

OFFICE OF INSPECTOR GENERAL CITY OF JACKSONVILLE



REPORT OF INVESTIGATION 2019-0003

**JEA DEVELOPS NEW PROCEDURE RELATED TO EMPLOYEE
PRODUCTIVITY AS A RESULT OF TIME & ATTENDANCE FRAUD**

**LISA A. GREEN
INSPECTOR GENERAL**

AUGUST 6, 2019

DATE ISSUED

"Enhancing Public Trust in Government Through Independent and Responsible Oversight"

EXECUTIVE SUMMARY

In October of 2018, the Office of Inspector General (OIG) received information from JEA Audit Services concerning Michael McKenzie, Electric Distribution Engineer (civil service position), Electric Services and Development Projects, Electric Systems Division, JEA.¹ McKenzie was alleged to have falsified his time and attendance records between August of 2018 and September of 2018.²

In November of 2018, after a preliminary review and pursuant to §602.303(j), *Ordinance Code*, the OIG referred the complaint to the JEA Interagency Detective, Jacksonville Sheriff's Office (JSO), for a criminal investigation relating to Florida Statutes §812.014, Theft, and §838.022, Official Misconduct.

In January of 2019, the JEA Interagency Detective notified the OIG that the criminal investigation had concluded. The criminal investigation, based on available information at that time, determined JEA had incurred a financial loss (approximately \$3,842) due to McKenzie falsely reporting his time. The criminal investigation was discussed with the Office of the State Attorney for the Fourth Judicial Circuit (SAO) who declined criminal prosecution. Subsequently, the JEA Interagency Detective referred the complaint back to the OIG for administrative investigation.

The OIG and JEA Audit Services conducted a joint administrative investigation which *substantiated* McKenzie falsified his time and attendance records and received approximately **\$4,637** in compensation for falsely reporting approximately **93** straight-time hours on **fifty-two** workdays between August 20, 2018 and January 17, 2019.

During the investigation, McKenzie resigned effective June 7, 2019.

As a result of the investigation, JEA anticipates implementation of a newly established daily operating procedure to ensure JEA employees are productively engaged during paid work hours by October 31, 2019. In addition, JEA is seeking repayment from McKenzie of approximately **\$3,794** in overcompensation (\$4,637, less tax withholdings).

¹ Organizational structure in effect prior to JEA's re-organization in May of 2019.

² JEA's review was limited initially to this timeframe.

INVESTIGATIVE REPORT

In October of 2018, the Office of Inspector General (OIG) received information from JEA Audit Services concerning Michael McKenzie, Electric Distribution Engineer (civil service position), Electric Services and Development Projects, Electric Systems Division, JEA. McKenzie was alleged to have falsified his time and attendance records between August of 2018 and September of 2018.³

Based upon the information provided by JEA Audit Services, McKenzie's supervisor Jeremy Williams (Williams), Associate Manager, Electric Services and Development Projects, Electric Systems Division, JEA, was preparing for upcoming performance evaluations, which included obtaining JEA badge access records for his employees. During his review of McKenzie's badging records, Williams observed unusual badging access patterns and subsequently brought his concerns to the attention of JEA Audit Services. Based on an analysis conducted by the JEA Audit Services, JEA referred the matter to OIG for an administrative investigation related to possible falsification of time and attendance, in accordance with the OIG and JEA protocol.

JEA Audit Services found that McKenzie's badging access records and video data compared with his time and attendance records were inconsistent. JEA Audit Services identified several occurrences where McKenzie had left the JEA Tower, located at 21 West Church Street, Jacksonville, Florida, for extended periods of time (often up to two hours, generally between the hours of 11:00 a.m. and 1:00 p.m.) before returning to work during his regular work hours. The JEA Audit Services review determined McKenzie had used his personal vehicle when he left the JEA Tower.

In November of 2018, after a preliminary review and pursuant to Section 602.303(j), *Ordinance Code*, the OIG referred the complaint to the JEA Interagency Detective, Jacksonville Sheriff's Office (JSO), for a criminal investigation relating to Florida Statutes §812.014, Theft, and §838.022, Official Misconduct.

In January of 2019, the JEA Interagency Detective notified the OIG that the criminal investigation had concluded. The criminal investigation determined that JEA had incurred an approximate financial loss of \$3,842, equating to approximately 76.85 hours of compensation to which McKenzie was not entitled. The criminal investigation was discussed with the Office of the State Attorney for the Fourth Judicial Circuit (SAO) who declined criminal prosecution. Subsequently, the JEA Interagency Detective referred the complaint back to the OIG for administrative investigation.

The OIG and JEA Audit Services conducted a joint administrative investigation.

ALLEGATION:

Michael McKenzie, Electric Distribution Engineer (civil service position), Electric Services and Development Projects, Electric Systems Division, JEA, allegedly falsified his time and attendance records between August of 2018 and September of 2018.

³ JEA's review was limited initially to this timeframe.

GOVERNING DIRECTIVES

Florida Statutes

Chapter 812, Theft, Robbery, and Related Crimes

- §812.014, *Theft*;

Chapter 838, Bribery, Misuse of Public Office

- §838.022, *Official Misconduct*;

City of Jacksonville Civil Service and Personnel Rules and Regulations⁴

Disciplinary Actions, Grievances, and Appeals,

- *Section 9.05, Reduction in Compensation, Demotions, Suspensions without Pay and Dismissals*

JEA Policies and Procedures

- *JEA Fleet Services Procedure, Fleet Customer Services, January 2015*
- *JEA Organizational Policy and Procedure: Time and Attendance Reporting – Payroll Processing, effective April 17, 2017 (referred to hereafter as **Time and Attendance Reporting**)*

INVESTIGATIVE FINDINGS

RECORDS REVIEW

The OIG reviewed various records, including applicable Florida Statutes, City of Jacksonville *Ordinance Code*, JEA policies and procedures, and other records, as highlighted below:

Florida Statutes

§812.014, *Theft*, specifies in part:

- (1) *A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to, either temporarily or permanently:*
 - (a) *Deprive the other person of a right to the property or a benefit from the property.*
 - (b) *Appropriate the property to his or her own use or to the use of any*

⁴ Per Civil Service and Personnel Rules and Regulations, revised September of 2016, the rules are applicable to Civil Service positions and employees “within the consolidated City of Jacksonville.”

person not entitled to the use of the property ...

(2)(c) *It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is: ...*

1. Valued at \$300 or more, but less than \$5,000.

§838.022(1) (a), Official Misconduct, specifies in part:

It is unlawful for a public servant or public contractor, to knowingly and intentionally obtain a benefit for any person or to cause unlawful harm to another, by: (a) Falsifying, or causing another person to falsify, any official record or official document.

City of Jacksonville Civil Service and Personnel Rules and Regulations

Disciplinary Actions, Grievances, and Appeals, Section 9.05, Reduction in Compensation, Demotions, Suspensions without Pay and Dismissals, specifies in part:

Except for voluntary demotions or demotions resulting from reduction in force or reduction in compensation, for other than disciplinary reasons, employees with permanent status in the Civil Service may only have their compensation reduced, be demoted, suspended without pay or dismissed for cause.

(1) Cause shall include, but is not limited to;... willful violation of the provisions of law or department rules;... willful falsification of records (false statements, misrepresentation or fraud of official documents, such as ... attendance and leave records or work and production records)...

JEA Policies and Procedures

JEA Fleet Services Procedure, Fleet Customer Services, January 2015, stated in part:

1. Official Use and Accountability:

a) Operators will only use JEA vehicles and equipment for the direct performance of JEA business, duties, or functions.

Time and Attendance Reporting, effective April 17, 2017, stated in part:

All Employees are responsible for reporting their time and attendance by reviewing and being familiar with this policy ... Providing complete and accurate reporting of payroll information on a time card for each pay period ... At the end of each regular pay period, every JEA employee is

responsible for creating and submitting an accurate and complete timecard ...

JEA Audit Services Analysis

JEA Audit Services' analysis of McKenzie's time and attendance records, JEA badging reports, and photo snippets derived from video data for McKenzie determined there was approximately **\$3,842** in salary overpayments based on alleged false time and attendance records for approximately **76.85** hours for the periods of August 20, 2018 through September 27, 2018 and November 8, 2018 through December 20, 2018. The JEA Audit Service's analysis originally was limited to August 20, 2018 through September 27, 2018. However, the JEA Audit Service's analysis was expanded to cover the period of November 8, 2018 through December 20, 2018, in support of the criminal investigation.

Subsequent to the JEA Interagency Detective's criminal investigative report, the OIG requested JEA Audit services to conduct an additional time and attendance analysis for the period of December 24, 2018 through January 17, 2019.

JEA Audit Services reviewed McKenzie's time and attendance records, JEA badging reports, and photo snippets derived from video data for McKenzie for the period of December 24, 2018 through January 17, 2019. JEA Audit Services' time and attendance analysis determined McKenzie may have also falsified his time and attendance records and received approximately **\$795** in compensation for falsely reporting approximately **15.68** straight-time hours as worked.

Based on the video data, JEA Audit Services calculated the hours when McKenzie left the JEA office in his personal vehicle and when he returned to work, during the date ranges listed in the chart below.

Date Ranges	Number of Work Days	Number of Hours Associated with Overpayments	Salary Overpayments
08/20/18 – 09/27/18	22	42.38	\$2,095.27
11/08/18 – 12/20/18	20	34.47	\$1,746.94
12/24/18 – 01/17/19	10	15.68	\$794.66
Totals:	52	92.53	\$4,636.87

Based on the chart above, JEA Audit Services determined McKenzie may have received salary overpayments for falsely reporting approximately **92.53** hours totaling approximately **\$4,637** in compensation.

TESTIMONY

The OIG interviewed McKenzie's supervisor and co-workers. Of note, the co-workers were not familiar with McKenzie's routine and offered no relevant testimony.

Statement of Jeremy Williams, Associate Manager, Electric Services and Development Projects, Electric Systems Division

Jeremy Williams (Williams), Associate Manager, Electric Services and Development Projects, Electric Systems Division, was interviewed on February 1, 2019. Williams became McKenzie's supervisor in late October or early November of 2017. Williams stated he contacted JEA Audit Services to retrieve JEA badge access reports for all of his employees, to include McKenzie. He explained annual evaluations were coming due and he wanted to "check on his team." Upon reviewing the badge access reports from JEA Audit Services, he noticed inconsistencies in McKenzie's badge reports. Williams stated upon reviewing McKenzie's badge access reports, he observed "badge in" entries to the JEA garage where McKenzie's JEA vehicle was stored. In addition, he also observed "badge in" entries to another location not associated with JEA business activity or McKenzie's job duties. McKenzie parked his personal vehicle underneath the JEA Tower.

Williams stated McKenzie worked a 10-hour shift, Monday through Thursday from 6:45 a.m. to 4:45 p.m. Williams explained McKenzie worked in both an office setting and occasionally worked in the field. McKenzie was assigned JEA vehicle number 6813 for use on JEA-related projects out in the field. McKenzie was not allowed to work from home (telework) without supervisory approval. Williams stated McKenzie never requested to work from home. Williams explained there was no job-related reason why McKenzie would need to work from home.

On June 17, 2019, the OIG investigator telephonically contacted Williams who provided the following additional information:

Williams stated for December 18, 2018; January 2, 2019; January 7, 2019; and January 15, 2019, Williams never gave McKenzie permission to leave work to address personal business or to pick up his son, nor did McKenzie request permission to do so, either verbally or in writing (e-mail).

Statement of Michael McKenzie, Electric Distribution Engineer, Electric Services and Development Projects, Electric Systems Division⁵

Michael McKenzie (McKenzie), Electric Distribution Engineer, Electric Services and Development Projects, Electric Systems Division, was interviewed on May 8, 2019. McKenzie began employment at JEA in May of 1988. His normal work hours were Monday through Thursday, 6:30 a.m. to 5:00 p.m. McKenzie usually took lunch between 11:00 a.m. and 1:00 p.m. His set lunch period was thirty minutes. McKenzie worked in the office and out in the field. The average time he worked out in the field conducting JEA-related business was approximately two to three hours at a time. He worked in the field approximately three to four times a week.

McKenzie confirmed that he had been assigned JEA vehicle number 6813 to conduct JEA-related business. He stated he used his JEA vehicle every time he went out in the field and did *not* use his personal vehicle for any JEA-related business.

⁵ During the OIG investigation and subsequent to being interviewed on May 8, 2019, McKenzie submitted his resignation, effective June 7, 2019.

McKenzie reviewed the JEA Audit Services analysis, which depicted the dates and times he departed and returned from the JEA parking garage in his personal vehicle during work hours. In substance, the following chart summarizes McKenzie's explanations related to the analysis of the salary overpayments:

<u>McKenzie's Explanation of Departure/Return Times During Work Hours</u>	
Dates	McKenzie's Response
08/20/18 – 08/30/18	Personal Business
09/04/18	Possibly went for lunch or worked from home*
09/09/18 – 09/27/18	Personal Business
12/11/18**	1 st Time - Possibly JEA-related business* 2 nd Time - Personal Business
12/12/18 – 12/17/18	Personal Business
12/18/18**	1 st Time - Personal Business 2 nd Time - Picked up son (possibly had permission from supervisor*)
12/19/18 – 12/20/18	Personal Business
01/02/19	Personal Business (possibly had permission from his supervisor*)
01/03/19	Personal Business
01/07/19**	1 st Time - Personal Business 2 nd Time - Picked up his son*
01/08/19	Personal Business

Continued on Next Page ...

01/10/19 – 01/14/19	Personal Business
01/15/19**	1 st Time - Personal Business 2 nd Time - Picked up son*
01/16/19	Personal Business
<p>* McKenzie was provided the opportunity to present documentation regarding his responses for the dates in question. The OIG did not receive any subsequent information from McKenzie.</p> <p>** McKenzie left two separate times on this date.</p>	

McKenzie admitted he conducted personal business using his personal vehicle during work hours for approximately **92.53** hours. In addition, he stated he knew he had inaccurately reported his work hours on his time card when he entered a 10-hour workday, and was wrong for having done so.

McKenzie stated “JEA would want the hours back or at least the money value,” further stating, “he would do it however way he could.”

CONCLUSION

Based upon records reviewed, McKenzie’s admissions, and other statements obtained during the OIG investigation, the investigation *substantiated* that McKenzie falsified his time and attendance records and received compensation to which he was not entitled. The investigation concluded that McKenzie falsified his time and attendance records and received approximately **\$4,637** in compensation for falsely reporting approximately **93** straight-time hours as worked.

ADDITIONAL INFORMATION

During the JEA Audit Services analysis of McKenzie’s time and attendance records, it was discovered that from the period of January 1, 2018 through October 11, 2018,⁶ McKenzie received approximately **1,671** e-mails in his JEA e-mail account from various merchants, registrations, and social media providers that were not related to JEA business.

The OIG reviewed JEA’s *Acceptable Use Policy (JEA Corporate Policy TS B0010 IS 002, Revised October 2, 2018)*, which stated in part:

6.4.12 Do not use company provided email addresses for any activity that is not explicitly business related including merchants, registrations, postings and social media providers.

⁶ JEA advised the e-mail date range was broader than the time and attendance date range due to lack of available video data.

During McKenzie's OIG interview, he testified he annually signed and acknowledged he had read and understood the *Acceptable Use Policy*. McKenzie stated based on his understanding of the policy, he was aware he was not to use his JEA provided e-mail address for any activity that was not explicitly business related.

McKenzie reviewed a sampling of the **1,671** e-mails and stated he did *not* knowingly provide his JEA e-mail address to merchants, financial institutions, or social media providers. Further, McKenzie stated when he received these types of e-mails he did not read the e-mails and deleted the e-mails immediately.

RECOMMENDED CORRECTIVE ACTIONS

The OIG recommends the following corrective actions:

1. Establish a written policy or procedure to strengthen internal controls to ensure accurate time reporting and oversight of those employees whose job duties include field operations and/or who perform work remotely. Provide OIG with a copy of any newly established policy or procedure.
2. Take appropriate action to recover approximately **\$4,637** in salary overpayments. Provide the OIG with verification.

IDENTIFIED, QUESTIONED, AND AVOIDABLE COSTS

Identified Costs: \$4,636.87

Identified Costs is defined as losses from disbursements or activities associated with fraudulent or negligent activity, or mismanagement, which have substantial likelihood of recovery. Identified costs are those associated with disbursement or activities of the Consolidated Government.

The Identified Costs figure of **\$4,636.87** was derived from the JEA Audit Services review and comparison of McKenzie's time and attendance records, JEA badging reports, and photo snippets derived from video data of McKenzie leaving and returning to JEA in his personal vehicle from August 20, 2018 through September 27, 2018; November 8, 2018 through December 20, 2018; and December 24, 2018 through January 17, 2019. In addition, McKenzie admitted he inaccurately reported approximately **92.53** hours and received compensation he was not entitled to receive.

MCKENZIE'S RESPONSE

On July 11, 2019, the OIG mailed a copy of the draft Report of Investigation to McKenzie's residential address on file via certified mail. The OIG provided McKenzie an opportunity to submit a written explanation or rebuttal to the findings in the draft Report of Investigation, due

on or before July 22, 2019. Per the United States Postal Service's Proof of Delivery, the draft Report of Investigation was signed for (signature is illegible) on July 13, 2019. No response from McKenzie was received.

MANAGEMENT COMMENTS AND CORRECTIVE ACTIONS

On July 11, 2019, the President and Chief Operating Officer, JEA, was provided the opportunity to submit a written explanation or rebuttal to the findings in the draft Report of Investigation within twenty-one (21) calendar days, due on or before August 1, 2019.

On July 31, 2019, a written response was received from the Vice President and Chief Compliance Officer, JEA. The response is attached in its entirety to this report.

As part of the response, JEA advised that the Senior Leadership Team is currently reviewing a newly established daily operating procedure to ensure JEA employees are productively engaged during paid work hours. In addition, JEA sent a request to McKenzie for repayment of approximately **\$3,794** in overcompensation (\$4,637, less tax withholdings).

Attachment:

1 - JEA Management Response, dated July 31, 2019

cc: IG Distribution 2019-0003

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

21 West Church Street
Jacksonville, Florida 32202-3139

July 31, 2019



Ms. Lisa A. Green
Inspector General
Office of Inspector General, City of Jacksonville
231 E. Forsyth Street, Suite 470
Jacksonville, FL 32202

ELECTRIC

WATER

SEWER

Subject: JEA's Management Response Pursuant to OIG Report of Investigation
Number 2019-0003

Dear Ms. Green:

We are herein providing our management response to your DRAFT Report of Investigation dated July 11, 2019, which includes a summary of our corrective action plan, its status, and any supporting documentary evidence.

Recommended Corrective Actions

1. Establish a written policy or procedure to strengthen internal controls to ensure accurate time reporting and oversight of those employees whose job duties include field operations and/or perform work remotely. Provide OIG with a copy of any newly established policy or procedure.

Management's Response

A W/WW Group has developed a daily operating procedure that *"...Ensures employees are productive for their work day, actively serving our customers... expects and requires its employees to be productively engaged throughout their work (paid) hours..."*, and then describes how this is to be executed and measured. The Senior Leadership Team is reviewing this procedure as a template for implementation across all similar business units. We expect that a draft procedure will be ready for implementation by October 31, 2019, after which we will provide you with a copy.

2. Take appropriate action to recover approximately \$4,637 in salary overpayments. Provide the OIG with verification.

Management's Response

On July 29, 2019, JEA sent a certified return receipt letter to Mr. McKenzie requesting net restitution (*after Federal income tax and Medicare withholding*) of \$3,793.55.

We thank you for your insightful recommendations. Please contact me if you need additional information regarding our corrective action plan.

Sincerely,



Ted Hobson
VP & Chief Compliance Officer
JEA
21 W. Church Street, T16
Jacksonville, 32202
(904) 665-7126; hobste@jea.com

Cc: Ms. Melissa Dykes, President and Chief Operating Officer
Mr. Herschel Vinyard, Chief Administrative Officer

Enclosures:

- 1) JEA Restitution Request Letter to Michael McKenzie dated July 29, 2019
- 2) Net Pay Calculation for Restitution Amount

21 West Church Street
Jacksonville, Florida 32202-3139



29 ML
July 24, 2019

Certified Return Receipt Requested

Mr. Michael McKenzie
10926 Natalie Drive
Jacksonville, FL 32218

ELECTRIC

RE: Collection of Restitution Payment of \$3793.55

WATER

Dear. Mr. McKenzie:

SEWER

As you are aware, the City of Jacksonville's Office of Inspector General conducted an investigation into your fraudulent activities as related to time theft from JEA. On May 8, 2019 in your interview with the investigator you stated that "JEA would want the hours back or at least the money value, further stating that you would do it however way you could." It was determined that you were overcompensated for at least 92.53 hours of pay while employed as an Electric Distribution Engineer at JEA. Based upon your hourly rate at the time of \$50.68 this overpayment amounted to a net of \$3793.55. JEA seeks to be made whole, with collection of a restitution payment, for the full amount you were overcompensated for time not worked.

Within (10) ten business days of receipt of this letter, please send the restitution payment of \$3793.55 to my direct attention at:

Lynne C. Rhode
Chief Legal Officer
JEA
21 West Church Street/Tower 16
Jacksonville, FL 32202

If you fail to make the full restitution payment owed to JEA, JEA shall seek all lawful measures available to recover payment.

Thank you for prompt attention to this matter.

A handwritten signature in black ink, appearing to read "Lynne C. Rhode", is positioned above the typed name and title.

Lynne C. Rhode
JEA Chief Legal Officer

Calculated at 07/12/2019 12:44:37

Gross Pay	4637.00
Federal	776.21
Fica	0.00
Medicare	67.24
State	0.00
Net Pay	3793.55