

STATE OF OHIO  
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF  
INVESTIGATION



AGENCY: OHIO DEPARTMENT OF TAXATION  
FILE ID NO.: 2023-CA00013  
DATE OF REPORT: APRIL 16, 2024

## The Office of the Ohio Inspector General ... The State Watchdog

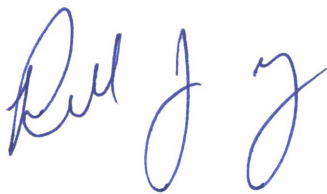
*“Safeguarding integrity in state government”*

The Office of the Ohio Inspector General is authorized by state law to investigate alleged wrongful acts or omissions committed by state officers or state employees involved in the management and operation of state agencies. We at the Inspector General’s Office recognize that the majority of state employees and public officials are hardworking, honest, and trustworthy individuals. However, we also believe that the responsibilities of this Office are critical in ensuring that state government and those doing or seeking to do business with the State of Ohio act with the highest of standards. It is the commitment of the Inspector General’s Office to fulfill its mission of safeguarding integrity in state government. We strive to restore trust in government by conducting impartial investigations in matters referred for investigation and offering objective conclusions based upon those investigations.

Statutory authority for conducting such investigations is defined in *Ohio Revised Code §121.41* through *121.50*. A *Report of Investigation* is issued based on the findings of the Office, and copies are delivered to the Governor of Ohio and the director of the agency subject to the investigation. At the discretion of the Inspector General, copies of the report may also be forwarded to law enforcement agencies or other state agencies responsible for investigating, auditing, reviewing, or evaluating the management and operation of state agencies. The *Report of Investigation* by the Ohio Inspector General is a public record under *Ohio Revised Code §149.43* and related sections of *Chapter 149*. It is available to the public for a fee that does not exceed the cost of reproducing and delivering the report.

The Office of the Inspector General does not serve as an advocate for either the complainant or the agency involved in a particular case. The role of the Office is to ensure that the process of investigating state agencies is conducted completely, fairly, and impartially. The Inspector General’s Office may or may not find wrongdoing associated with a particular investigation. However, the Office always reserves the right to make administrative recommendations for improving the operation of state government or referring a matter to the appropriate agency for review.

The Inspector General’s Office remains dedicated to the principle that no public servant, regardless of rank or position, is above the law, and the strength of our government is built on the solid character of the individuals who hold the public trust.



Randall J. Meyer  
Ohio Inspector General



STATE OF OHIO  
**OFFICE OF THE INSPECTOR GENERAL**

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RANDALL J. MEYER, INSPECTOR GENERAL

## REPORT OF INVESTIGATION

**FILE ID NUMBER:** 2023-CA00013

**SUBJECT NAMES/POSITIONS:** Matthew Shell, Tax Criminal Investigation Agent  
Mandowl Nixon, Tax Criminal Investigation Agent

**AGENCY:** Ohio Department of Taxation

**BASIS FOR INVESTIGATION:** Referral

**ALLEGATIONS:** Criminal Conduct

**INITIATED:** September 20, 2023

**DATE OF REPORT:** April 16, 2024

## **INITIAL ALLEGATION AND COMPLAINT SUMMARY**

On September 20, 2023, the Office of the Ohio Inspector General received a referral from the Ohio Department of Taxation (ODT) reporting suspected illegal activity by Criminal Investigation Division Tax Agent Matthew Shell and Criminal Investigation Division Tax Agent Mandowl Nixon.

## **BACKGROUND**

The Ohio Department of Taxation (ODT) is responsible for the enforcement and administration of all state taxes apart from insurance, spirituous liquor, and motor vehicle license taxes. The department assists and registers taxpayers, processes tax returns, determines tax liabilities, issues refunds and assessments, conducts audits, and enforces Ohio's tax laws. The department is also responsible for determining the amounts of various revenue distributions to local governments, including motor fuel tax distributions, reimbursement for property tax relief, transitional assistance of tangible personal property, reduction of assessment rates on public utility tangible personal property, permissive sales and use tax distributions, and allocations to counties from the local government and public library funds.<sup>1</sup>

The Ohio Sales and Use tax applies to the retail sale, lease, and rental of tangible personal property as well as the sale of selected services in Ohio. Any business selling items must have a vendor's license, collect the required sales tax on goods sold, and submit the sales tax collected to the ODT. ODT Criminal Investigations Division (CID) tax agents enforce the tax laws by conducting inspections of businesses to ensure cigarette packs have the tax stamp on the packs, serve letters of delinquency to vendors, cancel the vendor's license of noncompliant businesses, and investigate assigned complaints.

### ***State Taxation Accounting and Revenue System (STARS)***

The State Taxation Accounting and Revenue System (STARS) is the current internal software system used by ODT that maintains the bulk of the State of Ohio's business-related tax information. Information stored on the STARS system, including all business tax returns and any associated data, is considered "confidential personal information."

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<sup>1</sup> Source: Biennial budget documents.

### ***Tableau Program***

Tableau is a software program that is used to create different charts, graphs, and dashboards to visualize and analyze data. Recently, ODT had expanded its use of Tableau for the various units throughout the department. However, only select preauthorized users from each unit have access and the capability to use Tableau to pull data from various internal platforms, such as STARS, in order to run various reports that utilize the data. For instance, the Criminal Investigations Division (CID) uses Tableau to pull information from STARS regarding businesses who are delinquent in paying their sales tax for more than four different billing periods (also known as the DQ list). The CID agents then use that information from the DQ list on Tableau as a potential lead for an investigation. In regard to this investigation, the business in question would not have appeared on the DQ list through Tableau, as that business was only late paying sales tax for one period instead of the requisite four billing periods that are necessary to be placed on the Tableau DQ list.

### ***Applicable Statutes - Tax Records***

Ohio Revised Code (ORC) Section 5703.21 states ... :

(C) Division (A) of this section does not prohibit any of the following: ...

(7) Disclosing to a state or federal government agency, for use in the performance of that agency's official duties in this state, information in the possession of the tax commissioner necessary to verify compliance with any provision of the Revised Code or federal law relating to that agency. Unless disclosure is otherwise authorized by law, information provided to any state or federal government agency under this section remains confidential and is not subject to further disclosure.

### ***Applicable Statutes - Confidential Personal Information***

In response to a report of investigation<sup>2</sup> issued by the Office of the Ohio Inspector General, the Ohio General Assembly passed House Bill 648, establishing section 1347.15 of the Ohio Revised Code. This section defines "Confidential Personal Information" and identifies what personal information is not to be considered as a public record. Common examples of confidential personal information (CPI) protected by this section include an individual's Social

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<sup>2</sup> Report of Investigation #2008299.

Security number, driver's license number, medical records, and records whose release is prohibited by state or federal law. Possible ramifications for an employee violating this code section by improperly accessing or releasing CPI range from administrative action to criminal charges and being permanently prohibited from state employment.

This section also mandates that all state agencies, excluding the judiciary and state-assisted institutions of higher learning, develop and adopt agency rules regarding the access of CPI that is maintained by the agency. The law specifies several requirements that agencies must incorporate into their rules concerning the handling of CPI, including but not limited to: a defined criteria used to determine an employee's level of access to CPI and a list of the valid reasons as to when employees are permitted to access CPI; a procedure for logging and recording employee access to CPI and the requirement that a password or other authentication must be used to access CPI stored electronically; that agencies designate an employee to serve as the data privacy point-of-contact who ensures that CPI is properly protected; the requirement that agencies must provide on demand to an individual, a detailed listing of all CPI maintained by that agency concerning that individual, unless the CPI relates to an investigation; and a policy that requires agencies to notify individuals whose CPI has been accessed for an invalid reason.

Ohio Revised Code §1347.15 requires all applicable state agencies to establish a training program for all employees who access, or who supervise employees who access, or who authorize employees to access, confidential personal information, so that all employees are made aware of all statutes, rules, and policies governing access to such information.

### ***Ohio Department of Taxation Policies***

The policies of the Ohio Department of Taxation are based in part on Ohio Revised Code §1347.15 (A)(1) which defines "confidential personal information" (CPI) as information that is not public record. All information stored on ODT's STARS system, including business tax returns and any associated data is considered "confidential personal information." Consistent with ORC Chapter 1347, ODT established policies, procedures, and training to educate employees that browsing CPI on ODT's systems is prohibited and that CPI information is only permitted to be accessed for legitimate business purposes. Specifically, ODT policies ODT-002,

ODT-101, and ODT-300 (with the bulk of the relevant information located in ODT-101), address the proper handling of CPI by ODT employees. Also, every ODT employee is required to acknowledge their review and understanding of ODT's policies through ODT's online learning system, OhioLearns, which tracks each ODT employee's acknowledgement.

*ODT GENERAL ORDER 1.2 - LAW ENFORCEMENT ROLE AND AUTHORITY, LIMITS OF AUTHORITY*

It is the policy of the ODT's Criminal Investigations Division to establish and provide guidelines to division staff regarding their limits of legal authority and their use of discretion, and when it is appropriate to carry weapons, make arrests and alternatives to arrest, and conduct searches and seizures. The division provides periodic training bulletins on such matters, as information becomes available. It is the policy of the Criminal Investigations Division that all employees abide by such bulletins.

*Section 1.2.7 - Use of Discretion of ODT General Order 1.2* states,

Discretion is the power of free decision, or latitude of choice within certain legal bounds. When discretion is improperly used, those taxpayers involved in an incident, or becoming aware of it second hand, often view the agent's discretionary use of power as favoritism, bias, corruption, or incompetence. The actions of an individual agent do much to determine the community's feelings as to whether or not the Division/Department is responsive to its needs. When a Criminal Investigations agent in the performance of his/her duties elects to exercise discretion, the Criminal Investigations agent must take into consideration the circumstances surrounding a particular event, any mitigating circumstances, the interests of the public they serve and the Vision, Mission Statement, Values, Goals and Objectives of the Division/Department.

When exercising discretion, a Criminal Investigations agent must always utilize common sense and good judgment. The Criminal Investigations agent must act consistently and in accordance with his/her oath as a tax Criminal Investigations agent for the Ohio Department of Taxation Criminal Investigations Division, the Code of Ethics as cited in General Order 1.I section 5 and the Written Directives of this Division to perform the

duties of the office within the bounds of the tax laws, statutes, and policies. The members of the agency will have complete individual discretion except when their decision is unlawful, or conflicts with their oath, the Code of Ethics, or written directives of this agency.

ODT GENERAL ORDER 33.4.2 - TAX CRIMINAL INVESTIGATIONS AGENT

EXPECTATIONS states in part;

Tax agent expectations require two Tax agents to be present at all inspections, DQs<sup>[3]</sup>, any citation issued, interviews, etc. – basically any time you make contact with a suspect or witness.

ODT GENERAL ORDER 42.1 - CRIMINAL INVESTIGATION ADMINISTRATION states in part:

**POLICY:** It is the policy of the Criminal Investigations Division to maintain an investigative function that is available to respond, when needed, to conduct efficient, effective and thorough investigations into incidents requiring specific expertise or equipment, as well as incidents requiring extensive time and effort to investigate. It is further the policy of the Criminal Investigations Division to account for investigations and to utilize a specific case screening process, determine which cases will be assigned, for investigation, as well as, a specific process for assisting the internal case management process. And finally, it is the policy of this division to maintain records that identify habitual and/or serious offenders and follow through to verify the civil tax liability is appropriately addressed (e.g. assessed).

ODT GENERAL ORDER 42.1.2 - PROCEDURE FOR THE SCREENING OF INVESTIGATIONS AND/OR CONTINUING OR SUSPENDING INVESTIGATIONS includes,

**CASE SCREENING**

Case screening is a process used to assist in identifying those cases that have the best chances of being solved through investigative efforts. The process involves screening complaints for specific solvability factors known to enhance the potential for a successful investigation.

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<sup>3</sup> DQ – Delinquent



Responsibility for case screening is assigned to the Supervisor, Chief of Criminal Investigations or his designee. Case screening is conducted for the purpose of identifying those cases requiring investigation based on the following criteria:

- The potential amount of tax loss involved
- The potential of being able to prove allegations (Solvability Factors)
- Other factors the Supervisor may be aware of or circumstances which would require a thorough investigation.

Agents, who receive a case directly, either through contact with a variety of established resources or as a result of another investigation, **will review the case with his/her supervisor for determination regarding any follow-up assignment before initiating an investigation [emphasis added].**

*OHIO LAW ENFORCEMENT GATEWAY – OHLEG RULES AND REGULATIONS*

This section defines Misuse as,

... any utilization of OHLEG that is not directly related to the administration of criminal justice, or that is inconsistent with OHLEG security policies, Ohio Revised Code, Ohio Administrative Code, or the criminal justice purposes for which the user was granted OHLEG access. This includes, but is not limited to, uses motivated by the personal interest of the user or for the user's commercial benefit, as determined by the Director of OHLEG.

*ODT POLICY – ODT-002 - STANDARDS OF CONDUCT* states in part;

... The tenure of every officer or employee in the classified service of the state ... shall be during good behavior and efficient service ... . A failure of good behavior or efficient service prohibited by O.R.C. §124.34 includes “incompetency, inefficiency, unsatisfactory performance, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy or work rule of the officer's or employee's appointing authority, violation of this chapter or the rules of the director of administrative services or the commission,

any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony while employed in the civil service.”

Section 5.7.11. When an employee engages in any act or omission on the job that a reasonable person would regard as manifestly outside the scope of employment or official responsibilities or with malicious purpose, in bad faith, or in a wanton or reckless manner.

### **INVESTIGATIVE SUMMARY**

On September 20, 2023, the Office of the Ohio Inspector General received a referral from the Ohio Department of Taxation (ODT) reporting suspected illegal activity by Criminal Investigation Division Tax Agent Matthew Shell and Criminal Investigation Division Tax Agent Mandowl Nixon.

On September 18, 2023, ODT Tax Agent A<sup>4</sup> reported to ODT Regional Supervisor Myron Hartman that Shell had a friend who was a police officer employed by an entity outside of ODT. This friend/police officer shared with Shell that his (the friend's) wife was having an affair with a former police officer who was currently a business owner in Chillicothe, Ohio. The business owner held a sales tax vendor's license and was scheduled to file tax returns on a semiannual basis. The business owner's most recent sales tax return was due on July 23, 2023, for the period of January 1, 2023, through June 30, 2023.

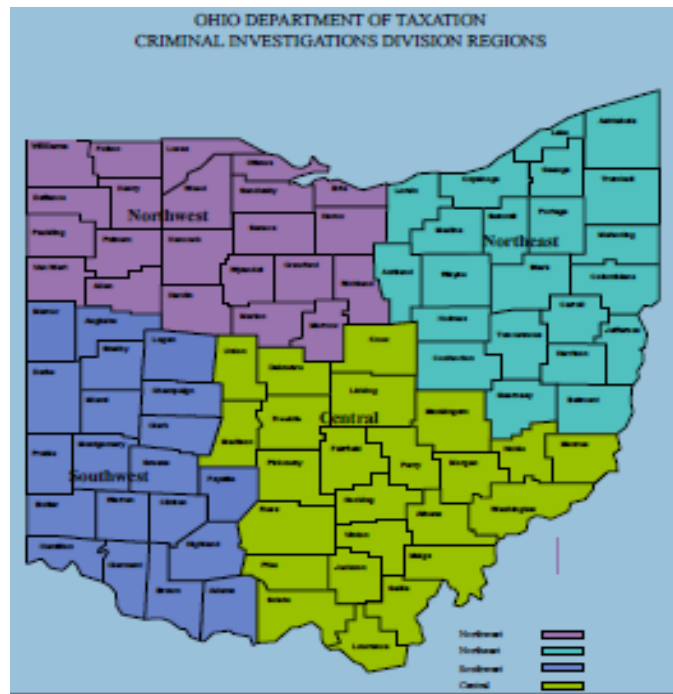
On or around August 30, 2023, Shell attempted to persuade Agent A to issue a citation and file misdemeanor charges against the business owner associated with the affair because, according to Shell, the business owner had not yet filed the semiannual return due on July 23, 2023. Agent A refused to take this action because of the personal nature of the request involving Shell and the business owner. After several follow-up conversations, Shell then approached another colleague, CID Tax Agent Mandowl Nixon, who, on September 1, 2023, issued a citation to the business owner for failure to file a semiannual tax return. On that same day, the business owner filed the late return and paid a tax liability of approximately \$100.

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<sup>4</sup> Unnamed tax agent.

Agent A stated to Myron that on August 31, 2023, he had plans to work together with Shell. Their plans to work as a team was initiated because Agent A’s partner was unavailable for work that day, as was Shell’s partner, Nixon. All four of these agents are assigned to the ODT Central Ohio Region.

On September 5, 2023, Nixon filed unclassified misdemeanor charges with the Chillicothe Clerk of Courts against the business owner for failing to file and pay the sales tax collected.



On October 4, 2023, investigators from the Office of the Ohio Inspector General interviewed Agent A who provided to them a written statement of his interactions with Shell. Agent A’s statement read:

By the morning of August 31, 2023, I was still unaware of any plans on where to meet Shell. As a result, I marked in transit to Guernsey County. While marking in transit, I sent a text message to my supervisor, letting him know where I was going to be. It’s been my experience when working with Shell that plans are usually formatted last minute. Because of that, I knew being in Guernsey County would put me in closer proximity to him. Shell then contacted me while I was driving to Guernsey County.

Shell stated that he already researched a “good DQ<sup>[5]</sup>,” and wanted to see if I would write the “ticket” for him. Shell proceeded to tell me that he was made aware of the case through a cop friend, whose wife was cheating on him with a former cop, that now owns a business on Paint Street in Chillicothe. Shell followed that statement by saying that, “we look out for our own here,” but if you aren’t comfortable, I can have Manny (Nixon) write it.

Subsequent to that conversation, Shell asked if I could get on Tableau<sup>[6]</sup> to see if the business was on the DQ list. I found this to be an unusual request, since Shell had just told me that he researched the business and identified it as DQ. I then advised Shell that I would not be comfortable writing the ticket and suggested that we look at other businesses on the list. I then placed the active DQ list for Ross County in Shell’s “N-drive<sup>[7]</sup>,” thinking that he would reconsider.

Below is the copy of the DQ list from the Tableau database that Agent A sent to Agent Shell’s N-drive, indicating that the business in question was not on the DQ (delinquent) list.

 DQ List Ross 8-31-23.xlsx 8/31/2023 7:56 AM Microsoft Excel Worl

Agent A’s statement continued:

Following these conversations with Shell, I contacted Senior Agent Costa and advised him of what I was being asked to do. I expressed frustration with Shell’s request. Agent Costa then advised me not to go with Shell and to meet him and Agent O’Neill in

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<sup>5</sup> DQ – Delinquent

<sup>6</sup> Tableau - The ODT Criminal Investigations Division uses the Tableau platform to pull information from STARS regarding businesses who are delinquent in paying their sales tax for more than four different billing periods (also known as the DQ list). The Tableau platform helps users create different charts, graphs, and dashboards in order to visualize and analyze data.

<sup>7</sup> The ODT N-drive is a network storage drive that enables permissible ODT users to search, access and share files between computers and other devices.

Franklin County. I then changed my plans and drove to Franklin County to meet with agents Costa and O'Neill.

Prior to my arrival, I again spoke to Shell by phone. He stated that the business was not on the DQ list, "but this guy deserves a ticket anyway." He also stated that, "you just don't do that to another cop." Shell then asked if I would do an undercover buy, to see if the business was charging sales tax. He then asked if I would be willing to write another ticket in the area, so it didn't look like he was targeting the owner. I explained that only businesses with several DQ periods show up on Tableau. I then advised him that I wasn't going, and that I was just going to meet with Agent Costa in Columbus.

I then met with Agent Costa and Agent O'Neill in Columbus. While working with them, I described in detail what Shell asked me to do. Agent Costa suggested that Shell doesn't always write tickets that he agrees with but didn't think he would go through with writing this one. Agent Costa also suggested that perhaps Nixon and Shell would look at the DQ list and reconsider.

### **Sales Tax Return Filing Process – ODT Internal Audit Administrator James J. Roche**

ODT Internal Audit Administrator James J. Roche provided to the Office of the Ohio Inspector General an explanation of the sales tax return filing process and whether businesses are notified when they fail to file and pay their taxes when required. Roche stated that businesses who fail to file and pay their taxes when required are not notified by ODT that they are being placed on the DQ list. Roche stated that the DQ list is an internal tool solely used by ODT's Taxation Criminal Investigation Division (TCID). Roche explained that a business is placed on the DQ list if they fail to file their taxes for four different billing periods. The periods for the DQ list are based upon the method of filing returns.

Roche further explained that in Ohio, sales tax returns are filed either monthly or semi-annually, depending on the amount of sales a taxpayer has made. Monthly sales tax returns are due by the 23rd of the following month from the period filed. For instance, a January return is due on February 23rd. Semi-annual sales tax returns are due by the 23rd of the following month from

the end of the six-month period. For instance, a January 1 through June 30 return is due on July 23rd and a July 1 through December 31 return is due on January 23rd. Semi-annual filers typically have a lower reported amount of sales tax. Therefore, four tax periods for a monthly filer is four months, while four tax periods for a semi-annual filer is two years.

Roche explained to investigators that the sales tax collection at ODT consists of two phases: the billing stage and the assessment stage. During the billing stage, the ODT sends a notice notifying the taxpayer that they are delinquent in either filing or paying their taxes, or both. If the notice is a bill for nonpayment, the bill will include applicable tax and interest. The notice will also include a timeframe for the taxpayer to respond, which is approximately 30 days. If the taxpayer does not respond, the bill will advance to the assessment stage.

During the assessment stage, the taxpayer will receive an assessment from ODT, which will include the amounts included on the bill (tax and interest), as well as any applicable penalties. The taxpayer is required to respond to the assessment within 60 days, and if they do not respond, the assessment will become final and the assessed amount, with additional interest, will be certified to the Office of the Ohio Attorney General for collection.

Roche told investigators that in the case being investigated, the taxpayer involved owned a business and was filing his taxes semi-annually; therefore, the sales tax for his business was due on July 23, 2023. A billing notice would not have been sent until approximately 30 days after the due date and would have provided the taxpayer 30 days to respond to ODT. Therefore, Roche stated that in this particular case, the billing notice would have been mailed by ODT to the business owner/taxpayer no earlier than August 22, 2023, and the taxpayer would have been allowed until September 21, 2023, to respond by either challenging the bill or paying the bill. However, the taxpayer was never given the chance to follow the normal course of business as he was cited by the TCID agents on September 1, 2023, well before the deadline provided for all other taxpayers.

### **Interview – ODT Tax Agent Supervisor Myron Hartman**

Investigators interviewed ODT Tax Agent Supervisor Myron Hartman, who is the Central Ohio Region supervisor and the supervisor of Nixon and Shell. Hartman explained the two agents' monthly required duties include:

- Conducting 15 cigarette tax inspections per month.
- Working in teams of two whenever making contact with the public.
- Serving Habitual Offenders Program (HOP)<sup>8</sup> letters of suspension to vendors who are delinquent in filing their sales tax collections.
- Investigating assigned complaints.

Hartman confirmed to investigators that neither Nixon or Shell was assigned to investigate the business in question, nor did they screen or review their intended actions with the proper supervision regarding the business in question.

### **Interviews - ODT Tax Agent Mandowl Nixon**

#### *Nixon - First Interview*

On October 11, 2023, investigators interviewed ODT Tax Criminal Investigation Agent Mandowl Nixon. Nixon told investigators that he had worked for the ODT for 10 years and had been employed 27 years with the State of Ohio. Nixon stated that his duties as a tax agent included the investigation of criminal tax crimes, and that he was assigned to the ODT Central Ohio region, which covered most of the southeast area of the state.

Investigators asked Nixon to explain how he decided to issue a citation to the business owner in question in Chillicothe. Nixon stated that the business owner had a delinquent tax account and that Nixon's partner, Agent Matthew Shell, suggested they travel to Ross County and pursue action involving some "DQs" (delinquent accounts). When investigators asked Nixon if Shell gave him a specific reason as to why they should travel to Ross County, Nixon said, "No." When investigators asked Nixon how he knew the business owner in question was past due on

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<sup>8</sup> Habitual Offenders Program - Whenever a vendor's sales tax account is routinely delinquent, agents assigned to the Habitual Offenders Program (HOP) group are tasked with bringing the business into compliance with their sales, employer withholding, and school district withholding tax obligations.

filing his business tax, he replied, “Shell did research.” When asked what database they used to research the account, Nixon said STARS.

Investigators showed Nixon the arrest report and case summary he filed against the business owner in question that stated he researched the business in STARS, and Nixon then reported that he verified the information using STARS. Nixon stated to investigators that Shell had asked him to write the citation because there might be a “conflict” if he (Shell) wrote it himself, and Nixon added that Shell did not explain to him why there would be a conflict. At that point, investigators questioned Nixon again as to who actually wrote the citation, and Nixon admitted that Shell could have written the citation. Investigators again asked Nixon why Shell wanted him to write the citation. Nixon stated that Shell told him that the wife of his friend was having an affair with the business owner in question. When investigators asked how having Nixon write the citation would separate Shell from the incident, since Shell was also present during that time at the business, Nixon stated, “I don’t know.”

Investigators then showed Nixon an excerpt he had written in his arrest report stating that the business in question was delinquent in his tax payment for a total of six months. Nixon explained, stating that portion of his arrest report was in “error,” and that he may have cut and pasted the information, and that this information was not intended to make the business owner’s tax situation look worse. When questioned again about the DQ list, Nixon stated that he was unaware of what the delinquent list was, but knew it was found in the Tableau program.

Investigators asked Nixon if Shell checked with Agent A regarding the DQ list. Nixon replied, “... he may have.” Nixon confirmed that he [Nixon] searched the business owner’s name through the OHLEG system prior to entering the business. Nixon said he did not believe his actions violated the browsing or conflict of interest policies in place when accessing the OHLEG system.

Investigators showed Nixon an excerpt from the arrest report he had filed, in which he and Shell opened a case on the business in question. Nixon wrote that the case was opened, “... while conducting a routine vendor’s license compliance checks in Ross County.” However, Nixon



admitted to investigators that he was aware that the true reason why they went to this business was personal, and was because of the affair between the wife of Shell's friend and the business owner. Nixon also admitted that he failed to include in his report that he and Shell specifically intended to stop at this particular business. Nixon also confirmed that it was Shell's idea to write a citation at another business in the area so it would not look like they were targeting the business in question.

#### *Nixon - Second Interview*

On December 5, 2023, investigators conducted a second interview with Nixon to clarify information he provided in his first interview. Investigators reminded Nixon of the statements he had made in the first interview that Shell wanted him (Nixon) to write the citation to the business owner in question to avoid any conflict of interest. Investigators asked Nixon how Shell would assume that a conflict of interest was avoided, if he (Shell) was with Nixon at the business where and when the citation was issued. Nixon replied that he did not know. Nixon then admitted that Shell was not present inside the business with him, but was listening to the conversation with the business owner through the agents' cellphones. Nixon tried to maintain that this arrangement still counted as having two agents present at the business, as required by the ODT Tax Agent Guideline. When investigators asked Nixon if the efforts by the two agents to be covert about their actions raised any red flags, Nixon replied, "No."

Nixon admitted that ODT agents are required to work in teams of two agents. Investigators showed Nixon the Tax Agent Guideline that states that two agents are required to be present on all contacts with the public, and questioned Nixon about why he violated this guideline. Nixon's response was to cite an example of when his supervisor worked alone on a cigarette tax inspection group in 2022.

Nixon admitted to investigators that he and Shell were not assigned to go to the business in question, and that they did not perform a cigarette inspection or any other ODT assigned work while there. Nixon also admitted they were not assigned to investigate the business in question, and that they failed to screen or obtain approval from supervision prior to the time the agents opened the investigation.

### **Interview - ODT Tax Agent Matthew Shell**

On October 11, 2023, investigators interviewed Agent Matthew Shell regarding the citation issued to the owner of the business in question in Chillicothe Ohio. Shell stated, "... we were working the area for delinquent sales tax violations, and we determined that business was delinquent." When asked why he and Nixon traveled up to Ross County that day when their assigned region was 22 counties in the southeast area of Ohio, Shell stated, "... that's just where we planned on going." Investigators asked Shell why he and Nixon decided to go to the business in question. Shell said,

... guys I don't know what this is about, they were delinquent with their sales tax, so that's a strict liability charge and that's why we were there and our supervisor who ultimately went down there to have that charge dismissed so it's no longer an issue I don't believe.

Shell confirmed the business in question was not a case or duty assigned to the agents. Shell then added that, "... we are never told where to go." Shell confirmed to investigators that he was aware that Habitual Offenders Program (HOP) violations are assigned to agents. Shell confirmed that he and Nixon did not stop at any other business prior to the business in question. Investigators asked Shell by what means did he determine the business in question was paying their sales tax. Shell explained that both he and Nixon researched the business through a database called STARS. Investigators asked Shell if the business in question was on the delinquent list, and he answered, "... it was." Shell added that all CID agents had access to the delinquent list. When investigators pointed out to Shell that it was not permitted for agents to browse the STARS database without a legitimate business purpose, Shell responded, "I mentioned the database that has delinquents or delinquency information on it." Investigators showed Shell the STARS report for the business in question and asked what it showed. Shell responded, "a semiannual filer," and he could not recall how he had determined the business in question was delinquent. Investigators asked Shell if it was standard to write a citation for a semiannual filer who was late in payment for one period. Shell responded, "I did it last month." Investigators asked Shell if his actions toward the business owner in question were in accordance to the direction provided by the ODT when managing delinquent payments, and Shell stated, "... we've never had any formal discussion but any direction outside of that would not be legal."

Shell denied asking Nixon or anyone else to write the citation to the business owner in question. Investigators asked Shell if he asked Agent A to run the business in question through the delinquent list and he said, “I think he looked at it yea.” However, Shell said he did not recall if he asked Agent A to do that. When investigators asked Shell what Agent A told him when he looked through the delinquent list for the business in question, Shell said, “I don’t recall.” When an investigator asked Shell, “He told you the business in question was not on the delinquent list, does that sound right?” Shell responded, “... guys I’m done” and refused to continue with the interview.

### **STAR Database Queries by Shell**

ODT’s current internal system called the STARS database contains the bulk of the State of Ohio’s business-related tax information. Information stored on the internal STARS system, including business tax returns and associated data stored on STARS, is considered “confidential personal information.” Consistent with ORC Chapter 1347, ODT established policies, procedures, and training to educate employees that browsing CPI on ODT’s systems is prohibited and that CPI information is only permitted to be accessed for legitimate business purposes. Specifically, ODT policies ODT-002, ODT-101, and ODT-300, (with the bulk of the relevant information located in ODT-101), address the proper handling of CPI by ODT employees. Also, every ODT employee is required to acknowledge their review and understanding of ODT’s policies through ODT’s online learning system, OhioLearns, which tracks each ODT employee’s acknowledgement.

Investigators obtained a list of queries conducted by Shell in the STAR database between August 1, 2023, and September 30, 2023. Investigators analyzed these records and found that on August 30, 2023, at 12:49 p.m. Shell researched the vendor’s license number for the business in question. This was the first of several STAR database queries made by Shell for the business in question.

### **CONCLUSION**

On September 20, 2023, the Office of the Ohio Inspector General received a referral from the Ohio Department of Taxation (ODT) reporting suspected illegal activity by Criminal

Investigation Division Tax Agent Matthew Shell and Criminal Investigation Division Tax Agent Mandowl Nixon.

On September 18, 2023, ODT Tax Agent A (unnamed) reported to ODT Regional Supervisor Myron Hartman that Shell had a friend who was a police officer employed by an entity outside of ODT. This friend/police officer shared with Shell that his (the friend's) wife was having an affair with a former police officer who was currently a business owner in Chillicothe, Ohio. The business owner held a sales tax vendor's license and was scheduled to file tax returns on a semiannual basis. The business owner's most recent sales tax return was due on July 23, 2023, for the period of January 1, 2023, through June 30, 2023.

On or around August 30, 2023, Shell attempted to persuade Agent A to issue a citation and file misdemeanor charges against the business owner associated with the affair because, according to Shell, the business owner had not yet filed the semiannual return due on July 23, 2023. Agent A refused to take this action because of the personal nature of the request involving Shell and the business owner. Agent A stated to ODT Tax Agent Supervisor Myron Hartman that on August 31, 2023, he had planned to work together with Shell. Their plan to work as a team was initiated because Agent A's partner was unavailable for work that day, as was Shell's partner, Nixon. All four of the agents are assigned to the ODT Central Ohio Region. Agent A was then rescheduled to work elsewhere that day and did not work with Shell on August 31.

After several follow-up conversations, Shell then approached another colleague, CID Tax Agent Mandowl Nixon, who, on September 1, 2023, issued a citation to the business owner for failure to file a semiannual tax return. On that same day, the business owner filed the late return and paid a tax liability of approximately \$100.

On September 5, 2023, Nixon filed unclassified misdemeanor charges with the Chillicothe Clerk of Courts against the business owner for failing to file and pay the sales tax collected.

On October 4, 2023, investigators from the Office of the Ohio Inspector General interviewed Agent A who provided to them a written statement of his interactions with Shell.

ODT Internal Audit Administrator James J. Roche provided to investigators an explanation of the sale tax return filing process and how businesses are notified when they fail to file and pay their taxes when required. Roche also told investigators that in the case being investigated, the taxpayer involved owned a business and was filing his taxes semi-annually; therefore, the sales tax for his business was due on July 23, 2023. A billing notice would not have been sent until approximately 30 days after the due date and would have provided the taxpayer 30 days to respond to ODT. Therefore, Roche stated that in this particular case, the billing notice would have been mailed by ODT to the business owner/taxpayer no earlier than August 22, 2023, and the taxpayer would have been allowed until September 21, 2023, to respond by either challenging the bill or paying the bill. However, the taxpayer was never given the chance to follow the normal course of business as he was cited by the TCID agents on September 1, 2023, well before the deadline provided for all other taxpayers.

Investigators interviewed ODT Tax Agent Supervisor Myron Hartman, who was the supervisor of Nixon and Shell. Hartman explained the two agents were required to work in teams of two whenever making contact with the public and only investigate complaints assigned to them. Hartman confirmed to investigators that neither Nixon or Shell was assigned to investigate the business in question, nor did they screen or review their intended actions with the proper supervision regarding the business in question.

On October 11, 2023, and December 5, 2023, investigators interviewed ODT Tax Criminal Investigation Agent Mandowl Nixon. On October 11, 2023, investigators interviewed ODT Tax Criminal Investigation Agent Matthew Shell. From these interviews and records reviewed, investigators determined Shell used his position as a ODT CID Tax Agent to issue a citation to a business owner for Shell's own personal interest. Shell, in order to hide his personal involvement, first unsuccessfully tried to enlist Tax Agent A to issue the citation, and then successfully enlisted CID Tax Agent Nixon to issue the citation to the business owner for delinquent taxes.

Investigators learned that Nixon was aware that the reason Shell wanted the Chillicothe business owner cited was predetermined and personal in nature. However, Nixon falsified his arrest

report and case summary by omitting the reason the business in question was selected and claiming the two agents stopped at this business as a routine visit. Furthermore, Nixon initially lied to investigators by claiming that their investigation of the business was a routine matter, but later admitted to investigators that Shell had shared with him that the business owner was having an affair with the wife of a friend of Shell.

Additionally, Nixon lied to investigators during his first interview about Shell entering inside the business during Nixon's conversation with the business owner. During a second interview, Nixon admitted to investigators that Shell had not entered the business but was instead in his vehicle listening to the conversation between the business owner and Nixon using his cellphone speaker. Nixon's and Shell's actions violated the Tax Criminal Investigations Agent Expectations issued to ODT staff on January 8, 2013, and received and acknowledged by Nixon on June 10, 2013; and issued on March 10, 2016, and received and acknowledged by Shell on April 4, 2016, respectively.

Investigators determined that Shell and Nixon were not assigned to issue a citation to this business, and that they had failed to screen or review contact with this business with supervision before initiating an investigation. These actions violated the requirements in *ODT General Order 42.1.2 - Procedure for the Screening of Investigations and/or Continuing or Suspending Investigations*.

Furthermore, investigators determined Nixon had improperly accessed OHLEG to retrieve information about the business owner, motivated by the personal interest of Shell rather than for a valid business reason. Nixon's action violated *Ohio Law Enforcement Gateway – OHLEG Rules and Regulations* which defines misuse as utilization, "... not directly related to the administration of criminal justice."

Lastly, investigators determined that Shell improperly accessed and queried the ODT STARS database on August 30, 2023, at 12:49 p.m. and researched the vendor's license number for the business in question, two days prior to issuing the citation. Investigators determined there was no proper business reason for Shell to access records for the business in question in STARS,

since the business in question was not on the delinquent list and a supervisor had not assigned a case involving the business in question to Shell.

The Office of the Ohio Inspector General concluded ODT CID agents Matthew Shell and Mandowl Nixon violated *ODT Policy – ODT-002 – Standards of Conduct - Section 5.7.11.*, and engaged, “... in any act or omission on the job that a reasonable person would regard as manifestly outside the scope of employment or official responsibilities or with malicious purpose, in bad faith, or in a wanton or reckless manner.” In addition, investigators determined these actions violated guidance in *ODT General Orders 1.2.7* and *42.1.2*, OHLEG Rules and Regulations, and Ohio Revised Code §1347.15.

**Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe wrongful acts or omissions occurred in these instances.**

Shell and Nixon were placed on administrative leave following the initial interviews with the Office of the Ohio Inspector General and the Ohio Department of Taxation’s Administrative Investigation. The agents were removed from employment with ODT effective December 15, 2023.

Nixon filed a grievance regarding his termination from ODT on December 28, 2023.

### **RECOMMENDATION(S)**

The Office of the Inspector General makes the following recommendations and asks the tax commissioner of the Ohio Department of Taxation to respond within 60 days with a plan detailing how the recommendations will be implemented. The department should:

1. Review with all tax agents the policies and procedures governing when a business is considered delinquent by ODT policy, the use of Tableau and OHLEG for only business-related purposes and ongoing investigations. Also review with all tax agents the screening process steps to be followed before an investigation can be initiated when receiving a case directly through contact with a variety of established resources or resulting from another investigation.

**REFERRAL(S)**

The Office of the Ohio Inspector General has referred this report of investigation to the Franklin County Prosecutor and the Ohio Ethics Commission for consideration. This report of investigation will also be referred to the Ohio Bureau of Criminal Investigation for consideration regarding the acceptable use of OHLEG.





STATE OF OHIO  
**OFFICE OF THE INSPECTOR GENERAL**

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RANDALL J. MEYER, INSPECTOR GENERAL

**NAME OF REPORT: Ohio Department of Taxation**

**FILE ID #: 2023-CA00013**

**KEEPER OF RECORDS CERTIFICATION**

**This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.**

**Jill Jones**  
**KEEPER OF RECORDS**

**CERTIFIED**  
**April 16, 2024**

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