



OFFICE OF INSPECTOR GENERAL
City of Albuquerque

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Investigative Informative Case Synopsis

FILE NO: 24-0178-C

SUBJECT MATTER: Alleged time and attendance theft due to the employee being at home during work hours

STATUS: Final

INVESTIGATOR: M. Santistevan

DocuSigned by:

Melissa R. Santistevan

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MELISSA SANTISTEVAN
INSPECTOR GENERAL
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Signed by:

Victor Griego

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VICTOR GRIEGO
ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE CHAIRPERSON

August 1, 2024

Date of Completion

August 28, 2024

Date of Approval

DISTRIBUTION:

Honorable Mayor
President City Council
Chief Administrative Officer
City Councilors
Director Council Services
City Attorney
Department Director
Members, Accountability and Government Oversight Committee
File

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EXECUTIVE SUMMARY

The Office of Inspector General (OIG) operates following the Association of Inspectors (AIG) standards, as outlined in City Ordinance §2-17-2. The overarching goals include conducting investigations impartially, preventing fraud and abuse, ensuring independence, and enhancing the city's accountability.

As defined in the Inspector General Ordinance §2-17-3, fraud is the knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. Waste is the thoughtless or careless expenditure, mismanagement, or abuse of resources to the detriment of the City. Abuse is the use of resources or exercise of authority contrary to rule or policy, or knowingly inconsistent with any established mission or objectives for the resource, or the position held by the person exercising the authority. Abuse does not necessarily involve fraud or illegal acts.

On July 17, 2024, the Office of Inspector General (OIG) received a complaint from a taxpayer alleging time and attendance theft because the City employee (E1) was at home from 7:00 am to 1:00 pm with their City vehicle parked in the driveway on 07/15/24 and 7/16/24. The OIG determined that it was appropriate for the OIG to conduct a fact-finding investigation for elements of fraud, waste, or abuse.

The purpose of the investigation was to substantiate or not substantiate, through the collection of sufficient evidence, the allegations stated above.

The OIG's investigation produced clear and convincing evidence to substantiate the allegation of time and attendance theft.

The following is a summary of the OIG's findings and recommendations aimed at rectifying the identified issues, enhancing accountability, and preventing future occurrences of fraud, waste, or abuse within the City's operations.

Findings:

- Violations of the City's Code of Conduct and Regular Work Hours
- E1 reported and approved a timesheet that reflected 30 hours and 45 minutes of hours worked when E1 was not working
- E1 was paid for time not worked totaling \$646.98

Recommendations:

- Review, recalculate, and recoup excess payments.
- Assess disciplinary action for involved personnel.
- Ensure consistent application of personnel policies.
- Provide additional training on the policy application.

ABBREVIATIONS

City: City of Albuquerque
D1: Division Manager
E1: City Employee
E2: City Employee
E3: City Employee
OIG: Office of Inspector General

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 (City) to safeguard and preserve public trust. Investigations, inspections, evaluations, and reviews are conducted following AIG Standards.

Complaint:

The time and attendance theft was alleged because the City employee (E1) was at home from 7:00 am to 1:00 pm with their City vehicle parked in the driveway on 07/15/24 and 7/16/24.

Background:

The City originally included the Merit System; and Personnel Policy in the '74 Code, §2-9-3. Article 1 §3-1-1 to 3-1-28, which has been revised throughout the years with the last revision being Ord. 2018-036.

The establishment of the merit system was to govern the hiring, promotion, and discharge of employees and provide for the general regulation of employees. According to the Charter, the Mayor designates the City's Chief Administrative Officer to be responsible for the administration of the merit system. The Chief Administrative Officer is authorized to establish Rules and Regulations to implement the article. If the article conflicts with any federal law, federal law will control.

In addition to Article 1 §3-1-1 to 3-1-28, the City issued a separate Code of Conduct and Policy on Regular Work Hours along with Personnel Rules and Regulations to establish the policies and practices the City will follow in personnel administrations. Together these define a system based on merit and the principles that govern the conditions of City employment. These regulations do not constitute an employment contract and may be amended by the Human Resource Department, as necessary, with the approval of the Chief Administrative Officer.

SCOPE AND METHODOLOGY

Scope:

City Records related to the time and attendance of the subject between 7/12/24 and 7/26/24.

Methodology:

The methodology consisted of:

Assessing the complaint allegations

Obtain and review evidence related to the Allegation

Review the City Ordinances and Policies

Conduct inquiries

Check for pending litigation

This report was developed based on information from interviews, inspections, observations, and the OIG's review of selected documentation and records available during the investigation.

INVESTIGATION

Allegations:

Time and attendance theft was alleged due to a City employee being at home from 7:00 am to 1:00 pm with their City vehicle parked in the driveway on 07/15/24 and 7/16/24.

Authority:

Article 17 Chapter 2 Inspector General Ordinance

301 Code of Conduct

302 Regular Work Hours

Job Description

Union Contract

Evidence:

Bernalillo County Public Records

City Vehicle ID

Kronos timesheet

Paycheck stub

GPS logs for City vehicle

Address searches

Analysis of Policies:

In conducting our investigation, the OIG considered the following policies as a basis for our analysis.

§2-17-3 Definitions states “Fraud is the knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment.

Waste is the thoughtless or careless expenditure, mismanagement, or abuse of resources to the detriment of the City.

Abuse is the use of resources or exercise of authority contrary to rule or policy, or knowingly inconsistent with any established mission or objectives for the resource, or the position held by the person exercising the authority. Abuse does not necessarily involve fraud or illegal acts.”

Policies:

Code of Conduct:

§301.1 Duty to the Public states “The City of Albuquerque is a public services institution. In carrying out their assigned duties and responsibilities, employees must always remember their first obligation is the general public’s safety and well-being. This obligation must be carried out within the framework of federal, state, and local laws.

Employees shall serve the public with respect, concern, courtesy, and responsiveness, recognizing services to the public is the reason for their employment. Telephone calls, correspondence, or other communications should be answered promptly or referred to appropriate individuals for timely action. It is recognized it is not always possible to fulfill all the requests of the general public, however, employees are required to handle all requests and inquiries courteously, fairly, impartially, efficiently, and effectively.”

§301.2 Professional Excellence states “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.”

§301.3 Standards of Conduct states “Employees shall in all instances maintain their conduct at the highest personal and professional standards in order to promote public confidence and trust in the City and public institutions and in a manner that merits the respect and cooperation of co-workers and the community.

Employees shall not use insulting, abusive, or offensive language or actions toward the public or co-workers. Ethnic or sexist jokes, slurs, and other comments or actions that might embarrass or offend others are prohibited.

Employees shall not harass others by making sexual advances by creating an intimidating or offensive working environment or by making false accusations regarding such conduct. Display of visual materials that may be sexually or racially offensive is also prohibited.

Employees shall not have in their possession during assigned work hours, including lunch periods, in any facility, vehicle, or work site, illegal drugs, alcohol, drug paraphernalia, weapons, or explosives, unless directly related to their city responsibilities. Additionally, employees may not use any product for other than its intended manufactured use.

Employees are responsible for notifying their immediate supervisor in writing of a conviction, entry of a “no contest” plea, or imposition of a sentence if the infraction relates to the position held by the employee. Misdemeanor convictions will be considered based on job-relatedness.”

§301.9 False Statements/Fraud states “No employee shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification, appointment or investigation, or in any manner commit any fraud, conceal any wrongdoing or knowingly withhold information about wrongdoing in connection with employment with the City or in connection with the work-related conduct of any City employee.”

§301.12 City Property states “Employees are responsible for preventing loss, damage, abuse, misuse or theft of City property or property entrusted to the City including, but not limited to: artifacts, vehicles, equipment, tools, supplies, and City records. All City property should be used only for City business. City property may not be used for personal gain or profit.

Office furniture, fixtures, vehicles, and equipment including lockers and storage units are the property of the City or contain property of the City. The City has the right of access to such items at any time as determined necessary by the supervisor.”

§301.13 City Records and Accounting states: “All City records, including reports, vouchers, requisitions, payroll, and personnel records must be prepared factually and accurately. It is the personal obligation of the employee completing such records as well as the supervisor to ensure that such records are accurate and comply with federal, state, and City record-keeping and accounting requirements.”

§302 Regular Work Hours states “Employees will perform their work in a responsible manner, observing scheduled work hours and complying with City policy governing paid and unpaid leave of absence. Employees are further responsible for complying with City policy concerning sick and vacation leave usage.”

Evidence and Analysis:

The OIG researched the vehicle number and the property address provided and determined that the vehicle was a City vehicle and that the property belonged to E1, who is a City employee.

The OIG inquired with Division Management (D1) to learn that E1 was on light duty during this period. E1 was given responsibilities that would have required E1 to travel to different City sites to complete the assigned duties.

The OIG reviewed E1’s KRONOS timesheet for July 12, 2024 to July 26, 2024, noting that E1’s work schedule was 6:00 am to 2:30 pm Monday-Friday. The OIG compared E1’s timesheet to

E1's paystub for the pay period, noting an agreement between the hours reported and paid to E1. E1's timesheet revealed the reported time as follows:

Date	Weekday	Hours worked	Sick Leave	Vacation Leave	Total hours
7/15/2024	Monday	7.02	0	0.98	8
7/16/2024	Tuesday	8	0	0	8
7/17/2024	Wednesday	0	8	0	8
7/18/2024	Thursday	0	8	0	8
7/19/2024	Friday	0	8	0	8
		15.02	24	0.98	40

Date	Weekday	Hours worked	Sick Leave	Vacation Leave	Total hours
7/22/2024	Monday	4.47	0	3.53	8
7/23/2024	Tuesday	8	0	0	8
7/24/2024	Wednesday	6	0	2	8
7/25/2024	Thursday	7.87	0	0.13	8
7/26/2024	Friday	8	0	0	8
		34.34	0	5.66	40

The timesheet reflected that vacation leave was deducted, on four (4) occasions, due to E1 arriving late to work.

The OIG reviewed the GPS logs for the City vehicle identified, noting that the City vehicle was maintained at a City yard and required to be picked up and returned each business day. The City vehicle was assigned to E1. The GPS logs reflect that E1 picked up the City vehicle each morning and the vehicle was driven to E1's residence on seven (7) of the ten (10) workdays. This correlated with E1's timesheet given that E1 was out of work for three (3) days. The City vehicle was stopped at the residence for a total of 29 hours and 17 minutes. E1's drive time from the residence back to the City yard totaled 1 hour 28 minutes. The GPS records also revealed that the City vehicle was not picked up at the beginning of E1's workday on four (4) occasions resulting in vacation time being deducted from E1. The GPS logs revealed that E1's vehicle was driven for 3 hours and 19 minutes and that it was idling at the City yard or business parking lot nearby for 13 hours and 5 minutes.

	Driving Duration	Idling Duration	Stop Duration to/at residence
7/15/2024	30	73	339
7/16/2024	25	0	378
7/22/2024	34	3	166
7/23/2024	26	219	245
7/24/2024	25	191	284
7/25/2024	26	226	99
7/26/2024	33	73	334
Total minutes	199	785	1845
	3 hrs 19 min	13 hrs 5 min	30 hrs 45 min

E1's actions might well lead to a decline in public confidence in City employees and such behavior is an example of fraud, waste, and abuse by a City employee.

By not performing their work duties during regularly scheduled work hours, E1 did not administer the public's business with professional competence, efficiency, and effectiveness and did not serve the public with respect, concern, courtesy, and responsiveness in violation of §301.1 and §301.2.

E1 did not meet the City's expectations of conducting themselves with the highest personal and professional standards and thus did not promote public confidence and trust in the City in violation of §301.3.

The evidence shows that E1 was paid for 30 hours and 45 minutes when E1 did not work resulting in a salary benefit of \$646.98 to E1 in violation of §301.9.

The GPS logs show that E1 arrived at the City yard to pick up the City vehicle and then drove the City vehicle back to E1's residence where it remained parked until the City vehicle was returned to the City yard. E1's behavior of picking up the City vehicle from the yard and driving it to their own residence during working hours is misleading and a misuse of City property in violation of §301.12.

The City requires its employees to review and approve their time for the week or pay period before processing payroll. The timesheet evidence reflects reported hours worked while E1's vehicle GPS indicates E1 was at their own residence. There was no evidence in the GPS logs to show that E1 traveled to other City sites to fulfill work duties. The reporting and approval of the time card by E1 resulted in inaccurate time and recordkeeping in violation of §301.9 and §301.13.

Based on the evidence from the E1's GPS, the timesheets, and the paystub, E1 did not work the regular work hours as required by §302.

FINDINGS AND RECOMMENDATIONS

Allegation 1:

Time and attendance theft was alleged due to a City employee being at home from 7:00 am to 1:00 pm with their City vehicle parked in the driveway on 07/15/24 and 7/16/24.

Finding:

Condition: E1 falsely recorded hours worked during periods when E1's assigned City vehicle's GPS logs revealed that it was picked up from the City lot then driven to E1's residence and parked until the end of the work day when it was returned to the City lot. Additionally, it appears that E1 stopped in parking lots close to the City yard for extended periods without a work reason. The combination of false time reporting, and not being at work during work hours resulted in E1 using City property for personal gain as E1 was paid for 30 hours and 45 minutes not worked, totaling \$646.98. E1's actions do not reflect the standards of conduct the City expects of its employees.

Criteria: The City's Code of Conduct and Policy on Regular Work Hours states the expectations for its employees. Excerpts of the full text are provided below.

§301.1 Duty to the Public explicitly states “Employees shall serve the public with respect, concern, courtesy, and responsiveness, recognizing services to the public is the reason for their employment.”

§301.2 Professional Excellence states “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.”

§301.3 Standards of Conduct states “Employees shall in all instances maintain their conduct at the highest personal and professional standards in order to promote public confidence and trust in the City and public institutions and in a manner that merits the respect and cooperation of co-workers and the community.”

§301.9 False Statements/Fraud states “No employee shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification, appointment or investigation, or in any manner commit any fraud, conceal any wrongdoing or knowingly withhold information about wrongdoing in connection with employment with the City or in connection with the work-related conduct of any City employee.”

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§301.13 City Records and Accounting states: “All City records, including reports, vouchers, requisitions, payroll, and personnel records must be prepared factually and accurately. It is the personal obligation of the employee completing such records as well as the supervisor to ensure that such records are accurate and comply with federal, state, and City record-keeping and accounting requirements.”

§302 Regular Work Hours states “Employees will perform their work in a responsible manner, observing scheduled work hours and complying with City policy governing paid and unpaid leave of absence. Employees are further responsible for complying with City policy concerning sick and vacation leave usage.”

Cause: E1 elected to return to their own residence during work hours and did not accurately reflect their time worked in the KRONOS timekeeping system.

Effect: The employee was paid for hours not worked. The OIG calculated that the time the vehicle was stopped at their own residence and driven back to the City lot to be 30 hours and 45 minutes. The value of the hours reported as worked when the City vehicle was at the residence totals \$646.98.

Conclusion: The OIG’s investigation produced clear and convincing evidence to substantiate the allegation of time and attendance theft.

Recommendations:

The City should review, recalculate, and recoup excess benefits or payments provided to E1.

The City should determine if disciplinary action is warranted for E1 and if so take appropriate action.

Division management should conduct random inspections of employee time and related records to ensure employees are properly recording time and not deceiving the City or its constituents.

The Division staff should undergo additional training on the Code of Conduct and the Personnel Policy to include regular work hours. Trainings should be documented and a sign-in sheet should be maintained as evidence of employees taking the training.

Management's Response:

Management did not formally respond to two separate requests for responses prior to the August 21, 2024 deadline but did advise the OIG that they were addressing the issue. On August 28, 2024, the following formal response was submitted to the OIG.

- PRD immediately placed this employee on administrative leave the same day the allegation was made and launched an investigation. Disciplinary action will be taken as appropriate.
- Supervisors regularly monitor field crews and will increase random checks.
- Tardiness and use of leave is covered in existing personnel policies and is monitored by supervisors and is addressed through the mechanisms of education and progressive discipline, as appropriate.

Subsequent matter:

The evidence obtained by the OIG substantiates that E1 was late to work and that vacation leave was deducted from E1's accruals. Notes were included in the timesheet by the timekeeper. Documenting the timesheet with identified tardiness does not provide evidence of whether matters are addressed by the supervisor or how tardiness is addressed with employees.

Recommendations:

The OIG recommends that the Department create a policy or Standard Operating Procedure on tardiness and how and when to address the situation during the different levels starting from the Verbal Warning, Letter of Instruction, and Pre-Determination Hearing.

Supervisors should ensure the employees who report to them are observing their regular scheduled work hours as required and take appropriate action promptly when tardiness occurs. The Division should consider the use of random timesheet audits.

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