



STATE OF NEW YORK  
OFFICE OF THE STATE INSPECTOR GENERAL  
**Final Report**  
**August 15, 2008**

**DOL Analyst Quits After Accessing**  
**Sexually-Explicit Web sites**

SUMMARY OF FINDINGS/RECOMMENDATIONS

The New York State Inspector General's Office found that an employee of the State Department of Labor (DOL), Daniel Nugent, misused his state-issued computer by accessing inappropriate Web sites containing sexually-explicit images. This finding was referred to the Department of Labor for appropriate disciplinary action.

ALLEGATION

On January 17, 2008, the DOL advised the Inspector General's Office that Senior Administrative Analyst Daniel Nugent was suspected of misusing his state-issued computer and possessing sexually-explicit images.

SUMMARY OF INVESTIGATION

**1. Background**

DOL has promulgated a policy entitled *Computer Acceptable Use Agreement*. The agreement reads, "Users of the DOL computer systems and network have no expectation of privacy. The department reserves the right to log and monitor all activity without prior consent or notice to the user." The policy further reads, "Limited personal use is allowed if done during lunch and break time only if the use is appropriate for an office setting" and "does not interfere with DOL's ability to conduct business." Each time a user logs on to a DOL computer, an admonition regarding computer misuse appears.

Regarding unacceptable computer use, the agreement reads, in part: "Examples of inappropriate activities include, but are not limited to: "On-line personal purchasing," "Pornography," "Gambling," "On-line auction," and "On-line dating." Also listed as unacceptable: "visiting inappropriate Internet sites, or using unauthorized Web-based chat rooms, instant messaging programs and similar peer-to-peer applications."

The New York State Office for Technology provides Internet access to state agencies, including DOL. The Office for Technology also offers a Web filtering service to state agencies to regulate and monitor Internet usage by agency employees. The service maintains a data base of Web sites that employees are not permitted to access, including those that publish sexually-explicit content. The software prevents DOL employees from accessing sites in the data base and notifies an employee attempting to access such a site that the site is prohibited. Although the list is frequently updated, new Web sites are constantly being created, and at any time there may be Web sites containing sexually-explicit content that are not included in the data base of prohibited sites. Regardless of whether a site is included in the data base, the filtering software records whether the DOL employee accessed or attempted to access the site.

## **2. Investigation into Nugent's Internet Usage**

DOL was advised in January 2008 of Nugent's inappropriate computer use during a routine monitoring of employee Internet activity by the Office for Technology. DOL learned that Nugent had attempted to access numerous Web sites containing inappropriate sexual material that were included in the data base of prohibited sites. In addition, Nugent had successfully gained access to other Web sites, many of which appeared to contain inappropriate sexual material but were not listed in the data base. DOL secured Nugent's computer and referred the matter to the Inspector General's Office on January 17, 2008.

As recorded by the Web filtering software, Nugent attempted to access a number of Web sites categorized as "Adult/Sexually-explicit." Records also indicate that Nugent accessed other Web sites containing sexually-explicit material that were not at the time included in the data base of prohibited sites. Sites captured from the Web filtering log included addresses accessed by the user and "pop-up" or "pop-under" advertisements on the Web sites accessed by the user.

On January 18, 2008, the Inspector General's Office took possession of Nugent's state-issued computer, acquired a duplicate image of the computer's hard drive and conducted a computer forensic examination on the duplicate image. A review of images found 591 sexually-explicit images.

An examination of Nugent's Internet history recovered from Nugent's hard drive coincided with the Web filtering logs and revealed numerous visits to inappropriate, sexually-explicit Web sites during Nugent's regular scheduled work day.

On March 20, 2008, the Inspector General's Office interviewed Nugent. During the interview, Nugent admitted to searching for inappropriate material on the Internet using sexually-explicit search terms. Although he admitted to this misconduct, he changed his statement to investigators several times during the interview regarding the frequency of his activity. He initially testified to investigators that he accessed sexually-explicit material once a week, then later in the interview he stated that he accessed this

sites once or twice a day – but not every day. Nugent then finally admitted he visited these types of Web sites once or twice a day, most days during the week.

## FINDINGS AND RECOMMENDATIONS

This investigation determined that DOL employee Daniel Nugent violated DOL's Computer Use Agreement by using the Internet for non-business purposes and accessing various Web sites containing sexually-explicit material. The Inspector General recommends that DOL take appropriate disciplinary action against Nugent.

In response, DOL advised the Inspector General that in lieu of formal disciplinary proceedings, Nugent agreed to leave state service by July 25, 2008.