

**CUYAHOGA COUNTY
AGENCY OF INSPECTOR GENERAL**

REPORT OF INVESTIGATION

CASE NUMBER: 13-0029-I

SUBJECT(S) INFO:
Name: David Simpkins
Position: Employment and Family Services Specialist
Department: Cuyahoga Job and Family Services

SOURCE OF REFERRAL: Cuyahoga Job and Family Services Agency
Investigations Unit

METHOD OF REFERRAL: In Person

INITIATED: December 20, 2012

DATE OF REPORT: March 18, 2013

ALLEGATION(S)

- 1) Cuyahoga County ("County") Job and Family Services ("CJFS") worker David Simpkins ("Simpkins") had an intimate relationship with a client in his caseload.
- 2) Simpkins entered false information so the client he was in a relationship with would receive extra cash assistance and child care benefits.

AUTHORITY

Cuyahoga County Agency of Inspector General Ordinance Section 2(c):

The Inspector General is hereby appointed to conduct examinations under Section 2.05 of the County Charter and shall, therefore, have all such rights and duties to investigate fraud, corruption, waste, abuse, misfeasance, malfeasance, and nonfeasance without interference or pressure from any other Public Official or Employee.

COMPLAINT SUMMARY

On November 5, 2012, the County Agency of Inspector General ("AIG") received information from the CJFS Division of Investigations regarding several ongoing investigations regarding current CJFS employees. CJFS management requested the assistance of the AIG in conducting the administrative portion of several of the ongoing investigations. Accordingly, on December 20, 2012, the AIG initiated an administrative investigation into a complaint regarding the conduct of Simpkins.

The CJFS investigation into Simpkins' behavior was initiated in February 2011 when a female CJFS client ("Client") stated that she had been in a relationship with Simpkins. The complaint information was initially forwarded to the CJFS Division of Investigations by County Department of Human Resources employee Lori Acosta on February 7, 2011.¹ The CJFS Division of Investigation subsequently initiated an investigation into Client's public assistance case (Case No. 5083860063) to determine whether there is sufficient evidence to indicate criminal culpability and probable cause to charge Simpkins with tampering with government records, theft in office, and using a government computer to commit a theft offense in connection with his handling of Client's case.

BACKGROUND

David Simpkins

According to County Human Resources Information System ("SAP") records², Simpkins was initially hired by County on July 9, 2001. On July 10, 2005, Simpkins transferred from the position of Mail Clerk Messenger (\$10.35/hour - \$21,528.00/annual) with the County Child Support Enforcement Agency ("CSEA") to the position of Account Clerk 2 (\$12.88/hour - \$26,790.40/annual) with the County Department of Employment and Family Services ("EFS").³ Simpkins was subsequently promoted to the position of EFS Specialist⁴ and currently serves in that capacity (\$15.17/hour - \$31,553.60/annual).⁵

A review of Simpkins' personnel file revealed the following history of disciplinary/corrective actions:

- On June 21, 2006, Simpkins received a written reprimand⁶ regarding his excessive absence without approved leave ("AWOL") hours.
- On February 18, 2010, Simpkins received a written reprimand⁷ regarding his excessive AWOL hours.
- On December 2, 2010, Simpkins received a three (3) day suspension⁸ for a stage two violation of the County's Attendance Control Plan.

Simpkins' personnel file contained two (2) performance reviews that rated his performance between needs improvement and meets expectations.

¹ See e-mail from Acosta to CJFS Division of Investigations Manager Lester LaGatta dated February 7, 2011, attached as **Exhibit A**

² See payroll information attached as **Exhibit B**.

³ See Personnel Action Form attached as **Exhibit C**.

⁴ In 2012, EFS was merged with CSEA and the new organization was named CJFS (See County Ordinance No. O2012-0029).

⁵ See Personnel Action Form attached as **Exhibit D**.

⁶ Attached as **Exhibit E**.

⁷ Attached as **Exhibit F**.

⁸ See Personnel Action Form attached as **Exhibit G**.

CJFS Investigations Unit

Section 5101.37 of the Ohio Revised Code authorizes CJFS to conduct audits or investigations that are necessary in performance of its duties and grants them the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of documents. In accordance with this authority, CJFS has established the Division of Investigations to conduct investigations into allegations of criminal activity (e.g., theft, tampering with records) relating to the distribution or receipt of public benefits.

INVESTIGATION SUMMARY

I. CJFS Investigations Unit Investigation

On March 8, 2013, the AIG received a copy of an Auditor's Memorandum⁹ and supporting documentation prepared by the CJFS Division of Investigations. The investigation work product prepared by the Division of Investigations was reviewed. The following is a summary of the information collected during their investigation:

Statements / Interviews

Amy Goepfert – June 1, 2011

According to her written statement¹⁰, CJFS Investigator Amy Goepfert ("Goepfert") made several attempts to meet with Client in person and/or collect a written statement from her. Goepfert, though, was only able to secure a telephone interview with Client on June 1, 2011. Client verified that she had a "relationship" with Simpkins. Client, however, denied that any "benefits were transferred or given because of the relationship" with Simpkins. Client also denied ever filing a complaint with the Division of Investigations regarding Simpkins.

Vicky Corley – February 28, 2013

CJFS JET Team Coordinator Vicky Corley ("Corley") submitted a written statement¹¹ on February 28, 2013 regarding events that occurred near the time of the original complaint in 2011. According to Corley, EFS Specialist Christal Turner ("Turner") interviewed Client (although the written statement from Corely does not identify the date of this meeting, a review of the "Running Record Comments" for Client's case¹² in the CRIS-E system¹³ indicate that Turner worked on Client's case from December 22, 2010 to January 4, 2011) and asked Client why she did not attend her work assignment. Client responded to Turner by stating Simpkins told her not to attend because "he was her good cause." Apparently, Client and Simpkins had gone out together the previous evening and returned to Simpkins' home late. Client spent that night at Simpkins's home. The next day (the date of the work assignment), Simpkins asked Client to stay at his home and babysit his son, "Little [REDACTED]".

Corley subsequently contacted Client, but Client refused to provide Corley a written statement and would not admit to the relationship with Simpkins. Corley then spoke with Simpkins, who confirmed that he was "seeing" Client. Corley, though, notes that Client's case was transferred out of Simpkins' caseload on October 27, 2010.

⁹ Attached as **Exhibit H**.

¹⁰ Attached as **Exhibit I**.

¹¹ Attached as **Exhibit J**.

¹² Relevant CRIS-E screenshots attached as **Exhibit K**. Note that the screen name "WCZT18" throughout the CRIS-E screenshots attached to this report indicate actions by Turner.

¹³ CRIS-E is the statewide public assistance benefits approval database system.

David Simpkins – February 19, 2013

CJFS Auditor Arianna Church ("Church") interviewed Simpkins regarding this matter on February 19, 2013.¹⁴ Simpkins confirmed that he had a personal relationship with Client, but could not remember the exact timeframe. Upon further questioning from Church, Simpkins stated that the relationship started in or around August 2010 and lasted three (3) or four (4) weeks. Simpkins stated that he did not give Client any benefits she was not entitled to and he requested a case transfer when he felt the relationship was getting serious.

Simpkins subsequently submitted the following written statement¹⁵ after his interview:

An outside relationship developed with me and [REDACTED], a client. We talked for about a month. At the point where the relationship was getting "more involved", I asked for the case to be transferred. At no point during such time, before or after, give this client any more benefits (or less) than what she was otherwise eligible. At no point did I enter any false information to make her either eligible or ineligible.

Record Review

A review of the "Running Record Comments" for Client's case¹⁶ in the CRIS-E system indicate that Simpkins worked on Client's case from her initial intake with CJFS on July 30, 2009 until the case was transferred to a new worker on October 27, 2010.

Clients applying for Ohio Works First ("OWF") benefits complete a Self Sufficiency Contract ("Contract") that details all goals/plans necessary to remain in the program. The OWF Contracts contain the following language on the first page of the document:

I understand that the goal of Ohio Works First (OWF) is to help me become employed, take care of my family, become self-sufficient, and take charge of my future. OWF is temporary assistance to help me become self-sufficient. The attached self-sufficiency plan is based on EFS appraisals and assessments of my job goals and barriers that need to be taken care of so that I can work. I agree to cooperate to ensure the success of the plan.

I understand that in order for my assistance group to receive OWF payments, I must sign this contract and plan. I understand that I must follow the requirements listed in my self-sufficiency plan. If I don't, my entire family may not be eligible for OWF, if I do not have "good cause".

Client and Simpkins both signed OWF Contracts for Client on the following dates:

- July 30, 2009;¹⁷
- November 13, 2009;¹⁸

¹⁴ See Exhibit H at page 3.

¹⁵ Attached as **Exhibit L**.

¹⁶ Relevant CRIS-E screenshots attached as **Exhibit M**. Note that the screen name "WDUS18" throughout the CRIS-E screenshots attached to this report indicate actions by Simpkins.

¹⁷ Attached as **Exhibit N**.

¹⁸ Attached as **Exhibit O**.

- May 5, 2010;¹⁹ and
- August 4, 2010.²⁰

Each of these OWF Contracts includes the following clauses relating to the performance of certain duties by Client:

- Establishment of employment goals.
- Identification of any current steps Client is taking to address her barriers to employment.
- Identification of the necessary steps required for Client to overcome her barriers and become self-sufficient or income secure.
- Establishment of "work responsibilities and activity plan", which identifies specific activities (e.g., job training) that will help Client become self-sufficient or income secure.
- Acknowledgment that Client will be required to provide verification of her attendance at the identified activities every two (2) weeks. Failure to return the "participation verification form" could result in a sanction for non-participation.
- Client required to cooperate with CSEA if there is an absent parent.

If Client fails to comply with the "work responsibilities and activity plan" or with CSEA, the OWF Contract states that Client will be subject to the following sanctions:

- *First Offense* - Client barred from receiving cash assistance for one (1) month for the entire assistance group. Client may receive less food stamp benefits, but will not lose Medicaid coverage.
- *Second Offense* – Client barred from receiving cash assistance for three (3) months for the entire assistance group. Client may receive less food stamp benefits, but will not lose Medicaid coverage.
- *Third Offense (and additional offenses)* – Client barred from receiving cash assistance for six (6) months for the entire assistance group. Client may receive less food stamp benefits. Client may lose Medicaid coverage, but regain it if she becomes compliant.

Client can attempt to demonstrate one (1) of the following "good cause" excuses for missed appointments to avoid sanctions:

- Illness of Client or of a family member, if she is needed in the home to care for the ill family member;
- A medical, dental, or vision care appointment for Client or a family member;

¹⁹ Attached as **Exhibit P**.

²⁰ Attached as **Exhibit Q**.

- A job interview including any testing requirements;
- A court ordered appearance;
- An appointment with another social service agency or program;
- A death in the family;
- A school, place of work or worksite is closed due to weather or other emergency;
- A lack of child care;
- EFS did not provide supportive services;
- EFS did not provide all of the information necessary about the assignment;
- Domestic violence situation involving Client or her children; or
- Situations decided by EFS on a case by case basis.

A review of the "Work Participation Summary" portion of Client's case file²¹ by the CJFS Division of Investigations reveals that, with the exception of a brief employment stint between January 2010 and March 2010, Client did not meet her work participation goals/plans identified in the OWF Contracts. Furthermore, the file did not contain any documentation or evidence of "good cause" excusing Client from meeting the work participation goals/plans. Finally, Client's last OWF Contract²² did not include any identified work participation goals/plans. This should only occur when "good cause" is demonstrated by Client. Again, no such documentation existed in Client's case file.

In light of the above, Client's case should have been sanctioned from September 1, 2009 to December 31, 2009 and from April 1, 2010 to January 31, 2011. At no time, however, did Simpkins implement sanctions against Client. Therefore, the CJFS Division of Investigations estimates that Client was overpaid public assistance benefits in the following amounts:

- \$5,987.00 in cash benefits; and
- \$1,538.97 in childcare benefits.²³

In addition, the CJFS Division of Investigations notes that Client did not report her 2010 income until over thirty (30) days after she began working. This is a violation of the CJFS policy requiring notification of outside income within ten (10) days. When Client eventually reported this income, she submitted two (2) non-consecutive paystubs²⁴ that indicate she is paid weekly. Based on this information, Simpkins should have sent out verification documents to obtain the

²¹ See CRIS-E screenshots attached as **Exhibit R**.

²² Exhibit Q.

²³ See CJFS Investigator's Memorandum attached as **Exhibit S**.

²⁴ Attached as **Exhibit T**.

complete pay information. Simpkins, however, waited forty eight (48) business days to send out the verification.²⁵

A review of the CRIS-E case notes for Client's case indicate that Simpkins only made one (1) note²⁶ regarding Client not being compliant with the case requirements. On February 17, 2010, Simpkins made a notation to close benefits because Client failed to appear for a recertification, but the issue was resolved within a few days.

Finally, on February 23, 2010, Simpkins entered Client's employment information into the Common Application Form ("CAF") database²⁷ in order to determine benefit eligibility. The following is a summary of the errors identified in the entry:

- Client submitted two (2) weekly paystubs that reflected she worked thirty (30) hours one (1) week and 25.7 hours the second week. In the CAF, Simpkins recorded that the client works an average of thirty (30) hours monthly.
- Client submitted two (2) weekly paystubs reflected her hourly rate as \$14.75. Simpkins, however, entered her hourly wage as \$11.50.

II. AIG Investigation

Interviews

Client – December 20, 2012

Client stated she did not know Simpkins until she went to CJFS to apply for benefits in early 2010. Client told Simpkins that he was attractive during the initial meeting. Shortly after the meeting, Client received her benefit approval letter along with Simpkins business card. The business card had Simpkins' cellular phone number written on the back. Client called him on his cellular phone and the two (2) subsequently engaged in a sexual relationship.

The relationship lasted approximately one (1) year. Client stated that Simpkins worked at the CJFS building located at 1641 Payne Ave, Cleveland, Ohio and during their relationship she lived several blocks away from that location. During the course of the relationship Simpkins visited Client on his lunch hour and spent the night at her house. Client claimed that she picked him up from work on several occasions. They also went to dinner, clubs and bars during their year-long relationship.

Client stated that she spent the night at Simpkins' house on several occasions. He lived near 90th and St. Clair at the time of the relationship and she described the house as a single family, three (3) bedroom house with white siding. She stated that Simpkins' son and cousin also lived at the residence.

Client stated Simpkins changed cars frequently and she believed that he was renting cars through a local car rental agency. She recalled that he eventually bought a "Scooby Doo" type van that was dark in color.

²⁵ See Employment Inquiry Form dated April 30, 2010, attached as **Exhibit U**.

²⁶ See Exhibit M.

²⁷ Screenshot of page 9 of CAF attached as **Exhibit V**.

Near the end of the relationship the client missed a school appointment to watch Simpkins' son, "Little [REDACTED]". According to Client, she stayed at Simpkins' house to babysit his son, "Little [REDACTED]", on one (1) occasion. She also claimed that she picked the boy up from school in the past.

David Simpkins – March 11, 2013

Simpkins was interviewed in the presence of his union representative from AFSCME 1746, Rachelle Jones.

Simpkins was presented with an AIG Compelled Statement / Garrity Warning form²⁸ ("Garrity Form") for his review. Williams reviewed the Garrity Form and signed the document to certify that he read and understood the notifications contained in the document.

Simpkins stated he first met Client when she was assigned to his caseload. He claimed that the relationship was purely professional for the first month. Approximately one (1) month after becoming Client's caseworker, Simpkins ran into Client at a restaurant after work and a friendship developed. Approximately one (1) month after that, Simpkins requested to have the case transferred from his caseload because he felt the friendship was a conflict of interest.

Simpkins could not remember any case details regarding Client's case; however, he believed he started working the case in early 2010.

Simpkins stated that Client has never been to his home but he confirmed that he lived a few blocks from 90th and St. Clair during the time frame in question. He described the home as a two (2) bedroom house with beige siding.

Simpkins stated that he may have owned the following vehicles during the time in question:

- A brown 1996 van;
- A white 1992 van; and
- A red 2003 Monte Carlo.

Simpkins was sure he drove the brown van during the time in question. He indicated that he may have also owned the other vehicles during that time frame.

Simpkins confirmed that he used to refer to his son as "Little [REDACTED]" but denied that Client ever watched his son or picked him up from school.

²⁸ Attached as **Exhibit W**. The Garrity Form informs the recipient of the AIG's authority to compel the attendance of witnesses and warns that failure to submit to a witness interview will result in a referral to the County Executive for disciplinary action, up to and including removal from employment. The Garrity Form then provides information relating to the employee's rights as a compelled witness, including the right to union representation and the Constitutional right to avoid making self-incriminating statements ("Garrity Rights"). In *Garrity v. New Jersey* (1967), 385 U.S. 493, the United States Supreme Court held that a compelled statement (under threat of termination of employment) made by a public employee to a public employer in furtherance of an employment-related investigation cannot be used against the public employee in any subsequent criminal prosecution. In addition, any information obtained as a result of this compelled statement cannot be used against the public employee in any subsequent criminal prosecution. The Garrity Form clearly sets forth this Constitutional protection.

Simpkins admitted that it would be a violation of policy to have a neighbor, family member or "close" friend in his caseload. Additionally, he stated that he has had a friend or relative removed from his caseload approximately seven (7) times since he became a caseworker. He denied doing anything improper with Client's case.

LAW / POLICY

Section 13.08 of the Cuyahoga County Personnel Policies and Procedures Manual defines the following inappropriate behaviors as a "removable infractions":

- ***Neglect of Duty / Inefficiency / Incompetency*** – *Egregious, flagrant or willful neglect in the performance of assigned duties.*
- ***Failure of Good Behavior*** – *Making an unwelcome, uninvited sexual advance or request for a sexual favor, especially of a subordinate, a vendor or a customer, and/or touching someone else if it is unwelcome and uninvited.*
- ***Failure of Good Behavior*** – *Performing an act which constitutes a felony under the laws of the United States, the State of Ohio or the jurisdiction in which the act was committed.*
- ***Dishonesty*** – *Making false claims or misrepresentations in an attempt to obtain any County benefit.*
- ***Dishonesty*** – *Falsification of employment records or other County records in manual or automated systems, including falsification of stated reason for use of leave.*

Policy-PS-026²⁹ of the Employment and Family Services Service Delivery Protocol describes the inter-office transfer of income maintenance cases between front line staff. The policy states in part:

No caseworker should accept a case that contains individuals who are neighbors, relatives of any kind, nor Friends. The caseworker should notify their Team Leader as soon as they become aware of the conflict. The Team Leader will transfer the case immediately."

Section 2921.41 of the Ohio Revised Code ("ORC") prohibits a public employee from committing any theft offense as defined in division (K) of section 2913.01 of the ORC, when either of the following applies:

- The offender uses the offender's office in aid of committing the offense or permits or assents to its use in aid of committing the offense;
- The property or service involved is owned by this state, any other state, the United States, a county, a municipal corporation, a township, or any political subdivision, department, or agency of any of them, is owned by a political party, or is part of a political campaign fund.

²⁹ Attached as Exhibit X.

Depending on the circumstances, an employee who commits public assistance fraud could also face criminal prosecution for the following violations:

- Tampering With Records (ORC Section 2913.42 – Level of Offense Dependent on Circumstances) - No person, knowing the person has no privilege to do so, and with purpose to defraud or knowing that the person is facilitating a fraud, shall falsify, destroy, conceal, alter, deface, or mutilate any writing, computer software, data, or record.
- Dereliction of Duty (ORC Section 2921.44 – Second Degree Misdemeanor) – No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office.
- Forgery (ORC Section 2913.31 – Fifth Degree Felony) - No person, with purpose to defraud, or knowing that the person is facilitating a fraud, shall forge any writing of another without the other person's authority or forge any writing so that it purports to be genuine when it actually is spurious.

CONCLUSION(S) & RECOMMENDATION(S)

Allegation 1

Simpkins had an intimate relationship with Client while she was in his caseload.

After a careful review of the evidence collected and/or reviewed in this investigation, it is my opinion that there is **sufficient evidence** to indicate that Simpkins violated several of the above-noted policies prohibiting him from having a sexual relationship with a client in his caseload. The claims of a personal relationship were supported by the personal information about Simpkins provided by Client and the statements provided by Simpkins and Corley.

Allegation 2

Simpkins entered false information in the CRIS-E system so Client would receive extra cash and child care benefits.

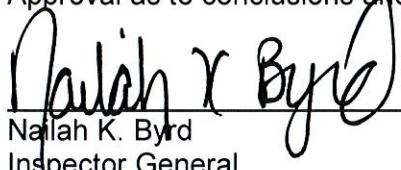
After a careful review of the evidence collected and/or reviewed in this investigation, it is my opinion that there is **sufficient evidence** to indicate that Simpkins made several inaccurate entries into the CRIS-E system regarding Client's case. In addition, Simpkins failed to adhere to the terms of the OWF Contracts signed by him and Client by failing to sanction Client for her failure to meet work participation requirements. The review conducted by the CJFS Division of Investigation concluded that these errors and omissions were the direct cause of the client receiving cash and child care overpayments totaling \$7,525.97. This information, combined with the evidence indicating that Simpkins was involved in a sexual relationship with Client, indicates that Simpkins was intentionally falsifying Client's benefits information.

The CJFS Division of Investigations report on this matter will be forwarded to the County Prosecutor to determine if the mishandling of this case was a violation of criminal law. Accordingly, it is my recommendation that this report be referred to the County Executive and the Director of Human Resources for consideration of disciplinary action, up to and including termination of employment.



Mark Cutright
Assistant Inspector General - Investigation

Approval as to conclusions and recommendations:



Nailah K. Byrd
Inspector General

Date 3/18/13