

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO DEPARTMENT OF TRANSPORTATION
FILE ID NO.: 2016-CA00041
DATE OF REPORT: NOVEMBER 15, 2017

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

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REPORT OF INVESTIGATION

FILE ID NUMBER: 2016-CA00041

SUBJECT NAME: James A. Barna

POSITION: Chief Engineer and Assistant Director for
Transportation Policy

AGENCY: Ohio Department of Transportation

BASIS FOR INVESTIGATION: Anonymous Complaint

ALLEGATIONS: Time Recordkeeping Accountability

INITIATED: October 27, 2016

DATE OF REPORT: November 15, 2017

INITIAL ALLEGATION AND COMPLAINT SUMMARY

The Office of the Ohio Inspector General received an anonymous complaint by U.S. mail on October 12, 2016, alleging possible improper conduct by a member of the Ohio Department of Transportation (ODOT) senior leadership team. The complaint alleged that James Barna, chief engineer and assistant director for Transportation Policy, was arriving late and leaving early during days and times he was scheduled to be at work for ODOT. The complainant questioned whether Barna was working 80 hours per pay period. Based upon the information provided in the anonymous complaint, the Office of the Ohio Inspector General initiated an investigation on October 27, 2016.

BACKGROUND

Ohio Department of Transportation

The Ohio Department of Transportation (ODOT) is responsible for maintaining the state's system of highways, as well as overseeing the state's rail, aviation and public transportation systems. The department has 12 districts along with a central office located in Columbus, Ohio. The director is appointed by the governor and confirmed by the Ohio Senate. Most of ODOT's funding is from federal sources, state taxes on motor fuels, and bond revenue.¹

APPLICABLE RULES, POLICIES, AND PROCEDURES

ODOT Standard Procedure policy 220-007, effective November 1, 2015,² explains the working hours of ODOT employees, requests for leave approval, and time recording.

Section III (A) of the policy defines a "standard work schedule" for all ODOT employees, and specifies the requirement of taking a "standard lunchtime" in increments of either 30 or 60 minutes.

Section V (A) addresses ODOT procedures for the request and use of vacation leave.

Subsection 1 states, "All employees are required to request vacation leave in advance ..."

¹ Source: Biennial budget documents.

² ODOT Standard Procedure 220-007(SP).

Section V (B) addresses ODOT procedures for the request and use of sick leave, and instructs, “(A)ll employees must call and request the use of sick time as soon as possible, but no later than one half hour after their scheduled start time.”

Section V (C) addresses ODOT procedures for the request and use of personal leave, and stipulates, “... Exempt employees must request personal leave in advance unless the use is for an emergency.”

Section VI outlines the time-recording responsibilities for ODOT employees:

Subsection (A) states that the time-recording system used by ODOT staff is to provide accountability of employees’ arrival and departure times and leave usage.

Subsection (D) states, “Every employee is responsible for the accuracy and approval of their own timecard.”

Subsection (E) states, “... non-managerial employees are not permitted to enter information for other employees.”

Section VIII specifies time-recording methods to be used by ODOT employees:

Subsection (A) details policies on the use of InTouch devices.³

Subsection (1) states, “... for facilities that have an InTouch D[d]evice available, employees should use the InTouch device for recording arrival and departure times, TOR’s,^[4] timecard approvals, and various other functions.”

Section X defines the proper use of ODOT employees’ timecards:

Subsection (A) addresses the subject of timecards and requires employees to report their arrival and departure times as they occur.

Subsection (B) also details the procedures for recording “in” and “out” times and instructs, “Employees shall record their arrival and departure times as they occur.”

³ An InTouch device is a wall-mounted device used to record arrival and departure times, time off requests (TOR), timecard approvals, and various other functions for employees.

⁴ Time off request.

INVESTIGATIVE SUMMARY

The Office of the Ohio Inspector General reviewed and conducted a timecard analysis of James Barna's payroll records for the period of February 7, 2017, through April 20, 2017. During this period under review, there were days when Barna was not at work due to either the use of vacation leave or scheduled ODOT business trips, and subsequently, those days were not included in the investigators' analysis. Additionally, during the period under review, the Ohio Department of Transportation (ODOT) was working with the state legislature to create its Fiscal Year 2018-2019 budget. As chief engineer and assistant director for Transportation Policy, Barna had a role in this process and would frequently attend meetings at the statehouse to address ODOT budget issues. Investigators also did not include in its analysis times Barna was away from his office fulfilling these budgetary responsibilities. Investigators also obtained a copy of Barna's email and calendar history to determine if he had business-related meetings scheduled before or after his workday at ODOT that would not otherwise be reflected in the information reviewed during the investigation.

During a review of Barna's timecards for the period of February 7, 2017, through April 20, 2017, investigators observed some unique patterns involving the exact times he reported arriving to and departing from his ODOT work site. Investigators found that the times Barna reported "in" and "out" during his work days were either on the exact hour or on the half-hour. Specifically, at no time on any day reviewed, did Barna report working in increments of minutes, either a few minutes more or a few minutes less.

Investigators also noted that at no time during the period reviewed did Barna use a Kronos InTouch time-logging device, even though there were devices located at most entrances and exits, and by the elevators outside of Barna's office. Investigators discovered that Barna had manually entered his hours using an "editor" application available within the Kronos time-keeping system, and he would generally complete his entries on the last Friday at the end of a payroll period or the following Monday after the end of a payroll period. In some instances, Barna had data-entered his hours into Kronos two weeks after the day he had actually worked the hours.

Investigators also analyzed ODOT building surveillance camera footage to identify actual times when Barna arrived at and departed from work. ODOT utilizes various cameras placed throughout its buildings and properties to monitor building entrances and exits, and surrounding areas. Investigators reviewed ODOT building surveillance camera footage at its central office located in Columbus and ODOT offices located at Don Scott Aviation.⁵

Investigators supplemented this surveillance information with ODOT building door access data. Every door into ODOT buildings and properties require key cards to gain entrance. The door access system records into a database the issued card that was used to access the door and the date and time of access. No card is required to leave the same doors. From a review of ODOT building door accesses, investigators determined the times when Barna's ODOT identification card was used to unlock an ODOT property door.⁶ The door access information, although useful, is limited in that once an ODOT employee uses their access card to open the door, other employees can follow and walk into the building without using their access cards. To address this limitation in the investigation, investigators used the available door access data only to supplement the security video review of Barna's arrival and departure times. The times recorded by these methods provided investigators with Barna's actual arrival and departure information to compare to Barna's timecard records.

Investigators determined from their evaluation of Barna's reported work times on his timecards and his arrival and departure times indicated by keycard door access and surveillance video that, for the period of February 7, 2017, through April 20, 2017, Barna reported and was paid by ODOT for approximately 22 hours over what door access records and video surveillance showed he reported working. Investigators also determined during this review of Barna's timecards, keycard door access records, and surveillance video, that Barna did not report, and therefore was not paid by ODOT, for approximately 2 hours of time he was at an ODOT work site.

⁵ During the investigation it was learned that Barna would attend meetings at the ODOT offices located at Don Scott Aviation/Airport.

⁶ The use of an ODOT identification card creates an access log.

Jamie Kimberly

On June 6, 2017, the Office of the Ohio Inspector General interviewed Administrative Assistant Jamie Kimberly. Kimberly is employed at ODOT as James Barna's administrative assistant and is responsible for scheduling and coordinating meetings, and maintaining Barna's calendar.

Kimberly has been working in her current position since May 2010. Kimberly is supervised by Terri Barnhart, administrative assistant for the director of ODOT. Kimberly told investigators that when Barna is not at his office, she continues to schedule and coordinate meetings for him, and that they communicate via email and telephone calls.

During the interview, investigators explained to Kimberly that there were some questions regarding Barna's timekeeping. Investigators informed her that a review of Barna's timecard entries and door access logs had been conducted. Investigators showed Kimberly photos of Barna entering and exiting ODOT property at various times, a copy of the ODOT timekeeping policy, and entries on one of Barna's timesheets.

Kimberly explained to investigators that, as part of her responsibilities as Barna's administrative assistant, she entered his time into Kronos for him. She told investigators that for every two-week pay period, Barna provided her with hard copies of his weekly calendar with handwritten notes indicating the total number of hours he worked for each day. Kimberly stated that Barna had given her his log-on credentials so she could data-enter his timecard. Kimberly explained that she data-entered Barna's payroll for the previous two weeks he worked, either on the Friday at the end of the pay period or the following Monday after the pay period had ended.

Investigators asked Kimberly, when preparing Barna's timecard, how she determined the specific times he began and ended his work day. Kimberly explained that she reviewed his calendar to determine what he had scheduled for the pay period. Kimberly calculated the end time of his work day by adding, to his reported start time, the number of work hours Barna noted he had worked on the hard copy calendar he gave to her. When determining whether Barna should report a lunch, Kimberly verified whether Barna had a scheduled working lunch, and if not, she would indicate a one-hour lunch for that day. Kimberly also noted that, for each two-

week pay period, she added Barna's total hours worked to verify the total did not exceed 80 hours.

Investigators cited to Kimberly ODOT Standard Procedure 220-007 Section VI (D) which states, "Every employee is responsible for the accuracy and approval of their own timecard," and Subsection (E) which states, "... non-managerial employees are not permitted to enter information for other employees." Kimberly told investigators she was not aware she was prohibited from entering Barna's payroll, and noted that she was instructed by Barna to data-enter and submit his payroll. Kimberly acknowledged that Barna's starting and ending times for each day he had worked were always entered collectively into Kronos at the end of each two-week pay period, and were not entered during the actual days Barna performed the work. Kimberly acknowledged that this method of recording time in Kronos would be in violation of ODOT Standard Procedure 220-007 Section X (A) and (B).

Terri Barnhart

On June 6, 2017, the Office of the Ohio Inspector General interviewed Terri Barnhart, the administrative assistant for the director of ODOT. Barnhart stated that she has worked for ODOT for 29 years. Investigators informed Barnhart that the Office of the Ohio Inspector General had received an anonymous complaint regarding the accountability of Barna's timekeeping. Barnhart told investigators she was aware of the issues regarding Barna's timekeeping and noted that one of her job responsibilities was to approve Barna's timecard. Barnhart explained that this responsibility placed her in an awkward position because she was not a supervisor, but was required to approve the working hours Barna reported. Barnhart said that on more than one occasion she had discussed the issue with another ranking ODOT official. Barnhart stated that the official informed her that her responsibility was just to verify Barna had reported a total of 80 hours on his timesheet. Barnhart said the official added that she was not Barna's supervisor and was not responsible for evaluating whether Barna's reported hours were actually worked.

Investigators asked Barnhart if she was aware as to how Barna completed his timecard for payroll. Barnhart explained that Barna wrote, by hand, the number of hours worked on a hard

copy of his weekly calendar. Barnhart noted that Jamie Kimberly was the ODOT employee who worked closely with Barna and received his calendars and data-entered Barna's reported time into the Kronos application. Barnhart said she did not know exactly how Kimberly determined Barna's start and end times for each day. Barnhart speculated that Kimberly probably added Barna's reported number of hours worked to Barna's start time to determine his end time. Barnhart noted to investigators that she performed this task on occasion when Kimberly was not able to complete the work due to her absence.

Barnhart told investigators that Barna had questioned her once as to why she used the Kronos InTouch card reader when she entered or exited the building. Barnhart said she explained to Barna that when an individual is in a leadership position, others are observing their actions and it is important to set a good example. Barnhart added that Barna told her he did not believe he needed to use the Kronos card reader to record his start- and end-work times. Barnhart told investigators she instructed every ODOT employee under her supervision to always use the Kronos card reader to record their time.

James Barna

On June 1, 2017, the Office of the Ohio Inspector General conducted an interview with Chief Engineer and Assistant Director for Transportation Policy James Barna. Investigators informed Barna that the office received an anonymous complaint questioning his timekeeping of his reported work hours at ODOT and allowed Barna to read the complaint. Investigators told Barna they had conducted a review of his door access entries and video surveillance at ODOT properties, and had examined his timecards. Investigators also showed Barna the ODOT timekeeping policy, and Barna agreed that the policy requires him to keep accurate timekeeping records. Barna stated he was not required by ODOT to use the Kronos InTouch device at the door, but agreed it was the preferred way to enter time data per ODOT policy. Barna acknowledged that using the Kronos InTouch device would be a more efficient and accurate means to keep track of his time. Barna stated he was aware that, when recording work hours, he was required by ODOT to report the time he had worked at the same time when the work was completed. Barna noted that ODOT employees were directed to report time worked "as soon as

possible” after the work was completed and were prohibited from recording their time either significantly before or after the time the work had been performed.

Investigators informed Barna that they had conducted a review of his timekeeping records and determined that he did not report his time each day, at the time when his work had been completed. Specifically, Barna instructed Kimberly to data-enter into Kronos his time for a two-week pay period either on the Friday at the end of a pay period or the Monday after the pay period had ended. Barna explained to investigators how he kept track of the daily hours he worked. Barna said he recorded the hours he had worked for each day onto a hard copy of his work calendar. At the end of each two-week pay period, Barna would give a copy of his handwritten work calendar to Jamie Kimberly for her to data-enter his time into Kronos. Barna quickly volunteered, “... she did not tell me how she was doing that ...” and indicated that he was not aware as to how she was entering his time until recently. Barna admitted to investigators that it was ultimately his responsibility to keep accurate time records and noted that his lack of accountability was, “an oversight on my part.”

Investigators asked Barna how Kimberly would know, on any given work day, at what exact time he had left work, for example, either “3:50 p.m.” or “4:00 p.m.” Barna said that normally, he recorded his time in increments of “half-hour round.” When investigators asked Barna to explain the meaning of “half-hour round,” Barna stated that he generally rounded his time to the nearest half-hour. Barna also pointed out that in keeping track of his time in this manner, he did not always round up to the next half-hour, but would also round down.

Investigators reviewed with Barna the time reporting discrepancies that were evident during the period of February 7, 2017, through April 20, 2017. Barna said that rather than respond to each date indicating a discrepancy in time accountability, he wanted investigators to know that he had worked over 80 hours during certain pay periods. Barna noted that he was “always on” and was required to be available at any time for ODOT emergencies. Barna acknowledged to investigators that his time at work did not match his timecard, and again noted that he was not aware as to how his administrative assistant was entering his time into Kronos. He said his time, “is all there.”

Barna agreed that his timekeeping accountability needed to be corrected, and assured investigators that his Kronos entries from that point forward would be reported correctly. Barna said that though his administrative assistant still had his log-in credentials to access Kronos, he currently does not direct her to enter his time. Barna also admitted to investigators that he had data-entered “Retro” into Kronos, meaning he entered his time after he had worked the hours. Barna said he would address and correct this issue and would begin to enter time contemporaneously when the time is worked, consistent with ODOT policy.

Investigators asked Barna why, during the entire period under review from February 7, 2017, through April 20, 2017, he had never used the Kronos InTouch devices located at various ODOT entrances. Barna discussed the use of the Kronos InTouch device and told investigators that he did not believe it was the best way to record times. However, Barna agreed that he would use the Kronos device from that point forward. Barna continued his discussion on the use of the Kronos device and noted to investigators that he was a “Chief Engineer, not a staff engineer.” Barna re-stated that he is always on the job, and was a professional. Barna was shown photos of other deputy directors using the Kronos InTouch device as they exited ODOT headquarters. After reviewing the photos, Barna responded, noting that he believed the deputy directors’ jobs were different than his and they were at their ODOT offices for most of the day.

Investigators asked Barna if, under ODOT policy, he was entitled to compensatory time. He said he was permitted to earn compensatory time, and that he did not generally claim compensatory time earned. Barna repeated to investigators that his primary concern regarding his timekeeping was that the total number of hours he worked for each pay-period was accurately accounted for, and not the exact times he began and ended his work days. Barna again stated to investigators that going forward, he would comply with ODOT policy.

CONCLUSION

The Office of the Ohio Inspector General received an anonymous complaint by U.S. mail, alleging possible improper conduct by James Barna, chief engineer and assistant director for Transportation Policy, for the Ohio Department of Transportation. The complaint alleged Barna was arriving late and leaving early during days and times he was to be at work for ODOT. The

complainant questioned whether Barna was working 80 hours per pay period. Based upon the information provided in the anonymous complaint, the Office of the Ohio Inspector General initiated an investigation on October 27, 2016.

The Office of the Ohio Inspector General reviewed and conducted a timecard analysis of James Barna's payroll records for the period of February 7, 2017, through April 20, 2017. Investigators reviewed current ODOT policies and procedures regarding timekeeping for its employees, and compared door access records, timecard records, and reviewed video surveillance archives to establish actual times Barna was at ODOT properties and working.

During a review of Barna's timecards, investigators observed some unique patterns involving the exact times he reported arriving to and departing from his ODOT work site. Investigators found that the times Barna reported "in" and "out" during his work days were either on the hour or on the half-hour. Investigators also noted that at no time during the period reviewed did Barna use a Kronos InTouch time-logging device, even though there were devices located at most entrances and exits, and by the elevators outside of Barna's office.

The Office of the Ohio Inspector General interviewed ODOT employees who entered Barna's time into Kronos for him. An administrative assistant told investigators that for every two-week pay period, Barna provided her with hard copies of his weekly calendar with handwritten notes indicating the total number of hours he worked for each day. The assistant noted that she was instructed by Barna to data-enter and submit his payroll, and explained that she data-entered Barna's two-week payroll either on the last Friday at the end of a payroll period or the following Monday after the end of a payroll period.

Investigators determined that Barna violated, in part, sections III, V, VI, VIII, and X of ODOT Standard Procedure 220-007, which applies to the work hours of ODOT employees, time recording, and the leave approval process.

Barna acknowledged to investigators that ODOT Standard Procedure 220-007 applies to all ODOT employees, including himself. Barna did not deny that there were inconsistencies

between his timecards and the hours that he was arriving to and leaving from work. Barna characterized to investigators the discrepancies in his time reporting as, “an oversight on my part.” Barna acknowledged that during the period under review by the investigation, he did not use the Kronos InTouch device to accurately report his work times.

Investigators determined from their evaluation of Barna’s reported work times on his timecards and his arrival and departure times indicated by key-card door access and surveillance video that, for the period under review from February 7, 2017, through April 20, 2017, Barna reported and was paid by ODOT for approximately 22 hours over what door access records and video surveillance showed he reported working.

Accordingly, the Office of the Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendation and asks the director of the Ohio Department of Transportation to respond within 60 days with a plan detailing how this recommendation will be implemented.

1. Review the conduct of the employees identified in this report and determine whether administrative action is warranted.

REFERRAL(S)

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 Department of Transportation

FILE ID #: 2016-CA00041

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
November 15, 2017

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