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Synopsis of OIG Final Report #101403-106 (DPW)

Hon. President and Members of the City Council
400 City Hall

01/24/2011

Attached please find the Office of the Inspector General's (OIG) Final Report of Investigation and Exhibits relating to two Department of Public Works (hereinafter "DPW") Laborers who engaged in conduct that resulted in incompetent, inefficient, or negligence in the performance of duty. The report further considers the supervisory conditions that permitted the conduct to go unabated.

The OIG investigation began with information from confidential sources in the community who indicated that the two employees regularly spent hours in the same location seemingly loitering and engaged in other conduct that did not reflect positively upon the City. The investigation, which involved direct observation, records examination, use of electronic oversight, and interviews revealed a pattern of incompetent, inefficient, and negligent conduct by the DPW Laborers, as well as a failure to adequately supervise their conduct. Additionally, the OIG considered potential policy violations and also has made recommendations designed to improve the efficiency and effectiveness of supervision.

The OIG appreciates the assistance provided by the DPW and the written response to the draft report provided by the Department of Human Resources Management. The OIG remains committed to providing independent investigations and audits that provide for transparency of government, a solid foundation for meaningful policy review, and a platform for staff accountability.

Attachment

DNM/

cc: OIG Admin/Case file
I:/mcclintock/public synopsis/IG 101384-106 mem-council

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Baltimore, MD 21202

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OFFICE OF THE INSPECTOR GENERAL BALTIMORE CITY

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Synopsis of OIG Report #IG 101403-106: Department of Public Works Failure to Work/Inadequate Supervision

On Monday, 08/16/2010, the Office of Inspector General (hereinafter referred to as “OIG”) was contacted by a citizen who wished to remain anonymous (hereinafter referred to as “CI-1”) regarding two City employees who appeared to be regularly loitering for several hours during most workdays in and around the S & J Food Mart (hereinafter referred to as “S&J”) located in the 3200 block of Eastern Avenue in Baltimore, MD. CI-1 provided descriptions of the two employees indicating, in general, that the first and most often observed was a white male with a very large and distinctive “mullet-” type hair cut (hereinafter “Laborer #1”), while the second, who was not always present, was an African American female (hereinafter “Laborer #2). Both wore orange t-shirts with “DPW” printed on them, identifying them as employees of the Department of Public Works (hereinafter referred to as “DPW”).

Further, CI-1 indicated that the two were usually seen operating City Vehicle #2270 and could be observed in the area of the S&J three to five times per week. CI-1 also reported that he had observed the white male on 08/16/2010 at 2:15 pm pouring a Busch beer into a Styrofoam cup before consuming it. The white male then left the cup on a neighborhood step where CI-1 later smelled it and confirmed it smelled like beer. The African American female was also observed playing KENO in the S&J on occasion.

Based on the aforementioned information, a preliminary inquiry was initiated to review the validity of the allegations, to assess the structure and oversight of employees in these positions, and their specific job duties and responsibilities.

Initially, the OIG retrieved a vehicle activity report for Stock #2270 from the Telogis system. Telogis permitted a search to be run that reflected the amount of time the vehicle was located within 500 feet of the S&J. During the period between 04/05/10 through 8/23/2010 the report indicated that the vehicle was located in the designated area between 2.54 – 9.33 hours per day.

Observations were made as follows:

08/18/2010 (9:00 am – 1:45 pm)

At approximately 10:13 am, an OIG Agent entered the S&J and observed Laborer #2 purchasing tickets to the Quinsella Race Trax (a Maryland Lottery virtual racing game) while Laborer #1 was purchasing daily lottery tickets. Laborer #2 was asked to explain how that particular KENO game worked; she responded that “I really don’t know how to explain it. You just play on the horses you want to win.” Laborer #1 then began to berate the female worker behind the counter by directing and using vulgar language at her about various topics. For example, Laborer #1 asked the female, “What the f--- do you do all day besides stand behind that f---ing counter?” When the female responded by asking why Laborer #1 was

using that language, Laborer #1 told her, “Oh, f---ing grow up.” At one point, the S&J employee said to Laborer #1, “Don’t you have somewhere to go, like work for a living?” While laughing, Laborer #1 responded, “I am working.”

Shortly thereafter, Laborer #1 left the S&J and proceeded a short distance away to the area of Bank and Clinton Streets in the City #2270 Pickup. Laborer #1 exited the vehicle, crossed the street, and in the 400 block of Clinton Street yelled out something that could not be distinguished.

Shortly thereafter three children exited one of the row houses, and Laborer #1 began to play with them for approximately one hour.

08/19/2010 (7:45 am – 2:00 pm)

Laborer #1 was observed exiting DPW/SW Vehicle #2270 at the corner of Clinton and Bank Streets where he crossed the street, and called out again in the 400 block of Clinton Street. A teenage female exited one of the row houses and yelled to Laborer #1 that the “kids were still sleeping.” Laborer #1 then walked to the S&J. Laborer #1 returned to Clinton and Bank Streets, retrieved DPW/SW Vehicle #2270, and parked on Eastern Avenue. Laborer #2 then exited the S&J and sat in the passenger side of the vehicle for approximately 15 minutes until Laborer #1 exited the S&J while drinking from a container within a plastic bag. Laborer #1 then entered the DPW/SW vehicle on the driver’s side and drove toward downtown Baltimore.

A second concerned citizen was identified who agreed to provide information and/or confirmation of the whereabouts and periods of time when both DPW workers returned to the area of Eastern Avenue and Clinton Street. This second concerned citizen also wishes to remain anonymous and will be referred to hereinafter as “CI-2.”

08/20/2010 (8:00 am – 12:00 pm)

On the third day of surveillance, an OIG Agent was again able to mingle with Laborer #1 and Laborer #2 in the area of the S&J. Both seemed quite willing to engage in mundane conversation about the City of Baltimore.

At approximately 8:15 am in the area of S&J and remained in that location until approximately 2:00 pm. During that time, Laborer #1 parked in front of the S&J and exited the vehicle with Laborer #2. CI-1 and CI-2 reported that both DPW workers were in S&J. At 10:20 am, Laborer #1 drove to Holabird Avenue in DPW/SW Vehicle #2270. While following this vehicle from a distance, confirmation was provided by CI-1 that Laborer #2 remained in S&J playing KENO machines.

At approximately 9:30 am a female from a nearby business approached Laborer #1 and stated to the undersigned that he is “always here and never doing anything.” In addition, the female was heard saying, “I have the Deputy Mayor coming here shortly, so you need to leave” to Laborer #1.

Laborer #1 was then heard by the undersigned yelling and cursing that “if I lose my job, there is going to be trouble for that bitch. I am telling you that bitch is going to regret it.” Laborer

#1 and Laborer #2 abruptly left the area; however, they returned and began to patrol Eastern Avenue in that vehicle for approximately 20 minutes.

At 10:43 am, both Laborer #1 and Laborer #2 exited Vehicle #2270 and remained standing at the vehicle, parked at the corner of Boulden Street and Eastern Avenue. At 10:46 am, upon the arrival of a Deputy Mayor, Laborer #2 reached into the vehicle and hit the horn three times. At that point, Laborer #1 moved to the front threshold of S&J where he observed the Deputy Mayor entering another building.

Although OIG observation ceased at 11:30 am, information from CI-1 and CI-2 both confirmed Laborer #1 and Laborer #2 remained in the area of Eastern Avenue until 2:15 pm.

FINDINGS AND VIOLATIONS

Findings: Laborer #1

1. Laborer #1 operated DPW/SW Vehicle # 2270 on the days observed. This is the vehicle he is routinely assigned.
2. Laborer #1 used the City vehicle for personal use on at least one occasion and observed by surveillance to pick up and dispose of personal trash from an address between 200-400 block of Clinton Street.
3. Laborer #1 regularly visits his grandchildren, brother, and sister during business hours in the area of Clinton Avenue, Baltimore, MD.
4. Laborer #1 admitted that he knew his actions violated City of Baltimore policy for vehicle usage and that he was aware of the consequences involved.
5. Laborer #1 consumed alcohol while working and allowed Laborer #2 to operate the vehicle based on information from interviews.

Violations: Laborer #1

Laborer #1 violated the Rules of the Baltimore City Department of Personnel and the Baltimore City Civil Service Commission. More specifically, Rule 40, "Standards of Conduct and Performance" and Rule 56 "Cause for Discharge, Demotion, and Suspension." Laborer #1 further violated A.M. 501-1, City-Owned Vehicles, specifically A.M. 501-8, Activity-Assigned Vehicles.

1. Rule 40, Part L: *"Employees shall conduct themselves at all times in a manner becoming of a City employee and shall not bring scandal, expense, or annoyance upon the City through crime, conflict of interest, failure to pay just debts, or other improper or notorious behavior."*

Laborer #1 violated this rule by utilizing City vehicles for personal use and other personal business on at least three days of monitored surveillance and/or numerous other days over the course of the previous six weeks as described by two confidential and concerned citizens and/or failing to perform his duties in an acceptable manner and as a regular course of conduct. The aforementioned actions constitute a waste of

City resources and the abandonment of his work, without permission, causing expense and/or annoyance upon the City through improper behavior.

2. Rule 56, Section (1): *“Discharge, demotion, or suspension of an employee in the Civil Service shall be for any just cause. Discharge shall be only for . . . (c) conduct which causes irreparable breach of trust.”*
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Laborer #1 violated this rule by utilizing City vehicles for personal use and other personal business on at least three days of monitored surveillance and/or numerous other days over the course of the previous six weeks as described by two confidential and concerned citizens and/or failing to perform his duties in an acceptable manner and as a regular course of conduct. Said conduct constitutes conduct which causes an irreparable breach of trust.

3. Rule 56, Section (2) Subsection (a): *“That the employee has violated any lawful or official regulation or order, or failed to obey any lawful or reasonable direction made or given by a superior officer, when such failure to obey amounts to an act of insubordination or serious breach of discipline which may reasonably be expected to result in loss or injury to the City or the public.”*
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Laborer #1 violated this rule by utilizing City vehicles for personal use on a regular basis to take care of personal business while utilizing his assigned City work vehicle on at least three days of monitored surveillance and/or consuming alcohol while working, aforementioned actions constituting waste of City resources and abandonment of his assigned duties. Said actions constituting acts of insubordination or serious breach of discipline that may reasonably be expected to result in loss.

4. Rule 56, Section (2) Subsection (h): *“That the employee has committed acts while on- or off-duty which amount to conduct unbecoming to an employee of the City.”*
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Laborer #1 violated this rule by utilizing City vehicles for personal use and other personal business on at least three days of monitored surveillance and/or numerous other days over the course of the previous six weeks as described by two confidential and concerned citizens and/or failing to perform his duties in an acceptable manner and as a regular course of conduct and/or engaging in the consumption of alcohol while working. Said actions constituting conduct unbecoming an employee of the City.

5. A.M. 501-8, General Provisions, Personal Business: *“Activity-assigned vehicles may not be used for pleasure or to conduct personal business.”*
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Laborer #1 violated this rule by utilizing City vehicles for personal use, transportation of non-City employees, and other personal business on at least three days of monitored surveillance and/or numerous other days over the course of the previous six weeks as described by two confidential and concerned citizens. Said actions constituting engagement of personal business while on duty.

6. City of Baltimore Substance Abuse Control Policy Section II. A. Employees 1: *“All employees must remain free from drug or alcohol abuse.”*
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Laborer #1 violated this rule through his consumption of alcohol during the course of his routine duties on 08/16/2010.

Findings: Laborer #2

1. Laborer #2 acknowledged she knew of a number of occasions when Laborer #1 utilized the City vehicle to conduct personal business, while working with him.
2. Laborer #2 rode in the vehicle or stayed in the vehicle during these occasions and failed to take action, including reporting the conduct.
3. Laborer #2 failed to report the suspected alcohol abuse of Laborer #1 as urged by the City of Baltimore Substance Abuse Control Policy.

Violations: Laborer #2

Laborer #2 violated the Rules of the Baltimore City Department of Personnel and the Baltimore City Civil Service Commission, more specifically Rule 56 “Cause for Discharge, Demotion, and Suspension.”

1. Rule 56, Section (2) Subsection (i): *That the employee has been engaged in fraud, theft, misrepresentation of work performance, misappropriation of funds, unauthorized use of City property, obstruction of an official investigation or other act of dishonesty.”*
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Laborer #2 violated this rule through her tacit participation in, and failure to report Laborer #1’s personal use of a City vehicle for personal errands and to haul garbage from a family member’s residence to the City landfill. Said action resulting in the misrepresentation of work performance and/or unauthorized use of City property and/or obstruction of an official investigation or other act of dishonesty.

2. Rule 56, Section (2) Subsection (h): *“That the employee has committed acts while on or off duty which amount to conduct unbecoming to an employee of the City.”*
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Laborer #2 violated this rule through her engagement in loitering in and around the S&J and/or playing the lottery and/or failing to engage in the business of the DPW during significant portions of the workday. The aforementioned constitutes acts that are unbecoming to an employee of the City.

3. City of Baltimore Substance Abuse Control Policy Section II. A. Employees 2: *“Are urged to report any suspected substance abuse by any other employee during work hours, including lunch periods.”*
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Laborer #2 violated this rule through failure to report the consumption of alcohol by Laborer #1 during the course of the workday on 08/16/2010. Said action resulting in a violation of City policy.

Findings: Department of Pubic Works, Solid Waste

1. That Laborer #1 and Laborer #2 routinely and openly engaged in various acts that are inconsistent with the level of service, course of conduct, and work ethic each employee is obligated to provide to the City of Baltimore.
2. That supervisory oversight consisted solely of passive efforts to monitor complaints and complaint levels.
3. That employee tasking was not structured in a manner that was conducive to control and verification efforts.
4. That the level of supervision was insufficient to provide adequate supervision.

The facts presented in this matter indicate that the overall supervisory structure and methodology in place at the Kane Street Depot was not effective in managing the street cleaning operations. There is no evidence that indicates any proactive efforts by the Assistant Chief of DPW/SW Collections, who was the de facto first-line supervisor for the involved employees. Further, no evidence was located that DPW's supervisory support structure requires or supports meaningful and affirmative supervisory conduct.

According to DHRM, there are six levels of staffing possible between Laborer #1 and Assistant Chief of DPW/SW Collections as follows:

	<u>CLASS</u>
Laborer #1	Laborer 423
	Laborer Crew Leader I 426
	Laborer Crew Leader II 429
	Solid Waste Lead Worker 434
	Solid Waste Supervisor 087
	Solid Waste Superintendent 110
	Solid Waste Disposal General Superintendent 112
Supervisor	Assistant Chief Division of Solid Waste Collections 117

Although the DPW may well have collapsed certain levels for efficiency or determined a structure that was more desirable, the OIG believes the result was a system that provided inadequate supervision.

DPW-HR indicated that an additional supervisor was in a position on paper that should have served as the immediate supervisor of Laborer #1, however, the reality at Kane Street according to the Assistant Chief Division of Solid Waste Collections was that he was "mostly responsible" for the direct supervision of Laborer #1 due to a period of transition that was occurring from DPW Route Services to DPW Special Services.

RECOMMENDATIONS

1. The OIG recommends that the Department of Public Works, Solid Waste Division consider requiring the use of proactive field performance oversight and review.
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The OIG review of this matter indicated that supervisory review for the street clean-up labor crews was purely reactive in nature. The OIG recommends the use of a system that requires more specific daily tasking. While there are many ways to remedy the situation, one method would be to break down the broad task of keeping Eastern Avenue swept to five individual sections that could be specifically assigned each day. In addition, requiring crews to sign off on completed tasks and sub-tasks would provide an additional supervisory accountability tool that could be easily verified.

Further, the established classification structure for the Bureau of Solid Waste includes 6 levels between the Assistant Chief Division of Solid Waste Collections and the involved crew that would likely have been in a better position to provide first level oversight. First line supervision is typically tasked with performing regular and unscheduled site visits to ensure that assigned fieldwork is being performed adequately.

2. The OIG recommends that the DPW, generally, and the Bureau of Solid Waste/Collections, specifically, improve the use of the City's existing global positioning technology.
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The OIG recognizes the significant investment the City has made in developing a useful global positioning system, commonly referred to as the "Telogis," that is currently installed in many DPW vehicles, including the vehicle used by the staff involved in this assessment. The Telogis system is useful for a variety of reasons that include fleet management, inappropriate use of City vehicles, and employee accountability. The OIG understands that many of DPW's supervisory staff has been trained in the use of Telogis but that it is not routinely used as a performance accountability tool.

The OIG strongly encourages the DPW to require supervisors of field crews to routinely access and apply the information available through Telogis to assist in effectively supervising staff. Efforts to increase utilization of Telogis as a supervisory aid should be incorporated into the work plans of supervisors in the Bureau of Solid Waste, including the generation of specific reports and related analysis that will allow the agency to measure the successful utilization of this tool.