



OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

REPORT OF INVESTIGATION CASE NUMBER: 2011-0010 WB

Sheryl G. Steckler
Inspector General

"Enhancing Public Trust in Government"

EXECUTIVE SUMMARY

Based on information received by the Office of Inspector General (OIG) concerning allegations against four Fleet Management Division (FMD) employees, the OIG initiated an investigation. The complainant was granted Whistle-blower (WB) status due to potential safety issues. The following allegations were investigated:

1. FMD Automotive Technician Phil Locker violated County policy by handling an "on-call"¹ emergency over the telephone, even though he was not physically located within the County, in order to receive overtime pay.
2. FMD Fleet Operations Supervisor Don Howard failed to make the appropriate notifications after being involved in an accident in his County-issued vehicle.
3. FMD Fleet Operations Supervisor Chris Grunder and Director Doug Weichman authorized the repair of Mr. Howard's vehicle with knowledge that it had been involved in an accident and that it had not been properly reported.

Following the conclusion of the OIG investigation, the allegation that Mr. Locker violated County policy by handling an "on-call" emergency over the telephone,² even though he was not physically located within the County, in order to receive overtime pay was **not supported**. The OIG investigation disclosed that while FMD encourages its "on-call" employees to handle matters telephonically, to the extent practical, neither County policy nor FMD internal procedures specifically address where "on-call" employees should be geographically located while assigned to such duties.

The two additional allegations that Mr. Howard failed to make the appropriate notifications after being involved in an accident in his County-issued vehicle and that Mr. Grunder and Mr. Weichman authorized the repair of such vehicle, were **not supported**. The OIG investigation disclosed no information to support that Mr. Howard's County-issued vehicle was involved in an accident.

¹ Also referred to as "standby time."

² According to FMD's "on-call" schedule for the month of April 2011, Mr. Locker was the designated "on-call" employee for fuel-site related problems.

RECOMMENDED CORRECTIVE ACTIONS

Although all three allegations were *not supported*, during the course of the investigation, procedural deficiencies were identified and therefore, the OIG recommends the following:

1. FMD develop a written procedure that addresses the roles and/or duties of employees in an “on-call” status, to include procedures that outline requirements for primary and secondary responders, as well as specify what constitutes being “in the area,” as referred to in County PPM CW-O-021.
2. Once written procedures are developed, FMD should ensure that all employees receive a copy of and acknowledgement of their understanding.
3. FMD develop a procedure to document daily operator’s checks (i.e., daily/weekly log) in accordance with County PPM CW-O-035, of assigned County vehicles, to include documented inspections of the vehicle exterior, by both the operator and their supervisor.

BACKGROUND

The County Facilities Development and Operations Department is responsible for various services to County Departments, to include the management and/or maintenance of County vehicles by FMD.

Based on the nature of the allegations contained within the complaint, and in accordance with Section 112.3187, Florida Statutes and Article XII, Section 2-423(11) of the County Code, a WB determination was conducted. On September 7, 2011, the Complainant (hereinafter referred to as “the Whistle-blower”) was granted Whistle-blower (WB) protection status and a WB Investigation was subsequently initiated by the OIG.

MATTERS INVESTIGATED AND FINDINGS

Matter Investigated (1):

Fleet Maintenance Division Automotive Technician Phil Locker violated County policy by handling an “on-call” emergency over the telephone, even though he was not physically located within the County, in order to receive overtime pay. If supported, the allegation would be a violation of County PPM CW-O-021; the County Payroll Policy and Procedures Manual; and Merit Rule 7.01.A. and 7.02.D.33.

Finding:

The information obtained *does not support* the allegation.

Testimony of the Whistle-blower

The WB stated that Mr. Locker was “on-call” on April 14, 2011 and handled an afterhours call telephonically; however, Mr. Locker was not “in the area” as required by County policy, as he (Mr. Locker) was actually in the Gainesville, Florida area that day. The WB stated that while Mr. Locker was appropriately compensated for handling the call, Mr. Locker should have never been able to do so because Mr. Locker was violating County policy.

Testimony of FMD Automotive Technician Phil Locker

Mr. Locker stated that he routinely is assigned “on-call” duty and has handled matters via telephone, as well as physically responded, if determined necessary. Mr. Locker further stated that even while not in an “on-call” status, he has handled calls via telephone. According to Mr. Locker, if he were to know in advance that he would not be in town while assigned “on-call” duty, he would coordinate with the assigned backup “on-call” employee. Mr. Locker stated that he was unable to recall where he was on April 14, 2011.³

Testimony of FDO Facilities Operations Director Jimmy Beno

Mr. Beno stated that he did not believe it was necessary for “on-call” employees to be in Palm Beach County since “on-call” employees are encouraged to handle after hours calls over the phone. Mr. Beno further stated that should the “on-call” employee be unable to physically respond, a backup employee is notified. In order to handle responses efficiently, FMD “on-call” employees have the ability to access the computer system remotely to fix most problems and onsite response is rarely required.⁴ According to Mr. Beno, if an “on-call” employee has to respond in person, the department pays them overtime from the time they leave their residence until the time they return to their residence.⁵

Mr. Beno advised that FMD does not currently have any written procedures in place for “on-call” assignments; however, employees are knowledgeable of the process based on years of experience. Mr. Beno stated that FMD currently follows County PPM CW-O-021, which addresses “on-call” status. According to Mr. Beno, employees are generally aware of their “on-call” assignments as there is a monthly memo distributed to all employees, which designates their duties for that time period.

According to the OIG Investigator’s review of County PPM CW-O-021, the following pertinent information was disclosed:

2.B. “On-call” status exists when an individual is assigned and will respond during a specific period of time...It means that the individual is in the area, can be contacted at a specific telephone or beeper number, and will respond immediately.

³ According to FMD’s April 2011 “on-call” schedule, Mr. Locker was the designated “on-call” employee.

⁴ According to Mr. Locker, most of the after-hours calls deal with simple problems (i.e., fuel site card readers or other process-related issues).

⁵ According to County policies, “on-call” employees are also entitled to be compensated for time spent on the phone handling a matter.

Matter Investigated (2):

Fleet Maintenance Division Fleet Operations Supervisor Don Howard failed to make the appropriate notifications after being involved in an accident in his County-issued vehicle. If supported, the allegation would be a violation of County Policy and Procedures Manual CW-O-007 and Merit Rule 7.01.A. and 7.02.D.33.

Finding:

The information obtained **does not support** the allegation.

Testimony of the Whistle-blower

The WB stated that Mr. Howard was assigned a Ford Escape (Asset Tag #10182513⁶) by the County which he (Mr. Howard) backed into a pole on or about April 17, 2011. According to the WB, no accident or incident report was filed with the County's Emergency Operations Center, as required. The WB acknowledged that he/she did not witness the accident or observe damage to the vehicle. Furthermore, the WB stated that he/she was the only person aware of the alleged incident.

Testimony of FMD Employees

FMD employees, Automotive Technician James Buttaccio, Fuel Systems Coordinator Michael Catanzaro, Automotive Technicians Harold Clements and Douglas Olszewski, and Equipment Technician Billie Thompson stated that they were all aware of County policies regarding accidents involving County vehicles. According to Mr. Buttaccio, Mr. Catanzaro, Mr. Clements, Mr. Olszewski and Mr. Thompson, employees who are involved in an accident must notify the County's Emergency Operations Center, their supervisor and, if there are any injuries, 911. They also stated that an accident packet is located in the glove box of each County vehicle, which includes a list of steps to take for the County employee who is involved in the accident.

Mr. Buttaccio, Mr. Catanzaro, Mr. Clements, Mr. Olszewski and Mr. Thompson all stated that Mr. Howard was assigned a Ford Escape (subsequently identified as Asset Tag #10182874); however, none of the employees had knowledge of Mr. Howard being involved in an accident.

Testimony of FMD Fleet Operations Supervisor Don Howard

Mr. Howard stated that while in an "on-call" status with the County, he drives a Ford Escape (Asset Tag # 10182874). Mr. Howard stated that he did not recall having a vehicle accident in the last five years; however, Mr. Howard definitively stated that he was not involved in an accident in April of this year.

Testimony of FDO Facilities Operations Director Jimmy Beno

Mr. Beno advised the OIG Investigator that FMD does not have an internal policy or procedure regarding vehicle checks as FMD currently follows County PPM CW-O-035,

⁶ The WB initially provided this Asset Tag number; however, according to County records, this Asset Tag number was incorrect. It was subsequently determined that during the time period in question (and currently), Mr. Howard was assigned to Asset Tag #10182874.

which states that “User Departments are responsible to...ensure that daily operator’s checks are performed...”

According to information obtained by the OIG Investigator from Risk Management Loss Control Manager Brian Berke, the following pertinent information was disclosed:

- Between January 1, 2010 and September 22, 2011, no incidents of a vehicle accident involving Mr. Howard had been reported.

According to information obtained by the OIG Investigator from FMD Automotive Technician Harold Clements, the following pertinent information was disclosed:

- Mr. Clements stated that his responsibilities include initiating, monitoring and documenting crash damage repair to County vehicles. He stated all records pertinent to the crash damage repair of County vehicles are maintained on a secured computer.
- Mr. Clements reported that according to his records, between January 1, 2011 and November 28, 2011, Asset Tag #10182874 had not been involved in an accident.

It is noted that the OIG Investigator’s physical inspection of Asset Tag #10182874 (December 16, 2011) disclosed no visible damage or repair to the vehicle.

Matter Investigated (3):

Fleet Maintenance Division Fleet Operations Supervisor Chris Grunder and Director Doug Weichman authorized the repair of an employee’s vehicle with knowledge that it had been involved in an accident and that it had not been properly reported. If supported, the allegation would be a violation of County Policy and Procedures Manual CW-O-004 and Merit Rule 7.01.A. and 7.02.D.33.

Finding:

The information obtained ***does not support*** the allegation.

Testimony of the Whistle-blower

The WB stated that subsequent to Mr. Howard backing his County-assigned vehicle into a pole, the body damage was repaired by one of the body shops who have contracts with FMD. Mr. Grunder handled the repair and Mr. Weichman was aware of both the accident and the repair.

Testimony of FMD Employees

Mr. Buttaccio, Mr. Catanzaro, Mr. Clements, Mr. Olszewski and Mr. Thompson reiterated their previous testimony in Matters Investigated (2) that they had no knowledge of Mr. Howard being involved in an accident.

Testimony of FMD Fleet Operations Supervisor Chris Grunder

Mr. Grunder stated that all employees who are involved in an accident must notify the Emergency Operations Center, their supervisor and, if there are any injuries, 911. Mr. Grunder stated that he is not aware of an accident involving Mr. Howard in April 2011. Mr. Grunder stated that Mr. Clements oversees vehicle accident repairs and that he (Mr. Grunder) only gets involved if there is a problem.

Testimony of FMD Director Doug Weichman

Mr. Weichman stated that all employees who are involved in an accident must notify the Emergency Operations Center, their supervisor and, if there are any injuries, 911. Mr. Weichman stated that he is not aware of an accident involving Mr. Howard in April 2011. Mr. Weichman opined that there would be no reason to conceal a vehicle accident because the "worst that could happen" would be for the employee to be issued points to their County driving record.

According to information obtained by the OIG Investigator, as of December 12, 2011, Mr. Howard has no record of points on his County driving record.

ARTICLE XII, SECTION 2-427

Pursuant to Article XII, Section 2-427 of the Palm Beach County Code, subjects of an OIG Investigation are entitled to submit a written explanation or rebuttal of the findings, prior to the OIG Investigative Report being finalized. The exception to this rule is for investigations designated as WB Investigations, in accordance with Florida Statutes.

Pursuant to § 112.3189, Florida Statutes, on December 28, 2011, the WB was provided the opportunity to review the OIG Investigative Report and provide a written response. The WB stated that the report was "accurate" and had no further comment.

This Investigation has been conducted in accordance with the ASSOCIATION OF INSPECTORS GENERAL Principles & Quality Standards for Investigations.