

State of New York
Office of the Inspector General



Investigation of the Use of Assigned Vehicles
by the New York State Department of Corrections
and Community Supervision

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Inspector General

EXECUTIVE SUMMARY

The Inspector General commenced a broad review of the New York State Department of Corrections and Community Supervision's (DOCCS) vehicle use after evidence from two ongoing but separate investigations raised questions about the agency's apparent practice of assigning state vehicles to facility superintendents mainly for commuting purposes.¹ The Inspector General found the longstanding practice of assigning vehicles to some 80 correctional facility superintendents and central office executives mainly for commuting use to be unjustified and contrary to a 2009 revision to state policy, which included a direction from the Governor's Office for a "dramatic shift" in vehicle usage by state agencies.

Specifically, the Inspector General determined that Brian Fischer, during his tenure as DOCCS Commissioner, continued to approve these vehicle assignments in disregard of a September 2009 Governor's Office initiative and revised Division of the Budget policy mandating restrictions on the assignment of vehicles to individual employees. In addition, despite the new policy's requirement that an agency conduct an analysis as the basis for future vehicle use, DOCCS engaged in no such analysis. Fischer also conceded that in response to the 2009 budget policy, his agency did not implement any change in vehicle assignment and did not remove a single vehicle from the fleet. Fischer's only action was to seek approval for the status quo by sending an inaccurate memorandum to then-Deputy Secretary for Public Safety Denise O'Donnell claiming questionable "previous" approval for the assignment of vehicles to superintendents and omitting any reference to the assignment of vehicles to certain executive level staff.

A basis for the vehicle assignments was the purported need for superintendents to respond to off-hour emergencies and to be on call at all times. While the Inspector General acknowledges that the security of the state's correctional system is of critical importance, the investigation revealed that emergencies requiring the immediate response

¹ DOCCS was established effective April 1, 2011, by the merger of the New York State Department of Correctional Services and the New York State Division of Parole.

of superintendents are rare events. Furthermore, the Inspector General found scant evidence that the assignment of vehicles to DOCCS superintendents and agency executives assists such responses. In fact, as Fischer stated, superintendents are not designated as “first responders” to emergencies; that responsibility is assigned to “watch commanders, on-line supervisors, sergeants,” and others at the facility. Indeed, the vehicles assigned to most superintendents are not equipped with police-style lights or sirens that would facilitate a rapid response to an emergency. The Inspector General determined that DOCCS superintendents and agency executives mainly use assigned vehicles not for emergencies or other necessary business purposes, but rather for commuting between their homes and workstations, thus receiving an additional, albeit unofficial, benefit.

The Inspector General also found that DOCCS has not issued clear policy with respect to the use of state resources, including vehicles and state-issued credit cards, for attendance at work-related social functions, such as retirement parties for superintendents. While attendance at such events by the commissioner and a top deputy at DOCCS’s expense arguably serves an agency purpose, attendance by dozens of other staff members does not, and should not be supported by the expenditure of state resources.

Further, Fischer and another DOCCS senior executive failed to report the taxable value associated with the non-business use of their assigned vehicles, as required.

The Inspector General recommends that DOCCS review and revise its policy and practice of assigning vehicles to superintendents and other individual executive level staff. Any new policy and practice should conform to current state vehicle use policy and ensure that vehicles are assigned only to individuals who have a specific demonstrated state business purpose for the vehicles.

The Inspector General shared the findings and recommendations of this investigation with DOCCS and assisted DOCCS in formulating corrective action.

DOCCS has taken a number of significant steps to address these issues, including several changes to policies regarding the assignment and use of agency vehicles. Specifically, DOCCS issued new policies and directives advising executive staff, regional directors, and superintendents that they would no longer be assigned vehicles, and that all vehicles must be returned to the agency vehicle pool. DOCCS further advised that agency vehicles may not be used to attend social events such as retirement parties, and that all non-business related travel in an agency vehicle must be logged and reported for tax purposes. DOCCS has also updated its vehicle log and reporting procedures to record commuter usage and expanded its internal compliance unit to review and audit vehicle usage and gas credit card charges to ensure compliance with agency and State policy.

INTRODUCTION AND BACKGROUND

Allegations

In September 2009, the Office of the State Inspector General received a complaint that the then-superintendent of Gouverneur Correctional Facility, a medium-security prison operated by DOCCS in northern New York, was using his state-assigned vehicle for purposes unrelated to his official duties. In May 2010, the Inspector General received a separate but similar allegation regarding the then-superintendent of Lakeview Shock Incarceration Correctional Facility southwest of Buffalo.

While investigating the first complaint, the Inspector General ascertained that the Gouverneur Correctional Facility superintendent had a state vehicle specifically assigned to him, which he primarily used to commute daily between his home and the facility, a round trip of approximately 83 miles. Likewise, the Inspector General found that the Lakeview Correctional Facility superintendent used his state-assigned vehicle largely for commuting several times a week between his residence and the facility, a nearly 183-mile round trip.

The Inspector General also determined that both officials failed to complete vehicle use records required by DOCCS regulations, and one incorrectly reported his taxable fringe benefit of an employer-provided vehicle as required by federal tax law and state policy.

These initial findings raised questions about DOCCS's assignment of state vehicles to facility superintendents mainly for commuting use. When the Inspector General probed further, it uncovered that this practice was system-wide and longstanding. On June 3, 2011, after Fischer and many other DOCCS officials had been interviewed as part of this investigation, the Inspector General received information that Fischer and other staff had used state vehicles to travel to attend a retirement party for a DOCCS superintendent in western New York. In accordance with authority under New York State Executive Law Section 53 and in furtherance of Governor Andrew M. Cuomo's mandate to reduce state agency spending and fundamentally reassess the manner in which state government operates, the Inspector General commenced a broader examination with the goal of effecting reforms and savings in vehicle management at DOCCS and, by example, other agencies.

The New York State Department of Corrections and Community Supervision

The New York State Department of Corrections and Community Supervision currently operates 58 correctional facilities across the state housing approximately 54,700 inmates. DOCCS employs a workforce of 29,536, including executive and administrative staff located at its central office at the Harriman State Office Campus in Albany. Fifty-seven superintendents are responsible for facility day-to-day operations and report to a Deputy Commissioner in the DOCCS central office.² Brian Fischer served as DOCCS Commissioner from March 2007 to May 2013.

During the period reviewed, DOCCS maintained a fleet of approximately 1,440 passenger-type vehicles, 124 of which were assigned to specific individuals. Among the

² Figures provided by DOCCS as of September 27, 2013.

unassigned vehicles were numerous pool vehicles available generally for use by DOCCS employees for state business purposes.

Scope and Methodology

The Inspector General's investigation examined the use of the state vehicles assigned to 124 DOCCS employees, including 64 superintendents in 68 facilities and 60 central office staff, during the period 2008-2010. The investigation also included an analysis of DOCCS's vehicle usage practices and policies, and the propriety of DOCCS's assignment of specific vehicles to individual employees in light of 2009 cost-reduction initiatives.

The Inspector General obtained and reviewed relevant records from DOCCS including all tax reporting forms filed by superintendents and central office executives during 2008-2010, and DOCCS vehicle directives and policies, among other records.

The Inspector General also interviewed 97 individuals, including all superintendents, Fischer, and other central office staff with assigned vehicles.³ Several members of the prior administration, including former New York State Deputy Secretary to the Governor and Commissioner of Criminal Justice Services Denise O'Donnell, were also interviewed. In addition, the Inspector General conducted interviews and secured and reviewed records from the Office of Taxpayer Accountability and the Division of the Budget.

With regard to the attendance by Fischer and other DOCCS officials at a June 2, 2011, retirement party, the Inspector General conducted interviews and examined numerous documents.

³ Two superintendents were unavailable to be interviewed.

THE INSPECTOR GENERAL FINDS MANY DOCCS VEHICLE ASSIGNMENTS WERE UNJUSTIFIED

Director of State Operations Implements New Policy on Agencies' Vehicle Use

In 2009, the administration of then-Governor David A. Paterson initiated a series of actions to reduce agency spending. Valerie Grey, then-Director of State Operations and head of the Office of Taxpayer Accountability, related to the Inspector General that she and other members of the Paterson administration focused on state vehicle use because it was viewed as an area of state spending where waste and inefficiency existed. As Grey testified, “We were looking at reducing the size of the fleet, reducing the cost of travel . . . We were basically trying to identify all the different ways we could try to save money in state operations, and [vehicle use] was one we thought was ripe for taking a look.”

As part of these efforts, on August 10, 2009, Grey issued a directive to heads of state agencies and public authorities that focused on employee travel costs and required each agency and authority to “reduce its travel costs this fiscal year by a minimum of 25% from the total spent in FY 2008/2009.” One of the mandates in Grey’s memorandum was that agencies “expand the number of pool cars available by eliminating the practice of dedicating cars to specific individuals, except in extraordinary circumstances approved by the agency head.”

Further emphasizing the determination to reduce vehicle expenses, on September 18, 2009, the Division of the Budget (DOB) disseminated an updated policy on state vehicle acquisition, usage, and assignment which superseded an earlier September 2003 version. The revised DOB policy (Budget Policy and Reporting Manual, D-750) took effect immediately and included significant new provisions addressing in particular the assignment of agency vehicles to specific employees and the personal use of vehicles.

While DOB often promulgates and updates policies and distributes them to the appropriate mid-level officials within agencies and authorities for their review and

implementation, this particular revision was accompanied by a memorandum from Grey to the heads of all state agencies and public authorities specifically highlighting its importance. The communication from Grey began:

This memorandum is to bring your attention to the recently revised Division of the Budget BPRM Item No. D-750 with respect to the acquiring, use and management, reporting, and disposal of state vehicles. In continuing with the series of directives to agencies, aimed at reducing wasteful spending, and eliminating fraud and abuse in state government, the Office of Taxpayer Accountability and the Division of the Budget have instituted necessary revisions to the policies and procedures required by Division of the Budget for managing state vehicles.

Grey then specifically emphasized the significant change to statewide vehicle policy, calling it a “dramatic shift” from earlier practice, with the expectation that “strict application” of the new policy would result in significant savings for the state:

It is clear that some of these policies are a *dramatic shift* from previously allowed practices, but it is expected that agencies will not only achieve savings through the *strict application* of the policies and guidelines set forth in this bulletin, but will also generate *transparent measures of increased accountability* in the use of state vehicles. I ask that you to pay close attention to the contained policies and use them as the *minimum standards* as you develop your individual agency fleet policies.⁴
[Emphasis supplied]

In her testimony to the Inspector General as part of this investigation, Grey described the sense of urgency that drove the initiative and the necessity that major reforms be enacted. Grey stated, “By highlighting a revised budget bulletin, the Governor’s Office was trying to send a signal to the agencies that this was indeed important; pay attention.” She added, “These things were designed to make everybody look, to make everybody think, to make people question.”

⁴ The full memorandum is included in the appendix to this report.

In conspicuous contrast to previous policy that allowed agencies latitude in vehicle assignment and usage, the new D-750 requirements established statewide limitations on how state vehicles are to be used, including the following:

State agency vehicles must be used only for official business, and their use for any personal business is strictly forbidden, except (i) [by state officials of cabinet rank and heads of agencies], and (ii) under very limited circumstances, expressly authorized by agency policy, where the personal use is ancillary to official business (such as for occasional commuting purposes within a reasonable distance, where the vehicle is mainly used for agency business).

Particularly pertinent to the Inspector General's examination of DOCCS's vehicle usage, the new policy also directed:

Agencies may not dedicate cars to specific individuals except in *extraordinary circumstances* approved by the head of the agency and the appropriate Deputy Secretary, and the use of such car shall strictly be for carrying out agency duties. [Emphasis supplied]

Of note, the new DOB policy also required agencies to conduct an "analysis of all available options" to serve as the basis for the "acquisition, assignment and use" of vehicles, and that agencies revise their policies as necessary so as to "incorporate" the new rules on vehicle use. As will be detailed later in this report, notwithstanding this directive, DOCCS did not engage in any such analysis and did not modify its state vehicle assignments.

DOCCS Commissioner Requests Exemptions from New Vehicle Rules

As an agency employing a large workforce and operating an extensive and varied fleet of vehicles, DOCCS clearly was, to use Grey's term, "ripe" for potential reductions, especially with respect to vehicles assigned to specific individuals for commuting, a particular target of the new policy. At the time the new policy was promulgated, at least 124 DOCCS staff had vehicles assigned to them. In addition to 64 correctional facility

superintendents, dedicated vehicles were provided to 60 executive and other staff in the DOCCS central office in Albany.

Brian Fischer, the then-DOCCS Commissioner and a recipient of Grey's memorandum and the new DOB policy, acknowledged during his testimony to the Inspector General that he understood at the time the importance of the changes anticipated as a result of the initiative. As Fischer testified, the goals of these efforts were "to reduce the number of people who had vehicles and then put some restrictions on vehicles that didn't exist before." The Inspector General determined, however, that the new vehicle policy was met with inaction by DOCCS. Despite the new policy's requirement that an agency conduct an analysis as the basis for future vehicle use, Fischer testified that he neither engaged in such analysis nor directed that it be performed. Indeed, Fischer conceded that notwithstanding the 2009 DOB policy, his agency did not implement any changes in vehicle assignment and did not remove a single vehicle from the fleet.

Rather, Fischer related that, pursuant to a provision of the new policy requiring the approval of a deputy secretary for any valid and necessary exceptions, he spoke with Denise O'Donnell, then-Commissioner of the New York State Division of Criminal Justice and Deputy Secretary to the Governor for Criminal Justice, and described DOCCS's practice of assignment of vehicles. Thereafter, Fischer forwarded a written request to O'Donnell seeking significant exemptions from the implementation of the new rules. In his September 25, 2009, memorandum to O'Donnell, Fischer requested certain modifications: "After careful review of the revised Division of the Budget BPRM Item #D-750, it is respectfully requested that DOCS be given approval to assign specific vehicles to specific individuals, and to seek approval for a generalized modification of DOB's policy for specialized units."⁵

Fischer sought approval for four "titled persons" at DOCCS to continue their use of an assigned vehicle: Fischer himself; the Deputy Commissioner for Facility

⁵ Fischer's memorandum in its entirety is appended to this report.

Operations; the Deputy Commissioner/Inspector General;⁶ and the colonel who heads the DOCCS Correctional Emergency Response Team (CERT). In support of maintaining assigned vehicles for these four titles, Fischer explained that the “positions the individuals hold require their ability to respond to any emergency situation and to remain in communication at all times,” noting too that each individual’s vehicle is equipped with a State Police and DOCCS radio. The Inspector General determined these specific requests to be valid and within the parameters of the DOB policy permitting heads of agencies unrestricted use of their agency fleet vehicle and the dedication of vehicles to specific individuals in “extraordinary circumstances.”

Fischer also requested, as a “generalized modification of the policy,” that “specific titles and units” have access to vehicles “at a moment’s notice.” They included the DOCCS Inspector General’s field investigators; the DOCCS Deputy Inspector General; Albany CERT members; and the Director and Assistant Director of the DOCCS Crisis Intervention Unit. Fischer indicated that these individuals are peace officers and “usually armed when on official business.” The Inspector General similarly determined that this request conformed to the “extraordinary circumstances” provision of the new policy.

Further, and most directly relevant to the issues examined in this investigation, Fischer requested an exemption from the policy to allow assignment of vehicles to all DOCCS facility superintendents. While offering no justification for the superintendents’ need for assigned vehicles, Fischer merely declared, “It should be pointed out that facility superintendents have access to specific vehicles as previously approved.” However, DOCCS was unable to provide evidence of such previous approval; rather, Fischer indicated that the “approval” to which he referred was DOCCS’s longstanding practice of providing assigned vehicles to its superintendents.

⁶ The DOCCS Inspector General is not employed by, or a part of, the Office of the New York State Inspector General.

O'Donnell approved Fischer's request on September 29, 2009. However, as discussed below, Fischer's memorandum was inaccurate and omitted key information concerning the extent of DOCCS's assignment of vehicles to individual staff.

Fischer's Request for Exemptions from New Policy Inaccurately Asserts "Previous Approval" of Assigned Vehicles for Superintendents

As noted, DOCCS has had a longstanding practice of assigning vehicles to all facility superintendents as well as a significant number of executive and administrative staff in its central office in Albany. Indeed, the practice existed well before Fischer's memorandum to O'Donnell. Fischer, a DOCCS employee since 1975, related that the practice of assigning vehicles to superintendents began decades earlier, although he did not know the exact date, and that the practice became entrenched. "I can't remember them not having them," Fischer stated. "When you became a superintendent, you got a vehicle." In fact, Fischer himself first was issued a vehicle, which he used for commuting, when he was appointed a correctional facility superintendent in 1991.

To continue the practice of providing superintendents with vehicles for commuting, Fischer claimed in his memorandum to O'Donnell that the assignment of vehicles to superintendents had been "previously approved," an assertion that is inaccurate. In his testimony to the Inspector General, Fischer explained that in his memorandum and earlier conversation with O'Donnell, he was referring to DOCCS's longstanding practice, rather than a formal approval or agreement, of granting vehicles to superintendents. "I was thinking generic," Fischer testified, adding:

This was an ongoing, long-term acquiescence, shall we say. Are you asking, "Did somebody write down approval?" Probably not. But what I was trying to get to her was facility superintendents have had vehicles for over 20 years. And that was assumed that was acceptable on the grounds of they're 24/7, and they're always called back when necessary . . . I believed, and I still do, that it's a necessary part of their job.⁷

⁷ While DOCCS Directive 2932 (Use of State Owned Vehicles) states that agency vehicles "are not to be used for transportation to and from an employee's home unless it is incidental to a field trip or other official business," DOCCS has also promulgated "Fleet Management Policies" which provide: "Other vehicles

Notwithstanding, Fischer's explanation that superintendents "have had vehicles for over 20 years" and his justification that superintendents are considered on duty "24/7" were irrelevant as Grey's memorandum clearly called for a "dramatic shift from previously allowed practices," and mandated "strict application" of the policy.

When questioned by the Inspector General, O'Donnell stated that she did not recall having a specific conversation with Fischer about the assignment of vehicles to superintendents nor the basis for such. With respect to Fischer's claim in his memorandum that the practice had been "previously approved," O'Donnell said she assumed then and while reviewing the memorandum during her interview that approval had been granted pursuant to prior policy. O'Donnell proclaimed that it was her view that the assignment of vehicles to facility superintendents was justifiable. According to O'Donnell, during her review of drafts of the September 2009 DOB policy prior to its finalization, she had urged the Office of Taxpayer Accountability to include an exception for public safety agencies such as DOCCS. However, despite O'Donnell's urgings, the DOB policy that was finalized and disseminated contained no such exception, an indication that DOB had considered her suggestion to exclude public safety agencies and discounted it.

O'Donnell explained that she approved the request because she concurred that it was appropriate to assign vehicles to superintendents "based on [her] experience," and specifically her belief that the need for a superintendent to respond to an emergency "is a very realistic one." Contrary to O'Donnell's assumption and as explored later in this report, the Inspector General determined that superintendents rarely respond to emergencies after-hours, and that there was nothing precluding superintendents from responding to those infrequent emergencies in their personal vehicles. Notably, O'Donnell, when apprised of the Inspector General's findings that facility superintendents rarely respond to emergencies, replied, "That would surprise me," adding, "If I thought that it was a perk, I would never have authorized it."

may be assigned as designated by the Commissioner where it is critical to the agency's business of maintaining the safety and security" of correctional facilities.

Fischer's Request for Exemptions Omits Executive and Administrative Staff

A more glaring omission in Fischer's memorandum to O'Donnell was his failure to even mention the 16 executive and administrative staff who were provided assigned vehicles at the time. These officials included the Executive Deputy Commissioner, Deputy Commissioner/Counsel, Deputy Commissioners, Assistant Commissioners, and an Associate Commissioner, among others. The Inspector General determined that none of these officials' use of their vehicles falls within the new policy's "extraordinary circumstances" exception for use of dedicated vehicles.⁸

Asked by the Inspector General to explain his omission, Fischer replied, "Honest, I don't think I thought it through, and then I knew I'd probably have some trouble. So I made a decision. I know I extended my authority, I know that." Notably, Fischer, in drafting this memorandum to O'Donnell, did not consult the DOCCS First Deputy Commissioner, Counsel, or Director of Administration, whose responsibilities include monitoring DOCCS vehicles use and policy.

Use of Assigned Vehicles by Superintendents and Executive Staff Was Not Justified

In his testimony, Fischer asserted that the assignment of vehicles to facility superintendents and executive staff, although admittedly inconsistent with the new policy, was justified by what he termed the unique demands of operating a correctional system. As Fischer described it:

Corrections is a little different. State Police is a little bit different. That's my position. There are expectations on us that are not placed on other people. I think it's those expectations and, in a sense, liabilities for them, that I think they deserve a little extra concern or acceptance of certain rules changes.

⁸ As an agency head, Fischer was permitted unrestricted use of an agency vehicle.

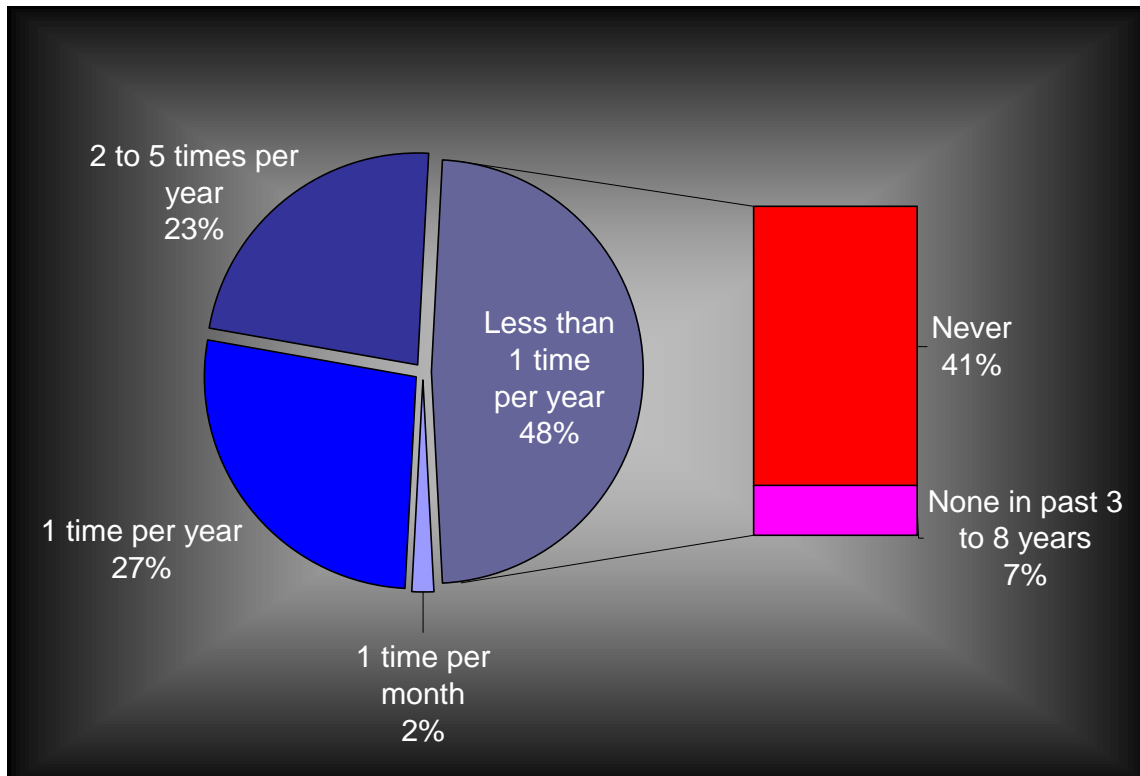
Regarding assignment of vehicles to superintendents, Fischer indicated that the need to respond to facility emergencies was his major consideration. Having a dedicated vehicle, he testified, assures that if called to respond, they have the means to do so:

I want them to be available to the facility when I call them, and I've done that. If there's an issue at a facility, and the superintendent is at home, I expect him and her to get in the car, and we said it, get there and go take care of the business. That's all there is to it. Nothing special. You're on 24/7, you carry a beeper, you carry a cell phone, you're available. Availability, I guess, is the issue.

That assertion notwithstanding, when queried how frequently an emergency occurs in the correctional system that necessitates that a superintendent return to a facility after hours, Fischer testified, "I would say once a month." Fischer acknowledged, however, that superintendents are not designated as "first responders" to emergencies, a responsibility that is assigned to "watch commanders, on-line supervisors, sergeants," and others at the facility. Indeed, the vehicles assigned to most superintendents are not equipped with police-style lights or sirens, which are typically connected with vehicles utilized for rapid response to an emergency.

The Inspector General's investigation found scant evidence supporting Fischer's claim that assigned vehicles are needed for emergency responses. Not only are emergency responses rare, but also some claimed instances of emergency response have been mischaracterized as such. As illustrated below, 41 percent of staff interviewed never were requested to respond to an emergency, and an additional 7 percent of staff did not respond to an emergency in the previous three to eight years.

Frequency of Emergency Response



None of the superintendents interviewed could point to an instance when they were required to respond to an emergency situation. The testimony of the then-Altona Correctional Facility superintendent was typical: “No, I haven’t been in here as a response . . . because of an emergency. I get called and most of the things that happened, if you can take care of it on the phone, there’s no use to come in.” Similarly, the then-superintendent of Gouverneur Correctional Facility testified, “I have come over here on weekends and off-time and off-hours for off-shifts. Emergencies, haven’t had to, no blazing trips from someplace to here.”

A number of superintendents initially indicated that they had responded to emergencies, but, when asked to elaborate, described the instances in question as less than urgent. For example, the then-Greene Correctional Facility superintendent recalled returning to the facility when a correction officer under his command was involved in an incident with local police, but conceded, “[I] don’t know if I’d call that an emergency.”

The Riverview Correctional Facility superintendent reported that the only time he was called back to the facility during the past year was for a meeting on budget issues.

Further undermining the claim that the assignment of dedicated vehicles to superintendents is necessary, the Inspector General found that a number of superintendents readily have made use of facility pool vehicles when their assigned vehicles were unavailable. The then-superintendents of Mid-Orange Correctional Facility and Chateaugay Correctional Facility both related that they used other facility fleet vehicles when their assigned vehicles were being repaired. One particularly illustrative example undermining Fisher's justification is the then-Lincoln Correctional Facility superintendent, who testified that he used his assigned vehicle to drive between his home and a commuter train station, where the vehicle remained parked all day. He then traveled by train to New York City and used other pool vehicles kept at the facility for local travel as needed.

Given the lack of evidence that superintendents respond to emergencies, the Inspector General asked Fischer why they were not expected to use their personal vehicles for travel to and from their workplaces. Fischer again cited the need for them to be available to respond during off hours, asserting, "Suppose they only have one car and the wife's got that car?" Fischer then answered his own question: "We're stretching it, I agree. Could it be done? Of course." Fischer also expressed the opinion that DOCCS might be responsible for reimbursing superintendents for travel costs when they respond to facility emergencies using their personal vehicles. However, State Comptroller guidelines on reimbursement for travel to an employee's workstation are inconsistent with Fischer's position.⁹

⁹ Even if, for the sake of argument, reimbursement for travel to an employee's workstation were permitted, such reimbursement would cost the state a mere fraction of the cost of maintaining assigned vehicles.

Fischer sought to justify vehicle assignments to central office staff by asserting that executive and administrative staff assigned to central office “do a lot of travel,” in which Fischer included “site visits” to facilities and driving “all over the town,” referring to staff’s attendance at meetings in Albany. Fischer further claimed that the use of pool, rental, or personal vehicles for these types of travel was not practical, although he conceded that no analysis of vehicle use and availability had led to that conclusion: “I took it upon myself to make the decision to give them the vehicles.”¹⁰ Fischer elaborated that the assignment of vehicles to executive staff, as well as to superintendents, is “for the good of the state and particularly the good of the agency,” adding:

I know what the agency looked like years ago when we didn’t have a lot of people traveling and doing the job that needs to be done, being available. We’ve come a long way in the 35 years I’ve been here. I think we’re as good as we are because I’m as good to them as they are to the state.

To the extent Fisher viewed vehicle assignments as workplace perks to improve morale and loyalty, this is a wholly inadequate rationale for defying state policy and the unauthorized expenditure of state resources.

Unjustifiable Vehicle Assignment to Central Office Staff

The Inspector General found even less justification for the assignment of dedicated vehicles to executive and administrative staff in DOCCS’s central office. Sixteen central office officials with assigned vehicles were interviewed by the Inspector General, and only two said they had ever responded to an off-hour “emergency.”

Similar to superintendents, central office staff are not first responders to facility emergencies, further undermining the argument for assigning them vehicles. One central

¹⁰ An analysis of vehicle availability, if conducted, would have taken account of the fact that two new vehicles purchased in April 2009 had not been assigned nearly two years later. The vehicles each cost \$20,967.

office official, Assistant Commissioner Diane Van Buren, cited this fact when asked by the Inspector General if she were allowed to use her assigned state vehicle for commuting. Van Buren replied, “I just don’t feel I’m entitled to [a vehicle for commuting], I don’t feel I’m an emergency responder.”

Absent a documented need to respond to emergencies and lack of justification for assigned vehicles, DOCCS’s practice of dedicating specific vehicles to individual staff members can only fairly be described as intended to provide a convenience, even an additional benefit or perk, to certain employees. Fischer acknowledged as much, calling the practice a way of meeting what he believed to be his “obligation” to senior staff. As Fischer testified:

This is where it gets philosophical, but my position is if I ask you to relocate, say, 100 miles away, to run a facility, and you don’t want to move your family, you’re going to commute back and forth. You may stay at the facility a couple nights and go home a couple nights, so the vehicle becomes a necessity. I’m asking you to relocate . . . it’s part of the, I feel, it’s part of the job.

In support of his position, Fischer referred to the situations of two former superintendents he promoted to executive positions in central office. He related:

[I] yanked [them] out of being superintendents and brought them to Albany . . . I felt obligated to give them the same, they had their cars, and I needed them to come to central office . . . It was only fair to continue their use of the car.

Further, Fischer opined that the assignment of vehicles was appropriate given the special demands that DOCCS managers face:

We ask people to do things that the average person doesn’t understand, doesn’t want to understand, and probably couldn’t do it. So, if I’ve leaned in the direction of being better to them because of what they do, so be it.

It should be noted that during the period reviewed superintendents were paid an annual salary that ranged from \$78,344 to \$144,535 and averaged approximately \$122,620.

Salaries of the executive and administrative staff assigned vehicles ranged from \$65,808 to \$164,553 and averaged \$125,883.

Clearly, in view of these findings, the assignment of vehicles by DOCCS to superintendents and executive staff falls well short of the DOB policy standard that restricts such practice to “extraordinary circumstances.” Asked if such vehicle assignments were in accord with that policy requirement, Fischer readily conceded, “No, they’re not. I made the call that they should have them. It’s a policy call on my part.”

Assigned Vehicles Confer an Additional Unauthorized Benefit with Free Gasoline and E-Z Pass Use at Taxpayer Expense

The Inspector General determined that during the 2009-2010 reporting period, the superintendents and central office staff with assigned vehicles drove their vehicles a total of approximately 965,000 miles, using the vehicles mainly for commuting to and from work. In fact, some of the officials used their vehicles almost exclusively for this purpose. Notably, all superintendents interviewed reported obtaining gasoline at DOCCS expense by fueling their vehicles at DOCCS pumps or by using a DOCCS-issued gasoline credit card.

The investigation also revealed that four central office executives commuted in excess of 150 miles round-trip per day, and nine superintendents logged more than 100 round-trip commuting miles a day. For example, Assistant Commissioner Catherine Jacobsen reported she travels 208 miles each work day (round trip) between her residence and DOCCS’s central office. As her commuting route includes the Thruway, she utilizes an E-ZPass provided by DOCCS.¹¹ Of note, Jacobsen testified that she never has responded to an emergency in her current position.

¹¹ The E-ZPass usage for each vehicle was reported in a lump sum for the year, thereby rendering an analysis of personal versus business use impossible. Regardless, the Inspector General notes that the use of a DOCCS-issued E-ZPass for commuting purposes is also an inappropriate utilization of state resources.

The then-Mid-Orange Correctional Facility superintendent used his assigned vehicle for a 140-mile round-trip commute. Nearly all of the 27,426 miles he logged on his vehicle during 2009-2010 was for commuting. The superintendent also used a DOCCS-issued E-ZPass.

In addition, the then-Moriah Shock Correctional Facility superintendent commuted 144 miles round-trip; the then-Chateaugay Correctional Facility superintendent made a daily round-trip commute of approximately 115 miles; and the then-Altona Correctional Facility superintendent commuted a round-trip distance of approximately 101 miles.

Improper Personal Use of State Vehicles by DOCCS Officials

DOCCS's policy prohibits the use of state vehicles for personal purposes, including the transporting of non-business passengers.¹² While arguing that use of state-assigned vehicles for commuting is permissible despite state policy, Fischer was adamant that employees' use of vehicles for personal, non-commuting purposes was improper and not allowed. Fischer testified that all superintendents "from day one" were advised of this prohibition, but he acknowledged that violations "probably" occur.

In fact, 23 percent of superintendents and central office officials who were interviewed admitted to having transported non-business related passengers in their state vehicles. For instance, the then-Greene Correctional Facility superintendent reported he had utilized his state-assigned vehicle to pick up his children at school. Of this he said, "If I stopped and picked up my kids on the way home, I would do that . . . my kids' school is less than a minute off the main road [he used to commute between the facility and home]." Asked by the Inspector General about the additional liability incurred by the state when having his children in the state vehicle, the superintendent replied, "My child would not be covered." The then-Collins Correctional Facility superintendent also

¹² DOCCS Directive 2932.

admitted he had utilized his state-assigned vehicle to transport his child to school on occasion.

In addition, the then-superintendent of Lakeview Shock Incarceration Correctional Facility testified to using his assigned vehicle to retrieve a friend's 16-year old child from school. When asked if he was aware of DOCCS policy barring such conduct, he acknowledged, "The policy is non-state employees don't belong in the vehicle" and that he had violated that policy "occasionally." The then-Oneida Correctional Facility superintendent admitted transporting her partner's child in her assigned vehicle. The then-Queensboro Correctional Facility superintendent admitted using the assigned vehicle to travel with his partner to their summer home on weekends, a round trip of approximately 200 miles.

Officials interviewed also reported using their assigned vehicles for personal purposes such as stopping for coffee or to purchase a few necessities along or near their commuting route. Although limited incidental personal use is permitted when vehicles are properly assigned, the Inspector General discovered instances of personal use that push the limits of the reasonableness standard. For instance, the then-Gouverneur Correctional Facility superintendent, who is also the Town of Clayton supervisor, utilized his state vehicle during his daily morning and evening commute to stop at the Clayton Town Offices to conduct town business.¹³ A member of the Clayton Volunteer Fire Department, the superintendent also drove his DOCCS vehicle to the fire station. In addition, he used his state vehicle to attend meetings of the Clayton Antique Boat Museum at the Clayton Museum and the Jefferson County Fire Advisory Board in Watertown.

¹³ The Inspector General confirmed that the superintendent received required approval for this outside employment from DOCCS and from the former New York State Commission on Public Integrity pursuant to 19 NYCRR Part 932.

Fischer and Former Deputy Commissioner LeClaire Fail to Report Taxable Value of Vehicle Use

The Inspector General found that Commissioner Fischer and former Deputy Commissioner for Correctional Facilities Lucien LeClaire used state vehicles to commute between their residences and workstations, but did not report and pay taxes associated with this benefit, as required.

Federal and state tax law and New York State policy require employees to report the taxable value of their personal use of state vehicles.¹⁴ If an employer provides a vehicle which is used exclusively for business purposes, there are no tax consequences. Business use, however, does not include an employee's commuting between residence and workstation, or other personal use. Thus, employees must distinguish between business and personal miles; otherwise, according to Internal Revenue Service guidelines, all miles are considered personal for tax purposes. In complying with the tax filing requirement, DOCCS's Support Operations unit annually provides employees assigned a vehicle a Taxable Value of Personal Use of Employer Provided Vehicle form which includes the vehicle's total mileage for the reporting period and instructs the employees to calculate their taxable fringe benefit attributable to their commuting use of the vehicle. This calculation is based on self-reported total commuting miles or the number of one-way commuting trips between home and work. The employees must return the completed form to the central office, which adjusts their reportable wage accordingly.

The Inspector General found, however, that Fischer, while commissioner, and LeClaire, while deputy commissioner, failed to report this taxable fringe benefit. When questioned by the Inspector General about their delinquent filing, both Fischer and LeClaire asserted that they are not required to file the taxable value form, citing the approval granted by former Deputy Secretary to the Governor and Commissioner of Criminal Justice Services Denise O'Donnell for them and other DOCCS employees to

¹⁴ IRS regulations, DOB Budget Policy & Reporting Manual, D-750, and State Comptroller Payroll Bulletin.

have assigned vehicles. As noted above, in a September 25, 2009, memorandum to O'Donnell, Fischer sought permission to assign vehicles to specific employees, exempting them from the then-newly promulgated Budget Bulletin D-750. However, Fischer and LeClaire seem to have conflated approval for an assigned vehicle with exemption from tax reporting requirements -- such approval does not negate the reporting requirement. In point of fact, it is the employee with an assigned vehicle who most likely would be using a vehicle for commuting and other personal use, thereby triggering the requirement to maintain a vehicle use log of business and non-business miles and to then report the personal fringe benefit. Notably, Fischer told the Inspector General that he neither sought nor received advice from DOCCS Counsel, the Governor's Office, or any other official regarding his position on his claimed tax exemption.¹⁵

Inaccurate Tax Filings Records Regarding Vehicle Use By Superintendents

The Inspector General found that DOCCS superintendents by and large comply with this requirement and annually file the Taxable Value form to report the taxable fringe benefit related to their commuting in state-assigned vehicles. However, the Inspector General also found that a number of DOCCS officials who have filed the required taxable value forms associated with their vehicle use have not always done so correctly.

Given that most employees work at least 225 days a year, employees with assigned vehicles would therefore be expected to report at least 450 one-way commutes.¹⁶ However, data collected by the Inspector General reveal that almost 60 percent of those interviewed reported fewer than the expected number of one-way trips. Surprisingly, several superintendents reported one-way trip totals that exceeded the mileage logged by their vehicles. These findings raise questions about the accuracy of

¹⁵ Contrary to Fisher's testimony, DOCCS produced a memorandum from Fisher addressed to the then-Deputy Secretary to the Governor for Criminal Justice seeking a tax exemption on behalf of himself, LeClaire, the Department's Inspector General, and the CERT Director for commuting to and from work in an assigned agency vehicle. There is no evidence, however, that this request was acted on by the Deputy Secretary. It should be noted that the Deputy Secretary lacks the authority to grant such an exemption.

the self-reported figures and further highlight the need for DOCCS to ensure that employees who are appropriately assigned vehicles complete accurate daily logs.

Failure to Maintain a Daily Vehicle Log in Violation of DOCCS Policy

DOCCS Directive 2932 requires employees who use a state vehicle to keep a record of their vehicle usage. The Daily Vehicle Log serves as an important means for DOCCS to account for and monitor vehicle mileage and fuel and maintenance costs. A June 2010 revision to the directive added the requirements that all correctional facilities implement a “procedure to account for the monthly submission of a completed form” and that, for central office staff, a completed form “must be submitted to Support Operations each month.” In addition, the importance of maintaining such vehicle use records was emphasized in then-Director of State Operations Valerie Grey’s September 18, 2009, memorandum, in which Grey stated that agencies were expected to “generate transparent measures of increased accountability in the use of state vehicles.” However, 22 percent of the superintendents and central office staff interviewed by the Inspector General indicated that they do not complete a daily vehicle log, in direct contravention of DOCCS policy.

When asked about maintaining a vehicle log, the then-Lakeview Shock Correctional Facility superintendent stated, “I know there’s a policy for state vehicles,” but acknowledged that in his more than 20 years as a superintendent he never kept a log. The then-Moriah Shock Correctional Facility superintendent testified that he only began keeping a log after he read a newspaper account of the Inspector General’s investigation, several days before his interview.

The Inspector General also found a lack of accountability regarding vehicle logs. Facility compliance with the log requirement is not monitored by central office,

¹⁶ The expected number of annual one-way trips applied in the analysis is 450, based on 52 work weeks per year, 15 official holidays, and a month of vacation and sick leave.

essentially placing superintendents in the position of monitoring themselves. At central office, the administrator to whom executive staff submits vehicle logs acknowledged that she does not follow up if logs have not been submitted or are incomplete.

The June 2, 2011 Retirement Party

On June 3, 2011, during the pendency of this investigation, the Inspector General received information that Fischer and numerous other DOCCS staff had used state vehicles to travel to attend a retirement party for a DOCCS superintendent in western New York the previous evening. The Inspector General immediately expanded the investigation to include the circumstances of that event.

The June 2, 2011, party from 5:00 p.m. to 8:30 p.m. at a banquet facility in West Seneca, Erie County, honored the superintendent of Wende Correctional Facility and the Wende “hub” of 12 correctional facilities in the region, who was retiring after a 37-year career at DOCCS. The approximately 325 attendees included 17 DOCCS superintendents, 16 DOCCS executive staff, and other DOCCS employees. The cost of the party was covered by a \$40 charge, which each of the attendees personally paid.¹⁷

Fischer advised the Inspector General that he considered the June 2 retirement party and other similar events as agency business that he felt he and a senior deputy were obligated to attend as part of their official duties. Fischer testified:

It really gets down to the core of the issues. The prison system runs well because people run it well. People need to believe in each other. To me, it's part of the job. I am, and maybe others will argue, my presence is important. I go around, I shake hands . . . it's part of leadership, it's part of running an agency that, and I know people don't understand this, but it's running an agency that few people want to know about . . . I think that commissioners, certain other people like [Deputy Commissioner for Facility Operation] Lucien LeClaire and others, we need to be visible to the people who run the institutions. And not to be there is almost a slight.

¹⁷ As a courtesy, the Commissioner attended this and other retirement parties for free. As Fischer testified to the Inspector General, “They don't make me pay, I go to so many, it's almost like, well it is, it's a tradition. I'm a little uncomfortable with it, but it's a tradition.”

Fischer added: “This is a policy issue. I believe that the nature of our organization almost demands that we’re together – state business.” When the Inspector General asked Fischer if he was aware of any policy to support his position, he replied, “Written policy? Probably not.”

Consistent with his opinion that such events are official activities, Fischer traveled to the June 2, 2011, retirement party in his state-assigned vehicle and charged his overnight lodging expense to his state-issued credit card. Fischer stated that due to the length of the trip, he was driven by a DOCCS central office employee, explaining, “If I’m going to be in the car for more than two to three hours, I have somebody drive so I can [do] some work.” The employee who drove Fischer also stayed overnight at state expense.

Fischer testified that he also considered it appropriate for executive staff and superintendents to use their state-assigned vehicles and to charge the state for all travel expenses, including overnight lodging, related to their attendance at such retirement parties. Several DOCCS executive staff interviewed by the Inspector General recalled that Fischer had communicated this view to the agency’s senior managers in a meeting in 2007, at about the time Fischer was appointed commissioner. With respect to such parties, a superintendent stated that it is “common philosophy that superintendents are expected and encouraged to be there.”

Despite Fischer’s position, the Inspector General found that central office executive staff and facility superintendents lacked a clear understanding of what was appropriate practice for travel and lodging relating to retirement parties.¹⁸ In fact, a

¹⁸ With respect to the related issue of charging leave accruals for time spent traveling to or attending a work-related social event, the New York State Department of Civil Service Attendance and Leave Manual, Section 21.12, Paragraph C-4 (“Leave for Social Activities”) provides that the principal executive officer of an agency has the authority to determine that attendance at such an event “would be beneficial to employee relations and in the best interests of the department or agency”. If the official so finds, appropriate time off may be granted to employees to attend without charge to accumulated leave credits. As discussed, however, Commissioner Fischer was unaware of a formal policy governing permission to attend work-

number of these officials who attended the June 2 party expressed to the Inspector General their reluctance to do so unless they also had scheduled other DOCCS business in the area at the same time.

The Inspector General interviewed 14 of the central office staff and 10 of the superintendents who attended the June 2 retirement party. Of the 24 staff interviewed, 16 (including Fischer and the employee who drove him) used a state vehicle for travel to and from the party; the others drove personal vehicles. Eighteen of the 24 officials stayed overnight in the vicinity of the party location; four of the 18 personally paid for their lodging, while 14 charged the state. With the exception of Fischer (and the employee who drove him) all 14 of the officials who charged the state for their overnight lodging, including central office staff and superintendents, stated that they conducted DOCCS-related business (apart from the party) during the travel.

The testimony of attendees at the June 2 party is revealing. The superintendent of a correctional facility in the Hudson Valley region said he drove his personal vehicle to and from the party and personally paid for his hotel stay because he believed that, in the absence of other official business on the trip, charging his expenses to the state violated accepted practice. A second superintendent stated that it is his practice to use his state-assigned vehicle for travel to and from retirement parties, but he only charges the state for lodging when he has other business at the time. However, one superintendent stated he used his personal vehicle to make the more than 300-mile round-trip drive to attend the party, and did not stay overnight, adding he was unaware of Fischer's expressed position on such travel and considered it personal business.

Notably, even then-Deputy Commissioner for Correctional Facilities Lucien LeClaire was among those officials who diverged from the practice Fischer stated was permissible. As LeClaire testified:

related social functions, and apparently did not act in specific reliance on the discretion provided to him under the Civil Service guideline. Even if he had, the Inspector General finds that granting time off to such a large number of employees to attend the retirement party of one among some five dozen superintendents in the state to have been an improvident exercise of such discretion

Even though I was the [master of ceremonies], and even though the Commissioner has clearly stated that he considers events like this official business . . . me just going out there and not doing any site visits associated with it might be a gray area. So I just felt myself that I would be better off to pay for that room out of my own pocket.

Records show that Fischer himself conducted other agency business in nearly every instance when his attendance at a retirement party involved an overnight stay. From March 2009 to June 2011, Fischer attended 28 of the 40 retirement parties held for superintendents and executive management staff. On the 10 occasions when Fischer stayed overnight, he reported conducting other official business in all but one instance, the sole exception being the June 2, 2011, retirement party in West Seneca.

The Inspector General recognizes that attendance by Fisher and a top deputy at retirement parties for superintendents has been a traditional practice within DOCCS and reasonably can be viewed as serving the interests of the agency. However, attendance by other staff does not serve a similar official purpose, and should not be supported by the expenditure of state resources.

FINDINGS AND RECOMMENDATIONS

Assignment of Vehicles to Senior Staff Unnecessary

The Inspector General determined that DOCCS's practice of assigning vehicles to approximately 64 correctional facility superintendents and 16 central office staff is not justified by the actual use of these vehicles, and is inconsistent with state policy. DOCCS's vehicle use practice, which has become entrenched over the years, must be revamped and the assignment of personal vehicles significantly curtailed.

The Inspector General recognizes that the safety and security of the state's correctional system cannot be compromised, and that emergencies occur in correctional facilities requiring an immediate and effective response by DOCCS. However, the investigation found scant evidence that the assignment of vehicles to superintendents and

agency executives aids such responses. Emergencies requiring the presence of the superintendent are rare, and superintendents and central office executives are not “first responders” to these events.

The investigation revealed that assigned vehicles are used largely for commuting between officials’ homes and workstations. A large percentage of the approximately one million miles incurred by assigned vehicles in the 2009-2010 reporting period was for commuting. Consequently, the assignment of vehicles to superintendents and executive staff serves less a correctional purpose and more of an additional, albeit unofficial, benefit for these individuals, a fact essentially conceded by then-Commissioner Fischer. Pointedly, the assignment of personal vehicles for commuting, including gasoline and E-ZPass paid by DOCCS, is a misuse of state resources that should be curtailed.

These findings demonstrate that DOCCS’s practice of assigning vehicles to individual employees can and should be curtailed. The investigation also underscores the need for DOCCS to undertake a thorough analysis of its vehicle usage needs. The Inspector General recommends that DOCCS conduct such an analysis, which should focus on reducing the use of personal assigned state vehicles as well as improving the efficiency in pool vehicle use through better allocation and consolidation.

The Inspector General notes that such analysis and fleet reduction should have occurred as a result of the previous administration’s revised budget policy and its clear call for significant changes in vehicle use. Regrettably, then-Commissioner Fischer took no action at the time, and instead, through an inaccurate memorandum, sought exemptions from the restrictions imposed by the 2009 policy, while maintaining assigned vehicles for other executive employees absent any approved exemption. DOCCS’s failure to act then makes the need for reform now all the more critical.

The Inspector General further recommends that DOCCS designate an internal compliance officer, distinct from DOCCS’s internal control officer, to monitor compliance with budget directives and to create training programs to ensure adherence to

the directives and to promote increased fiscal control and accountability. The training and compliance should be mandatory for all DOCCS superintendents and facility fiscal staff, and all central office personnel involved in the implementation of budget directives and fiscal controls, including the commissioner.

Improper Personal Use of State-Assigned Vehicles

The Inspector General's investigation also revealed that 23 percent of officials interviewed misused their assigned vehicles by transporting friends and family members or engaging in other non-business related travel.

The Inspector General recommends DOCCS review the instances of improper personal use of vehicles identified in this investigation and consider disciplinary action as appropriate. DOCCS also should take steps to ensure that all employees are aware of agency policy prohibiting personal use of official vehicles.

With respect to retirement parties and similar social events, the Inspector General recognizes that attendance by the commissioner and a top deputy at DOCCS' expense arguably serves an agency purpose. However, attendance by large numbers of other staff members does not serve a similar official purpose and should not be supported by the expenditure of state resources. DOCCS should promulgate unequivocal policy in this area and ensure that it is clearly understood by all staff.

Failure to Report Taxable Value of Vehicle Use

The Inspector General found that Fischer and then-Deputy Commissioner for Correctional Facilities Lucien LeClaire used state vehicles to commute between their residences and workstations, but did not report or pay taxes associated with this benefit, as required. In addition, a number of officials incorrectly reported the taxable benefit resulting from their vehicle use.

Deficiencies in Vehicle Record Keeping

Accurate, complete, and timely record keeping of vehicle usage is essential for DOCCS to manage its large fleet of vehicles effectively and as a means of holding staff accountable for their vehicle use. The Inspector General found that nearly a quarter of superintendents and central official executive staff with assigned vehicles failed to complete a Daily Vehicle Log, contrary to DOCCS regulations.

The Inspector General recommends that DOCCS take steps to ensure that vehicle use logs and related records are completed as required.

CORRECTIVE ACTIONS TAKEN BY THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION IN RESPONSE TO THE INSPECTOR GENERAL'S FINDINGS

The Inspector General shared the findings and recommendations of this investigation with DOCCS and assisted DOCCS in formulating corrective action. DOCCS advised that it has undertaken an analysis of vehicle usage, resulting in a number of significant actions to address the issues identified in this report, including:

- DOCCS issued a new directive advising executive staff, regional directors, and superintendents that they would no longer be assigned vehicles, and that all vehicles must be returned to the agency vehicle pool.
- DOCCS issued a new directive advising that agency vehicles may not be used to attend social events such as retirement parties.
- DOCCS issued new policy stating that agency officials with assigned vehicles must log and report for tax purposes all non-business related travel.
- DOCCS updated its vehicle log and reporting procedures to record commuter usage. DOCCS also expanded its internal compliance unit to review and audit vehicle

usage and commercial gas credit card charges to ensure adherence with agency and State policy.

- DOCCS has conducted training for appropriate staff on budget directives, fiscal control and accountability, and vehicle usage policy.
- DOCCS provided necessary documentation to Fischer and LeClaire to amend their tax forms.
- DOCCS has reviewed the conduct of specific employees with regard to the improper personal use of agency vehicles and is pursuing action as warranted.

APPENDIX

The September 18, 2009, memorandum from former Director of State Operations Valerie Grey to agency heads and DOCCS Commissioner Brian Fischer's memorandum of September 25, 2009, to former Deputy Secretary to the Governor and Commissioner of Criminal Justice Services Denise O'Donnell are reproduced on the following pages.

Revised Fleet Policy
due 10/15/09



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

DAVID A. PATERSON
GOVERNOR

VALERIE GREY
DIRECTOR OF STATE OPERATIONS

MEMORANDUM

TO: Heads of State Agencies and Public Authorities
FROM: Valerie Grey, Director of State Operations
Office of Taxpayer Accountability
SUBJECT: Revised State Fleet Policy
DATE: September 18, 2009

This memorandum is to bring your attention to the recently revised Division of the Budget BPRM Item No. D-750 with respect to the acquiring, use and management, reporting, and disposal of state vehicles. In continuing with the series of directives to agencies, aimed at reducing wasteful spending, and eliminating fraud and abuse in state government, the Office of Taxpayer Accountability and the Division of the Budget have instituted necessary revisions to the policies and procedures required by Division of the Budget for managing state vehicles.

It is clear that some of these policies are a dramatic shift from previously allowed practices, but it is expected that agencies will not only achieve savings through the strict application of the policies and guidelines set forth in this bulletin, but will also generate transparent measures of increased accountability in the use of state vehicles. I ask that you pay close attention to the contained policies and use them as the minimum standards as you develop your individual agency fleet policies.

If you have any questions regarding the contents of this bulletin, please contact your budget examiner or your appropriate Deputy Secretary.



BRIAN FISCHER
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HANNAN STATE CAMPUS - BUILDING 2
1323 WASHINGTON AVENUE
ALBANY, N.Y. 12223-2050

MEMORANDUM

*Approved
DEC 09
9/29/09*

TO: Denise O'Donnell, Deputy Secretary
FROM: Brian Fischer, Commissioner *B. Fischer*
SUBJ: State Fleet Policy
DATE: September 25, 2009

After careful review of the revised Division of the Budget BPRM Item #D-750 it is respectfully requested that DOCS be given approval to assign specific vehicles to specific individuals, and to seek approval for a generalized modification of DOB's policy for specialized units.

Specifically, and as previously approved, the following titled persons require the use of state owned vehicles at all times; Commissioner, Deputy Commissioner for Facility Operations, Deputy Commissioner and Inspector General, and Colonel, Correctional Emergency Response Team (CERT). Each individual's vehicle is equipped with New York State Police radios and DOCS radios to be able to communicate with any NYSP unit or trooper car, and directly with each of the 69 correctional facilities. The positions the individuals hold require their ability to respond to any emergency situation and to remain in communication at all times.

With respect to a generalized modification of the policy, there are specific titles and units which require access to state owned vehicles, or the approval to use personal vehicles, at a moment's notice. In these categories are; Inspector General, Field Investigators, Deputy Inspector General, Albany CERT members, and the Director and Assistant Director of the Crisis Intervention Unit. It should be noted that each staff is a Peace Officer and are usually armed when on official business.

It should also be pointed out that facility superintendents have access to specific vehicles as previously approved, and who's assignment is covered in DOB's policy in accordance with Comptroller Payroll Bulletin, Reporting the Taxable Value of Personal Use of Employer Provided Vehicles and Chauffeur Services.