints were sent to the Office of Affirmative Action (i.e. the Chief Administrator copies the Office on a matter or refers the matter for formal investigation).

[IDOC Employee 6] stated complaints typically come from a Warden (Chief Administrator) or their secretary either via regular mail or email to her, her staff, or a general Office of Affirmative Action email box. She explained that, during her management of the unit, she maintains a case log of every complaint received by the Office per fiscal year, which describes the nature of the complaint, the facility it came from, the date the complaint was received, the subject of the complaint, the date the complaint was closed, how her Office decided to reconcile the complaint, if findings were made, if it was not appropriate for her Office to investigate, and whether it was referred to another agency. [IDOC Employee 6] provided a copy of her case log, reflecting the complaints received from all sources¹⁶ since January 2021. Below is a summary of incident reports received by the Office as reflected in her case log.

¹⁴ Although the OEIG requested incident reports that were completed and submitted by Parole Division employees from January 1, 2020 to April 30, 2021, one of these incident reports that alleges harassing behavior was dated December 2019. Chief Garnett appears to have signed off as the Chief Administrative Officer on this incident report and indicated in the Administrative Assessment section that he was "referring this 434 to Investigation."

¹⁵ A letter from the Office of Affirmative Action to Chief Garnett advised that the allegations did not meet the criteria set forth in AD 03.01.307. As part of the OEIG's review, only two of the additional seven reports beyond the three that involved allegations investigated in this OEIG case, alleged harassment/discrimination based on a protected class. One report from September 2020 alleged discrimination based on national origin and another report from October 2020 documented discrimination based on race. The Administrative Assessment part of the report alleging national origin discrimination indicated that [IDOC Employee 3] would have a conversation about the allegations with those involved. The Administrative Assessment part of the report documenting discrimination based on race indicated that the report was "Filed." Chief Garnett's signature did not appear on either of these incident reports, and rather [IDOC Employee 3] signed as the Chief Administrative Officer on both of these reports. In fact, other than the December 2019 incident report described above, Chief Garnett's signature did not appear on any of the incident reports alleging discrimination, harassment, or sexual harassment.

¹⁶ The case log also reflected Exit interview forms, Americans with Disabilities Act reasonable accommodation requests, and Equal Employment Opportunity and Affirmative Action complaints, which were not included in the chart.

Facility/Department	Approximate # Incident Reports (434s) Received	Facility size (# Inmates)¹⁷
Parole	10	N/A
Concordia	3	N/A
Elgin Treatment Center	0	16
Fox Valley ATC	3	128
Kewanee	3	153
Joliet Treatment Center	36	214
Decatur	2	341
Southwestern	9	377
Vandalia	2	575
Lincoln	9	576
Jacksonville	6	615
Robinson	5	639
Vienna	1	687
Taylorville	18	747
East Moline	12	772
Pontiac	19	1,065
Logan	1	1,071
Big Muddy River	8	1,084
Shawnee	125	1,139
Centralia	4	1,158
Sheridan	4	1,249
Graham	2	1,328
Western Illinois	12	1,452
Illinois River	3	1,456
Danville	14	1,557
Hill	14	1,577
Pinckneyville	8	1,586
Lawrence	14	1,796
Dixon	13	1,877
Stateville + NRC	68	2,256
Menard	29	2,586

As shown above, review of the Office of Affirmative Action case log reflected approximately ten incident reports from the Parole Division since January 2021.¹⁸ Based on the case log, each of these incident reports was received by the Office of Affirmative Action after May 2021—after the OEIG interviewed [IDOC Employee 3].

¹⁷ This column reflects the size of each facility by number of inmates as reported on IDOC’s website as of January 25, 2022.

¹⁸ According to the case logs, the Office of Affirmative Action received approximately 27 complaints from the Parole Division from various sources, including Exit Interview forms and Americans with Disabilities Act requests for reasonable accommodation. Ten of these complaints were in the form of incident reports.

IV. ANALYSIS

A. Incident Reports of Harassment or Discrimination in the Parole Division

The complaint alleged that [IDOC Employee 2] was sexually harassed by [IDOC Employee 1] when she repeatedly referred to him using terms of endearment such as “boo” and “love.” The State Officials and Employees Ethics Act (“Ethics Act”) and the Illinois Human Rights Act define sexual harassment as: “any conduct of a sexual nature when: (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; (ii) submission or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or (iii) such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.”¹⁹ IDOC AD 03.01.310 (IDOC’s sexual harassment policy) also provides that “[a]ll employees are entitled to a work environment free from sexual harassment,” and that “any form of sexual harassment” is prohibited.²⁰

Illinois courts have interpreted the sexual harassment provision in the Ethics Act (and the identical provision in the Illinois Human Rights Act) by looking to federal caselaw for Title VII sexual harassment claims. For hostile work environment sexual harassment claims, such as one of the claims expressly described in the complaint, conduct that is “sufficiently severe or pervasive to alter the conditions of the victim’s employment and create an abusive working environment,” violates Title VII. *Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57, 67 (1986). A work environment is deemed hostile pursuant to Title VII if it is both objectively and subjectively offensive, that is, one that a reasonable person would find hostile or abusive, and one that the victim did in fact perceive to be so. *Ellis v. CCA of Tenn. LLC*, 650 F.3d 640, 647 (7th Cir. 2011). Whether an environment is “hostile” or “abusive” can be determined by looking at all the relevant circumstances including: “the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee’s work performance.” *Harris v. Forklift Systems, Inc.*, 510 U.S. 17, 23 (1993). In this case, there was insufficient evidence that [IDOC Employee 1]’s use of terms of endearment was objectively offensive.

Staff interviews confirmed that [IDOC Employee 1]’s use of terms of endearment was quite frequent; all those interviewed, including [IDOC Employee 1], said she used names such as “boo” and “love” daily. Yet, the use of these names did not appear to be “sufficiently severe,” to alter [IDOC Employee 2]’s conditions of employment, and on their face, these terms typically connote a friendly relationship or people who are in frequent contact. The evidence also showed that others did not find [IDOC Employee 1]’s words to be offensive. [IDOC Employee 3] also said [IDOC Employee 2]’s report was the first time he had received any type of complaint about

¹⁹ 5 ILCS 430/5-65(b), 775 ILCS 5/2-101(E). IDOC’s AD for Sexual Harassment 03.01.310 (eff. Aug. 1, 2020) also uses the same definition for sexual harassment.

²⁰ IDOC AD 03.01.310 – Sexual Harassment, eff. Aug. 1, 2020. Further IDOC AD 03.01.307 (IDOC’s discrimination and harassment policy) provides that “[a]ll employees are entitled to a work environment free of discrimination and harassment.” IDOC AD 03.01.307 – Discrimination and Harassment, eff. Oct. 1, 2020. The policy defines harassment as “verbal or physical conduct that denigrates or shows hostility or aversion toward an individual or group because of” numerous characteristics such as race, religion, or gender. *Id.*

[IDOC Employee 1]’s use of these names. Finally, a review of [IDOC Employee 1]’s personnel file revealed no other reports filed about her use of terms of endearment or about her interaction with Parole Division staff.

While the OEIG did not find that [IDOC Employee 1]’s use of terms of endearment amounted to sexual harassment, this matter was not handled according to IDOC policy regarding notification of a report of sexual harassment.²¹ Specifically, both IDOC’s sexual harassment and discrimination and harassment policies require the Chief Administrator to, in all cases, submit complaints of discrimination or harassment or sexual harassment to the Office of Affirmative Action.²² And yet, despite the specific reference to sexual harassment in [IDOC Employee 2]’s incident report, the report was not sent to the Office of Affirmative Action by [IDOC Employee 3] or Chief Garnett. In fact, even [IDOC Employee 1]’s incident reports about [IDOC Employee 2], which led to [redacted], was not sent to the Office of Affirmative Action. This is compounded by the fact that the OEIG, upon further examination, found that the Parole Division did not refer other incident reports that included allegations of harassment/discrimination from approximately January 2020 to April 2021. During that time period, including [IDOC Employee 2] and [IDOC Employee 1]’s incident reports, the OEIG found ten Parole incident reports that alleged harassing or discriminating behavior and should have been referred to IDOC’s Office of Affirmative Action, including two that on their face included allegations of harassment/discrimination based on a protected class. Nevertheless, the Parole Division only forwarded one of these ten incident reports to that Office.

Although it is not clear whether all of these ten incident reports went to Chief Garnett since his signature only appeared on one of them,²³ as the Chief Administrative Officer of the Parole Division, he is ultimately responsible for ensuring these reports of sexual harassment or discrimination and harassment get to the Office of Affirmative Action. Furthermore, Chief Garnett stated that it is his practice to refer all harassment allegations to the Affirmative Action unit even if he does not think it rises to that level. The records, however, do not support Chief Garnett’s assertion.

The reason for these IDOC reporting policies and for having an Affirmative Action unit is to ensure that objective individuals who are experienced with these types of investigations can properly handle the complaints. This is especially critical for investigations often dealing with two employees who work in the same unit and that may ultimately rest solely on the word of those employees. Although Chief Garnett seemed to understand the importance of referring these type

²¹ IDOC’s discrimination and harassment and sexual harassment policies both provide that conduct covered under the policies should timely report such conduct on an incident report or on the EEO/AA Complaint form. *See* IDOC AD 03.01.307 – Discrimination and Harassment, II.H.3, eff. Oct. 1, 2020; IDOC AD 03.01.310 – Sexual Harassment, II.H.1.a, eff. Aug. 1, 2020.

²² *Id.* IDOC AD 03.01.310 – Sexual Harassment, II.H.6, eff. Aug. 1, 2020, IDOC AD 03.01.307 – Discrimination and Harassment, II.H.8, eff. Oct. 1, 2020 (emphasis added). Both policies also require the Chief Administrator to initiate a review of the allegations and respond as soon as possible within five working days or upon the employee’s return to work by taking one or more actions, including: discussing the allegations with the reporting and/or charged employee, referring the incident to the Office of Affirmative Action, referring the charged employee for disciplinary action if warranted, or taking other corrective action.

²³ As seen with [IDOC Employee 2]’s incident report, Chief Garnett was well aware of the incident report even in the absence of his signature.

of complaints to the Office of Affirmative Action based on his statement that he sends complaints to Affirmative Action even if he doesn't think the alleged conduct amounts to discrimination or harassment, this was not put into action.²⁴ While it appears from the most recent Affirmative Action case log that since at least May 2021, the Parole Division has been sending incident reports containing allegations of sexual harassment or discrimination/harassment to the Office of Affirmative Action, that does not negate the fact that Parole was not doing so during the 16 months prior—from January 2020 to April 2021.

In sum, the investigation showed that Chief Garnett engaged in mismanagement by failing to ensure that incident reports were provided to the Office of Affirmative Action according to IDOC policy. Thus, the allegation of mismanagement is **[REDACTED]**.²⁵

B. [Redacted]

[Redacted]^{26 27}

[Redacted]

[Redacted]²⁸

[Redacted]

[Redacted]

[Redacted]

[Redacted]

V. [REDACTED] AND RECOMMENDATIONS

As a result of its investigation, the OEIG concludes that there is **REASONABLE CAUSE TO ISSUE THE FOLLOWING [REDACTED]**:

- **[REDACTED]** – IDOC Chief of Parole Jason Garnett engaged in mismanagement by failing to ensure that incident reports were provided to the Office of Affirmative Action pursuant to IDOC policy.

The OEIG recommends that IDOC takes whatever action it deems appropriate regarding Chief Garnett.

²⁴ IDOC AD 03.01.307 – Discrimination and Harassment, II.H.6, eff. Oct. 1, 2020; IDOC AD 03.01.310 - Sexual Harassment, II.H.8, eff. Aug. 1, 2020.

²⁵ The OEIG concludes that an allegation is “[REDACTED]” when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.

²⁶ [Redacted]

²⁷ [Redacted]

²⁸ [Redacted]

The OEIG appreciates the efforts and improvements made to the management of IDOC's Affirmative Action unit. However, the Office of Affirmative Action can only investigate matters it is made aware of. With regard to the Parole Division, at least nine out of ten incident reports involving discrimination or harassment were not properly sent to the Office Affirmative Action. Based on the minimal number of incident reports sent to Affirmative Action in the last year by some of the larger facilities (Logan – 1; Graham – 2; Illinois River – 3), the OEIG recommends that there be an inquiry to these facilities and also a reminder to all facilities of the duty to report these incidents to the Office of Affirmative Action. Failure to send any such complaints to the Office of Affirmative Action not only violates IDOC policy, but it contravenes the purpose of the policy—that is, it deprives the opportunity for an uninvolved office to examine these complaints in an objective manner.

No further action is necessary and this matter is considered closed.

Date: **February 10, 2022**

Office of Executive Inspector General
for the Agencies of the Illinois Governor
69 West Washington Street, Ste. 3400
Chicago, IL 60602



The Illinois Department of Corrections

1301 Concordia Court • P.O. Box 19277 • Springfield, IL 62794-9277 • (217) 558-2200 TDD: (800) 526-0844

MEMORANDUM

DATE: February 15, 2022

TO: All Staff

FROM: Justin Hammers [REDACTED]
Chief of Operations

SUBJECT: Unlawful Discrimination and Harassment

The Department prohibits unlawful discrimination and harassment. Employees are entitled to a work environment free of discrimination and harassment. The purpose of this announcement is to briefly summarize what forms of discrimination and harassment are prohibited by law and Department policy, and how staff are expected to report unlawful discrimination and harassment that they witness, are subjected to, or become aware of.

Unlawful discrimination, harassment, sexual harassment, and retaliation are each violations of our ADs, the Illinois Human Rights Act, the Illinois Civil Rights Act of 2003, and/or the State Officials and Employees Ethics Act.

Unlawful discrimination is "discrimination against a person because of his or her actual or perceived: race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service. . ." 775 ILCS 5/1-103(Q). This also includes discrimination based on a person's actual or perceived gender identity.

Any employee who witnesses, is subject to, or becomes of aware of discrimination or harassment must:

1. Immediately document the incident on an Incident Report, DOC 0434 or Equal Employment Opportunity and Affirmative Action Complaint, DOC 279.
2. Report the incident to the employee's immediate supervisor, the Ethics officer, or the Department's Affirmative Action administrator or notify the next person in the chain-of-command if the employee's immediate supervisor is the person alleged to have engaged in the discriminating or harassing conduct. (A supervisor receiving an oral or written report of sexual harassment is required to notify the Chief Administrator of the allegations.

Mission: To serve justice in Illinois and increase public safety by promoting positive change for those in custody, operating successful reentry programs, and reducing victimization.

3. The Department's Office of Affirmative Action is available to assist on the complaint process.

Employees should also report the misconduct to the Office of Executive Inspector General and the Agency Ethics Officer. You may also contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) to file formal complaint.

As a reminder, all staff are required to complete the annual Harassment and Discrimination Prevention Training.



The Illinois Department of Corrections

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February 23, 2022

Via E-Mail to [REDACTED] on behalf of:

Susan M. Haling
Executive Inspector General
Office of Executive Inspector General
69 West Washington, Suite 3400
Chicago, Illinois 60602

**Re: OEIG Case No. 21-00397 Final Summary Report – IDOC Response
(CONFIDENTIAL)**

Dear Executive Inspector General Haling:

This letter is our response to OEIG Complaint Referral No. 21-00397, which [REDACTED] that IDOC Chief of Parole Jason Garnett engaged in mismanagement by failing to ensure that incident reports were provided to the Office of Affirmative Action pursuant to IDOC policy. In response to this finding, Chief Garnett will receive counseling as well as a written reprimand which will be placed in his employee file.

Although the final summary report made no specific findings regarding harassment or discrimination, IDOC prepared a memo reminding staff of the Department's prohibition against harassment and discrimination. The memo also outlines that complaints of discrimination or harassment must be provided to the Office of Affirmative Action for review. This memo was provided to all facility staff during roll call beginning on February 16, 2022. This memo was sent to all parole staff via email on February 22, 2022 and will be reinforced in upcoming staff meetings. Going forward, this memo will be distributed to all staff on a quarterly basis. A copy of the memo is included for your review.

If you have any questions or require any further information with respect to this response, please contact [REDACTED].

Sincerely,

/s/ Kelly Presley

Kelly Presley

Chief Public Safety Legal Counsel

Illinois Department of Corrections