

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO BUREAU OF WORKERS' COMPENSATION
FILE ID NO.: 2014-CA00053
DATE OF REPORT: JUNE 30, 2015

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

“Safeguarding integrity in state government”

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Randall J. Meyer
Ohio Inspector General



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL
RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF INVESTIGATION

FILE ID NUMBER: 2014-CA00053

SUBJECT NAME: Shawn Fox, Special Agent in Charge;
Kim Pandilidis, Asst. Special Agent in Charge;
Don Campbell, Fraud Investigator;
Joe Kautz, Fraud Investigator;
Beth Parker, Fraud Investigator;
Craig Thompson, Fraud Investigator.

AGENCY: Ohio Bureau of Workers' Compensation

BASIS FOR INVESTIGATION: Complaint

ALLEGATIONS: Failure to Enforce Rules or Policies;
Failure to Comply with State or Departmental
Rules, Procedures, or Policies.

INITIATED: August 20, 2014

DATE OF REPORT: June 30, 2015

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On August 8, 2014, the Office of the Ohio Inspector General met with a former Ohio Bureau of Workers' Compensation (OBWC) employee who alleged OBWC Special Investigation Department (SID) employees Shawn Fox, Kim Pandilidis, Don Campbell, Joe Kautz, Beth Parker, and Craig Thompson, from the period of June 1, 2009, through December 31, 2013:

- Falsified mileage logs in 3,236 instances, which resulted in the employees' ability to "... avoid paying \$3.00 a day for the commute use of the State vehicle" and not reporting the commute as a fringe benefit to the U.S. Internal Revenue Service (IRS); and
- Falsified their timekeeping records by failing to "... subtract their commute time in accordance with BWC policy 4.17," which resulted in the employees being paid for 40 hours a week, when they actually worked less than 40 hours.

The complainant also expressed concerns regarding self-audits allegedly conducted by Pandilidis and the other OBWC employees, after the release of a previous Office of the Ohio Inspector General investigation concerning similar issues.¹

BACKGROUND

The Ohio Bureau of Workers' Compensation (OBWC) is responsible for providing workers' compensation insurance to all public and private employees except those that qualify for self-insurance. It is the largest exclusive workers' compensation system in the United States. An administrator, or chief executive officer, of OBWC is appointed by the governor. OBWC is also overseen by an 11-member board with members experienced in financial accounting, investments and securities, and actuarial management. OBWC is funded through assessments paid by employers.²

The Ohio General Assembly enacted Ohio Revised Code (ORC) §121.52, effective September 10, 2007, which created the deputy inspector general for the Ohio Bureau of Workers' Compensation and the Industrial Commission of Ohio (ICO). This statute designated this deputy

¹ Report of Investigation 2012-CA00002, released September 18, 2012.

² Source: OBWC annual report.

inspector general to "... investigate wrongful acts or omissions that have been committed by or are being committed by officers or employees" of both the OBWC and the ICO and provides the deputy inspector general the same powers and duties as specified in Ohio Revised Code §121.42, §121.43, and §121.45 for matters involving OBWC and ICO.

Relevant Policies

In both the June 2009 and July 2012 revisions, OBWC Memo 4.17 - Travel Policy provided that "In general, Bureau of Workers' Compensation (BWC) employees are entitled to paid travel time when traveling for a work related purpose." These policies also addressed the deduction of the normal work commute time when determining appropriate paid travel time. ([Exhibit 1](#))

OBWC Memo 4.18, revised December 2010, contained the OBWC Commute Cost Reimbursement Policy and defines which employees must comply with this policy. This policy did not address adding \$3.00 per day to an employee's income to compensate the taxable fringe benefit for IRS purposes. However, in July 2013, OBWC revised this policy to state, "... all employees NOT headquartered from their home and provided an assigned state vehicle will have \$3.00 attributed to their income each day the employee is in an active pay status, as this is considered a taxable benefit for IRS purposes." ([Exhibit 2](#))

OBWC Employees

The Office of the Ohio Inspector General obtained position descriptions which identified the job duties for the following employees:

- Special Agent in Charge Shawn Fox is responsible for assigning cases and overseeing investigations involving the intentional violation of or compliance with OBWC and other applicable laws; identifying potential fraud through data analysis and referrals for investigation; and supervising assigned fraud investigators, fraud analysts, and support staff.
- Assistant Special Agent in Charge Kim Pandilidis is responsible for implementing and monitoring new and existing policies for the assigned investigative team; managing the

evidence program for the assigned investigative team; coordinating regional security of OBWC facilities and staff; and representing the investigative team at various task force meetings.

- Fraud investigators Don Campbell, Joe Kautz, Beth Parker, and Craig Thompson are each responsible for independently, or as a lead investigator, conducting investigative surveillance activities and analyzing computer data; collecting, inventorying, securing, and examining evidence during the investigation; and serving as a liaison with internal OBWC departments and external agencies or groups. The OBWC fraud investigator position description also states the employee "... may work non-standard schedule including early morning, late night, holiday, and weekend hours."

The following table summarizes the acknowledgement by these employees of relevant OBWC policies reviewed as part of this investigation:

Employee Name	Memo 4.17	Memo 4.18
Shawn Fox	6/23/09 & 7/24/12	6/23/09 & 12/13/10
Kim Pandilidis	6/22/09 & 7/24/12	6/22/09 & 12/13/10
Don Campbell	6/29/09 & 7/24/12	6/29/09 & 12/13/10
Joe Kautz	6/22/09 & 7/30/12	6/22/09 & 12/14/10
Beth Parker	6/22/09 & 4/21/14	6/22/09
Craig Thompson	6/23/09 & 7/24/12	6/23/09 & 12/13/10

Relevant OBWC Records

OBWC has assigned each of the six identified employees a state-issued vehicle to complete his or her duties. As such, these employees were required to complete the Monthly Record of Vehicle Expense Report (referred to as a mileage log). This mileage log classifies the miles driven as either for business or for commuting purposes and also tracks each vehicle’s fuel and maintenance expenses. Employees assigned state-issued vehicles are required to complete the mileage log and submit supporting fuel purchase and miscellaneous maintenance expense receipts to their supervisor for approval on a monthly basis. Once approved, the supervisor forwards the mileage log to the OBWC Fleet Department.

For vehicles assigned to the OBWC Special Investigations Department, the vehicle operator on a particular day may or may not be the individual assigned to the vehicle. However, it is the assigned employee's responsibility to submit the monthly mileage log documenting all vehicle activities regardless of whether he or she was the operator for the entire month.

Cost commute summaries (CCS) were prepared by employees assigned a state-issued vehicle, and every two weeks the summary was submitted to a supervisor for approval. Once approved, the supervisor sent the CCS to the OBWC Payroll Department for processing. OBWC used these summaries to calculate and report U.S. Internal Revenue Service taxable fringe benefit amounts for employees assigned state-issued vehicles. The cost commute records documented travel as either a commute for travel from the employee's home to the assigned work headquarters, or for a business purpose when traveling to or from an alternative work location. OBWC discontinued the use of the cost commute summaries on July 1, 2013, and began adding a \$30 taxable fringe benefit (called the "car tax") to the biweekly gross pay of each employee who was assigned a state-issued vehicle.

OBWC employees are required to enter timekeeping records in a computer system every two weeks and are to document the actual hours worked. The OBWC electronic timekeeping system allows employees to enter notes on daily activities. OBWC Memo 4.07 - Hours of Work, states that employees "... shall accurately record their actual starting, ending, and lunch times in the timekeeping system." This policy provides that the employees "... shall also utilize the Comments Section to document any deviations from their normal work schedules ..." and "... to explain work performed at locations other than their normal report-in location." ([Exhibit 3](#))

INVESTIGATIVE SUMMARY

On August 8, 2014, an investigator from the Office of the Ohio Inspector General met with the complainant to discuss his allegations. To support his allegations, the complainant provided a CD containing a complaint summary; Office of the Ohio Inspector General Report of Investigation 2012-CA00002; OBWC policies; emails explaining a 2012 self-audit; and for each of the six identified employees (Fox, Pandilidis, Campbell, Kautz, Parker, and Thompson), redacted monthly mileage logs and timesheets for the period of June 1, 2009, through December 31, 2013.

On August 11, 2014, to aid in the review of the allegation, the Office of the Ohio Inspector General requested, and subsequently received from OBWC, un-redacted records provided in response to the complainant's public record requests. OBWC provided un-redacted monthly mileage logs, available cost commute summaries, timesheets, a spreadsheet summarizing "car tax" additions to the employees' gross pay for the period of June 1, 2009, through December 31, 2013, and certain OBWC policies and procedures provided to the complainant in response to his records requests.

The Office of the Ohio Inspector General compared the documents received from the complainant to those provided by OBWC and determined the complainant failed to submit the following relevant records to the Office of the Ohio Inspector General:

- Available cost commute summaries sent by OBWC to the complainant via CD on or about May 28, 2014.
- A spreadsheet exported from the State Payroll system summarizing the "car tax" added on a daily basis to the six identified employees' gross pay totals. To satisfy a public records request, this spreadsheet was sent to the complainant from OBWC via email on or about July 15, 2014.

Discipline for Commute Reporting Errors

On August 8, 2014, the complainant also provided emails obtained from OBWC referencing audits conducted after the September 18, 2012, release of a report of investigation³ by the Office of the Ohio Inspector General. The complainant expressed concerns that OBWC supervisors permitted Kim Pandilidis to conduct her own audit; determine how much money was owed; and that Pandilidis issued the discipline to Campbell, Kautz, Parker, and Thompson.

On August 14, 2014, OBWC provided documentation in response to an Office of the Ohio Inspector General's request identifying discipline issued as a result of commuting errors. In an October 24, 2014, response to the Office of the Ohio Inspector General, SID Interim Director

³ Report of Investigation 2012-CA00002, released September 18, 2012.

Jennifer Saunders⁴ explained that on September 19, 2012, former OBWC Special Investigations Department (SID) Director Thomas Wersell⁵ notified SID supervisors that each OBWC SID employee assigned a state-issued vehicle was required to conduct a self-audit for the period January 1, 2012, through August 31, 2012. According to Saunders, this audit was to "... identify any issues with the employee's assigned state-issued vehicles" which included issues involving the employee's commute time and that "... any commute issues identified subjected the employee to discipline."

Each OBWC SID employee assigned a state-issued vehicle conducted a review of their fleet and cost commute records to determine whether similar issues identified in the previous investigation existed with their travel. During interviews conducted by the Office of the Ohio Inspector General in November 2014, OBWC SID employees told investigators that any discrepancies identified were sent to Special Agent in Charge Shawn Fox, SID Assistant Director Jennifer Saunders, and/or then-SID Director Wersell for review and verification that an issue existed.

Once verified, SID management forwarded the discrepancies to the OBWC Labor Relations Department, which negotiated with the union and the employee to determine each employee's level of discipline. Once an agreement was reached, Fox's designated representative, Pandilidis, delivered either a written or verbal reprimand notification letter to Kautz, Parker, and Thompson; obtained their respective signatures; and signed each letter acknowledging her notification to each employee. Pandilidis and Campbell both received their notification letters regarding their suspensions from the OBWC administrator.

⁴ Jennifer Saunders held two different positions during the course of this investigation: SID assistant director and SID interim director.

⁵ Wersell retired from OBWC in June 2013.

The following table summarizes the identified employees' 2012 discipline:

Employee	Date Acknowledged	Policies Violated	Level of Discipline
Kim Pandilidis ⁶	11/8/2012	4.17 Travel Policy and 4.18 Use of State Vehicle	Five-day suspension and loss of her assigned state-issued vehicle ⁷
Don Campbell	11/8/2012	4.18 Use of State Vehicle	One-day working suspension
Joe Kautz	11/5/2012	4.18 Use of State Vehicle	Written reprimand
Beth Parker	11/1/2012	4.18 Use of State Vehicle	Verbal reprimand
Craig Thompson	10/31/2012	4.18 Use of State Vehicle	Verbal reprimand

In addition, the employees with discrepancies were required to submit corrected CCSs for inaccuracies identified during the self-audit.

The complainant alleged between June 1, 2009, and December 31, 2013, that the six employees falsified their mileage logs in 3,236 instances and avoiding the “car tax.” Investigators determined that OBWC had addressed the instances cited by the complainant between June 1, 2009, and August 31, 2012. OBWC disciplined five of the six employees for violation of OBWC Memo 4.18. Ohio Administrative Code §124-3-05 (A) provides that, “... all incidents which occurred prior to the incident for which a non-oral disciplinary action is being imposed, of which an appointing authority has knowledge of and for which an employee could be disciplined, are merged into the non-oral discipline imposed by the appointing authority.” OBWC serves as the appointing authority for the identified employees.

“Car Tax”

During the August 8, 2014, meeting with investigators from the Office of the Ohio Inspector General, the complainant stated that each time an OBWC employee departed from his or her residence, it was considered a commute and “... the mileage logs and cost commute summary should reflect two commutes and the mileage associated with the commutes.” The complainant

⁶ This disciplinary action also considered the result of the Office of the Ohio Inspector General Report of Investigation 2012-CA00002, released on September 18, 2012.

⁷ The agreement negotiated with the union provided that Pandilidis should park her assigned state vehicle when not needed for OBWC official business. This directive was scheduled to be reviewed after six months.

interpreted OBWC Memo 4.17 to mean that an employee was required to report a commute at both the beginning and end of the day regardless of the work location, thereby requiring the maximum \$3.00 per day be added to the employee's W-2 as taxable wages. However, the complainant alleged that the OBWC SID employees falsified mileage reports, thereby allowing the "... employees to avoid paying \$3.00 a day for the commute use of the State vehicle and avoid IRS laws about reporting a commute as a fringe benefit."

On September 3, 2014, the Office of the Ohio Inspector General interviewed OBWC Fleet Director Robin Adams and Fleet Coordinator Supervisor PJ Haines. During the course of the interview, Adams and Haines explained the process as to how an employee would request an exemption from completing the bi-weekly Cost commute summary form documenting his or her use of a state-issued vehicle for commuting. Adams and Haines stated that employees seeking this exemption must complete a Request for Certificate of Exemption form. Adams and Haines noted that the form should only be submitted by an employee whose "... duties are primarily field assignments and reports to his/her designated office an average of once a week or less." This form is approved by either a fleet department representative and/or SID supervisor. Haines provided copies to the Office of the Ohio Inspector General of all available fleet records since 2009 for each of the six identified employees.

On October 16, 2014, the Office of the Ohio Inspector General interviewed OBWC Director of Fiscal & Planning Paula Phillips. Phillips explained the previous "car tax" process that was followed by the payroll department. Phillips stated that the payroll department's staff would receive and refer to the information reported on the CCSs to add the appropriate "car tax" to each applicable employee's gross pay total. Phillips recalled that these forms were only retained for a short period of time, but was not sure how long the retention period⁸ was. Phillips stated that the "car tax" policy was changed effective July 1, 2013, from what was reported daily by employees on their submitted CCSs to a flat \$30 "car tax" added each pay period.

⁸ OBWC Records Retention Schedule Fleet-21 states the Commute Cost Reimbursement Program requires the paper copy of the form to be retained for six months and then be destroyed.

Both OBWC Memos 4.17, 4.18, and the SID Policy and Procedural Manual Chapter 2.070, in effect prior to July 2013, do not address the calculation of the taxable fringe benefit, referred to as the “car tax.” As such, this investigation relied upon the Internal Revenue Service (IRS) fringe benefit guidelines to determine when the \$3.00 per day “car tax” was to be added to the employees’ taxable income.

The IRS Fringe Benefit Guide states, “If an employer-provided vehicle is used for both business and personal purposes ... personal use is taxable to the employee as wages.” It further defines personal use as “... commuting between residence and work station” with work station defined by the state of Ohio as the employee’s assigned headquarters per Ohio Administrative Code §126-1-02. Based on this guidance, the Office of the Ohio Inspector General determined the employee is only assessed a “car tax” if they commute to or from their residence and assigned headquarters. If the employee travels anywhere else on official OBWC business, it is considered a business purpose and as such, they are not assessed the “car tax.”

Investigators compared the dates and amounts the complainant alleged a “car tax” was not added for each of the six identified employees’ gross pay totals to the “car tax” listed on state payroll and fleet records for the period of June 1, 2009,⁹ through December 31, 2013. Of the 3,236 instances alleged by the complainant, investigators found that the “car tax” was appropriately added to or excluded from the respective gross pays of the six employees in the following instances:

	Total No. of Instances
State payroll records showing the “car tax” was added to the identified employees’ gross pay on a daily basis.	1,044
Employees who were exempt from commuting and, therefore, not subject to the “car tax” per fleet records.	807
Instances alleged by the complainant that occurred after the OBWC July 1, 2013, policy change resulting in a \$30 “car tax” being added to the identified employees’ biweekly gross pay.	249

⁹ This is the spreadsheet provided by OBWC to the complainant on or about July 15, 2014, that the complainant failed to provide to the Office for the Ohio Inspector General for consideration.

Given the five employee disciplines issued in October and November 2012 for violating OBWC's cost commute policy and the revisions made to OBWC Memo 4.18 released in July, 2013, the Office of the Ohio Inspector General further reviewed the complainant's allegation between the dates of December 1, 2012, and June 30, 2013. Pandilidis was not assigned a car during the period under review in accordance with her October 2012 discipline. As such, this investigation reviewed 177 working days for each of the five remaining employees (Fox, Campbell, Kautz, Parker, and Thompson), for a total of 885 days.

The Office of the Ohio Inspector General requested from OBWC the monthly mileage logs and related CCSs submitted by the five employees from December 1, 2012, through June 30, 2013. Investigators compared and evaluated the logs and CCSs received from OBWC to determine if the number of commutes documented corresponded to the appropriate "car tax" added to each employee's gross pay for that pay period. The Office of the Ohio Inspector General determined the appropriate "car tax" was correctly added to the employee's gross pay for 602 work days reviewed.

This investigation also identified and evaluated a total of 281¹⁰ work days for the five¹¹ identified employees where OBWC did not provide a CCS for review. The Office of the Ohio Inspector General provided to OBWC Director of Fiscal & Planning Paula Phillips a listing of entire pay periods where no "car tax" was added and requested she determine whether any documents maintained by payroll supported that this "car tax" should not have been assessed.

In an email sent to investigators on October 23, 2014, Phillips stated that she was only able to locate one CCS for the remaining pay periods in question. However, Phillips stated the state payroll system did not show the "car tax" was entered and was also unable to locate any supporting documentation to indicate a "car tax" should have been assessed for the five employees for the pay periods in question. Phillips stated, "... due to the age of the dates in question, it is difficult to determine precisely what occurred."

¹⁰ If a CCS was not submitted for the pay period, the entire 10 days of the pay period were included in this count.

¹¹ The remaining employee was not assigned a car during the period under review in accordance with her October 2012, discipline.

Requests for the CCSs from OBWC were made by the complainant on April 17, 2014, and by the Office of the Ohio Inspector General on August 11, 2014. These requests were submitted to OBWC more than six months after the period under review of December 1, 2012, through June 30, 2013. As such, OBWC was not required to maintain these records per their records retention schedule.¹² Also, it should be noted that OBWC discontinued the use of the bi-weekly CCS when revised Memo 4.17 became effective on July 1, 2013, which is more than six months before the complainant requested these documents. Therefore, the Office of the Ohio Inspector General could not determine whether the OBWC Payroll Department appropriately included or excluded the “car tax” from the identified five employees’ gross pay.

Also, when comparing and evaluating the CSSs to the monthly mileage logs, investigators identified 37 days where the description recorded on the mileage logs did not support the commute information the employees recorded on the CCSs. During interviews with the Office of the Ohio Inspector General, employees from OBWC’s Special Investigations Department, Fiscal and Planning, and Fleet all explained that CCSs, and not the monthly mileage logs, were the documents referred to when determining the amount of the “car tax” to be added to an employee’s gross pay.

On November 3, 2014, the Office of the Ohio Inspector General interviewed OBWC Special Investigation Department employees, Fox, Pandilidis, Campbell, Kautz, Parker, and Thompson. Various employees stated that his or her assigned state-issued vehicle was periodically driven by other employees for investigative purposes and as such, the data recorded on the report for certain days was also for their coworker’s use of the vehicle. Beginning in September 2013, a revised monthly mileage log was implemented by OBWC and contained a column for comments. Prior to this date, the monthly vehicle log Excel spreadsheet submitted to the OBWC Fleet Department did not include a section where employees could enter any comments regarding that day’s travel.

¹² OBWC Records Retention Schedule Fleet-21 states the Commute Cost Reimbursement Program requires the paper copy of the form to be retained for six months and then be destroyed.

During a review of these logs, investigators discovered that some vehicles which were assigned to employees, were also used by other staff members for investigative activities. This was evident when another staff member other than the employee assigned to the vehicle, had documented his or her use of the vehicle in either the destination or comment fields on their mileage reports. In each of these instances, investigators reviewed the relevant bi-weekly CCSs submitted by employees and determined that the OBWC Payroll Department had correctly added or excluded the “car tax” from employees’ gross pay totals.

Commute Time

The complainant provided documents claiming that because the identified employees did not record a commute on their monthly mileage log, they did not deduct the commute time from the start and end of their day. As such, the complainant alleged they falsified their timesheets and charged their commute time as paid work time. The complainant did not provide any additional evidence to support his allegation that the employees included their commute time as part of their eight-hour work day.

On August 14, 2014, investigators from the Office of the Ohio Inspector General met with OBWC Human Resources Chief Toni Brokaw and Labor Relations Director Brian Walton to gain clarification on the policy. These officials stated employees are not permitted to count commute time as paid work time regardless of their destination. For example, if it takes an employee 30 minutes to travel from their assigned headquarters to their residence, or vice versa, then 30 minutes of travel time must be deducted from the start and end of their workday anytime they travel from home. However, if an employee’s worksite for the day is less than 30 minutes away, the employee does not have to deduct any commute time and their start time is when they arrive at the work site.

The OBWC officials explained in interviews with the Office of the Ohio Inspector General that the employees with state-issued vehicles are required to document vehicle usage on the monthly mileage log and that this report is not used for timekeeping purposes. These officials also stated that OBWC timekeeping polices do not require employees to report that their commute times were deducted; however, employees are encouraged to record the information in the comments

section of the time reporting system. As such, employees are permitted to report only their actual start and end times, without documenting or noting their commute times.

To support his allegation that commute time was reflected as paid work time, the complainant attached redacted versions of each identified employee's timekeeping and monthly mileage logs. OBWC officials explained work hours paid were based on what the employee entered in timekeeping, and that the monthly mileage log only reflected how the vehicle was used on a specific date and, not necessarily the time worked by the assigned employee who used the vehicle on that date. The monthly mileage log does not reflect at what time an employee departs from one location and arrives at another location. In addition, the monthly mileage log for a particular vehicle often reflects the activity of more than one vehicle operator for that one vehicle, for that month.

To address the complainant's allegation that employees were charging their commute time as work time, the Office of the Ohio Inspector General compared the start times on the identified employees' timesheets on the dates the employees reflected a morning commute, to the employees' badge swipe times.

To enter each OBWC facility, employees are required to swipe a unique OBWC identification card through a card reader which opens the door. On September 4, 2014, OBWC Security provided to investigators, for those employees under investigation, all available employee badge swipe data for the Lima Service Office for Fox¹³ from October 10, 2013, through December 31, 2013, and for the Governor's Hill Service Office for Pandilidis, Campbell, Kautz, Parker, and Thompson for the period of March 12, 2013, through December 31, 2013. OBWC Security stated that badge swipe data before these dates was not available due to a change in security systems for both the Governor's Hill and Lima service offices.

The Office of the Ohio Inspector General compared the start times for the six employees in question to available badge swipe data reflecting the employees' first access in an OBWC

¹³ OBWC Security provided Fox's badge swipes for other service offices visited by Fox. Travel in these instances would have been deemed business related and not commute. Fox's assigned headquarters is the Lima Service Office.

facility from March 1, 2013, to December 31, 2013, and identified 61 instances where the timestamps were not reasonably close to the recorded start times. On September 8, 2014, the Office of the Ohio Inspector General provided the 61 instances to OBWC SID Interim Director Jennifer Saunders and requested she obtain explanations from her staff.

Saunders stated during a September 8, 2014, meeting and in her October 2, 2014, response that the card swipes are:

... not used by the BWC as the basis for employees' timekeeping absent extraordinary circumstances ... employees may not swipe a badge every time they enter a worksite. Doors can be opened by co-workers or security staff. If an employee enters a door with a group of co-workers, only one employee needs to swipe a badge to unlock the door. There is no requirement that an employee "swipe" in every time they enter a BWC facility. Thus the badge swipe data is one indicator, but it cannot be the only method to verify an employee's time of entry on BWC premises.

Saunders also stated in her October 2, 2014, response that another indicator of when an employee starts their workday is the "timestamp" which is generated automatically in the timekeeping system when an employee makes an entry. Saunders also provided staff explanations obtained for the discrepancies initially identified.

The Office of the Ohio Inspector General then compared the employees' reported start work times, to the OBWC timekeeping system's generated timestamp, and to the dates when employees had indicated a commute on either their monthly mileage logs or on their CCSs. For the employees classified as work-from-home employees, the investigators also compared their start times to when the employees logged into OBWC's Virtual Private Network (VPN). A total of 421 days of timekeeping records were reviewed. From this analysis, for all six employees, investigators identified a total of 23 days where significant variances were evident between the timestamp data, badge swipe time data, and reported commute times.

On November 3, 2014, the Office of the Ohio Inspector General interviewed the six identified employees about commute time. The six employees stated that commute time was the time spent driving from home to their assigned service office, and that this time is not to be billed as hours worked. Each employee attested that their commute time had not been reflected as hours worked on their respective timesheets. For the 23 total days identified, investigators requested the six employees review their activities for their respective days, and to provide explanations supporting that their reported commute times were not reflected as hours worked.

For each of the 23 days where significant variances were evident, investigators evaluated the six employees' responses during their November 3, 2014, interviews; the employees' explanations of discrepancies identified for select dates; the employees' start times; the employees' generated timestamps of their start times; the work-from-home employees' VPN access times; the employees' first badge accesses on dates they reported a morning commute; and the employees' commute declarations on available CCSs and monthly mileage logs. After comparing and evaluating this information, the Office of the Ohio Inspector General was unable to substantiate the complainant's allegation that the identified employees included their commute times as paid work time on their timesheets.

Special Investigations Department Policy – Commute Time

On September 2, 2014, OBWC Special Investigations Department (SID) Interim Director Jennifer Saunders provided the Office of the Ohio Inspector General with a policy implemented effective October 21, 2013, stating, "... any SID employee operating a state vehicle who is not commuting to or from their assigned HQ shall document in the "Comments" section on their timesheet the time logged is minus a commute." (Excerpts in [Exhibit 4](#)) In response to a November 3, 2014, Office of the Ohio Inspector General request, Special Agent in Charge Shawn Fox provided copies of team meeting agendas held on October 24, 2013, and December 12, 2013, showing that the October 2013 SID policy change was discussed with his staff. Fox also provided a copy of a team meeting agenda held on August 20, 2014, showing the October 2013 policy change was discussed with his staff. Fox stated that he provided his staff a copy of these policies by email, and noted that he had specifically discussed OBWC Labor Relations Department talking points at the team meetings.

Fox stated that he had an expectation of his employees to document on their calendars what they are working on in case he has to contact them. Fox noted that his employees do a good job meeting this expectation. Fox said that, with the exception of the work-from-home employees, employees deduct their morning and evening commute times. Fox explained that for the work-from-home employees, he is "... pretty lenient on that, that I think a few of our people they take it all in the morning" explaining that his staff will take the appropriate amount of commute time at either the beginning of the day, the end of the day, or at lunch time. Fox stated that he performs a high level review of the timesheets to make sure the employees have worked their 40 hours, and reviews in further detail unusual activity such as long days or overtime or when a red flag is identified. Fox stated that this additional review could include a review of the employee's calendar and Fraud Management System (FMS) notes. During the November 3, 2014, interview, Fox noted that he had noticed his staff was not entering the required comment that their time was less the commute as required by SID policy, and Fox instructed his staff to start entering the comments when reporting to a location other than their assigned office.

For each of the identified six employees, investigators reviewed and evaluated the timesheets, monthly mileage logs, employee badge swipe activity for the Governor's Hill and Lima service offices, and any explanations provided during interviews related to the 49 work days between October 21, 2013,¹⁴ and December 31, 2013. From this review, for five of the identified six employees evaluated, investigators found the following discrepancies:

For one of the 49 work days reviewed, investigators determined that Shawn Fox had failed to enter in the comments section of his timesheet his commute time, as required by the SID Equipment Use policy. Investigators informed Fox that, although he had listed the business and the location he had worked, he did not report his commute time and that his support documents did not reflect a commute time being deducted. Fox explained that, "I'd say that was a probably a clerical error" and that "... it's not a pattern with me."

For five of the 49 work days reviewed, investigators determined that Don Campbell had failed to enter in the comments section of his timesheet his commute time, as required by the SID

¹⁴ This is the date the updated Special Investigations Department Equipment Use policy became effective.

Equipment Use policy. During a November 3, 2014, interview with investigators, Campbell acknowledged that he was aware of the SID Equipment Use policy. Investigators informed Campbell that, although his monthly mileage logs reflected his vehicle was out in the field, his timesheets did not reflect his commute times. Campbell explained this discrepancy as, “Maybe somebody might have had my vehicle. I don’t know.”

On January 27, 2015, Campbell provided to investigators explanations of his activities for the five working days in question. Investigators evaluated these materials and determined that for the five days in question, Campbell’s reported time worked did not include his commute time.

For 17 of the 49 work days reviewed, investigators determined that Joe Kautz had failed to enter in the comments section of his timesheet his commute time, as required by the SID Equipment Use policy. During a November 3, 2014, interview with investigators, Kautz acknowledged that he was aware of the SID Equipment Use policy. Investigators noted that for 14 of the 17 days in question, Kautz documented the deduction of his commute time from his paid work time using the difference between his actual start time reported in the timekeeping system and the timestamp generated when he entered his actual start time in the timekeeping system.

On January 23, 2015, Kautz provided to investigators explanations of his activities for the three remaining working days in question. Kautz noted that for these three days, his work time did not include his commute time. Investigators evaluated these materials and compared this information to Kautz’s VPN access and determined that for 14 of the 17 days in question, Kautz’s reported time worked did not include his commute time

For 24 of the 49 work days reviewed, investigators determined that Beth Parker had failed to enter in the comments section of her timesheet her commute time, as required by the SID Equipment Use policy. During a November 3, 2014, interview with investigators, Parker could not recall whether she had read the SID Equipment Use policy. However, Parker stated that, “I know there was a period of time when I was documenting on my calendar. I know I was not documenting it every day.”

On January 27, 2015, Parker provided to investigators explanations of her activities, copies of notes from the SID FMS showing her start times, and Microsoft Outlook calendar appointments. Investigators evaluated these materials and compared this information to Parker's VPN access and determined that for 21 of the 24 days in question, Parker's reported time worked did not include her commute time.

For seven of the 49 work days reviewed, investigators determined that Craig Thompson had failed to enter in the comments section of his timesheet his commute time, as required by the SID Equipment Use policy. During a November 3, 2014, interview with investigators, Thompson acknowledged that he was aware of the SID Equipment Use policy. However, Thompson stated that he "... used to do it and then I stopped" and could not explain why he stopped.

On January 22, 2015, Thompson provided to investigators explanations of his activities and copies of his Microsoft Outlook calendar appointments. Investigators evaluated these materials and determined that for the seven days in question, Thompson's reported time worked did not include his commute time.

CONCLUSION

Through interviews conducted with OBWC personnel, the Office of the Ohio Inspector determined that OBWC employees had used the biweekly cost commute summary report (CCS), and not the monthly mileage log, to report an IRS taxable fringe benefit (referred to as the "car tax") for their use of state-issued vehicles for commuting. These personnel noted that those employees who had an exemption form on file with the OBWC Fleet Department, were exempt from completing the bi-weekly CCS. Moreover, investigators learned that, effective July 1, 2013, a biweekly \$30 "car tax" was procedurally added to the gross pay of all OBWC employees assigned a state-issued vehicle for commuting.

On August 8, 2014, the Office of the Ohio Inspector General received a complaint from a former OBWC employee alleging that six OBWC employees had "falsified" monthly mileage logs for a total of 3,236 days between June 1, 2009, through December 31, 2013, to avoid "... paying \$3.00 a day for the commute use of the State vehicle" and had not reported their use of state vehicles

for commuting as a fringe benefit to the IRS. To support these allegations, the complainant had provided redacted mileage logs obtained from OBWC and a spreadsheet of his analysis identifying the instances when the employees allegedly falsified their mileage logs to avoid the “car tax.” Investigators determined that the complainant did not provide, to the Office of the Ohio Inspector General, copies of the biweekly CCS and the spreadsheet of the dates the employees received the “car tax” for commuting in a state-issued vehicle. However, the complainant had received these records from OBWC in response to his records requests.

As a result, investigators obtained, evaluated, and compared records OBWC provided, to the records the complainant had initially sent with his complaint. Investigators determined that of the 3,236 days the complainant alleged falsification, 807 days were instances where employees were exempt from submitting a CCS and therefore, exempt from reporting the “car tax,” and 1,293 days were instances where employees had properly added “car tax” to their gross pay.

Additionally, during the investigation, the Office of the Ohio Inspector General learned that within the complainant’s cited period between June 1, 2009, through December 31, 2013, OBWC’s “car tax” policy was changed from a daily determination based on the CCSs submitted by employees, to a \$30 “car tax” procedurally added to an employee’s gross pay when using a state-issued vehicle for commuting. This revised “car tax” policy was effective July 1, 2013.

Of the 3,236 days in question, investigators further reviewed “car tax” records of the six identified employees from December 1, 2012, through June 30, 2013,¹⁵ a total of 885 days. Investigators determined that the OBWC Payroll Department had appropriately added the “car tax” to each employee’s gross payroll for 602 days, and inappropriately added “car tax” on two days: one day when an employee had used leave and one day when an employee received holiday pay. For the remaining 281 work days, the CCSs were destroyed in accordance with the OBWC records retention schedule and were not available for review. As such, investigators were unable to determine whether the payroll department had appropriately included the “car tax” to the employees’ gross pay for these 281 days.

¹⁵ December 1, 2012, was the start of the first month after the employees received discipline for not complying with OBWC Memos 4.17 and or 4.18. OBWC’s policy change resulting in all employees with a state-issued vehicle receiving the maximum \$30 taxable fringe benefit became effective July 1, 2013

Accordingly, the Office of the Ohio Inspector General finds no reasonable cause to believe wrongful acts or omissions occurred in these instances.

On August 8, 2014, the complainant also alleged to the Office of the Ohio Inspector General that the six identified employees had falsified their timekeeping records by failing to "... subtract their commute time in accordance with BWC policy 4.17" resulting in the employees being paid for 40 hours a week when they actually worked less than 40 hours a week. The complainant's supporting documents showed that because the employees did not record a commute on their mileage logs, the employees did not deduct the commute time from the start and end of their work day. As such, the six identified employees allegedly falsified their timesheets and charged their commute time as paid work time. However, the complainant did not provide to the Office of the Ohio Inspector General any additional evidence to support his allegation that the employees included their commute time as part of their eight-hour work day.

For each of the six employees investigated for the period March 1, 2013 through December 31, 2013, the Office of the Ohio Inspector General evaluated and compared all relevant and available timekeeping entries, employee first badge-swipe records for OBWC buildings; work-from-home employees' VPN access times; the commute declarations on available CCSs and monthly mileage logs; and employee explanations of discrepancies identified for the identified dates. Additionally, the Office of the Ohio Inspector General interviewed each of the six identified employees on November 3, 2014, each of who attested that his or her commute time was not reflected as hours worked on their timesheet. Therefore, the Office of the Ohio Inspector General was unable to substantiate that the employees had actually included their commute time as paid work time on their timesheets.

Accordingly, the Office of the Ohio Inspector General finds no reasonable cause to believe wrongful acts or omissions occurred in these instances.

The complainant also expressed concerns regarding self-audits allegedly conducted by Pandilidis and the other OBWC employees, after the release of a previous Office of Ohio Inspector General

investigation regarding similar issues.¹⁶ The complainant was concerned that OBWC supervisors permitted Pandilidis to conduct her own audit, determine how much money she was owed, and that Pandilidis issued the discipline to Campbell, Kautz, Parker, and Thompson. The Office of the Ohio Inspector General reviewed the documents supporting discipline issued to Pandilidis, Campbell, Kautz, Parker, and Thompson and conducted interviews to obtain an understanding of the self-audit conducted and the discipline issued.

This investigation determined that each of the six employees had completed a self-audit on their usage of their assigned state-issued vehicles for the period of January 1, 2012, through August 31, 2012. Issues identified by Pandilidis, Campbell, Kautz, Parker, and Thompson were forwarded to SID Special Agent in Charge Shawn Fox. Issues identified by Fox were forwarded to SID Assistant Director Jennifer Saunders. Fox stated to investigators that he verified the issues identified by each employee and forwarded this information for review to his supervisors, Saunders and Wersell. Once reviewed, Wersell and/or Saunders forwarded the matter to the OBWC Labor Relations Department who negotiated the type of discipline to be issued with each identified employee and the labor union.

This investigation determined that Pandilidis' involvement was limited to conducting her self-audit of her monthly mileage logs in a similar manner as had been completed by her coworkers, and that her instances in question were subjected to the same level of review as her coworkers. Interviews conducted and documentation reviewed support Pandilidis was not involved in the review of issues identified by her coworkers, the negotiation of the level of discipline to be issued, and that it was only by virtue of her position and at Fox's direction that she delivered the discipline notifications to Kautz, Parker, and Thompson; and obtained their signatures stating they had received their respective discipline notices.

Accordingly, the Office of the Ohio Inspector General finds no reasonable cause to believe wrongful acts or omissions occurred in these instances.

¹⁶ Report of Investigation 2012-CA00002, released September 18, 2012.

On October 21, 2013, the OBWC Special Investigations Department implemented General Policies and Procedure Policy 2.070 Equipment Use, stating, "... any SID employee operating a state vehicle who is not commuting to or from their assigned HQ shall document in the "Comments" section on their Timesheet the time logged is minus a commute." OBWC SID Special Agent in Charge Shawn Fox noted that he discussed this policy during team meetings held with his staff in October and December 2013, and again in August 2014.

The Office of the Ohio Inspector General identified the following instances where the identified employees reported to non-office locations and did not record that their time logged on the timesheet was minus commute time during the period October 21, 2013 and December 31, 2013:

Employee	Instances
Shawn Fox	1
Don Campbell	5
Joe Kautz	17
Beth Parker	24
Craig Thompson	7

Kautz stated during his November 3, 2014, interview with the Office of the Ohio Inspector General that he used the difference between his actual start time and the time it was entered into the timekeeping system to show that his (Kautz's) reported time worked was minus his commute on his timesheet. Parker stated during her November 3, 2014, interview with investigators that she used Microsoft Outlook calendar entries and her VPN login and logout access to document that her commute time was excluded from the hours she worked. This investigation verified that in 14 instances by Kautz and 21 instances by Parker, their commute times were deducted from their hours worked and was reflected in documents other than Kautz's and Parker's timesheets.

Fox explained during his November 3, 2014, interview that he performs a cursory review of the timesheets to make sure the employees have worked 40 hours and reviews, in further detail, unusual activity such as long days, overtime, or when a red flag is identified. Fox stated that this additional review could include a review of an employee's calendar or FMS notes. Fox also acknowledged that his staff had not been entering the required comments on their timesheets. Fox said that he and his staff had recently discussed the policy, and Fox stated that he believed

his staff was now complying with the policy. Fox provided investigators with a copy of a team meeting agenda held on August 20, 2014, showing the October 2013 policy change had been discussed with his staff.

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

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendations and asks the director of the Ohio Bureau of Workers' Compensation to respond within 60 days with a plan detailing how the recommendations will be implemented. The Ohio Bureau of Workers' Compensation should:

1. Review the conduct of employees identified in this report to determine whether administrative action is warranted.
2. Consider implementing a process requiring OBWC Special Investigation Department employees to acknowledge receipt of departmental policies.

REFERRALS

The Office of the Ohio Inspector General has determined that no referrals are warranted for this report of investigation.



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Bureau of Workers' Compensation

FILE ID #: 2014-CA00053

KEEPER OF RECORDS CERTIFICATION

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

Jill Jones
KEEPER OF RECORDS

CERTIFIED
June 30, 2015

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