

INVESTIGATIVE REPORT
OF
POSSIBLE TIMECARD FRAUD
AVIATION DEPARTMENT
REPORT NO. 09-201



City of Albuquerque
Office of Internal Audit and Investigations

Aviation Department - Investigation
Possible Timecard Fraud
Report No. 09-201
Executive Summary

Background: We have conducted an investigation concerning possible timecard fraud at the City of Albuquerque Aviation Department (AD or department). This investigation was predicated upon an anonymous telephone call by an individual claiming employees of the department's finance division were falsifying hours worked on their timesheets.

The caller provided sufficient information to initiate an investigation. On October 1, 2008, the OIAI sent an interoffice memorandum to the department director informing him of our intent to investigate the complaint.

Objective: *Is there evidence to support the allegation of timecard fraud?*

Based on our review of the administrative assistant's personnel file, timesheets, the City's payroll records (ATCD – Archived Timecard Detail), employee training and meeting records, department's City owned vehicle log and interviews, we concluded the possibility of timesheet fraud by the administrative assistant exists.

Recommendations: We make the following recommendation:

- AD should consider disciplinary action that is appropriate as dictated by employee actions and behavior, including recouping any monies paid to the employee that she may not have been entitled to.

Objective: *Are there areas in which AD can reduce the risk of fraud?*

- There was a lack of controls to protect the City from employee abuse or fraudulent behavior.
- Management and employees did not follow FLSA requirements, City personnel rules and regulations or union contracts.

Recommendations: AD should:

- Implement written policies and procedures that protect the City and give guidance to employees so that they know what is expected of them.
- Provide labor law training to managers and employees.
- Ensure management and employees comply with applicable laws and regulations.
- Hold employees accountable through appropriate, meaningful and consistent disciplinary action when violations occur.
- Ensure that hours reported are actually worked, that overtime is justified and valid and all hours worked are entered in the City official payroll system.
- Provide a work environment where employees feel free to report unethical or improper behavior.

Management responses are included in the report.



City of Albuquerque
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September 4, 2009

Accountability in Government Oversight Committee
City of Albuquerque
Albuquerque, New Mexico

Investigation: Possible Timecard Fraud
Aviation Department
09-201

FINAL

INTRODUCTION

The Office of Internal Audit and Investigations (OIAI) conducted an investigation concerning possible timecard fraud by employees of the City of Albuquerque Aviation Department (AD or department). This investigation was predicated upon a report from an anonymous call to the OIAI. The caller reported that employees of the finance division of the department were falsifying hours worked on their timesheets. The caller stated employees are afraid to report it to the Department of Finance and Administrative Services (DFAS), the department overseeing the payroll process, for fear of retaliation. The caller provided sufficient information to initiate an investigation. On October 1, 2008, OIAI sent an interoffice memorandum to the department director informing him of our intent to investigate the complaint.

The associate director over the finance division oversees the day to day operations and manages and supervises the staff assigned to the division. The associate director reports to the department director. The finance division is responsible for budget, bonds, payroll, purchasing, accounts payable/receivable, contract administration, business development, conferences, human resources, public relations, travel, training and the front reception area.

BACKGROUND AND EVENTS

OIAI staff interviewed the AD director and finance division staff. The director stated he was not aware of any employee of the finance division falsifying or abusing time. He deferred to the associate director of the finance division for any information on this allegation. The associate director stated that an employee reported to her that finance division employees were falsifying or abusing time. When the employee reported it to her, the associate director pulled the reporting employee's parking structure report and found "her slate wasn't clean either". The associate director

did not pull any of the other division employees' records, but instead talked to the administrative assistant to make sure her time and that of her staff was correct.

Other employees interviewed by OIAI staff stated they also reported the issue to the associate director. Employees stated other divisions are aware of it and they even make bets as to whether the administrative assistant will come into work on a given day. They stated the administrative assistant is never at work and the two employees she supervises do as they please because no one is watching them. The administrative assistant worked four tens and was off every other Monday, but would call in almost every Tuesday stating she would not be in. One employee also stressed the administrative assistant may not have been entitled to the overtime she claimed. Employees interviewed by OIAI staff stated they were aware of two employees possibly falsifying or abusing time and that it had created bad morale. One employee interviewed by OIAI staff stated employees would not be forthcoming in their interviews for fear of retaliation. Employees stated the administrative assistant made claims that if she went down because of this investigation, everybody was going down with her.

The administrative assistant denied knowingly reporting, entering or approving time for herself or any other employee that was not true. The associate director does not believe the administrative assistant falsified or abused time, but merely "milked" the system.

Clerical staff use timecards and timesheets to report time worked. M series (14 and below) employees use timesheets to report time worked. E series employees are not required to complete a timesheet. The administrative assistant is an M series employee and is required to submit a timesheet and clerical staff she supervises are required to submit both a timesheet and timecard to payroll. The department's timekeeper enters hours identified on the timesheet in Empath, a web-based program used at the time to enter payroll for City employees.

Employees need special clearance and a badge to enter the finance division work area and employee parking lot. Employees swipe their badge when they enter the parking lot and office. Employees do not have to swipe their badge leaving the parking lot or the office unless arriving at the office before 8:00 a.m. and leaving the office after 5:00 p.m. because regular office hours are 8:00 a.m. - 5:00 p.m. The only exception to an employee swiping his/her badge is when two employees enter the office together.

OBJECTIVE

The objective of the investigation was to determine:

- Is there evidence to support the allegation of timecard fraud?

- Are there sufficient and adequate policies, procedures, training and communication that prevent or reduce the risk of timecard fraud?

SCOPE

The scope of the investigation was limited to:

- Timekeeping processes at AD
- Time reported July 1, 2007 through September 30, 2008
- Administrative assistant and accounting assistant

METHODOLOGY

The methodologies used during our investigation consisted of:

- Documentation review and verification.
- Interviews of City personnel deemed necessary to attain a conclusion regarding our objectives.

Our investigation was conducted in accordance with fraud investigation techniques, which include but are not limited to-examination of records, documents, interviews with appropriate personnel, and other evidence-gathering procedures as necessary under the circumstances.

FINDINGS

We make recommendations, when appropriate, regarding areas noted during the investigation that we believe could improve the department's effectiveness, efficiency and compliance with administrative policies and applicable rules and regulations. These recommendations could prevent future fraud and provide controls that would detect fraud.

1. POSSIBLE TIMESHEET FRAUD.

The administrative assistant had many instances (See Exhibit A) where her Badge Events Report showed her swiping the parking lot security scanner after her work schedule began. There were also numerous instances in which there was no swipe after 5:00 p.m., a requirement if leaving after 5:00 p.m., yet she reported she worked her full schedule on her timesheet.

On October 28, 2005, the chief administrative officer (CAO) sent an interoffice memorandum to all City department directors, department deputies/associate directors and division managers informing them that management had not been sufficiently rigorous in communicating to employees the importance of observing scheduled working hours. He reminded them of the obligation to provide eight hours of work for eight hours of pay.

There are days when the Badge Events Report shows no swipe at the parking lot or office, yet the administrative assistant entered regular hours worked on her timesheet. There are also days when the Badge Events Report shows no swipe at the parking lot or office and the administrative assistant had partial leave taken and partial regular hours worked on her timesheet. There were some days we were able to determine the administrative assistant switched her flex day off but did not report the actual time worked on her timesheet. (SEE FINDING NO. 9)

The administrative assistant provided many reasons for swiping in late in the mornings and not swiping after 5:00 p.m. in the evenings. The reasons included, attending downtown meetings, downtown training, picking up mail and other errands. The administrative assistant had little, if any, support for her assertions, but OIAI attempted to verify as many of her reasons as possible. OIAI found the following:

- The administrative assistant provided a memo dated July 3, 2007 in which the associate director and the facilities manager were discussing a problem when there was no one to pick up the mail due to the mail runner being out of the office. The administrative assistant hand wrote on the memo that this accounts for her mail runs in the a.m. and p.m. as needed. We asked the facilities manager how many times in 2008 they asked the finance division employees to pick the mail. He stated about five times and of those five times, the administrative assistant conducted the mail run once. The facilities manager also stated the mail runner stops at the downtown office, post office and any other place where items need picking up or dropping off.
- We examined the department's City owned vehicle log and found six instances between July 1, 2007 and September 30, 2008 where the administrative assistant checked out a City owned vehicle to conduct City business at the downtown offices or elsewhere in the city. The log shows an employee the administrative assistant supervises as having run most of the errands. The administrative assistant stated she uses her personal vehicle to conduct City business but does not request mileage reimbursement for the trips because it is too much trouble; therefore, we were unable to verify when she conducted this business.

- We contacted the City’s Human Resources Department (HR) administrative assistant responsible for coordinating City training and requested records of any training and meetings attended by the administrative assistant between July 1, 2007 and September 30, 2008. The HR administrative assistant provided an employee class history for this individual showing she attended two trainings during this period, one on March 12, 2008 and another on September 24, 2008.
- We contacted DFAS staff and requested records of any training and meetings attended by the administrative assistant between July 1, 2007 and September 30, 2008. The department staff provided records for meetings to the payroll user group (PUG) and financial user group (FUG) meetings. Based on the records provided, the administrative assistant attended one PUG meeting on September 18, 2008 and one FUG meeting on September 20, 2007. The accounting assistant, an employee that reports to the administrative assistant, attended all other PUG meetings.
- The administrative assistant provided an e-mail dated April 29, 2008 showing an exchange of information between herself and a vendor that lasted approximately 45 minutes. The Badge Events Report does not show her swiping the scanner on that day. The administrative assistant wrote a note on the e-mail she provided that reads, “no badge activity – e-mails from me on that day”. We contacted the department’s information system staff and requested they tell us if the employee logged on to the City’s computer at the department on the day she wrote the e-mail. The department’s IT staff informed us the LOGON audit was not enabled at that time and could not provide this information.

Based on our review of the administrative assistant’s personnel file, timesheets, the City’s payroll records (ATCD – Archived Timecard Detail), employee training and meeting records, department’s City owned vehicle log and interviews, we concluded the possibility of timesheet fraud by the administrative assistant exists. There were a total of 305 working days between August 1, 2007 and September 30, 2008. After eliminating leave taken, holidays and work off site, there were a total of 217 working days. Of those 217 days, there were 177 days with reporting problems. For more details, see Exhibit A at the end of the report. In those 177 days, we found 326 hours where the employee possibly falsified her timesheet. Based on the employee’s hourly rate of \$17.52, the City may have paid the employee \$5,712 for hours not worked. These hours do not include times where the Badge Events Report shows the employee came into the office and left sometime in the middle of day, for example, time she took for lunch because we could not show how long she was gone.

Personnel Rules and Regulations (*Code of Conduct §301.9*) states, no employee shall willfully make any false statement in regard to an investigation, or in any manner commit any fraud, conceal any wrongdoing or knowingly withhold information about wrongdoing in connection with employment with the City.

Fraud consists of the intentional misappropriation by means of fraudulent conduct, practices or representation.

RECOMMENDATION

AD should consider disciplinary action that is appropriate as dictated by employee actions and behavior, including recouping any monies paid to the employee that she may not have been entitled to. Employees should be held accountable.

RESPONSE FROM AD

“AD has considered disciplinary action, but has concluded that evidence is insufficient to determine wrongdoing. While the report relies on swipe cards for parking and door access, these security controls are not intended to serve the purpose of a time clock. As is evident from the report, these records do not effectively capture an employee’s time. Anecdotal evidence obtained from interviews similarly is unreliable. Budget and other financial deadlines required the administrative assistant at issue here to work hours outside of the usual schedule. The associate director believes that the hours claimed by the administrative assistant were consistent with the quantity of work she was producing at the time. The administrative assistant was an M-Series employee. M-Series employees do not use a time clock for payroll purposes. Therefore, a certain level of trust must be afforded M-Series employees.

“The report advises that the administrative assistant was improperly paid overtime pay of \$36.64 on seven different pay periods because the AD improperly allowed her to work a 44/36 bi-weekly schedule. The schedule was established at the request of the administrative assistant to accommodate her child care needs. The AD will immediately consult with the City Human Relations Department to determine whether amounts are due back to the City.

“AD also will take the following actions upon issuance of the final report:

“--Consult with the Human Relations and Legal Departments and prepare letters of instruction or information to the employees identified in the report within thirty days of issuance of the final report.

“-- Implement measures designed to avoid the appearance of impropriety, as indicated in the responses below.”

INSPECTOR GENERAL COMMENT

OIAI gathers evidence to support its findings and whether the department uses the Badge Events Reports for reporting an employee's time is irrelevant to the finding. Our finding is not just based on interviews as asserted in the department's response, but on many documents outlined in the finding. Of 217 working days, there were 177 days in which the administrative assistant swiped in late in the morning and/or did not swipe out after 5:00 p.m. in the evenings. We did not include gray areas in our finding, for example, the administrative assistant admitted when she left the premises for lunch she took more than the half hour she was entitled to. We measured the time it takes to get from the department's office to the parking lot and it takes approximately ten minutes; therefore, it would have taken the administrative assistant 20 minutes to go to and from her vehicle. However, because we could not show how long she was gone, these hours *were not* included the 326 hours where the employee possibly falsified her timesheet.

OIAI staff requested all documents to support where the administrative assistant worked outside her schedule and the department provided an “unofficial overtime log”. We also looked at official overtime records that show the employee at times double charged the City for hours worked. The hours in our finding do not include any of the overtime hours that the department claims were worked by the employee. If the department has other “unofficial records” where the employee worked outside her schedule 326 hours, it did not provide them to the OIAI.

The City's position is the OIAI did not have a finding of fraud, but merely that the possibility exists. The inspector general does not

determine a person's innocence or guilt, only a judge or jury has the ability to do so, which is the reason we stated there is a "possibility" the employee falsified hours worked. The inspector general's role is to gather information and report its findings.

2. DEPARTMENT IGNORED AND VIOLATED FAIR LABOR STANDARDS ACT, PERSONNEL RULES AND UNION CONTRACT.

- A. The administrative assistant's personnel file contained an interoffice memorandum dated July 23, 2007 from the HRD director, informing her that her Fair Labor Standards Act (FLSA) determination changed from exempt to non-exempt effective July 7, 2007. The memo noted that as a non-exempt employee, the administrative assistant would be eligible for overtime payment for hours worked in excess of forty hours in any one week, subject to approval of overtime in accordance with the department's policies and procedures. The memo shows the employee signed to acknowledge the change and its effects. The administrative assistant signed this memo on August 1, 2007.

The administrative assistant worked the following schedule prior to the change in FLSA designation:

Week One: 44 hours

Monday, 8:00 a.m. – 4:30 p.m. (8 hours, ½ hour lunch)

Tuesday – Friday, 8:00 a.m. – 5:30 p.m. (9 hours, ½ hour lunch)

Week Two: 36 hours

Tuesday - Friday, 8:00 a.m. – 5:30 p.m. (9 hours, ½ hour lunch)

The administrative assistant continued to work this same schedule through February 29, 2008, long after she received the memo from HRD.

The union contract between the City and Local 3022 AFSCME, Council 18, AFL-CIO states an FLSA non-exempt employee shall have a workweek of forty (40) hours per week, eight (8) hours or ten (10) hours per day. Flex schedules for employees who are eligible for overtime pay shall not exceed forty (40) hours during a workweek.

The associate director stated she follows the City's Personnel Rules and Regulations and union contracts, but also stated she thought the same rules applied when the employee's determination changed from exempt to non-exempt.

The administrative assistant provided a memo that shows her work schedule changed beginning March 11, 2008 to 10 hour days Tuesday through Friday with a half-hour lunch (40 hours each week). For the pay period ending March 14, 2008, the administrative assistant's timesheet shows 8 regular hours each Tuesday through Friday with one hour of overtime for each of the four days in week one. The associate director and administrative assistant signed the overtime form. The form does not show what project(s) or task(s) the administrative assistant worked on or the time period the overtime was worked. Yet, the employee's Badge Events Report shows the administrative assistant entering the parking lot 11 minutes to 3½ hours after 8:00 a.m. and leaving the office before 5:30 p.m. each of the four days. The administrative assistant received time and a half for the overtime. The administrative assistant coded 10 regular hours each Tuesday through Friday for week two on the timesheet.

- B. On 36 occasions between July 2007 and September 2008, a clerical non-exempt employee, who reports to the administrative assistant, did not take the required lunch break of at least 30 minutes. In 45 instances she took lunch close to the end of her work shift. On 15 occasions, the lunch break ended within 30 minutes or less before she left for the day.

The City's Personnel Rules and Regulations (*Personnel Rules and Regulations Regular Hours 302.1*) provide employees with an unpaid lunch period at least thirty (30) minutes.

According to the Clerical Union Agreement, the employee must take at least a thirty minute lunch break midway through the work shift.

The administrative assistant stated she required the employee to take a lunch break and the employee was aware she had to. The administrative assistant stated she did not allow the employee to work through the lunch break. Yet the administrative assistant signed the timecards which show the employee worked through lunch.

Violating the Clerical Union Agreement and FLSA requirements puts the City at risk should a grievance/complaint be filed by employees, union and/or labor department.

RECOMMENDATIONS

AD should:

- Ensure management and employees understand and comply with applicable laws, regulations and union contracts.
- Provide labor law training to managers and supervisors.
- Hold staff accountable for such violations.
- Ensure that supervisors signing time clock cards are aware their signature signifies approval of time worked by the employee.

AD RESPONSE

***“AD recognizes and will take responsibility for the compliance issues identified. AD became aware of many of these issues six months before the investigation was initiated, and immediately took corrective action at that time by raising the issues with the Aviation Department Personnel Officer, instructing the involved employees regarding FLSA and union contract requirements, requiring the administrative assistant to change her schedule to 40 hour work weeks, and requiring proper documentation for all time worked.*”**

***“AD will also take the following actions:*”**

***“• Provide informational letters by June 5, 2009:*”**

***“--To management and employees to promote understanding and compliance with applicable laws, regulations and union contracts.*”**

***“--To supervisors signing time clock cards advising that their signature signifies approval of time worked by the employee.*”**

***“• Provide labor law training to managers and supervisors by June 30, 2009. Staff will be advised that they will be accountable for any violations. As noted above, the staff in this case immediately took corrective action.”*”**

INSPECTOR GENERAL COMMENT

The employee’s personnel file contained a memo dated July 23, 2007 changing the employee’s status effective July 1, 2007. The

employee signed it on August 1, 2007, acknowledging receipt of the memo. The finding was to emphasize the department did not take action until eight months after the fact, leaving the City vulnerable to legal action.

3. NON-EXEMPT EMPLOYEE WAS PAID OVERTIME FOR WORKING A SCHEDULE OUTSIDE THE RULES AND UNION CONTRACT.

The administrative assistant received notification that under FLSA she was determined non-exempt effective July 2007. With the knowledge and approval of the associate director she continued to work a 44 hour work schedule in week one of the pay period and 36 hours in week two of the pay period. The non-exempt determination was entered in Empath and for every week she entered 44 hours without an adjustment to her schedule, the administrative assistant received two hours of overtime pay. Empath was not programmed to flag and reject the entry. The administrative assistant received overtime pay of \$36.64 on seven different pay periods between July 2007 and February 2008. The remaining periods included an adjustment to the 44 regular hour week, for example, she used sick leave or vacation leave on that week. The administrative assistant was earning overtime pay for an 80 hour bi-weekly schedule.

Under FLSA rules, work may not be “averaged from work week to work week. Employees may not be paid based on an “average” of 80 hours worked in the two week period. An employee working a 44/36 bi-weekly schedule would be entitled to 4 hours of overtime for week one.

The accounting systems coordinator stated non-exempt employees should not be put on this type of schedule because it is not allowed due to overtime requirements. The City requires employees work in a responsible manner, observing scheduled work hours (*Personnel Rules and Regulations* §302 *Regular Work Hours*).

The City may have paid other non-exempt employees overtime if they were working a schedule similar to the administrative assistant.

RECOMMENDATIONS

AD should train personnel on FLSA and City rules and regulations.

AD RESPONSE

“AD strives to follow FLSA and City rules and regulations. This situation arose because required changes were not implemented when a longtime exempt employee was changed to non-exempt status. The issues were discovered and resolved six months before the investigation was initiated. AD raised the issues with the Aviation Personnel Officer, instructed the involved employees regarding FLSA and union contract requirements, and required the administrative assistant to change her schedule to 40 hour work weeks. The AD will provide further specific instructions on this issue to the affected employees within thirty days of issuance of the final report, and will provide the informational letters and training indicated in response to item 2 above.”

4. THE ADMINISTRATIVE ASSISTANT KEPT AN UNOFFICIAL OVERTIME LOG.

The administrative assistant kept an unofficial log of her overtime worked. This overtime was not reported on her timesheet and never entered in Empath.

The log shows the date, time in, time out, hours and task worked on. The administrative assistant accrued straight time and received comp time for the overtime worked. The log shows overtime from December 1, 2007 through October 1, 2008. The associate director of finance approved the unofficial overtime log. The administrative assistant accrued and used 82 hours of unofficial overtime during this period.

The administrative assistant kept the unofficial log and entered other overtime in Empath.

For example:

- The unofficial overtime log shows that on June 14, 2008, she worked at a Pilot Bash for 5 hours, but this time is not reported on her timesheet or Empath. Then on June 16, 2008, she claimed 2 hours of overtime on her timesheet and Empath for working on fixed assets, but the overtime is not on the unofficial log. All overtime should have been entered on the timesheet for the pay period ending June 20, 2008. Asked why she kept a separate log from the overtime entered in Empath and her timesheets, the administrative assistant responded she is in a management position and thought this was acceptable as long as she and the associate director were in agreement. She stated further that this practice is no longer being followed.

- There are instances where the administrative assistant logged overtime from 5:00 p.m. to 6:00 p.m., but her regular work schedule shows her work day ends at 5:30 p.m. The log also shows that she stayed late after work hours or worked on a project after 5:30, but the Badge Activity Report does not show that she used her card to swipe the badge scanner indicating she was still in the building. When asked why she counted 5:00 p.m. to 5:30 p.m. as overtime, the administrative assistant responded she was required to adjust her schedule due to budget timeframes, holiday committees such as Sunport Santa, holiday luncheon and holiday decorating. She responded that when there is no swipe after 5:00 p.m., she may have left to take or pick up documents from City Hall. Most City offices close at 5:00 p.m.
- On April 5, 2008, the administrative assistant claimed 4 hours of overtime on her timesheet for having worked the People to People booth at Cottonwood Mall. This overtime was entered in Empath. The overtime form does not show the time she worked, just the number of hours. The overtime form is signed by another department employee, not the associate director. Her unofficial overtime log also shows that on April 5, 2007, she claimed 3 hours of overtime for working the People to People booth at Cottonwood Mall. The time noted on the log is 12:30 p.m. to 3:30 p.m. The associate director approved the unofficial overtime. The event took place from 11:00 a.m. – 1:00 p.m. The administrative assistant not only accrued 3 hours on her unofficial log and used the 3 hours, but also accrued 4 hours at time and a half and used the 6 hours. When asked to explain this, the administrative assistant responded that she must have shorted herself on the unofficial log and it should have reflected 4 hours. She did not explain why she double charged the time. The unofficial log shows she used the 3 hours on May 13, 2008, and she also used the 6 hours she accrued through Empath on April 25, 2008. Another employee who works the People to People events stated it takes no more than half an hour to dismantle the booth and load the items in a vehicle after the event. According to the unofficial log and time of the event, it took 2.5 hours (1:00 - 3:30) to dismantle the booth on April 5th. In short, the administrative assistant worked either 3 or 4 hours when the event was about over and received and used 9 hours in comp time.
- On May 24, 2008, the administrative assistant claimed 5.32 hours of overtime on her timesheet and Empath for having worked at a Q Jam event. The overtime form shows she worked the event from 12:30 p.m. to 3:10 p.m. and from 5:30 p.m. to 8:10 p.m. On May 24, 2008, the administrative assistant claimed 2 hours on her unofficial overtime log for working on a memo from 2:00 p.m. to 4:00 p.m., the same time period she was at Q Jam. The administrative assistant worked 2 hours

and accrued and used the 3 hours she accrued at time and a half and accrued and used another 2 hours she unofficially accrued for the same time period. The following day on May 25, 2008, she again worked overtime, and she entered it on her timesheet and Empath, but not her unofficial log. When asked to explain the overtime on these dates, the administrative assistant responded she probably worked on the memo at the same time when the booth was not busy. She did not explain why she double charged the time. As for not entering the May 25th overtime on her unofficial log, even though it was the very next day, she explained that she probably forgot to put it on the log.

- The administrative assistant's unofficial overtime log shows on February 6, 2008 she had a balance of 7 hours of accrued comp time. On February 22, 2008, she used 9 hours of accrued comp time. She took comp time which she had not yet earned. The unofficial overtime log does not show her working overtime again until April 5, 2008, one and a half months later. When asked to explain, the administrative assistant responded that she probably had some recent overtime that was not on the log and was taken at that time.

The City is in violation of FLSA overtime rules because the associate director approved the overtime at straight time, not time and a half. There is also the question of whether the associated director verified the "actual" hours worked by the administrative assistant and in two instances the administrative assistant charged the same overtime hours to both Empath and the unofficial log.

The hours and issues identified with the unofficial log are not part of the hours identified in Finding No. 1.

RECOMMENDATIONS

AD should:

- Ensure employees are entering all overtime on the City's official payroll system.
- Ensure employees are not double charging overtime.
- Ensure overtime is documented and valid.

- Ensure managers understand labor laws and personnel rules and regulations and they are disciplined and held accountable for flagrant violations.

RESPONSE FROM AD

“Five months before the investigation was initiated, the AD implemented the above recommendations. This situation arose from a change in status imposed on the employee by the City which resulted in a source of confusion. It is not apparent that any violations in this case were flagrant. AD has provided specific instruction to the identified employees to document all time pursuant to regulations, and to stop using “unofficial time logs.” Consistent with the above responses, AD will take reasonable steps to ensure that employees are entering all overtime on the City’s official payroll system, are not double charging overtime, and that overtime is documented and valid. The AD will immediately consult with the City Human Relations Department to determine whether amounts are due back to the City.”

INSPECTOR GENERAL COMMENT

The practice of using an “unofficial overtime log” did not stop 5 months prior to our investigation as noted in the department’s response. We initiated the investigation October 2008 and the last entry on the “unofficial overtime log” is October 1, 2008. The associate director initialed the “unofficial overtime log” as complete on October 13, 2008.

5. THE ASSOCIATE DIRECTOR ALLOWED THE ADMINISTRATIVE ASSISTANT TO ACCRUE COMP TIME DURING THE SAME PERIOD SHE WAS USING COMP TIME AND OTHER LEAVE.

The associate director approved the administrative assistant to work overtime on Saturday, June 7, 2008 and Sunday, June 8, 2008 to work on fixed assets. The employee’s timesheet and Empath records show the employee used 10 hours comp time on Thursday, June 12th, used 4 hours comp time and 6 hours vacation time on Friday June 13th, and then again worked 2 hours overtime on fixed assets on Monday, June 16th, the employee’s flex day off.

The City’s Personnel Rules and Regulations (*Personnel Rules and Regulations Overtime Work §302.2*) and union contract states overtime for City employees is generally discouraged

and when overtime is required for non-exempt employees, compensation must be in accordance with FLSA. The union contract states paid time will be considered hours worked for purposes of calculating overtime. The City's HR payroll contact stated it is possible to load overtime for one week and use it the next.

The associate director approved overtime for the same project before and after comp time was used, which begs the question if there was a need for the overtime. There does not seem to be any justification, for example meeting a deadline, if the overtime before and after is for the same project. Had the employee worked her regular hours, there would not have been the need for overtime. In short, when the employee worked 7 hours of overtime, she received 10.5 hour in comp time. The City got less time worked from the employee by allowing the overtime.

RECOMMENDATIONS

AD should ensure overtime is approved and justified when it is necessary and not just to allow an employee to accrue time and a half. The justification should show that the overtime will provide the City a benefit.

AD should evaluate whether it is prudent to approve overtime during the same pay period an employees uses comp time.

AD RESPONSE

“AD agrees with the recommendations. However, upon evaluation, the evidence indicates that overtime was justified in this unique case. It appears that the administrative assistant worked an Aviation event which occurred on a weekend. The City needed a worker on the weekend, and therefore benefited by her presence. In this case, the administrative assistant was the helpful employee. However, she had already accrued 40 hours, albeit that some of the hours were vacation and comp time she had previously accrued.”

INSPECTOR GENERAL COMMENT

The purpose of the overtime as outlined on the overtime form was for working on fixed assets before and after using 14 hours of comp time and 6 hours of vacation leave and not on an Aviation project as noted in the response. The overtime form is the City's official form and the

department did not provide any other record showing the overtime was for an Aviation project. The department should include information on the all forms that is accurate and reliable. The department should also include the names of projects on the forms for verification purposes.

6. TIMESHEETS AND LEAVE FORMS LACK DOCUMENTATION AND SIGNATURES

- A. OIAI reviewed timesheets for the administrative assistant beginning August 1, 2007 and ending September 26, 2008 or 31 timesheets. The timesheet for the pay period ending August 15, 2008 was missing. One timesheet did not have the employee's signature. Three timesheets did not have a supervisor signature.
- B. Employees are required to complete a P30 form for any leave used. The administrative assistant used some form of leave 56 days during our review period. The administrative assistant made 55 entries on the forms, but did not complete the start and ending period the leave was taken on 54 of the entries. Therefore, when she used partial day leave, it was not possible to look at the Badge Report and determine if the leave was taken in conjunction with her tardiness in the morning or lack of swipe in the afternoon. The one entry that did contain the start and ending period shows her taking leave from 2:00 to 5:00 p.m. Her work schedule required her to work until 5:30 p.m. The Badge Events Report does not show her swiping into the parking lot and office after 5:00 p.m. to show she was back at the office. But the half hour was recorded as regular work on her timesheet. The associate director does not believe it is necessary to document this information on the P30 and stated the entire department omits putting this information on the form.
- C. The administrative assistant signed two P30s after payroll was entered in Empath.

The associate director and administrative assistant did not sign a P30 form for the pay period ending January 4, 2008 until January 10, 2008, two days after the payroll clerk entered payroll in Empath. Another P30 form relating to this pay period was signed January 8, 2008.

- The timesheet shows the administrative assistant worked 9 regular hours January 4th, but the Events Report does not show her swiping the parking lot scanner until 12:55 p.m. and office at 1:04 p.m. These are the only swipes on the Badge Events Report for that day.

- The timesheet for the following pay period ending January 18, 2008 shows the administrative assistant again working regular work hours on January 7, 2008, but the Badge Events Report does not show a swipe into the parking lot or the office on that day.

The associate director and administrative assistant signed a P30 form for the pay period ending April 25, 2008 on April 30, 2008.

- The timesheet for the pay period ending April 25, 2008 shows the administrative assistant used leave from April 22 – 25.
 - The timesheet for the following pay period shows the administrative assistant's day off was Monday April 28th. The timesheet also shows she worked 10 hours regular time on April 29th. The Badge Events Report does not show that she swiped into the parking lot or the office on that day.
 - The administrative assistant provided OIAI staff with an e-mail dated April 29, 2008 showing an exchange of e-mails between a vendor and herself that lasted about 45 minutes. She wrote a note on the e-mail that reads, "no badge activity – emails from me on that day".
- D. The administrative assistant made 12 entries for overtime hours on overtime forms. On six of the entries, she did not provide the time she worked the overtime or what she worked on during the overtime hours. One entry showed the time the overtime was worked, but did not show what work was performed. Both the administrative assistant and supervisor signed the forms. We could not determine if prior approval was made because there is no date line on the forms.
- E. Timesheets are sometimes submitted by the supervisor, sometimes by the employee and other times just left on the payroll clerk's chair. Training is sometimes reported on a P-30 and sometimes not. It depends on the individual. The payroll clerk does not become aware of a change to a work schedule until long after it has been made.
- F. The administrative assistant attended an Aviation Conference on September 12 and 13, 2007 and again on September 9 and 10, 2008. The timesheets did not contain any documentation to support her attendance or prior approval. The timesheet for September 12 and 13, 2007 was coded as work off site with a comment it was to attend a state aviation conference. The timesheet for September 9 and 10, 2008 was coded as work off site without any comment. The administrative assistant and

associate director signed the P30-V on September 17, 2007 and September 17, 2008, respectively. The associate director believes this documentation is not necessary because she was at the conference and knows who attended.

- G. Between July 1, 2007 and September 30, 2008, the accounting assistant who reports to the administrative assistant had nine instances where she coded other paid activities (OPA) on her timesheet, but did not identify what it was for. OIAI staff did not find any support at the department level, but found enough support at various other departments to substantiate the OPA was valid.

Requests for leave must be submitted for approval on Request for Leave forms (P30) and must include necessary documentation. If employees are absent from duty without prior authorization, they must notify their immediate supervisor explaining the circumstances of their absence no later than one (1) hour after the regularly scheduled time to report to duty or as required by the department. The proper forms must be completed as soon as possible upon returning to work. (*Personnel Rules and Regulations Leave With Pay §401*)

The employee is required to obtain prior approval of the department director through submittal of a Request for Leave form documenting all work off site. (*Personnel Rules and Regulations Work Off Site §401.8*)

RECOMMENDATIONS

AD should:

- Ensure timesheets, leave forms and overtime forms are accurate and complete. This provides for transparency and accountability.
- Provide training to managers and employees on completing and providing supporting documents where needed.
- Develop written internal policies and procedures so that employees follow the same process.
- Require the supervisor to submit the employee's timesheet and supporting documents to the payroll clerk.

RESPONSE FROM AD

“AD has implemented internal policies and provided instruction as indicated in the above responses. Formal written internal policies and procedures will be prepared and training will be provided within thirty days of the issuance of the final report.”

7. EMPLOYEE FILES LACKED DOCUMENTATION.

- A. The personnel files maintained at AD lacked the employee work schedules. The files contained only the work schedules dated October 2008. The supervisor keeps the schedules. Yet, neither the associate director nor the administrative assistant could locate the work schedule beginning March 2008 in their files for the administrative assistant when OIAI requested it during our interviews. The schedule was later delivered to OIAI on January 26, 2009.

The personnel officer or timekeeper is not given the work schedules when employees request work schedules outside the 8-5 work day. Yet it is the timekeeper’s responsibility for updating employee schedules in Empath. The timekeeper does not become aware of changes until something comes up with an employee’s reported time.

The associate director stated work schedules are documented and she allows employees to flex their schedules. Employees are allowed to change a schedule and it is documented. The associate director believed the schedule and changes to it were between the employee and supervisor, but now realizes other personnel need to be aware of the schedules along with any changes.

The associate director stated she needs to know of permanent changes to a schedule through an e-mail or memo so that she has something in writing; however, she does not send the information to the personnel officer. There is no written policy on this process to let employees know what the associate director expects of them.

An employee reporting to the administrative assistant did not come close to following the schedule submitted to and approved by her supervisor. Deviations to the schedule were the rule not the exception. The administrative assistant stated all changes were verbally approved.

- B. The personnel files do not contain documentation of employee training. The associate director stated there are no documented schedules of employee training, but employees bring in certificates to prove that they were there.

The associate director stated the department does not have written policies and procedures regarding timekeeping. The department follows City personnel rules and union contracts.

RECOMMENDATIONS

AD should:

- Develop written policies and procedures for documenting schedules so that personnel files have this information.
- Develop written policies and procedures that address permanent versus temporary changes to schedules.
- Require employees attending training provide certificates and other supporting documents to the personnel officer for inclusion in the personnel file.

RESPONSE FROM AD

“AD has implemented internal policies and provided instruction as indicated in the above responses. AD agrees to prepare formal written internal policies implementing the above recommendations within thirty days of the issuance of this final report.”

8. SOME EMPLOYEES WORKED FROM HOME EVEN THOUGH THE DEPARTMENT DID HAVE A TELECOMMUTING POLICY.

The department director stated during an interview that the department does not allow employees to telecommute. However, when finance division employees were interviewed, they expressed that two employees were allowed to work from home, but the privilege does not apply to all employees. The two employees are the fiscal manager and the administrative assistant. The associate director confirmed these two employees are allowed to telecommute during budget time even though the department does not have a telecommuting policy. They use their laptops to work from home through a VPN connector. The City’s Personnel Rules and Regulations are silent on telecommuting privileges.

The associate director stated she is able to track work performed at home through e-mail sent by the employees, but she doesn't always keep her e-mail. The administrative assistant stated all requests and approvals to work from home are verbal, nothing is made in writing. She stated she does not use a City laptop, but uses her home computer and a zip drive to conduct City work.

The City's Information Policies and Standards state no non-City owned or managed platforms (PDAs, PCs, laptops, handhelds or any other devices capable of attaching to the network) will be directly connected through any means to the City's network.

The fiscal manager believes that FLSA exempt employees do not have to account for their time and that is the reason they do not have to submit timesheets. She stated there is no regulation that states employees have to be micromanaged. They are only required to submit exceptions on a P-30 leave form. This same employee stated if her child is sick, it is more convenient for her to stay and work from home. There are other employees in the division who have children that are not allowed to work from home because it is more convenient to stay home.

OIAI staff attempted to get historical information from the information services division (ISD) on the use of the VPN connector by these employees. ISD only keeps information on the VPN connector for two months.

On February 23, 2000, the City's chief administrative officer (CAO) issued a memo to all departments eliminating the use of timesheets for management positions. The CAO reminded department directors that employees still have a responsibility to ensure they work the minimum forty hour week.

RECOMMENDATIONS

ISD should consider keeping records for a longer period of time.

HRD should establish telecommuting guidelines for departments.

AD should:

- Establish written policies and procedures for telecommuting privileges so that there is no appearance of favoritism.
- Ensure Information Technology policies and standards are followed.

- Ensure that work from home is documented.

RESPONSE FROM AD

AD agrees that written policies and procedures for telecommuting privileges for City employees generally and Aviation employees specifically should be established. AD will take reasonable steps to implement the above recommendations upon thirty days of issuance of the final report, taking into consideration the responses from DFAS/ISD and HRD.

RESPONSE FROM DFAS/ISD

“ISD will research extending the retention of VPN log records to one year and will review this information with the Technical Review Committee within the next couple months.

“However, VPN logs show only whether or not a person has logged on to the network. If an employee uses a city laptop or home computer and a zip drive and did not log on to the network, a VPN log would not be created. The VPN log does not contain where they logged on from, or whether or not any work was performed once connected. Keeping VPN records for a longer period may not effectively address the need to determine if an employee telecommutes.”

RESPONSE FROM HRD

“HRD concurs with the recommendation. HRD will draft the appropriate documents and submit them for CAO approval pursuant to MSO 3-1-3 G before the end of the fiscal year.

“Once approved, HRD will communicate the City policy regarding telecommuting to City Departments and HR Coordinators.”

9. EMPLOYEES WERE NOT REQUIRED TO REPORT ACTUAL TIME WORKED WHEN SWITCHING FLEX DAYS OFF OR MAKING UP TIME.

The department did not require employees to report the actual time worked on their timesheets when they switched their flex day off or made up time. For example, if an employee had a doctor’s appointment and left 2 hours early on Monday, but made up the

time on Tuesday, the timesheet showed 8 hours worked on Monday and 8 hours worked on Tuesday rather than 6 hours worked on Monday and 10 hours worked on Tuesday. For employees that are not required to submit a timesheet, the associate director required they send an e-mail to let her know that they were making up time. Employees stated they sent her an e-mail but sometimes they called her or told her in person. Other employees stated it is not a documented process and that supervisors verbally approve it. The associate director stated that she didn't always keep the e-mails; therefore, we were not able to determine when employees made up time.

The inaccurate information was entered in Empath; therefore, the City's reporting system does not always provide true information. The administrative assistant stated employees are now required to document actual hours worked.

RECOMMENDATION

AD should ensure time reported on timesheets and PeopleSoft are actual hours worked and that changes to employees' schedules are documented.

RESPONSE FROM AD

“AD implemented the above recommendations before the investigation began and provided instruction as indicated in the above responses.”

INSPECTOR GENERAL RESPONSE

The practice of not reporting actual time worked on timesheets and the City's payroll system occurred throughout the period we reviewed and did not stop before the investigation began as noted in the department's response. On January 9, 2009, OIAI staff met with the associate director to discuss this issue and her response was that timesheets do not show actual time worked, but show scheduled hours.

10. EMPLOYEES WERE GRANTED EDUCATIONAL LEAVE FOR ONLINE CLASSES.

The associate director allowed employees to take three hours of educational leave for classes provided on-line. Therefore, an employee could connect to the on-line class on Saturday, Sunday or after regular work hours during the week and still be allowed the three hours leave.

The associate director relies on the employees' grades to ensure they are connecting to the on-line class during the approved hours.

The City's Personnel Rules and Regulations (*Personnel Rules and Regulations Educational Leave §401.9*) allow the department director to grant educational leave not to exceed three (3) hours per week for full time employees. The educational leave application asks the applicant to indicate yes/no to whether the course is during work hours. The forms have a circle around the yes. The form is attached to a signature approval form signed by the employee, supervisor, division manager and department director.

According to the administrative assistant, the department has stopped this practice.

RECOMMENDATION

AD should ensure leave is granted because the class is only provided during the employee's normal work hours and that employees are actually attending class during the time leave is granted.

AD RESPONSE

“AD agrees to implement the above recommendations. However the conclusion that leave should only be granted during the employee's normal work hours is not an obvious conclusion based on the City Personnel Rules and Regulations.”

INSPECTOR GENERAL RESPONSE

While the City's Personnel Rules and Regulations are not specific, the department should keep in mind that tax dollars pay for employee's salaries and where an employee is given time off for a class that is not attended during work hours shows a lack of management prudence in looking out for the taxpayer.

11. DEPARTMENT DOES NOT REQUIRE EMPLOYEES USING A CITY OWNED VEHICLE TO LOG BEGINNING AND ENDING MILEAGE.

The department uses a log to document the date, the City vehicle number, time in and time out, name of person checking out the vehicle and the destination to document an employee's use of the vehicle. The department does not require employees using a City owned vehicle to

log beginning and ending mileage for the trip. An employee could use the City vehicle to run personal errands throughout the City without the City's knowledge. The department relies on employees behaving in a professional manner and the public to report any abuse to 311 for ensuring that there is no City vehicle misuse.

The City's Travel Regulations (*Travel Regulations Chapter Two, I.B. Department Responsibilities*) authorize the department director to establish controls to ensure that only travel essential to the purposes of the City and for accomplishment of the department's mission is authorized.

RECOMMENDATION

The department should require employees using City vehicles to document the beginning and ending mileage of City business trips to lessen the inclination to use the vehicle for personal means.

RESPONSE FROM AD

“AD agrees to implement the above recommendation. However, there is no indication that a City vehicle was misused.”

INSPECTOR GENERAL COMMENT

The department wouldn't know of any abuse or violations because it does not require documentation. It may be happening without the department being aware of it.

12. EMPLOYEES CLAIMED RETALIATION FOR COOPERATING IN THE INVESTIGATION.

Two employees reported they felt they were being retaliated against by finance division staff for cooperating in this investigation.

The Accountability in Government Ordinance states no person shall retaliate against, punish or penalize any other person for cooperating or assisting the OIAI in the performance of our office. Any official or employee who violates the Accountability in Government Ordinance may be subject to discipline. (*Accountability in Government Ordinance §2-10-16 ROA 1994*)

RECOMMENDATION

AD should ensure that employees cooperating in an investigation are not retaliated against or that they fear they will be retaliated against for cooperating or reporting fraudulent or improper conduct.

RESPONSE FROM AD

“AD agrees with the above recommendation. However, no evidence suggests that any retaliation occurred. In this specific case, AD instructed all employees that retaliation against any employee would not be tolerated.”

INSPECTOR GENERAL COMMENT

Several employees reported retaliation for cooperating in the investigation along with reporting favoritism and poor morale. When management fails to address any of these issues, it leaves itself susceptible to low work productivity, complaints and grievances. Employees further stressed they made management aware of these concerns.

CONCLUSION

Management has overall responsibility for setting the tone at the top for the rest of the department. An organization’s culture plays an important role in preventing, detecting and deterring fraud and inappropriate behavior. Management needs to create a culture through words and actions, where it is clear that fraud and inappropriate behavior is not tolerated and that such action is dealt with swiftly and decisively. Even if an employee is “merely milking the system”, it is management’s responsibility to stop it. Accepting this behavior sends the wrong message. In conclusion, our investigation shows the administrative assistant could have possibly falsified her timesheet and received payment she was not entitled to.

The Accountability in Government Ordinance, §2-10-7 (ROA 1994) requires the OIAI director to notify the appropriate prosecuting authority of any irregularity that is criminal in nature.

Based on the results of our investigation, these actions, if proven in a court of law could constitute a violation of criminal and/or civil law. This matter was referred to the Second Judicial District Attorney’s Office. The report also contains findings pertaining to other conditions identified as a result of this investigation.

Inspector General

REVIEWED AND APPROVED

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