

SIGNIFICANT ACTIVITY REPORT

FRIDAY, SEPTEMBER 16, 2016

**OIG INVESTIGATIVE REPORT DETAILS \$75,000 THEFT OF CPS-PURCHASED CTA TRANSIT PASSES,
SIGNIFICANT INTERFERENCE FROM CPS'S INTERNAL AUDIT AND COMPLIANCE DEPARTMENT**

An OIG investigation concluded that a CPS employee in the district's Central Office (the "Employee") stole at least \$72,705.60 worth of CTA transit passes, for which he was responsible for distributing to schools. Specifically, the evidence uncovered by the OIG showed that the Employee had participated in a criminal conspiracy that involved two conspirators ("Conspirator A" and "Conspirator B"), whereby the Employee would steal limited-use CTA transit passes from Central Office, and then deliver them to his conspirators so that they could sell them on the black market.

During the course of the OIG's investigation, however, the Department of Internal Audit and Compliance disregarded repeated requests from the OIG to refrain from separately investigating the matter. Over warnings from the OIG that a separate and parallel investigation could jeopardize the chances for a criminal prosecution in the matter, Internal Audit pressed ahead with interviews of CPS personnel, thereby hindering the OIG's investigation. For instance, Internal Audit's interviews caused one of the Employee's managers to be so confused about who she should be talking to that she was afraid to cooperate with the OIG. Additionally, a string of interviews conducted by Internal Audit personnel — on top of those being conducted as part of the OIG investigation — needlessly and prematurely telegraphed to the Employee that he was the *subject* of the investigation, as opposed to merely being someone from whom background information was being sought. Worse still, Internal Audit contacted the Cook County State's Attorney's Office in a clear attempt to interject the department into the OIG's independent investigation and discussions with the prosecutor.

On September 8, 2016, the OIG issued a summary report to the Chicago Board of Education that detailed its investigation of the Employee's theft of the CTA transit passes. In that report, the OIG also voiced its concerns about Internal Audit's

insistence on conducting a separate and parallel investigation into the matter, despite the OIG's repeated requests to stop. The key details from the report are as follows:

The OIG's Investigation of the Transit-Pass Theft: In October of 2015, the Chicago Police Department arrested Conspirator A for being in possession of CTA transit passes that were stolen property and actually belonged to CPS. Conspirator A had been selling them out of a convenience store on Chicago's Southside. Each pass cost CPS \$2.04. Thus, the 300 transit passes represented \$612 of CPS property.

Conspirator A provided the first name of the individual from whom, he said, he had obtained the transit passes, and further provided that individual's telephone number. The CTA subsequently determined that the passes had originated from a bulk order that the Employee had placed on behalf of CPS. The OIG, in turn, (1) used the telephone number that Conspirator A had provided to the police to determine that his identified supplier was Conspirator B; (2) found that the Employee was connected to Conspirator B on a social-media platform; and (3) uncovered that Conspirator B's telephone number was used to call the Employee's department at Central Office on three separate occasions.

The Employee, for his part, joined CPS after working at CTA for 14 years. In his role at CPS, the Employee was responsible for, among other things, ordering, receiving and securing transit passes, as well as distributing them to schools that requested them. In doing so, the OIG determined, he distributed at least 35,640 passes — worth \$72,705.60 — to four individuals who are not, and apparently have never been, employees at CPS, and are in all likelihood actually fictitious.

Two of those fictitious individuals — “Fictitious Recipient A” and “Fictitious Recipient B” — received transit passes within days of Conspirator A's arrest. Specifically, one week before Conspirator A's arrest, the Employee received an order of 6,000 transit passes that were sent to his Central Office department from CTA's third-party provider of passes, Cubic Transportation Systems. According to Cubic, the 300 transit passes seized during the arrest originated from the batch of passes that the Employee had received, and CTA records show that the Employee did not place another order for passes until after Conspirator A's arrest. The Employee's business records further reflect that, in the time period between the date on which he had received the 6,000 transit passes from Cubic and the date of Conspirator A's arrest, the Employee distributed a total of 4,600 transit passes to “Fictitious Recipient A” and “Fictitious Recipient B”.

Consequently, the totality of the evidence supported the OIG's conclusion that the Employee participated in a criminal conspiracy involving Conspirators A and B, whereby the Employee would steal transit passes from Central Office, and then deliver them to either Conspirators A or B so that they could sell them on the black

market. As a result of the conspiracy, the Employee likely stole at least \$72,705.60 worth of transit passes from CPS over a seven-and-a-half month period.

Indeed, the OIG could not exclude the possibility that the total loss to CPS might actually be greater. The Employee was able to steal such large quantities of transit passes because his department had instituted insufficient inventory controls. Most notably, the Employee was the sole individual in his department who had responsibility for ordering, receiving, securing, and distributing the passes. And his ultimate and immediate supervisors acknowledged that there was little to no oversight of his handling of transit passes. Those deficiencies allowed the Employee the opportunity to steal.

Based on a recommendation from Internal Audit and Compliance following a separate parallel investigation that it had conducted — despite repeated requests by the OIG to refrain from investigating (the details of which are discussed below) — the Board terminated the Employee's employment on November 8, 2015, and placed a Do Not Hire (DNH) designation in his personnel file. Nevertheless, in its report to the Board, the OIG recommended that it take legal action to recover \$72,705.60 from the Employee for the transit passes that he had stolen, if the Board deemed that such legal efforts would be financially practicable.

As to the control deficiencies that allowed the Employee the opportunity to steal such large quantities of transit passes, the OIG considered whether discipline for his supervisors was appropriate. Both the Employee's ultimate and immediate supervisors acknowledged that there was little to no oversight of his handling of the passes and recounted their respective attempts to prompt the Employee to institute stronger inventory controls, but also realized that, in hindsight, they could have done more to ensure that he was appropriately supervised. Thus, although it is clear their attempts at remedial actions were insufficient in this instance, they were at least attempting to correct problems so as to address apparent control issues. So the OIG stopped short of recommending that the Board impose discipline on either individual.

But the OIG did inform the Board that it was clear the Employee was able to steal such large quantities of transit passes because his department had insufficient inventory controls in place, in that he was the sole employee who had the responsibility for ordering, receiving, securing, and distributing transit passes. Even though the Employee's department had strengthened its controls in the wake of this investigation, it did not separate the key inventory functions among two or more individuals. Thus, the OIG recommended that the department divide those duties among several employees to eliminate the classic fraud opportunities associated with a one-person arrangement.

INTERNAL AUDIT'S SIGNIFICANT INTERFERENCE WITH THE OIG INVESTIGATION: The OIG further detailed for the Board the Department of Internal Audit and Compliance's improper separate and parallel investigation into the theft of the transit passes. Specifically, during the course of the OIG's investigation, Internal Audit disregarded repeated requests from the OIG to refrain from simultaneously and separately investigating the matter. Even though the OIG warned that a separate and parallel investigation could jeopardize the chances of criminal charges being brought, Internal Audit pressed ahead.

The OIG explained that Internal Audit's actions created several substantial dangers to the OIG's investigation. Internal Audit sowed confusion among high-ranking CPS personnel as to whether it or the OIG was conducting the investigation. Two such individuals — one a CPS Executive, and the other the director of the Employee's department — instructed the Employee's immediate supervisor to contact Internal Audit about the investigation. Indeed, the department director informed the Employee's supervisor that he had met with Internal Audit regarding the stolen transit passes, and that Internal Audit was undertaking its own investigation. The Employee's supervisor credibly stated that the department director even went so far as to direct her to communicate with Internal Audit personnel — *and not the OIG*. Not surprisingly, the supervisor told the OIG that she was so confused about who she should be talking to that she was actually afraid to cooperate with the OIG. That result is manifestly unacceptable.

Similarly, Internal Audit's separate interviews of personnel, and the manner in which those interviews were conducted, prematurely alerted the Employee to the fact that he was a subject, and not a mere witness, with regard to the transit passes' disappearances. Of course, it requires very little imagination (or knowledge of investigations) to see how being tipped off to the fact that he was at the center of the investigation could have led the Employee to cover his tracks and tell any conspirators that they needed to tread with caution and "clam up" if approached. Worse yet, by conducting its own investigation, Internal Audit deprived the OIG of its full arsenal of investigative strategies and tactics. In short, Internal Audit compromised an investigation that implicated clearly criminal activity by sowing fear and confusion in the minds of key witnesses and prematurely alerting the investigation's main subject.

In addition, the OIG stated, Internal Audit's under-the-table outreach to the State's Attorney's Office showed extreme disregard for the OIG's statutory mandate to investigate fraud. Moreover, Internal Audit's actions amounted to little more than a slipshod attempt to interject the department into the OIG's investigation and the OIG's work with the prosecutor.

The OIG also recounted to the Board that it had raised its concerns about Internal Audit's outright lack of cooperation with the OIG in this investigation to the Board President, which resulted in assurances from Internal Audit's department head that he will not contact prosecutors in the future. Nonetheless, very troubling issues remain regarding Internal Audit's other employee-misconduct investigations — which, the OIG has learned, Internal Audit has been conducting. In particular, early this year, Internal Audit's department head informed the OIG that the department will not, as a simple and routine matter of course, refrain from conducting parallel investigations when the OIG asks him to do so. But needless to say, and as this investigation demonstrated, simultaneous parallel action can be much more damaging than helpful. Among the worst possible outcomes of such action would be that the OIG is not able to fully identify just how high in the chain-of-command responsibility lies because low-level employees are promptly fired and no longer have an obligation to cooperate in OIG investigations, or because higher-level employees start covering their tracks once the investigation becomes known.

Just as troubling is the fact that Internal Audit's department head will not agree to define the types of matters that his office would normally investigate in the first instance, and which types of matters would normally be referred to the OIG. The combination of refusing to stand aside, as a matter of course, when the OIG is investigating, and refusing to define Internal Audit's normal investigative area, creates numerous problems. The primacy of the OIG as the Board's statutorily identified investigative body is necessary so that the OIG can *independently and uniformly* investigate all significant matters. It eliminates wasteful duplication of efforts. And perhaps most importantly, it heads off any chance of the Board or administration being accused of "cherry picking" issues or matters to investigate in order to keep something from the eyes of the OIG — or that they are asking their own people to handle certain situations in a limited way.

The optics about ethics matter, particularly so in this investigation, which involved the theft of CTA fare cards purchased by CPS. The subject of the OIG's investigation — the Employee — was employed at CTA for over a decade before joining CPS. On top of that is the fact that the CPS CEO and two high-ranking members of his staff — Senior Vice President of Finance Ronald DeNard, and Internal Audit's department head himself — had very recently come from high-level CTA executive positions shortly before Conspirator A's arrest. Thus, so as to avoid the mere appearance of any impropriety or undue influence on any investigation into the theft of CTA transit passes purchased by CPS, Internal Audit clearly should have stepped aside and let the OIG — the statutorily independent investigative body — undertake its own investigation. In addition, and as the OIG noted in its report, the OIG has a long history of investigating and reporting on the inventory-control issues surrounding the limited-use transit passes that were at issue in this investigation. So there was

every reason for the OIG, which already had a significant body of relevant subject-matter expertise, to continue its investigation here.

The OIG concluded its summary report by informing the Board and the CEO that it had detailed Internal Audit's improper actions with the hope that they would address the matter to the OIG's satisfaction.