

**Maryland-National Capital Park and Planning Commission
Office of the Inspector General
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Internal Control Report

**Maryland-National Capital Park Police
Montgomery County Division
Allegations of Managerial Abuse**

MC-001-2023-B

October 18, 2022

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A. Overall Perspective

On April 28, 2022, the Office of Inspector General (OIG) was notified of possible administrative irregularities within the Maryland-National Capital Park Police, Montgomery County Division (Park Police). The OIG determined the allegations warranted additional review.

During the completion of the investigation, the OIG identified opportunities to strengthen internal controls within Park Police. A confidential Fraud, Waste and Abuse Report (MC-001-2023-A) is included with this Internal Control Report (MC-001-2023-B).

The investigation was conducted in accordance with *Principles and Standards for Offices of Inspector General*, approved by the Association of Inspectors General.

The investigation covered activities between November 1, 2021 – June 30, 2022.

B. Findings and Recommendations

1. Enhance Current Procedures for Secondary Employment

Issue: Current operating procedures do not provide adequate disclosure and transparency to Park Police Command Staff responsible for administration of Secondary Employment engagements.

Current operating procedures require Officers to submit a Secondary Employment Request Form (Form) (**Exhibit A**) for approval, prior to accepting secondary employment. Due to the nature of most secondary employment engagements, the hours and days to be worked are unknown upon submission of the Form. The Form may cover an extended time frame, (e.g., six months) of anticipated secondary employment.

The Park Police Communication Section (Dispatchers) system is used to capture real time secondary employment engagements. Officer's call dispatch upon arrival and departure of the secondary employment engagement. However, there is no routine reporting out of the dispatch system to Command Staff, including Officer's responsible for timecard approval, notifying them of secondary employment engagements. Dispatch reports are only issued upon request.

Criteria: Timecard approvers are responsible for ensuring recorded secondary employment was properly approved and did not overlap with current work schedule.

FOP Collective Bargaining Agreement, Section 14.4, Secondary Employment requires the following disclosures:

- a) The name, address and telephone number of the employer for whom the officer will work during off-duty hours.
- b) The hours and days to be worked.
- c) A description of the duties involved. The officer will notify his or her Division Chief within three (3) days of any material change in the employment information previously provided.

Effect: The current secondary employment procedures do not provide Command Staff, including timecard approvers, with the data necessary to provide the required oversight of Park Police Officers. In addition, it increases the possibility of fraud, waste, and abuse as management cannot audit dual recording of sick leave and/or workers compensation leave with secondary employment assignments.

Cause: The nature of secondary employment does not support reasonable advance notice of the engagement to Park Police management. Although real

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time secondary work engagements are captured in Park Police dispatch records, a review of actual secondary work assignments is not being completed.

Issue Risk: Medium

Recommendation: The level of internal controls required to administer the secondary employment program must be balanced to ensure adequate oversight without excessive administrative burden. The current process should be enhanced to support accessible reporting of secondary employment engagements.

Management Response: All Officers are already required to call out and provide real time information to the Communications Section (Dispatchers) on their location, time, etc. via a recorded public radio system. This protocol has been utilized by the Park Police for an estimated 15-years as it provides both a safety component and accountability measure. This provides real time notification before engaging in secondary employment and allows for management and/or the employee's supervisor to confirm date/time/location if necessary.

For purposes of greater document efficiency, management will implement an additional step that requires each officer to submit to Internal Affairs, a monthly log of off-site secondary employment opportunities worked to include the dates and times. For example, any off-site secondary employment worked in the month of September, will be reported to the Internal Affairs Section by October 5, 2022. To enhance efficiency in this new process, we will attempt to create a secure online portal that provides a digital signature and receipt of the same for future tracking if necessary.

Expected Completion Date: October 2022

Follow-Up Date: January 2023

2. Fully Complete Commission Vehicle Mileage Logs

Issue: Mileage logs are incomplete for civilian¹ Park Police employees. Employees are not completing all sections of the log, including identification of business versus commute miles. In addition, business justifications for mileage is not consistently documented.

On March 27, 2022 the Commission's Secretary-Treasurer issued an updated Commission vehicle mileage log to be used by all drivers of Commission vehicles. The log captures all required information.

Criteria: Per Commission Practice 6-10, *M-NCPPC Vehicle Use Program*, "Mileage logs must be maintained by drivers of all M-NCPPC vehicles. The Secretary-Treasurer shall develop and issue vehicle mileage forms. Mileage may be tracked through written reports or electronic devices. Completed logs shall be provided to the Secretary-Treasurer as set forth below and include, at a minimum information on the name and position of the driver, the primary work location, the overnight location of the vehicle (if applicable), the date and purpose of travel including distinctions between business and nonbusiness use if applicable, and beginning and ending mileage. Employees with take home vehicles must identify all one-way commutes between their worksite and home".

Effect: Failure to maintain a complete and accurate vehicle mileage log impedes Commission management from performing their fiduciary responsibility of ensuring Commission assets are properly utilized.

Failure to submit a vehicle mileage log that distinguishes between business and non-business mileage will result in the reporting by the Secretary-Treasurer of taxable income for the driver to be based on the full annual lease value of the vehicle.

Cause: Civilian employees were utilizing different legacy mileage logs. Although they were completing basic information such as date, as well as, starting/ending mileage, there were inconsistencies in other requested information.

Issue Risk: Medium

Recommendation: We recommend all civilian employees complete all sections of the vehicle mileage log. In addition, we recommend distribution of the new vehicle mileage log issued by the Secretary-Treasurer on March 27, 2022. Finally, we recommend periodic review of the logs to ensure they are fully completed, per Practice 6-10 requirements.

¹ Covered officers are not required to maintain Commission vehicle logs.

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Management Response: Civilian employees will be instructed to complete all sections of the vehicle mileage log. Management was unaware of the new vehicle mileage log created by the Office of the Secretary-Treasurer until June 2022. Upon notice, management immediately provided the same to each affected civilian employee for utilization. Furthermore, management is working with the Department of Parks Deputy Director of Operations to test a GPS based vehicle tracking system which may further enhance the efficiency and transparency of this process. The Internal Affairs Section will conduct periodic inspections of the log to ensure compliance.

Expected Completion Date: October 2022

Follow-Up Date: January 2023

3. Ensure Administrative Leave is Properly Approved

Issue: Administrative Leave is not approved by the Department Head (Director, Montgomery County Department of Parks) as required by the Commission’s Merit Rules.

We reviewed Kronos timecard records for all Montgomery County Park Police Officers for the period of November 21, 2021 through May 16, 2022 (6 months) to identify Administrative Leave paid to the employee. During our analysis, we excluded the following circumstances where Administrative Leave was provided:

- 1) As a result of a pending investigation by Human Resources and/or Internal Affairs
- 2) COVID Vaccines
- 3) COVID Quarantine
- 4) Vaccination Waiver Requests
- 5) Bereavement
- 6) Performance Award

The OIG excluded investigations as it is reasonable to assume the Department Director was notified of the investigation. We excluded circumstances 2-6 as they are covered by Commission Administrative Procedures, Commission Notices, or approved programs.

After eliminating the above noted exclusions, we identified 144 hours of Administrative Leave that was not approved by the Montgomery County Department of Parks, Department Head. The following table includes the leave hours and timecard comments. Some comments state the leave was approved by the Police Chief, however, some do not identify the highest level of approval.

Employee	Hours	Timecard Comment
1	4	PTO-FOP Leave
2	80	Approved by Chief McSwain and General Counsel
3	30	Approved by Chief McSwain after suspected anxiety attack due to stress
4	10	PTO-Admin Leave
5	20	Traumatic Stress Incident
TOTAL	144	

Criteria: Commission Merit System Rules and Regulations Chapter 1500, *Subchapter 1530 – Administrative Leave*, states “Administrative leave is paid leave that may be granted by the Executive Director or Department Head to one or more employees without altering employees’ accrued leave balances”.

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Effect: Approval of Administrative Leave by the Department Head helps ensure consistency across the Department.

Cause: This recommendation identifies a clear violation of the Merit Rules. However, Chief McSwain provided additional insight into the practicability of compliance given the breadth of Administrative Leave usage. In addition, Chief McSwain stated he thought the term Department Head under Merit Rule 1530 (Administrative Leave) referred to what are commonly called Division Chiefs.

Chief McSwain's complete response can be found in **Exhibit B**.

Issue Risk: Medium

Recommendation: Management should adhere to the Merit System Rules and Regulations for granting approval of Administrative Leave to employees or obtain a documented delegation plan from the Department Head.

Management Response: In my professional opinion, it would not be feasible for the Montgomery Parks Director to regularly process hundreds of Administrative Leave requests per year submitted by every Division Chief on a 24/7 – 365 basis. I recommend that the Executive Director formally delegate this responsibility to each Division Chief for efficiency of operations and out of respect for the unpredictable nature of life.

Expected Completion Date: A formal request has been made to the Executive Director to review current Merit Board requirements.

Follow-Up Date: January 2023

C. Conclusion

We believe the findings identified and communicated are correctable and management's responses to all recommendations satisfactorily address the concerns. It is the responsibility of management to weigh possible additional costs of implementing our recommendations in terms of benefits to be derived and the relative risks involved.

We wish to express our appreciation to the Montgomery County Department of Parks, Park Police Division for the cooperation and courtesies extended during the course of our review.



Robert Feeley, CICA, CFE, CGFM, CAA
Assistant Inspector General



Renee Kenney, CPA, CIA, CISA, CIG
Inspector General

October 18, 2022

**EXHIBIT A
SECONDARY EMPLOYMENT REQUEST FORM**



**MARYLAND-NATIONAL CAPITAL
PARK POLICE**

MONTGOMERY COUNTY DIVISION
12751 LAYHILL ROAD
SILVER SPRING, MD 20906



Memorandum

DATE:

TO: Darryl W. McSwain, Chief of Police

VIA:

VIA:

VIA:

FROM:

REF: Secondary Employment Request/Notice

As required by Divisional Directive and the Collective Bargaining Agreement between the Fraternal Order of Police, Lodge #30, and MCGEO-UFCW Local 1994, all Division employees are required to notify the Division Chief of secondary employment. Notification must be made within three (3) days for FOP members and within seven (7) days for employees covered under MCGEO-UFCW and all other not covered under either agreement. Therefore, I am notifying you of the following employment:

TYPE OF REQUEST: **New Notice** **Change Notice**
- Required within (3) days of any material change in the information previously submitted.

<p>Part 1:</p> <p>NAME OF EMPLOYER: _____</p> <p>TYPE OF ESTABLISHMENT: _____ IS ALCOHOL SOLD/SERVED: _____</p> <p>ADDRESS OF EMPLOYER: _____</p> <p>CONTACT PERSON: _____ TELEPHONE #: _____</p> <p>HOURS AND DAYS TO BE WORKED (IF KNOWN): _____</p> <p>WILL EMPLOYMENT EXCEED 20 HOURS PER WEEK: _____</p> <p>DOES EMPLOYMENT INVOLVE POLICE OR SECURITY SERVICES OFF OF PARK PROPERTY: _____</p> <p>DESCRIPTION OF DUTIES _____</p> <p><i>*Officers are permitted to use their duty belt (including equipment), vest, radio, and commute to and from secondary employment and sit in their Division issued vehicle while working secondary employment in accordance with the FOP-CBA Sect. 12.3 and 14.4. No officer or employee will wear the park police uniform, insignia or use other Commission equipment for any secondary employment off MNCPPC property. (See Division Directives and respective bargaining agreement for additional guidelines and restrictions.)</i></p>

(Over)

EXHIBIT B
COMPLETE RESPONSE TO ADMINISTRATIVE LEAVE FINDING

The following comments were provided by Chief McSwain.

Park Police Management does not dispute that all Administrative Leave has not been submitted to the Montgomery Parks Director. In my entire 4-year tenure with the Park Police, the only Administrative Leave brought to my attention by any HR member requiring mandatory Division Director approval has been Administrative Leave granted for Award approvals over a certain amount.

My Department has consistently forwarded to the Director's Office Administrative Leave Award submissions. In my discussions with Mr. Robert Feeley, I informed him that I thought the term Department Head under Merit Rule 1530 (Administrative Leave) referred to what are commonly called Division Chiefs. When I refer to Mike Riley or Bill Tyler, I associate them with Division Directors. Oftentimes, unrelated official documents I am asked to sign on behalf of Park Police list me as the Department Head. From a practical standpoint, I assumed the authority to grant administrative leave was already delegated to Division Chiefs because family emergencies, mental health crisis, and immediate relative deaths frequently occur without warning and outside of normal business hours.

The OIG's decision to exclude a review of Administrative Leave approvals for: Investigations; COVID Vaccine/Quarantine; Bereavement; and Performance Awards further demonstrates the potential volume of requests the Division Director would be faced with around the clock (especially from larger departments like police, maintenance, etc.). The vast majority of categories the OIG listed above fall under one of the categories outlined under Merit Rule 1530 (Administrative Leave) to include Commission Approved Programs for emerging agreements such as COVID related matters. Merit Rule 1530 also notes that "...Administrative Leave may be granted for, but not limited to, the following reasons..." which is a clear indication that there is no way to anticipate every potential time sensitive condition which may arise.

As I conclude my comments, it is important to share the scope of this Administrative Leave inquiry. Within just the 6-month time period requested of the IG, at least 57 Department members received some type of approved administrative leave under the various categories listed – both those reviewed and those excluded by the IG. At no time were any violations detected as it relates to an approved category of Administrative Leave listed under Merit Rule 1530. As it relates to the OIG's concern that "...some do not identify the highest level of approval," we would gladly have included another category in the spread sheet with that information. In the initial request for information, the only direction given by the OIG for Administrative Leave data was "Approved administrative leave requests for all officers and civilians since November 2022." I am grateful to my Administrative Specialist had to manually review hundreds of timecards for all 120+ employees within the Park Police for every pay period. This was made even more difficult because of the Kronos cyberbreach which led to necessitating all employees create individual timecards over multiple pay periods – these individual timecards were not

EXHIBIT B
FOP Collective Bargaining Agreement

subject to an automatic system search for key data that could be electronically tabulated, instead they required an individual “eyes on” search one by one. My Administrative Specialist spent a countless number of hours gathering this data over multiple days while still addressing the day to day HR needs of our 125+ employees.