

Investigative Report

# Investigation Reports on Misuse of City Resources Related to Economic Gain

August 2020



The following is a collection of reports that detail the misuse of City resources for personal economic gain or advantage by City employees or officials. These reports are issued together due to the small scale or narrow scope of the substantiated misuse.

Austin's City Code and personnel policies allow for the de minimis use of City resources in situations where the use is too "minor or insignificant" to have an impact on the City or job performance. However, City Code prohibits any usage related to economic gain or advantage from being classified as de minimis. City Code also requires all non-de minimis violations to be publicly reported.

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Cover: Aerial view of downtown Austin, iStock.com/RoschetzkyStockPhoto

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## CAIU Investigative Standards

Investigations by the Office of the City Auditor are considered non-audit projects under the Government Auditing Standards and are conducted in accordance with the ethics and general standards (Chapters 1-3), procedures recommended by the Association of Certified Fraud Examiners (ACFE), and the ACFE Fraud Examiner's Manual. Investigations conducted also adhere to the quality standards for investigations established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE), and to City Code.

The Office of the City Auditor, per City Code, may conduct investigations into fraud, abuse, or illegality that may be occurring. If the City Auditor, through the Integrity Unit, finds that there is sufficient evidence to indicate that a material violation of a matter within the office's jurisdiction may have occurred, the City Auditor will issue an investigative report and provide a copy to the appropriate authority.

In order to ensure our reports are fair, complete, and objective, we requested responses from the subjects and the Department Directors on the results of these investigations. Please find attached these responses in the subsequent pages after each report.

# Austin Energy Employee Misused City Resources for Secondary Employment

## Allegation

In January 2019, we received an allegation that Tim Nations was working on his secondary employment during City time.

## Background

As a Utility Services Specialist Sr. in Austin Energy, Tim Nations “provides information to... customers” and “[makes] appointments for service crews to address shutdowns and upgrades for electrical services.”

## Criteria

Nations’ misuse of City resources for his outside employment, which produces economic gain, appears to constitute violations of the following criteria:

- City Code §2-7-62(J): Standards of Conduct
- City Personnel Policies – I.G: Use of City Resources

## What We Found

### Misuse of City Resources

We found evidence that an Austin Energy Utility Services Specialist Sr., Tim Nations, misused his City email and computer for his secondary employment.

Nations admitted that his wife owns a food distribution business, which started in late 2018. He said that he owns 1% of the business and helps his wife with it when he is not working for the City. We looked through Nations’ City-assigned computer and email account for files and emails related to his secondary employment. In an 18-month period, we found the following:

- 86 emails mostly received by Nations, but in some instances, sent by him; and
- Two unique documents:
  - a financial breakdown of sales for a given period; and
  - a template for a sales worksheet.

When interviewed, Nations admitted that he used his City email and computer to check emails related to the outside business while at work. Nations added that he disclosed this outside employment to his supervisor. He also stated his supervisor gave him permission to use his City computer, if it did not interfere with his work. However, the supervisor denied ever giving Nations permission to use either his Austin Energy email or his City computer for this purpose.

Austin’s City Code and personnel policies allow for the de minimis use of City resources in situations where the use is too “minor or insignificant” to have an impact on the City or job performance. However, City Code prohibits any usage related to economic gain from being classified as de minimis.

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## Subject Response

The subject did not provide a response.

# Management Response



## MEMORANDUM

**To:** Brian Molloy, Chief of Investigations, Office of the City Auditor

**From:** Jackie A. Sargent, General Manager, Austin Energy

**CC:** Mark Dombroski, Deputy General Manager, Austin Energy  
Jeff Burton, Director Employee Development, Austin Energy  
Cindy Steffen, Human Resources Manager, Austin Energy

**Date:** February 4, 2020

**Subject:** Draft Investigation Report (IN 19009) re: Tim Nations

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Austin Energy (AE) is in receipt of the draft investigation report regarding allegations against former AE employee Utility Services Specialist Sr. Tim Nations for Misuse of City resources for his secondary employment. A review of Mr. Nations' file shows he resigned from employment with AE effective September 18, 2019.

AE will continue to communicate expectations to all employees regarding Use of City Resources as well as the proper reporting and review necessary for Secondary Employment. Further, AE will evaluate and strengthen controls to ensure departmental compliance with the aforementioned policies.

Should you need additional information, please contact Human Resources Manager Cindy Steffen at 512-322-6249.

*The City of Austin is committed to compliance with the Americans with Disabilities Act (ADA).  
Reasonable modifications and equal access to communications will be provided upon request.*

# Austin Code Employee Misused City Resources for Secondary Employment

## Allegation

In November 2018, we received an allegation that Alan Guyton, an Inspector C in Austin Code, had secondary employment that he was working on during City time, using City resources.

## Background

As an Inspector C in Austin Code, Guyton is responsible for investigating property maintenance issues, nuisance concerns, and other code violations for the City of Austin.

## Criteria

Guyton's misuse of City resources for his secondary employment, which produces economic gain, appears to violate the following criteria:

- City Code §2-7-62(J): Standards of Conduct
- City Personnel Policies – I.G: Use of City Resources

Guyton's failure to disclose all of his outside employment appears to violate the following criteria:

- Administrative Bulletin: Secondary Employment Acknowledgement

## What We Found

### Misuse of City Resources

Guyton owns and manages several businesses, including an investment company, a tow truck company, and an events company that hosts parties at a local venue. We found evidence that Guyton misused his City computer and vehicle for his outside employment. Specifically, we found:

- Two documents related to the sale of a residential property owned by his investment company. The documents indicated the property was to be sold to a Code supervisor, but the sale did not occur.
- One document related to his tow truck company.
- Eight visits to Guyton's personal email account on his City computer over a roughly six-month time period.
- Two instances in which GPS data indicated Guyton used his City vehicle for personal purposes over a roughly four-month time period. In one, Guyton drove to his personal residence, which is also the registered address of his investments company. In the other, Guyton drove to the location of his tow truck company. In total, Guyton spent 40 minutes at these two locations.

When interviewed, Guyton acknowledged using his City computer to visit his personal email account for his outside employment. He also said he used his City vehicle as much as five times over a six-month period to drive to the location of his tow truck company. We did not find evidence that Guyton misused his City email account.

Austin's City Code and personnel policies allow for the de minimis use of City resources in situations where the use is too "minor or insignificant" to have an impact on the City or job performance. However, City Code prohibits any usage related to economic gain from being classified as de minimis.

### Failure to Disclose Outside Employment

Both City policy and Austin Code's internal policy require employees to disclose all outside employment to their department management. We found evidence that Guyton submitted a Secondary Employment Acknowledgement Form for his tow truck company, but not for his investment or events companies. When we spoke with Guyton, he explained that he did not think he was earning enough money from these other businesses to warrant submitting an acknowledgement form. However, Austin Code's policy does not make disclosure exceptions for businesses based on profitability.

# Subject Response

**From:** Alan Guyton <Personal Email Address>  
**Sent:** Wednesday, February 12, 2020 3:26 PM  
**To:** Salas, Keith  
**Subject:** My Response

\*\*\* External Email - Exercise Caution \*\*\*

The purpose of this correspondence is to **categorically** deny that my actions resulted in a misuse of city resources for which I gained economically and to clarify several misconceptions stated within this report.

There was not a sale of a residential property to a code supervisor.

I have not been given an opportunity to review the alleged document related to the tow truck company therefore, I cannot respond to this allegation.

I did not misuse City resources or gain economically by visiting my personal email address. (Note to auditor: Although this allegation was proven to not violate policy, with it being stated in the report, I believe it negatively taints my character and reputation. It is my request that this portion be stricken from the final report.) City policy allows for employees de minimis use of City resources in situations where the use is too “minor or insignificant” on the City or job performance. I consider the fact that I accessed my personal email during work hours to be minor and insignificant. Before, during and after this 6 month timeframe, I continued to be a high performer. My performance resulted in me being recognized by receiving one of the highest Department-wide awards, in addition to, representing the department during high profile cases with media and public attention. Also, during this timeframe, I was assigned to a high stakes political-charged team that worked extended and varying hours, especially during the peak travel times, when Austin is most visited. I hold my job as a Code Inspector C in high regard, but my role as a father is the most important. While at work, my personal email allows me to stay connected with my children’s school activities. I periodically receive updates and notifications from their schools, from safety information to updates about grades. I do not find that by checking personal emails that this has in any way interfered or impacted my overall job performance. As a working father, my personal email allows me to stay engaged, active and connected with my children’s school.

I did not gain economically from the two instances in which I used my city vehicle to drive to my residence and the location of my tow truck company. In regards to, the one visit to my personal residence I was given approval by my supervisor to return home to obtain my employee badge. The Austin Code department is a secure building and all employees must have their individual identification badge to enter. For safety reasons, Code employees were instructed that we could not “piggyback” off of others to gain entry to the building. On this day, I had inadvertently left my access badge at home. I returned home with approval from supervisor to retrieve my badge so that I could safely enter the building without having to violate the safety concern. In addition, the badge legitimizes my role as a Code Inspector C. When out in the field conducting inspections or engaging with residents, it’s critical that we show our badge to members of the public. The uniform alone, is not complete or sufficient without the official City badge.

In regards to the one visit to my tow truck location. The purpose of this visit was to use the restroom. I was in the field conducting inspections at the time and the tow truck location was near by. I needed a clean restroom to use and that's the closet/cleanest facility where I could access a restroom. As a Code Inspector C, our role requires us to be in the field. I would much rather access a familiar restroom than utilizing public facilities. Again, this visit did not result in the misuse of city resources for economic gain. Also I do not recall making the statement that I visited my tow company 5-6 times. The one time I visited the tow company it was documented by the GPS.

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## Subject Response Continued

I was unaware of the city policy regarding secondary income until I received the training. After the training, my assumption was that as long as secondary employment did not pose a conflict of interest to the City or that if the employee did not gain financially then it wasn't necessary for me to report it. At the time of these allegations, I had just recently invested in the company (a small start-up) and I had not gained economically from the investment company. I also didn't view my affiliation with an investment company as "secondary employment." To date, I have completed the secondary employment form for the tow truck company.

While I appreciate the Auditors office for being diligent gatekeepers for unethical violations to City policy and by maintaining the public's trust of public servants, I can assure the residents of Austin and City leadership that I have in no way misused city resources to gain economically. As mentioned above, I hold my position as Code Inspector C in high regard and I would not do anything to jeopardize my primary employment. It is my desire that this correspondence be used to refute these gross misconceptions and any violations of City policy.

Best Regards,

Alan Guyton

Sent from my iPhone

**CAUTION:** This email was received at the City of Austin, from an EXTERNAL source. Please use caution when clicking links or opening attachments. If you believe this to be a malicious and/or phishing email, please forward this email to [CSIRT@austintexas.gov](mailto:CSIRT@austintexas.gov).

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## Office of the City Auditor's Response to Subject Response

In an interview with our office, Guyton discussed the trips he took to the location of his tow truck company in his City vehicle. Guyton explicitly admitted to making multiple trips to the tow truck company to "drop off something or pick up something." Guyton stated he made "not more than five" trips there. At no point did he suggest these trips were solely to use a restroom.

We also discussed Guyton's use of his City computer and personal email. When asked about how he used his City computer for his secondary employment, Guyton stated that while he didn't do this often, he "might have sent an email to someone" or "downloaded something from an email." This conversation was only focused on secondary employment, and at no point did Guyton state he was communicating with a school.

Guyton did not ask our office for an opportunity to see the document related to his tow truck company. The document appears to be a letter Guyton drafted to the Texas Department of Licensing and Regulation regarding his application for a Tow Company License.

As noted on the cover page for these reports, small scale misuse of City resources cannot be de minimis under City Code if the misuse is related to secondary employment. While small in scale, all the misuse identified in this report was related to Guyton's secondary employment. Based on the above and our review of Guyton's written response, we believe our findings stand.

# Management Response



City of Austin

P.O. Box 1088, Austin, TX, 78767

**AUSTIN**CODE  
DEPARTMENT

Memorandum

**To:** Office of the City Auditor

**From:** José G. Roig, Interim Director, Austin Code Department

**Date:** February 28, 2020

**Subject:** Audit Investigation Report – Allan Guyton, Code Inspector

A handwritten signature in blue ink, likely belonging to José G. Roig, the Interim Director of the Austin Code Department.

Austin Code reviewed the investigation report from the Office of the City Auditor pertaining to misuse of City resources and secondary employment. It was alleged that an Inspector used city time and city resources to perform work related to his secondary employment, which reportedly the Inspector failed to disclose. Of noted concern is the use of the Inspector's assigned vehicle to drive to the employee's outside employment location and personal residence.

Austin Code will closely review the findings of fact and the content of the report. We will address any confirmed policy violations with appropriate and proportional disciplinary actions. The department will also take active measures to remind staff about expectations and standards of conduct relative to the policy issues associated with this case.

Your work and support in looking into the allegations on this matter is appreciated. If you have questions or need additional follow up regarding this response, please feel free to contact our office.

# Austin Resource Recovery Employee Misused City Resources for Secondary Employment

## Allegation

In May 2019, we received an allegation that Raymond Benavidez may have been using City resources for personal business.

## Background

As a Vehicle Coordinator for Austin Resource Recovery, Raymond Benavidez works with the Fleet Services department to plan vehicle availability and manage vehicle maintenance.

## Criteria

Benavidez's misuse of City resources for his secondary employment, which produces economic gain, appears to violate the following criteria:

- City Code §2-7-62(J): Standards of Conduct
- City Personnel Policies – I.G: Use of City Resources

Benavidez's failure to disclose his secondary employment appears to violate the following criteria:

- Administrative Bulletin: Secondary Employment Acknowledgement

## What We Found

### Misuse of City Resources

We found evidence that Austin Resource Recovery Vehicle Coordinator Raymond Benavidez misused his City computer for his secondary employment.

Benavidez admitted to having a landscaping and hauling business, which he started some time in 2017. According to Benavidez, through this business he acts as a subcontractor for a company and does miscellaneous outdoor work for them. Benavidez gets paid for this work. We looked through Benavidez's City-assigned computer for files related to his secondary employment. We found the following:

- 19 documents and images, including invoices for work completed and logos he designed for the business;
- one invoice-creation program; and
- four visits to his business email accounts between April and October 2019.

When interviewed, Benavidez explained that he did not create any of the documents or logos on his work computer but admitted to viewing them and printing copies for his own records.

Austin's City Code and personnel policies allow for the de minimis use of City resources in situations where the use is too "minor or insignificant" to have an impact on the City or job performance. However, City Code prohibits any usage related to economic gain from being classified as de minimis.

### Failure to Disclose Secondary Employment

City policy requires employees to disclose all secondary employment to their department management. We found evidence that Benavidez did not disclose his business to his supervisor or on the secondary employment form that employees are required to sign each year.

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# Subject Response

**From:** Benavidez, Raymond  
**Sent:** Monday, February 10, 2020 8:15 AM  
**To:** Eletu-Odibo, Temitope  
**Subject:** RE: Subject Response

Thank you for the curtesy reminder.

My only response is that I can assure this will not happen again.

*Raymond Benavidez*

**Vehicle Coordinator**

**Austin Resource Recovery / COA**

**Office 512-974-1941**

**Cell 512-653-4130**

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# Management Response

## **MEMORANDUM**

March 5<sup>th</sup>, 2020

To: Temitope Eletu-Odibo

From: Ken Snipes, Director, Austin Resource Recovery

Subject: Response to Investigation Findings

Temitope,

The purpose of this memo is to acknowledge that I received the results of an investigation to determine if Raymond Benavides engaged in inappropriate activity by using his City of Austin assigned computer for personal business.

The report substantiated several allegations against Mr. Benavides to include, using a City of Austin assigned computer to conduct personal business in support of a private business that he owned. The report also determined Mr. Benavides did not properly notify his employer of his personal business.

As a result of these findings, I will consult with the Austin Resource Recovery, Human Resources team to determine next steps and any appropriate personnel action(s). A decision will be forthcoming.

Thank you,

Ken Snipes

# Austin Energy Employee Misused City Resources for Secondary Employment

## Allegation

In August 2019, we received an allegation that Thomas “Doyle” McCoy, a Program Coordinator at Austin Energy, was soliciting business from City employees for his drone photography company.

## Background

As a Program Coordinator in Austin Energy’s Key Accounts group, McCoy helps develop policies and procedures, works on safety matters, and supports Austin Energy’s meter exchange project.

## Criteria

McCoy’s misuse of City resources for his secondary employment, which produces economic gain, appears to violate the following criteria:

- City Code §2-7-62(J): Standards of Conduct
- City Personnel Policies – I.G: Use of City Resources

## What We Found

### Misuse of City Resources

We found evidence that McCoy misused his City computer and email for his secondary employment: a drone photography company and a crafts business that produces items made of epoxy, wood, and metal.

We examined McCoy’s City computer and email account for records related to his secondary employment. We found:

- 181 business-related web browser hits in less than three months; and
- five email exchanges that appeared to involve McCoy’s businesses directly.

For example, in August 2018, McCoy used his City email to offer drone photography services to a third party. In April 2019, McCoy emailed a City employee with an update on a paid order for epoxy products.

In an interview, McCoy admitted using his City computer for business-related web browsing. He also did not dispute using his City email for his secondary employment. McCoy claimed his 2018 offer of drone work was “for free,” but said he understood that his message could be read as a request for paid work.

Though McCoy and his supervisor said McCoy submitted a Secondary Employment Acknowledgement Form for his drone business, Austin Energy Human Resources did not have a form on file for McCoy. Nonetheless, McCoy’s chain of command was aware of his secondary employment. In early 2019, McCoy advised his supervisor and manager that he would “no longer do my side business’s with epoxy.” The manager replied, “There is no conflict with your epoxy business as long as you don’t do it [during] worktime [...] I see no reason why you need to stop.”

In addition, McCoy and his supervisor described an incident where McCoy was offered a drone photography job involving Austin Energy equipment, which could have created a conflict of interest. Both said McCoy declined the job and disclosed the issue to his supervisor.

Austin’s City Code and personnel policies allow for the de minimis use of City resources in situations where the use is too “minor or insignificant” to have an impact on the City or job performance. However, City Code prohibits any usage related to economic gain from being classified as de minimis.

# Subject Response

Items to prove I have not intentionally attempted to do business at work.

- I offered [Empl.] a going away gift. She said she liked a coaster I was using at my desk. It was a rainbow colored round epoxy coaster I had made from some scrap epoxy. She offered to pay. I told her I could not do that. I told her, "Let's just call it a going away present". And that is what we did.
- The investigator had proof someone reached out to me on my work email. I told them we should not be doing this on my work email. That was in the email.
- When I come into work, I stay at my cubicle all day. I do not go to lunch. I do not take a regular break. I do not smoke to go on smoking breaks. I do not leave the building. I rarely get up from my desk. And when I do, it is only to just stretch my back. Due to being under doctors orders due to a major AE work related injury. I just stay and work. Unless I have an away meeting.
- I have flown my drones for over two years. If I was truly trying to run a business from work. I would think there would be a lot more evidence. I am also not able to contact my only customer through my work email.
- I have more evidence of my trying not to have a conflict than the inspector has against me.
- I only contract out to **one** customer. This is proven on my taxes.
- That one customer sent me a job request. I accepted the job. It was 6 different jobs for \$100 each. After looking at the job specifics, I noticed it appeared to be AE Power Poles. I questioned my customer. They said they were not allowed to say. I then went to the job site for the job. I saw it was in fact taking pictures of AE Poles. I then walked away from the job. Risked any future jobs with the customer by walking away last minute. I called them and told the customer I would not be able to complete the job due to it would possibly be a conflict of interest. I do not think it would have been. But I did not want to risk it. None of this happened through work.
- I love flying. I was an aircraft mechanic for a major airline before. I used to do test flights as a mechanic and fly all over the United States. So if I can get out and fly. I do. So if a co-worker would like some drone photos. I am happy to take pictures for free. I only ask, if it is far too just cover my gas. As of now, I have not taken any money for gas or any expenses. That is mainly due to me not flying for anyone at work. EVER. I have always offered as a friend.
- I have offered to fly for [Third Party]. For free. As I used to be a volunteer fireman for 10 years.
- I have offered to fly for our VP. To cover anything she may want for AE. For free. I would have no ownership of the photos. There are emails to prove this.
- I have offered to join the Drone Pilot Team. I never heard back.
- My old manager [Empl.] and my current lead have offered my services to other departments. As an AE Employee. Just as an AE Employee. On the clock. There are emails to prove this.
- From the time of Aug. 2019. I have only flown for my one customer 12 times. I have turned down many offers. I just fly with them to keep in touch as a pilot for when I retire. My taxes prove this.
- I even turned down a chance to fly across the street from TLC for hire last Saturday. Where the high rise is going up at the [Third Party] location. This is not a full time job for me. It is currently just another hobby.
- I am part of the new HQ team. I also offered to make outside wood gaming items for free. I just needed the cost of the materials. There is an email about that too. Me stating no charge. I also offered to use my drone if needed to take pictures of the lot. While the building progresses. For Free.
- I also volunteered to go to Puerto Rico, help pass out water during the water shortage, and many other City Volunteer groups. Again, free. I even offered to take my drone.
- I have also used the internet at work for research about restaurants, gyms, parks, apartments, and etc for the new HQ. This has been an ongoing research. Even up to now.
- I have informed all of my past and current supervisors of my drone job and hobbies.

## Subject Response Continued

- I have reported my jobs to the city, per their requirements.
- I also donated many antique tools to [Employee]. These were my late grandparents tools that were passed down to me. I donated them to go to the new HQ as displays. One was a \$350 antique meter given to me by my late father. All donated to AE.

As for the crafts. It is a hobby. I do not currently own a business for the crafts. I have never reached out to someone at work and asked if they would like something made. I have only walked around with a cup I have made. Sometimes someone says, "Hey, that is a neat cup". I say, "Thanks, I made it". A couple of times someone has asked for me to make one for them. But, I have only charged what it cost me for the cup, epoxy and paint. No profit. This is just something I am practicing for when I retire. I have occasionally mentioned about a project I am working on. Only from pride. Not for sale.

Sometimes when I make something for myself. I have a little epoxy left over. So I make some key chains. I give those out to someone at work that might have kids. For Free.

The investigator has a copy of an email from the person I mentioned I asked not to use the work email. I actually took a large lose from that. I just wanted to help her out. I wanted her to have a better product than offered. So I bought more epoxy molds. No charge. Again, just the expenses. I also did not initiate that email.

If I were truly trying do a business at work. You would see my cubicle surrounded by my items. But, you might see a cup holder on occasion that I am using for myself. Or the cup I am currently using. I have only had two that I have made. A hydro dipped, red, white, and blue cup with my name on it. So it could not be for sale. And a cup that looks like a fishing lure. Also with my last name on it. Could not be for sale.

I have been with AE for twelve + years. Always access to computers. Access to a shop where I could have been making lots of things for sale. But I never have tried to do anything like that. I can only assume someone heard me bragging about flying. Because I am proud of flying drones. I do talk about it sometimes.

As for the internet usage. To come clean. I do have an internet addiction. I have even reached out to AE HR for help before. All I got was a help phone number to the EAP. I called the number. There are no groups in the area to talk to. There are no counselors in the area that specialize in this to talk to. I have done my research online. The only thing I have found was a place in Florida. They wanted me to check in for a month. I have a hard time sleeping, I am always on the internet on my phone instead of sleeping. A lot of my job is on-line looking up customers. If I am not busy at work, I catch myself on it, but not consciously. Instead of spending time with my family, I am on it. But I am unable to find any help that does not include me moving to Florida for a month.

I think my problem is, I was a mechanic. I have worked outside for the majority of my life. I was severely hurt at work with AE. Now I am locked up in a cubicle all day. I like it when I stay busy. When a task is given to me, I do not pace myself. I get it done as soon as I can. I have 3 large monitors to do my task. I create large spreadsheets. I do research online for customer info. [Austin Energy Customers], COA locations, and many other large customers. I have actually caught myself going from one page, then my brain thinks; hey you need this at home. I go to [Online Retailers], or etc. I then catch myself and think. I am not supposed to be here now. I then leave the page. I got work to do. But I is not intentional.

At work, I also pay my bills. This also takes me to [Online Retailers], and etc.

I also do order my lumber and needed items on my spare time at work. Like I had mentioned. I used to be a mechanic. Very busy all the time. Now, I only have the time after work. So, I order something from [Retailer] so it can be ready for me to pick up on my way home. I might order one item and put it in the cart, then I will return to the cart and add

## Subject Response Continued

something. Then a few hours before time to leave. I put in the order in time for it to be ready by the time I leave work. Or, I order something from [Online Retailer] for faster delivery. That way I can work on things at home. It was my understanding this too was ok. It is a home project. Not for sale. I make a lot of things myself. I take pride in being able to say, Thanks, I made that.

There were also a couple of spans where I was given the task by the New HQ Team to research gaming ideas for the new HQ. I research different games such as shuffle board, table tennis, washers, cornhole, and a few other games for two or more people. I researched on [Online Retailers], and etc for pricing of the games and cost of materials if they were to be made. The first time I researched it. I was notified by [Employee] that the Executives decided against this idea. Later, it was brought up to me again. I volunteered to do the research again. I had deleted my previous research. So, I had to start over. This too is something I am sure is showing on my internet searches. I was looking all over for cost. I was looking on [Online Retailer] for items for sale there too. Again, I also offered to make the items at cost. Some of these items were expensive to be made by someone else. I was trying to save the company money at no profit of my own.

The investigator mentions:

- I emailed another city office. That was to the [Third Party]. At the time was the city of where I lived. I wanted to join their Volunteer Security Service for the [Third Party]. I mentioned I owned a drone and could also help out with that. There was no pay, or business benefit with that. This is no difference than stating, why yes, I have transportation. But they do not pay for your transportation. It is simply something I offered. There is never even close to me mentioning financial gain of any kind. Then I never went through with it because my son did not want me to get hurt as many police officers have. This is also in the email.
- They mention I did not have paperwork turned into the City of Austin. I turned it in. I do not know what happened to it after that. But I turned it in. I also remember that there was a problem with the mass number of forms being turned in. It was passed out to halt the process or something like that. But, I already turned my in. Why would I tell my supervisors about the hobbies, but not turn in the paperwork.
- They state my manager and I had a conversation. Their statement is false in the wording. I wanted to stop the business. [Empl.] stated that the type of work I am doing is not in conflict with competition with the city. I also tried to stop my stipend with AE for my cell phone with HR and [Empl.] I did not want to risk any conflict of using my cell phone for work and hobbies. I tried more than once. I was denied every time.

Please know. I have never intentionally offered anything to anyone at work for a profit. I have a lifetime of doing things for free or at cost. How can I have a business with one paying customer?

I am also known at work as the "The Donut Devil". This is because I am always bringing in a couple of dozen of donuts for everyone every now and again. For Free.

When a co-worker mentioned she had a hard time thinking at the end of the day from being tired. I mentioned about little cans of oxygen. I got on-line. Not sure if I did it at work or home. I was on [Retailer] Found the cans of O2. Bought it for her. When it came in. I gave it to her. She asked how much. I told her it was about \$12. But I did not want any money. I just wanted her to know about it. I never received any payment.

It should also be noted. Due to this, I have shut down all of my hobbies. It is not worth risking my job over. My true only relaxation outlet.

## Subject Response Continued

Please,

This is all just a misunderstanding between all. I have on more than on one occasion attempted to stop my hobbies. I did not want to risk anything. I have proven many times I do not wish to mix my responsibilities with my hobbies. But I am continually told it is ok or denied the opportunity to separate my concerns.

The only time I admitted to the investigator that I knowingly used my drone email was to send a copy of my work and personal passwords to it. I also did send an email to the [Redacted] Third Party [Redacted]. I did not see any harm as it was a City to City email. Not for profit, not for business, but just as a volunteer. Same as me volunteering to help with AE if needed. But they state I knowingly used my work email for my drone business. Their statement is not complete. I also admitted that while busy doing work online. My mind might have slipped and looked at a non-work related issue. But, I would quickly remember, I need to be on task and not this stuff. I switched back to work mode. But that is because I spend hours in front of the computer. But this was in no way in attempt to do a side business at work.

For some reason, my [Redacted] Email Provider [Redacted] email would not let me open my password sheet. I keep the master at work. It has work and personal passwords on the sheet. The sheet is also password protected. I needed to send password updates to my wife. She could not open it up with her [Redacted] E.P. [Redacted] account either. This problem was fixed a while ago though. I have not had to do it in a while. So I sent it to my drone email. It was a [Redacted] E.P. [Redacted] account. It would let me open it there. That is the only way I could send it for my wife to have access to the updated passwords.

I also used my AE email to communicate with other departments about drones.

- When I was offering to help troubleshoot their drones.
- When I trained another AE Employee about cautions of doing building inspections with a drone.
- When I offered or was being offered my services to AE for free as an employee.
- Many other situations like that. Where are those emails? Some in fact were also phone calls.

My entire life, I have been on the side of law. I was called Mr. Goodie Two Shoes in High School. I started as a volunteer fireman in High School. I participated in a police ride-a-long program starting in High School. Not even a speeding ticket in 25 years.

I would not do so much for free if I was trying to run a business. I just like giving. I call myself as an old school type of person. It was the way I was raised.

This claim against me is false. Or, at least misunderstood.

Can the current policy please be changed? I truly believe, before someone makes accusations about a person with such grave consequences. The person should be confronted first. Just plain old ask them the facts. So there is no miscommunication.

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## Office of the City Auditor's Response to Subject Response

We have reviewed the subject's response. We believe our findings stand.

# Management Response



## MEMORANDUM

**To:** Brian Molloy, Chief of Investigations, Office of the City Auditor

**From:** Jackie A. Sargent, General Manager, Austin Energy *JAS*

**CC:** Mark Dombroski, Deputy General Manager, Austin Energy  
Jeff Burton, Director Employee Development, Austin Energy  
Cindy Steffen, Human Resources Manager, Austin Energy

**Date:** May 22, 2020

**Subject:** Draft Investigation Report (IN 20002) re: Thomas "Doyle" McCoy

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Austin Energy (AE) is in receipt of the draft investigation report regarding allegations against AE employee Program Coordinator Thomas "Doyle" McCoy of Misuse of City resources, his City computer and email, for secondary employment. Our AE Human Resources division will collaborate with AE management to review the report and findings to determine the appropriate next steps in this matter.

AE will continue to communicate expectations to all employees regarding Use of City Resources as well as proper reporting and review necessary for Secondary Employment. Further, AE will evaluate and strengthen controls to ensure departmental compliance with the aforementioned policies.

Should you need additional information, please contact Human Resources Manager Cindy Steffen at 512-322-6249.

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The Office of the City Auditor was created by the Austin City Charter as an independent office reporting to City Council to help establish accountability and improve city services. We conduct investigations of allegations of fraud, waste, or abuse by City employees or contractors.

**City Auditor**

Corrie Stokes

**Deputy City Auditor**

Jason Hadavi

**Chief of Investigations**

Brian Molloy

**Office of the City Auditor**

**phone:** (512) 974-2805

**email:** [AustinAuditor@austintexas.gov](mailto:AustinAuditor@austintexas.gov)

**website:** <http://www.austintexas.gov/auditor>



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