



OFFICE OF INSPECTOR GENERAL
City of Albuquerque

Melissa Santistevan
Inspector General

P.O. Box 1293, Suite 5025
Albuquerque, New Mexico 87103
Telephone: (505) 768-3150
Fax: (505) 768-3158

Report of Investigation

FILE NO: 21-0058

SUBJECT: Timecard Fraud, Open Space Division of Parks and Recreation Department

STATUS: Final

INVESTIGATOR: J.S.

DocuSigned by:
Melissa R. Santistevan
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MELISSA SANTISTEVAN
INSPECTOR GENERAL
OFFICE OF INSPECTOR GENERAL

02/11/2022
Date of Completion

DocuSigned by:
Edmund E. Perea, Esq.
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EDMUND E. PEREA, ESQ
ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE CHAIRPERSON

02/24/2022
Date of Approval

DISTRIBUTION:

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Executive Summary:

Pursuant to City Ordinance 2-17-2, the Inspector General's goals are to: (1) Conduct investigations in an efficient, impartial, equitable and objective manner; (2) Prevent and detect fraud, waste and abuse in city activities including all city contracts and partnerships; (3) Deter criminal activity through independence in fact and appearance, investigation and interdiction; and (4) Propose ways to increase the city's legal, fiscal and ethical accountability to insure that tax payers' dollars are spent in a manner consistent with the highest standards of local governments.

On October 12, 2021, an anonymous complaint was received through the ESA hotline regarding an employee (E1) who allegedly “changes time in KRONOS when people weren’t at work”, “clock family n friends in”, ‘clocks in at home and then takes kids to school on the clock then goes to work’, ‘happens every day’, ‘claims to be working at home but goes out to the lake’.

A fact-finding investigation was initiated which involved reviewing E1’s time records, HR files, assigned vehicle documentation, GPS data on the vehicle, and City personnel policies and related Administrative Instructions (AI). Interviews were conducted to obtain more information on the time reporting and information sharing processes for the Open Space Division of the Parks and Recreation Department as well as the teleworking allowances that have been accommodated since the onset of COVID.

The OIG’s fact-finding investigation revealed no evidence to support the allegation that E1 clocks in at home and then takes the kids to school on the clock then goes to work. Regarding the claim that E1 works remotely despite the directive of the Parks and Recreation Director, documents exist to demonstrate that the Superintendent of Open Space Division delayed acting on E1’s request, later approved the request for E1 to telework. The approval for E1 to telework was subsequently rescinded by D-1. S-1 believed that they had the authority to approve employees telework for the division, and when the process was clarified, E-1 immediately used Sick Leave for the time requested.

Based on the investigation, the OIG found that the allegation regarding E1 clocking in from home and then leaves to take kids at school while on the clock could not be substantiated.

The allegation that E-1 worked remotely against the directive or D-1 is substantiated in that the employee did work remotely against the directive, however, the employee did submit a formal request to S-1 in advance and was approved by S-1. S-1 delayed sending the request on August 25, 2021, to seek approval. In the interim, S-1 approved the request while the request was submitted to AD-1 and was pending approval, which resulted in E-1 teleworking for three days. As a result of our investigation, OIG has made two (2) recommendations for improvement related to observations. See the OBSERVATIONS AND RECOMMENDATIONS section on pages 16-17 of the report.

Abbreviations:

E-1 – Open Space Division employee
TC-1 – Time Card Auditor
S-1 Open Space Superintendent
D-1 – Parks and Recreation Director
AD-1 Parks and Recreation Associate Director
AI - Administrative Instruction
CAO – Chief Administrative Officer
OIG – Office of Inspector General
OSD – Open Space Division

INTRODUCTION

The mission of the Office of Inspector General (OIG) is to promote a culture of integrity, accountability, and transparency throughout the City of Albuquerque in order to safeguard and preserve the public trust.

On October 12, 2021, an anonymous complaint was received through the ESA hotline regarding an employee (E-1) who allegedly “changes time in KRONOS when people weren’t at work”, “clock family n friends in”, ‘clocks in at home and then takes kids to school on the clock then goes to work’, ‘happens every day’, ‘claims to be working at home but goes out to the lake’.

SCOPE AND METHODOLOGY

The scope of the investigation involved the performance of certain procedures to assess the allegations outlined in the complaint. The methodology consisted of:

- Review the complaint and all documents submitted by complainant
- Obtain and review City of Albuquerque Personnel Policy
- Obtain and review City of Albuquerque AI 7-66 Telecommuting/Work from Home
- Obtain and review City of Albuquerque AI 4-5 City Vehicle Usage Policy
- Obtain and review of time records
- Obtain and review of HR files
- Obtain and review assigned vehicle documentation and GPS data City personnel policies and related Administrative Instructions (AI)
- Interviews of selected personnel

Investigation

Complaint Background

On October 12, 2021, an anonymous complaint was received through the ESA hotline an employee who allegedly that employee changes her own time in KRONOS Timecard System with the Open Space Division of the Parks and Recreation Department, clocks in their family and friends, clocks in and leaves work to drive their kids, and reports working while being at 'the lake'.

Two telephone discussions were held with the initial complainant to obtain more information. The complainant reiterated that they would like to remain anonymous and provided the following:

- Subject performs personal errands while on the clock
- Subject performs remote work against the directive of the department director
- Subject leaves and takes her child to and from school

AI No: 7-66 Telecommuting/Work from Home

The City's CAO issued AI 7-66 Telecommuting/Work from Home with an effective date of October 7, 2021

BACKGROUND

The purpose of this Administrative Instruction is to provide guidance to City Department Directors on establishing a departmental remote work policy for certain departmental employees or divisions. This includes guidance to ensure a safe and productive remote work environment. Directors are responsible for making the ultimate decision as to whether any position's functions are compatible with a remote work schedule under this Administrative Instruction. This decision must be made with careful consideration of the missions of the department and the City.

POLICY

Telecommuting reflects a work agreement between an employee and their Department Director which allows an employee to perform assigned duties at an alternate work site during some of their scheduled work hours. Telecommuting may be appropriate for some employees and some jobs. It is not an entitlement, it is not a City-wide benefit, and it in no way changes the terms and conditions of employment with the City of Albuquerque. It is a managerial option and must conform to all City ordinances, state laws and department regulations regarding employment.

This Administrative Instruction or any other telecommuting/work from home policy does not supersede or affect any language or benefits provided under any applicable collective bargaining agreements ("CBA").

A request for a reasonable accommodation under the ADA does not fall within the scope of this Administrative Instruction. Upon receiving such a request, the employee's direct supervisor should refer the employee to the Human Resources Department.

TELECOMMUTING CONSIDERATIONS

When considering whether telecommuting for various City employees is appropriate, many factors must be considered. These factors include, but are not limited to:

- a) the impact to community residents;
- b) the impact on the department, customers and co-workers;
- c) the type of job to be performed;
- d) the alternate work site to be used;

- e) the employee's ability and willingness to adhere to all relevant DTI cyber security, network and hardware requirements under DTI Policies Standards and Procedures;
- f) the employee's ability and willingness to provide a secure place for confidential work files and information within their alternate work site; and
- g) the employee's ability and willingness to create and maintain a safe, secure, and ergonomic work environment within the designated alternate work site.

Any telecommuting arrangement may be discontinued by the approving Department Director. Regardless of the type of work performed, the employee must be able to fully perform their job duties during scheduled hours of work. Employees shall not be approved to remote work solely in response to an inability to get to work on time or consistently.

TELECOMMUTING POLICY

Pursuant to this administrative instruction and the guidelines below, a Department Director may submit a proposed telecommuting policy to the Chief Administrative Officer. Such a policy may allow eligible employees or divisions to work remotely for up to two (2) days/work shifts in a one-week work period. Each proposed policy must include a justification for why the position, group of positions or division is suitable for remote work. This justification should also detail any unique reasons specific to an individual Department and its affected divisions in issuing a remote work policy. The Chief Administrative Officer shall approve or deny each Department's policy. Such a policy may not be implemented until it has been affirmatively approved by the Chief Administrative Officer.

Prior to implementation of any remote work agreement, an employee shall sign a copy of the Department's policy acknowledging receipt, understanding and agreeing to comply with the terms of the Department's remote work policy.

Each policy must include the following provisions:

- Employees may be required to work at their City worksite as needed and remote work days will not be guaranteed.
- Reschedule, delay, or postponement of work assignments or meetings based upon a remote work schedule is not allowed.
- Specific examples in which an employee/division would be required to work at a City worksite, even if previously scheduled to work from home.
- Remote work days/shifts may not be intermittent or be divided throughout the work week nor set as an employee's normal work schedule (e.g., if an employee works an 8-hour shift per day, they should only be allowed to work remotely for two solid 8-hour shifts in one work week, an employee may not be allowed to regularly split the 16 hours throughout the week).
- Any exceptions should only be made occasionally and after approval of the Department Director on a case-by-case basis. Department Directors may authorize direct supervisors to manage and track occasional or periodic work from home arrangements for more than two (2) days in a one-week time period. Such arrangements should be the exception and not the norm. Any exceptions shall be documented and kept in the employee's department file.

- The City will determine, with information supplied by the employee and direct supervisor, the appropriate equipment needs and VPN access for each telecommuting arrangement. The Human Resources Department (HRD) and Department of Technology and Innovation (DTI) will serve as resources in this matter.
- Work product and intellectual property generated as a result of any remote work agreement remains the property of the City, as is true of any work product and intellectual property generated during onsite work.
- Employees must perform all work securely and safeguard any confidential information. Employees must follow all City cybersecurity practices. Any computer or security issues must be reported to the Employee's supervisor and the appropriate service desk for the Employee's department.
- Employees must adhere to any applicable record retention policies or procedures.
- Each policy must include a procedure on how scheduling will be approved and that implementation is contingent upon Director approval. Telecommuting employees who are not exempt from the overtime requirements of the Fair Labor Standards Act will be required to record all hours worked in a manner designated by the City. Hours worked in excess of those specified per day and per workweek, in accordance with state and federal requirements, will require the advance approval of the Department Director.
- Each policy must specify instances when an employee is not or may not be eligible for remote work. For example: probationary employees, employees that have received disciplinary action within a 12-month period.
- A Department director may revoke a remote work agreement with or without notice for any reason. If the remote work agreement is revoked for any reason other than a violation of City policy regarding telecommuting, discipline or proposed discipline, reasonable notice of revocation will be provided to employees at least one week prior to revocation when possible. Each Department policy should clarify any additional circumstances in which a remote work agreement may be terminated.
- Procedures for appropriate assurances of work productivity and recording of hours worked should be included.
- Unless otherwise approved by an employee's direct supervisor, an employee's alternate work location shall be at the employee's home. The City may, with 24-hour notice, access the alternate work location to assess safety and security. The City is not liable for any injury to others at the alternate work location.
- The City is not responsible for any utility costs, including but not limited to the cost of an internet connection or cell phone, associated with the use of a computer or the performance of work functions at the alternate work location. Unless explicitly and previously approved by the Department Director, the City is not responsible for the costs of equipment or supplies required to work from an alternate location. Any request to take City office supplies or equipment to a remote worksite shall be approved by the employee's direct supervisor.

- Any employee who has requested to work remotely is responsible for providing, maintaining and repairing employee-owned equipment in addition to paying for electronic service expenses used at the remote work location at personal expense.
- Any equipment supplied by the City is to be used for business purposes only. Employees will provide an inventory of all office property and take appropriate action to protect items from damage or theft. All equipment, records, and materials provided by the City will remain the property of the City. All equipment, records, and materials must be returned to the City within five days of the end of the telecommuting period, or earlier, if requested.
- Employees are responsible for any tax or insurance consequences as a result of this arrangement. Employees are responsible for conforming with any local zoning regulations.
- Injuries sustained by the employee while at his or her alternative work location and in conjunction with his or her regular work duties may be covered by the company's workers' compensation policy. However, each employee is responsible for providing themselves an ergonomic work environment. Telecommuting employees are responsible for notifying the employer at the earliest possible opportunity of such injuries in accordance with the City's workers compensation procedures.

Any failure to comply with the provisions of this agreement may lead to disciplinary action.

AI 4-5 City Vehicle Usage Policy

I. Background:

The City spends a significant amount of resources on acquiring and maintaining a fleet of vehicles and equipment to enable employees to perform their duties. The City and its employees have a fiduciary responsibility to use these resources wisely, effectively, safely and in conformance with federal, state, and City laws, statutes, ordinances, rules and regulations. This AI provides general guidelines, policies and procedures, but cannot be read in isolation from other relevant documents including, but not limited to, the City Operator's Permit (COP) program policies and procedures, other related Administrative Instructions, and local, state and federal law.

The City reserves the right to deny any employee the use of a City vehicle. Any City employee who fails to adhere to the policies and procedures contained in this document may be subject to appropriate disciplinary action.

II. Definitions:

1. "Assigned Take Home Vehicle" means a City vehicle which is used by a City employee for City business and for regularly commuting to and from the employee's home and work station.
2. "Assigned Vehicle" means a City vehicle assigned to a department or City employee for City business, but not for employee commuting to and from the employee's home and work station.

3. "Call-Out" means a directive to an employee to report to a work site during off duty time or day, and to respond to emergencies, which require immediate response to protect life and property.

4. "Designated Parking Area" means a City parking facility or lot which has been identified by an employee's department director as an acceptable overnight location for parking the employee's assigned City vehicle.

5. "Emergency Response" means an employee has primary responsibility for immediate response, to protect life and property, and to maintain and enforce law and order or an employee has primary City-wide custodial control of resources used during emergency response.

6. "Motor Pool Dispatch Vehicle" means a vehicle issued from a central motor pool for a single trip or motor pool policy.

7. Pre-positioned Vehicle means a vehicle assigned to a department and parked in a designated parking area.

8. "Temporary On-Call Status" means an employee is directed by his or her supervisor to be available to respond to emergency situations for a specified and limited period of time.

9. "Work Station" means the office or site a City employee reports to perform normally scheduled work.

III. Policy:

For the purpose of this AI, "City vehicle" means all vehicles, regardless of whether they are required to be registered under State law, made available by the City, whether through purchase, lease, rental, or other means, to employees to enable them to perform their duties and personal vehicles being operated for city business.

1. City vehicles will be used exclusively to conduct official City business.

2. Employees operating a City Vehicle are required to have a valid driver's license and City identification and be in compliance with the COP program policies and procedures. If an employee is operating a City vehicle that requires a Commercial Driver's License (CDL), the employee must carry a valid CDL and a valid medical card.

3. City vehicles are not to be used to conduct personal business including, but not limited to, leaving City property solely for meals or breaks, running personal errands to cleaners, banks, etc., going to medical appointments unless based on a workers compensation claim, or visiting friends or relatives. Personal errands in a City vehicle are only allowed if the location of the errand is on the way to the employee's Work Station and not done during work hours.

4. City vehicles shall not be used to transport non-City employees except for persons who have a working or other business relationship with the City, or with advance CAO approval for special events such as parades. It is allowable for employees to transport family members (e.g. children to school) if the location of the school is on the way to the employee's Work Station and not done during work hours.

5. City vehicles shall not be used for commuting between the employee's residence and the place where the employee reports to work on a regular basis and back, unless the employee has been an Assigned Take Home Vehicle.

6. City employees who are authorized the exclusive use of an Assigned Take Home Vehicle will be subject to all pertinent Internal Revenue Services (IRS) rules and regulations regarding taxation of that use. See the attached IRS Fringe Benefit Form.

7. In the course of performing their normal duties while operating a City vehicle, an employee may stop for regularly scheduled lunch or break periods at establishments that sell food if that stop is otherwise incidental to their use of the vehicle.

8. City vehicles, in general are not provided for the exclusive use of a particular City employee.

9. Assignment of a City vehicle shall not be made based on employee merit or employee status.

10. City employees operating City vehicles are required to obey all traffic laws.

11. Any employee receiving a criminal or civil citation for violation of state or City motor vehicle statutes or ordinances shall be personally responsible for timely paying any assessed fine or penalty.

An employee is required to notify their supervisor of any criminal or civil citation issued to them while operating a City vehicle. Failure to do so may result in disciplinary action and is subject to review as an incident of potential driver misconduct under the COP program. Fines or penalties charged to a City vehicle and paid by the City shall be promptly reimbursed by the employee operating the vehicle. City employees may be personally liable for damages incurred during the operation of a City vehicle during official or unofficial use, as well as during any misuse or abuse of a City vehicle. All damages to and all accidents involving a City vehicle, no matter how minor, must be reported in accordance with the Risk Management Procedures Manual.

12. Usage of mobile telephone by anyone operating any City vehicle shall be in compliance with the City's Traffic Regulations, specifically §8-2-1-24(E) ROA 1994, as amended ("Ordinance"): "Except as otherwise provided below, no person shall operate a motor vehicle upon a public highway while using a mobile telephone to engage in a call or create, send or read text messages" while such vehicle is in motion," except in the hands-free mode." As defined in the Ordinance, drivers operating in an emergency situation and public safety personnel use in the course of their employment are exempt. With Chief Administrative Officer approval, Departments may enact more restrictive policies regarding the use of cellular phones or other telecommunication device during operation of a City vehicle.

13. Wherever possible, assigned City vehicles shall be picked up and dropped off at an approved Designated Parking Area, thereby avoiding the need of an Assigned Take Home Vehicle.

14. Assigned Take Home Vehicle assignments must first be reviewed by the Fleet Division and approved by the Chief Administrative Officer.

15. Emergency Response City vehicles may be taken home by designated City employees who:

- a. Are on Call-Out at least twelve (12) times per quarter, or
- b. Forty-eight (48) times a year and have primary responsibility to respond to emergencies which require immediate response to protect life or property.
- c. Cannot use alternative forms of transportation to respond to emergencies; and
- d. Cannot pick up City-owned Assigned Vehicles at designated sites without impacting the employee's ability to respond to emergencies, which require immediate response to protect life or property.

Emergency Response assignments should be supported by data demonstrating the actual number and nature of Emergency Responses in the prior year, and estimates of future Emergency Responses. There must be written justification as to why an employee cannot use alternative forms of transportation to respond to the emergencies or pick up City-owned Assigned Vehicles at Designated Parking Areas.

IV. Re-authorization of Assigned Take Home Vehicles:

The Assigned Take Home Vehicle assignment period shall not be greater than twelve (12) months unless re-authorized by the Chief Administrative Officer or otherwise specified in a collective bargaining agreement for represented employees.

No City employee shall operate a city vehicle outside the greater Albuquerque metropolitan area without first submitted written justification and receiving the required approval by both the Director of the user Department and Chief Administrative Officer.

The City is not responsible for lost or damaged personal property. Valuables should not be left in any City vehicles when parked overnight at an employee's residence. Unattended vehicles should be locked at all times. Employees shall ensure parking is at a safe, secure, and legal location.

V. Procedures:

The Fleet Division of the Department of Finance and Administrative Services shall be the executive agency in charge of administering the provisions of this AI.

Pre-positioned Vehicles:

1. Pre-positioned Vehicles shall be parked overnight at their Designated Parking Areas and keys promptly returned to locations designated by the Director of the user Department.
2. The Director of each user Department shall identify a fleet administrator to ensure that all drivers (City employee) are accountable for ensuring that each City vehicle is in proper operating condition daily (checking tire pressure, fluid levels, etc.), receives preventive maintenance according to schedule, is in compliance with vehicle emissions testing, and reports vehicle problems and or damage.

3. Not less than annually, the Fleet Division will make recommendations to the CAO for reassignment of City vehicles that appear to be underutilized. The Fleet Division will serve as the facilitator of the Fleet Review Committee, comprised of Department representatives who will be responsible for identifying underutilized vehicles.

VI. Motor Pool Dispatch Vehicles:

1. Shall be dispatched and maintained by the Fleet Division from centralized locations accessible to City employees.
2. Motor Pool Dispatch Vehicles are to be returned to the lot from which they were removed, the parking brake set and the vehicle locked.
3. The employee is to notify the Fleet Division immediately of any damage or mechanical problems with a Motor Pool Dispatch Vehicle.
4. Employees shall follow all motor pool guidelines established by the Fleet Division.

VII. Take-Home Vehicles:

1. For the purposes of this AI, and in addition to the Assigned Take Home Vehicle definition, a “take-home” vehicle is one that is assigned exclusively to an individual because of the nature of their job duties and that they are authorized to operate outside of normal working hours. Absent union contract provisions to the contrary, no employee shall be authorized to use an Assigned Take Home Vehicle unless:
 - a. The employee’s primary residence is within the City limits; and
 - b. The employee must normally respond to after-hour Call-Outs or attend after-hour meetings on an average of two (2) times per week; or
 - c. Call-Outs must be an operational benefit to the city and related to the mitigation of public health and or safety emergencies, which require immediate response to protect life and property.

Department Directors have the authority to grant permission to allow a City vehicle to be driven to an employee’s residence outside the take-home vehicle boundaries, however, only after the employee submits special written justification to the Department Director and the request is approved by the Chief Administrative Officer. Formal notification of the permission must be provided to the Fleet Division.

2. Department Directors are responsible for conducting annual reviews to ensure employees with Assigned Take Home Vehicles are still qualified by verifying there is no change in employment status or work assignment; those reviews must be documented in writing and filed with the annual application required in Section 3 below.
3. Applications for a “take-home” vehicle are available from the Fleet Division. The employee must complete and sign the form certifying they have read and understand the AI which governs the take-home vehicle policy. The employee must deliver the application

and any required documents therein to the Department Director for their recommendation, prior to the employee being assigned the vehicle.

The Director shall submit the completed application upon initial assignment of a take home vehicle or before January 1st of each year, with their recommendation, to the Fleet Division for review. The Fleet Division will in turn submit the form to the Chief Administrative Officer (CAO) for final approval or disapproval.

If approved by the CAO, the original application will be forwarded back to the Fleet Division and maintained on file by the Fleet Division who will be responsible for appropriate billing to the approving Department. The Fleet Division will provide the Department a copy of the approved application for their files.

4. Authorization to operate an Assigned Take Home Vehicle is automatically rescinded whenever an employee is transferred or promoted. If the employee believes they still qualify for a “take-home” vehicle in their new position, they must initiate the application process.

Department Directors directly, or through their designees, are responsible to notify the Fleet Division of any changes.

Falsification or misrepresentation on the application may result in immediate revocation of the “take-home” authorization, as well as other disciplinary action.

VIII. Temporary Rotating or Seasonal Use “Take-Home” Vehicles:

1. From time to time, a Director may determine that it is in the City’s best interest for one or more employees, concurrently or sequentially, to have the use of a “take-home” vehicle. For example, it may reduce response time if employees whose job duties require them to rotate being on-call for emergencies are provided with a “take-home” vehicle on those days they are in on-call status. The criteria and application process for approval of rotating or seasonal use of a “take-home” vehicle is the same as for a fulltime “take-home” vehicle, as outlined above.

2. Occasional late night or early morning meetings are not justification for requesting authorization of use of a “take-home” vehicle.

3. Department Directors directly, or through their designees, are responsible for management, monitoring and enforcement of this policy. Within thirty (30) days of the effective date of this AI, each Department Director shall conduct a review of every employee currently operating a “take-home” vehicle to determine that the authorization is still appropriate.

4. City employees found to be in violation of this AI will be subject to disciplinary action.

Observations:

City Vehicle:

E-1 has a 2021 Ford Explorer as an assigned vehicle. The GPS was reviewed for this vehicle for the period of August through November 12, 2021, which was the time surrounding the complaint.

When interviewed, E-1 indicated that the vehicle is not only used by E-1 but is often used by other department personnel. Due to the fact that there is no checkout log for the vehicle, the OIG could not ascertain who drove the vehicle on any day in which it was used.

City of Albuquerque AI 4-5, City Vehicle Usage Policy states that an “Assigned Vehicle” means a City vehicle assigned to a department or City employee for City business, but not for employee commuting to and from the employee’s home and workstation. After a review of the GPS log, this vehicle was not located at the address of the E-1’s school or home address. In addition, since multiple staff in the office use the vehicle, there is no mechanism for determining who was driving on any given day/trip.

HR File Review:

The Human Resource File and Employee Evaluations for E-1, were reviewed to determine if there were previous concerns regarding time management, attendance, or other related concerns. Based on the review, there has not been previous concerns that were documented regarding this allegation or related thereto.

Timecard Audit:

The OIG reviewed Kronos and the Timecard Audit Trail of E-1 for the period of August 2 – October 12, 2021, which was the date the initial allegation, was received. Subsequent dates were reviewed as more information was brought forth. In addition, discussions were held between the OIG and a Technology and Innovation Database Administrator to ensure that the audit trail was being interpreted correctly.

During this review, two Client IDs for E-1 were consistently used to log in and out of work. The IP addresses established that one belonged to E-1’s assigned laptop and the other to the assigned office computer. Of all days reviewed for E-1’s KRONOS edits/entries, there were only four (4) instances where the remote IP address were utilized. All times logged in and out fell within E-1’s scheduled work time. There were no instances where the E-1 changed their time in KRONOS.

Timeline of Teleworking in Department and Request:

D-1 advised the OIG that the department has been in an interim period of telework since July, pending approval of their new policy, which became effective 12/01/2021. A copy was provided to the OIG and since that day, several staff have applied and been approved. Multiple staff interviewed mentioned a previous departmental directive, which was in effect in July 2021, which allowed for case-by-case approval for telework. However, to date a copy of the memorandum/directive has not been provided.

S-1 stated, “We did have a number of people who teleworked during the height of the pandemic on a regular basis, including E-1. We were able to set these folks up with a city computer and access to the network. This allowed our office to keep operating while minimize exposure to the virus. Once the memo came out [from the Mayor’s Office regarding returning to work], everyone who was teleworking came back to the office. There were occasions that I allow teleworking such as when someone’s child had to stay home due to exposure to COVID. This allowed staff flexibility to deal with these situations while still working, which I thought was a benefit to the Open Space Division (OSD) overall. I was under the impression I had the ability to make these calls; however, I did get clarity that no one should be teleworking without the Department Director’s approval. Since that time, no one has been teleworking.

August 25, 2021- The E-1 made a request to S-1 to telework from October 25 through November 5, 2021, due to a child having knee surgery and requiring E-1 to be home during that time.

August 25, 2021- S-1 replied and stated that a formal request would need to be made to D-1. S-1 stated that an inquiry would be made with D-1 on the following Monday as to how to process this request.

Date unknown – A verbal conversation was held between S-1 and E-1 and a decision was made to send the request to AD-1.

October 20, 2021 – E-1 submitted the request to AD-1. AD-1 replied and stated ‘you need to work with your division manager regarding this request. Please ensure proper procedures are adhered to’.

October 26, 2021 – PR Personnel Officer sent S-1 the AI on teleworking and stated ‘I was able to find the attached Administrative Instruction regarding telework. Please read it entirely, as there seems to be many fine details. It does indicate the Department Director may submit a request to the CAO requesting a specific group of employees or division to telework up to 2 days a week. If you are looking for something temporary, perhaps just manager discretion could be applied. I would confirm with D-1 if there were any doubt. I wish there was a little more written guidance to go off of’.

October 28, 2021 – A memo was submitted by E-1 to D-1 requesting permission o short-term telework.

November 2, 2021 – Senior Office Assistant with Parks and Recreation stated that request ‘is being pushed back to the division manager’.

November 2, 2021- E-1 advised staff via email that E-1 would be taking sick leave until E-1 could return or telework is approved. Due to E-1 being on sick leave, E-1 indicated that E-1 would not be replying to emails or phone calls.

November 2, 2021 – Sick leave for E-1 began.

S-1 indicated to the OIG that when she received the email from the Personnel Officer on October 26, 2021, “this is when I got clarity. While I received the AIs prior to this, it was not clear to me that I did not have discretion to approve teleworking on an occasional, case-by-case basis. I thought

I just needed Director's approval for teleworking if someone wanted to change their schedule on a regular basis. I take full responsibility and should have inquired sooner'.

The OIG reviewed E-1's timecard that was submitted and approved for this time period, and it demonstrated that this time email thread was accurate. The work from home status was approved by S-1 and E-1 worked from home on 10/25, 10/26, 10/27 and part of 10/28. Once the approval was found to be against the directive, E-1 utilized vacation time for the remainder of 10/28 and in full on 10/29. For the week of 11/01 through 11/05, E-1 utilized sick leave.

Interview, TC-1

An interview was held with TC-1. TC-1 stated that there are approximately 35 employees for the OSD who work from four (4) work sites.

TC-1 stated that as of June 7, 2021, the division would no longer have any staff performing telework, based on citywide return to work instructions.

TC-1 stated that E-1 might have worked from home while other staff use unpaid leave but that TC-1 has no documentation to support this

TC-1 stated that some staff in the field, who do not work in the office, were unclear about the directive, as their supervisor did not communicate it to them.

Interview, E-1

An interview was held with E-1 stated that she did request for permission to telework when her child required surgery. Initially, her supervisor, the Superintendent, approved. However, after further review with HR and the Director, E-1 was denied and immediately put in for Sick Leave.

E-1 stated that there is a vehicle assigned to then but it is not a take home vehicle. This vehicle is more often used by other staff in the department. There is not a documentation process to show who utilizes the vehicle.

E-1 denies the allegation that she arrives late or leaves to pick up/drop off child.

Interview, E-3

An interview was held with E-3 of the OSD Department who was identified as having information about communication within the department to include the teleworking directives and staff knowledge.

E-3 supervises ten staff members within the division. When directives come from management (Director, Mayor's Office), they are posted to the bulletin board for staff. All staff have cell phones and emails from the City. E-3 stated that sending emails to all staff would be a better method of communication.

E-3 stated that he has not seen E-1 leaving for long periods or arriving late.

CONCLUSION

Based on the investigation, the OIG found that allegations regarding the subject employee leaving to run errands, arriving late or leaving to pick up a child could not be substantiated.

The allegation that E-1 worked remotely against the directive or D-1 is substantiated in that the employee did work remotely against the directive, however, the employee did submit a formal request to S-1 in advance and was approved by S-1. S-1 delayed sending the request on August 25, 2021, to seek approval. In the interim, S-1 approved the request while the request was submitted to AD-1 and was pending approval, which resulted in E-1 teleworking for three days.

As a result of our investigation, OIG has made two (2) recommendations for improvement related to the observations.

OBSERVATIONS AND RECOMMENDATIONS

Based on the investigation, the OIG makes the following recommendations to the Open Space Division:

Observation 1: Lack of Communication

Condition: OSD Staff at all levels were unaware of telework changes and requirements.

Criteria: Personnel Rule and Regulations: *301.2 Professional Excellence:* Employees are encouraged to strive for personal and professional excellence as a means of keeping current on relevant issues and administering the public's business with professional competence, efficiency, and effectiveness.

Cause: Directives are not being adequately communicated with staff at all levels at OSD.

Effect: Confusion amongst staff leads to assumptions, which can negatively affect morale.

Recommendation 1: Ensure that citywide and department wide directives are communicated to all staff, via email, official bulletin boards, meetings, etc., to alleviate confusion on directives and understanding of processes.

Management Response: PRD supports this recommendation. "OSD Staff at all levels were unaware of telework changes and requirements." This statement is not accurate. Telework policy during pandemic, including the initial policy promulgated in 2020 and changes to the telework policy in mid-2021, were communicated throughout the organization. In fact, all PRD leadership and division managers had advance knowledge of the change to telework policy that was implemented on July 1, 2021. This issue was discussed and communicated many times during senior management meetings. In fact, PRD began returning employees on telework back to their regular office settings in advance of the City-wide date, and all managers, including in OSD, were aware of this return-to-work transition, the City-wide return-to-work date, and the fact that a revised telework policy for the department would be subsequently issued—but that in the meantime, telework was suspended.

Observation 2: Lack of vehicle usage log

Condition: An employee has an assigned vehicle, which is used by numerous individuals in the department with no record available for usage.

Criteria: AI 4-5 City Vehicle Usage Policy

Cause: No requirement for vehicle usage logs.

Effect: Multiple staff utilizing an individually assigned vehicle, which can erroneously lead to one employee being held accountable for all usage.

Recommendation: Consider implementing a vehicle usage log and consider having the vehicle assigned to E-1 reassigned to the Department, since it is often used by other staff. In addition, consider a process where staff check-in and checkout the vehicle for transparency and accountability.

Management Response: A.I. 4-5 City Vehicle Usage Policy does not include a requirement for vehicle logs, but vehicle logs can be a helpful tool in some situations and PRD will consider that.