



The City of New York
Department of Investigation

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DOI INVESTIGATION FINDS SYSTEMIC MISUSE OF CITY-OWNED VEHICLES BY DEPARTMENT OF CORRECTION EXECUTIVE STAFF

Mark G. Peters, Commissioner of the New York City Department of Investigation ("DOI"), today announced the findings of an investigation into the use of Department of Correction ("DOC") assigned "take-home" vehicles by high-ranking DOC staff, including the Commissioner of DOC. DOI's Report uncovered misuse of the City-owned vehicles for unauthorized travel, including trips to Maine, the Hamptons, Cape Cod and other transportation to beaches, amusement parks and local airports. Using City-owned vehicles for these purposes is expressly prohibited by City policy, DOC's own policy, and Conflicts of Interest laws. DOI's investigation revealed 21 senior-level employees routinely abused take-home vehicle privileges and cost City taxpayers thousands of dollars in wasted money spent on gas and tolls to cover personal trips. As a result, DOI is referring the findings for these 21 individuals to the appropriate enforcement bodies for further review and has issued recommendations to address the vulnerabilities identified in the Report that contributed to this systemic misuse. A copy of DOI's report can be found at the following link: <http://www1.nyc.gov/site/doi/newsroom/public-reports.page>.

Commissioner Mark Peters said, "DOC staff, including the Commissioner, routinely misused City vehicles and violated City rules. This widespread disregard of policy undercuts DOC's ability to ensure order and discipline at an agency already struggling to control violence and crime in its jails, issues that DOI has been investigating for the past three years. Most disturbing in this report is the conduct of senior officials who must be accountable for their actions."

DOI's investigation began with an anonymous allegation that DOC Commissioner Joseph Ponte, and other high-ranking and executive staff, were misusing their take-home vehicles for personal use. DOI reviewed vehicle usage in Calendar Year 2016, mapping over 24.5 million GPS data points, analyzing dozens of vehicle usage maps, vehicle assignment records, gas card data and E-ZPass statements to determine if unauthorized trips were taken. Of the 98 take-home vehicles and corresponding maps that were reviewed, DOI determined that approximately 40% of those maps demonstrated irregular travel to locations out-of-state or outside of the five boroughs on weekends and holidays, with the most egregious examples including multiple trips to shopping malls, area airports on nights and weekends, beaches, spas, resorts and other destinations without corresponding timesheets.

DOC vehicle policies expressly prohibit unauthorized out-of-state travel, E-ZPass usage for non-official charges, and requires all DOC drivers to maintain vehicle usage logs or "trip sheets" to prove compliance with the policies. Interviews with DOC's Transportation Division revealed that each of the subjects in DOI's Report received copies of the City Handbook, which describes City take-home vehicle policy and DOC's vehicle policies.

DOI's investigation revealed misuse of take-home vehicles by DOC top-level executives:

- Commissioner Ponte drove his assigned vehicle out of New York State on 28 occasions, for multiple days at a time, with many of the trips to areas of Coastal Maine, and used his vehicle outside of New York State on personal business for 90 calendar days in 2016 – approximately 24.6% of the calendar year.

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- Chief of Staff Jeff Thamkittikasem used his City vehicle to drive to a friend's house in Virginia for a birthday party, informing DOI that since he answered phone calls and emails while he was out of town he considered it to be the equivalent of being at work, even submitting his timesheet to reflect he had been at work during that time.
- Acting First Deputy Commissioner Cynthia Brann told DOI that she used her City vehicle on weekends almost exclusively for shopping, including trips to Woodbury Commons Outlets and the Gallery at Westbury Plaza, among others.
- Deputy Commissioner ("DC") Gregory Kuczinski, who oversees the Department's internal investigations, took over 20 trips to Westchester County in his take-home vehicle on personal business, including a vacation day to go golfing and multiple trips to John F. Kennedy ("JFK") and LaGuardia airports to transport family.
- DC Kuczinski was previously fined \$1,500 by the Conflicts of Interest Board ("COIB") for having a subordinate transport him and his family to JFK Airport for a family vacation in 2015, in which Kuczinski admitted in a statement that he did not have authorization to use the vehicle which was, by his admission, "to be used for official business only."

All of these senior staff members informed DOI that they considered themselves to be on "24-hour call" and therefore needed to respond from wherever they went, making the use of their City-assigned vehicles permissible during these times, however, no staff member reported having ever actually responded to any departmental emergency from the locations cited by DOI in its Report and some staff admitted that personal response from long distance was not practical in any event. The City's Department of Administrative Services ("DCAS") also confirmed that no 24-hour, on-call allowance or exception exists.

Beyond misuse of vehicles, DOI's investigation also found DOC recordkeeping and maintenance is unorganized, with staff routinely failing to submit or maintain monthly trip sheets. As a result of this systemic abuse of car privileges and additional compliance issues, DOI has issued recommendations to DOC, including:

- DOC should reissue to all staff who drive City-assigned vehicles the Citywide rules and regulations that prohibit the use of City vehicles for personal use, and each driver acknowledge receipt of the policies.
- DOC must enforce existing policies related to vehicle usage, including the requirement that drivers maintain trip sheets, and DOC should have a centralized way of tracking these trip sheets.
- DOC should conduct periodic audits of E-ZPass and gas card usage to ensure that unauthorized out-of-state travel is not occurring.
- DOC should conduct annual audits of vehicle usage. GPS data should be used to aid in these audits.

DOI Commissioner Mark Peters thanked Deputy Commissioner and Chief Fleet Officer Keith Kerman of the DCAS Fleet Services Unit, and his staff, for their assistance and cooperation in this investigation.

The investigation was conducted by DOI's Office of the Inspector General for DOC, specifically Assistant Inspector General Richard Askin, under the supervision of Inspector General Jennifer Sculco, Associate Commissioner Paul Cronin, Deputy Commissioner/Chief of Investigations Michael Carroll and First Deputy Commissioner Lesley Brovner.

DOI is one of the oldest law-enforcement agencies in the country and New York City's corruption watchdog. Investigations may involve any agency, officer, elected official or employee of the City, as well as those who do business with or receive benefits from the City. DOI's strategy attacks corruption comprehensively through systemic investigations that lead to high-impact arrests, preventive internal controls and operational reforms that improve the way the City runs.

DOI's press releases can also be found at twitter.com/doinews
Bribery and Corruption are a Trap. Don't Get Caught Up. Report It at 212-3-NYC-DOI.



New York City Department of Investigation

**Systemic Misuse of City-Owned Vehicles by Senior Staff Members
at the New York City Department of Correction**

**MARK G. PETERS
COMMISSIONER**

April 2017

EXECUTIVE SUMMARY

On April 7, 2016, the New York City Department of Investigation (“DOI”), received an anonymous allegation that Joseph Ponte, the Commissioner of the New York City Department of Correction (“DOC”), and other high-ranking and executive staff, had been misusing assigned City-owned vehicles for personal use. As part of this investigation, DOI reviewed DOC and Citywide policies regarding City vehicle usage, interviewed dozens of employees, processed and mapped over 24.5 million GPS data points,¹ analyzed 98 vehicle usage maps and reviewed relevant opinions issued by the City’s Conflicts of Interest Board (“COIB”). Additionally, DOI obtained and reviewed hundreds of DOC vehicle assignment records, including E-ZPass statements, gas card data, and fringe benefit tax filings.²

In the early stages of this investigation DOI uncovered evidence that corroborated the complaint, which prompted a broader review of DOC’s agency-wide “take-home” vehicle usage. This review revealed systemic misuse of City vehicles for personal purposes by 21 DOC employees. DOI’s investigation, which focused on 2016, revealed that the misuse of City vehicles was a top-down practice, evidenced by Commissioner Ponte and other high-ranking³ DOC staffs’ frequent disregard of City rules and regulations. The 21 DOC employees cited in this report frequently used their work vehicles for unauthorized personal travel, including trips to the following locations:

- Maine
- Cape Cod
- Niagara Falls
- Mohegan Sun Casino
- Washington D.C.
- Coastal Virginia
- The Hamptons
- The Poconos
- Central Connecticut
- The Catskills
- 16 trips to the Outlets in Riverhead and Woodbury Commons
- 43 trips to Newark, JFK and LaGuardia Airports for personal travel and for the frequent transportation of family and friends

Beyond taking the trips noted above, DOI found that it was the regular practice of DOC staff in this report to transport their family members in the City vehicle. Specifically, 20 of the 25 staff members interviewed stated that they regularly use the City vehicles to transport family members. Staff reported going on weekend outings to beaches and amusement parks, and taking

¹ Pursuant to a fleet management program contracted through The Department of Citywide Administrative Services (“DCAS”), Global Positioning System (GPS) devices have been installed in City vehicles assigned to DOC and other City agencies. DOI obtained the GPS records for DOC’s take-home vehicles which capture geographic positioning information for each vehicle every two minutes or so while the vehicle is in operation.

² The use of a company car for personal purposes, such as commuting, is considered a fringe benefit under federal tax laws. Employees must declare the amount of the benefit received each year based on a mileage rate set by the IRS, and then add that fringe benefit amount to their net annual income for tax purposes. Certain types of employees, such as Peace Officers (which includes all uniformed members of DOC) are exempted from the fringe benefit tax.

³ For purposes of this review, high-ranking staff included Assistant Commissioner and above on the civilian side of DOC, and Deputy Wardens and above on the uniform side, with the inclusion of Captains who serve as aides to various department chiefs.

their families to and from local airports. Such activity is expressly prohibited by both City policy and Conflicts of Interest laws.

DOI's investigation further revealed wide-spread failure to comply with other applicable policies, including the failure to maintain log sheets to document the official purpose of the vehicle usage and the underreporting of taxable fringe benefit income.

As a result of these findings, DOI is referring 21 staff members for discipline and for other appropriate sanctions and is sending a copy of this Report to appropriate authorities. Additionally, DOI has identified vulnerabilities that contributed to this systemic problem and has made numerous recommendations to DOC to improve its compliance with the City's rules and regulations governing the use of City vehicles.⁴

I. Background

The New York City Department of Correction is one of the largest law enforcement agencies of its kind in the country, employing over 10,000 uniform and civilian staff members responsible for the care, custody, and control of thousands of inmates each year. In addition to Rikers Island, DOC has facilities in all five boroughs and DOC staff members are often required to travel to a variety of work locations. As a result, DOC maintains an extensive vehicle fleet which includes approximately 100 "Take-Home Vehicles." Such vehicles are assigned to employees at DOC's discretion, to be used in performance of their official duties and to commute to and from work. The City Vehicle Driver Handbook ("The Handbook"), as promulgated by the Department of Citywide Administrative Services ("DCAS"), is the controlling administrative policy that governs City's vehicle usage, and both Citywide and DOC policies dictate how take-home vehicles are to be utilized. The Handbook is available to the public online through the City's homepage,⁵ and provided by DOC to each driver at the time that they receive their vehicle.⁶

Applicable Citywide vehicle regulations

With limited exception, the Handbook expressly prohibits personal use of City vehicles. It states: "Drivers are not allowed to use City Government vehicles for personal activities, except for required rest periods, meals, and brief stops incidental to the conduct of official City business."⁷ The policy goes on to restrict "incidental" use, stating: "[incidental] stops do not entitle drivers to use the vehicle for shopping, recreation or to transport others." While permissible to travel with other City employees in a City vehicle for official business, the prohibition on "transport[ing] others" means that non-City employees (friends and family) should not be travelling in these vehicles.

⁴ This Investigation and Report deals with the use of take-home vehicles for personal purposes. It does not deal with the use of cars for security details, which are governed by a different set of rules and for which certain personal use is expressly permitted by COIB rules.

⁵ http://www.nyc.gov/html/dcas/downloads/pdf/fleet/city_vehicle_driver_handbook.pdf

⁶ DOC Transportation Division provides each driver a packet of materials when they pick up the vehicles. The Transportation Division also sends an email to each driver with a PDF version of the City Handbook and an advisement in the body of the email that the vehicles are not to be used for personal use.

⁷ City Vehicle Driver Handbook Section I paragraph 3.

According to the Handbook, “Agency Heads should promulgate supplementary vehicle guidelines and procedures to address specific/specialized requirements related to the operations of their vehicle fleet. However, all agency procedures must be consistent with the requirements of this manual...”⁸

Applicable DOC vehicle regulations

DOC’s supplementary vehicle policies impose prohibitions on unauthorized out-of-state travel and E-ZPass usage for non-official charges, and require all DOC drivers to maintain vehicle usage logs, commonly known as “Trip Sheets,” in order to provide accountability and compliance with applicable regulations.⁹ DOC policy expressly states that, “New York City vehicles may be used only within New York State except when the vehicle operator’s chain of command approves such use prior to the out-of-state trip.”¹⁰

DOI interviewed officers assigned to DOC’s Transportation Division who process the vehicle assignments and maintain a vehicle assignment roster. According to the Transportation Division, all DOC drivers are issued hard copies of the City Handbook as well as the applicable DOC vehicle policies upon receipt of their take-home vehicle. As a part of the process of educating drivers on the proper use of City vehicles, the Transportation Division also emails PDF versions of the same policies to each driver. DOI confirmed that all of the subjects in this report received a PDF version of the City Handbook. With the exception of Commissioner Ponte, all of the subjects also received an additional email from the Transportation Division that expressly stated in the body of the email “Please note that the use of a vehicle for commuting purposes must be authorized in writing by the Correction Commissioner and cannot be used for personal reasons.”

In addition to Citywide policy regulations, recent decisions by the COIB, the prevailing authority on interpretation and enforcement of these rules, confirm that use of a City vehicle for personal activities not connected to City business is prohibited.¹¹

II. DOI’s Investigation and Review of DOC Vehicle Usage

In order to investigate the initial allegation and to conduct the review of DOC’s vehicle usage, DOI obtained GPS data for the calendar year 2016. DOI then processed the GPS coordinates for each take-home vehicle and plotted the coordinates using a mapping program. The map for each vehicle was then analyzed for potential unauthorized usage. The analysis of each vehicle map was focused on two criteria:

⁸ City Vehicle Driver Handbook, Policy Statement section, paragraph 9.

⁹ DOC’s internal policies can be found in the following DOC Operations Orders: 08/13 Use of Agency Vehicles; 01/14 Motor Vehicle Accountability; 09/13 E-ZPass Toll Collection System.

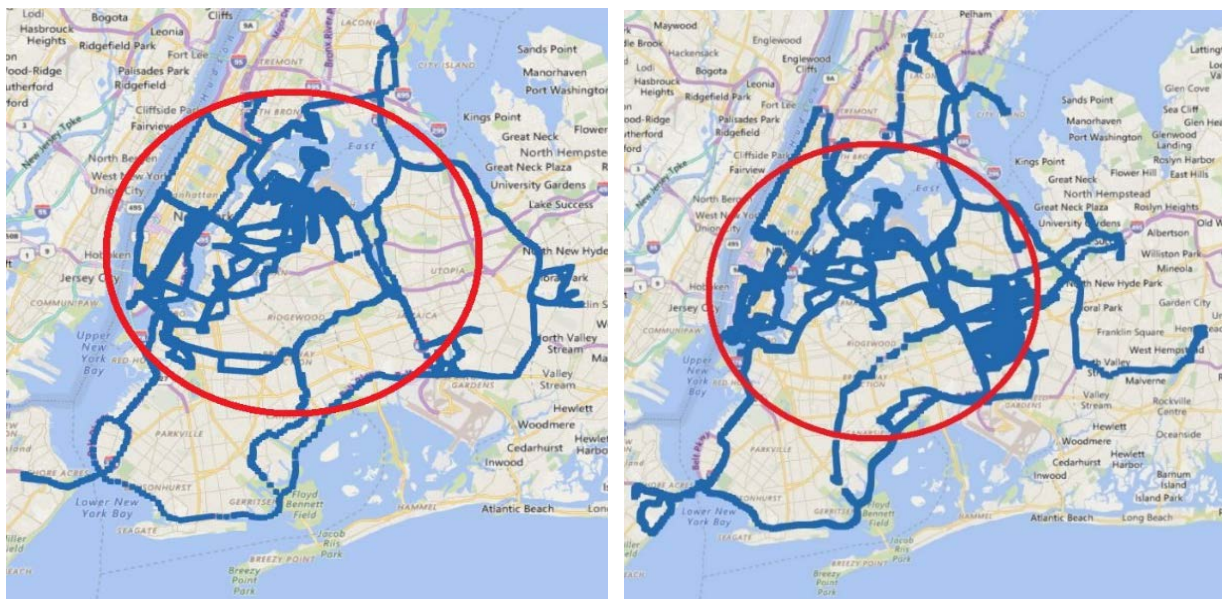
¹⁰ DOC Op. Order 08/13 III.A.

¹¹See *Matter of Gregory Gomez COIB 2012-095* where a Human Resources Administration employee was fined \$3,750 for using his City vehicle while off-duty to transport his girlfriend to her work location on several occasions and transporting his mother to the grocery store on one occasion.; *Matter of Martin Brenner COIB 2008-716* where a Director at the Parks Department was demoted and paid an \$11,000 fine for using his City vehicle on two occasions to run errands on the weekend and using his City E-ZPass for personal commuting purposes which cost the City approximately \$40.

- 1) Unauthorized out-of-state travel and/or extensive travel outside of the five boroughs¹²; and
- 2) Weekend/holiday usage with no corresponding timesheets indicating that the staff member had worked that day.

Because City policy allows for personal stops incidental to City business, DOI did not focus on GPS patterns in the vicinity of DOC facilities or in the neighborhoods where drivers reside. The purpose of this review was to look for obvious and repeated anomalies, not isolated incidents. Each staff member's vehicle map was reviewed and if instances were found as described in the criteria above the vehicle was flagged for further review.

For example, the two maps pictured below are instances of DOC employees whose vehicle usage was deemed by DOI to be in compliance and not further reviewed:



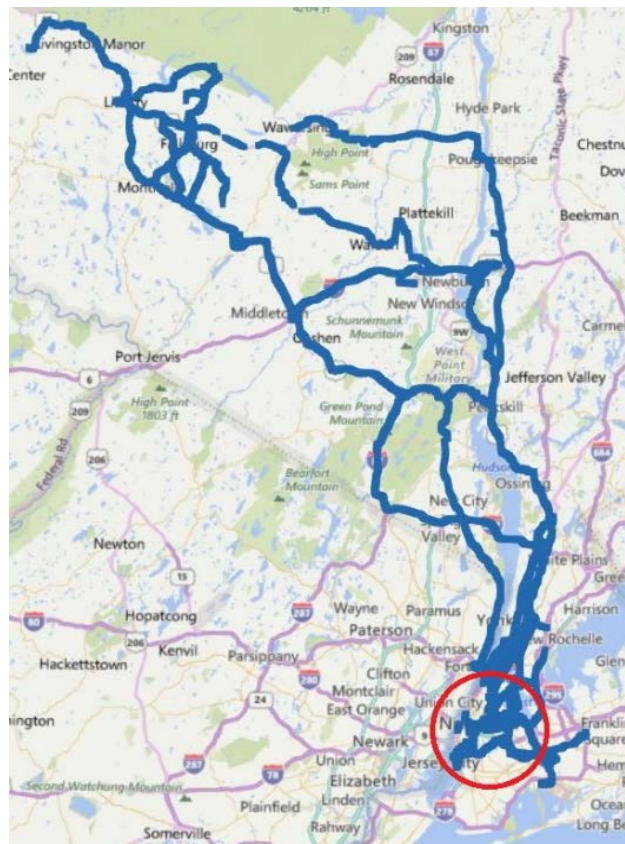
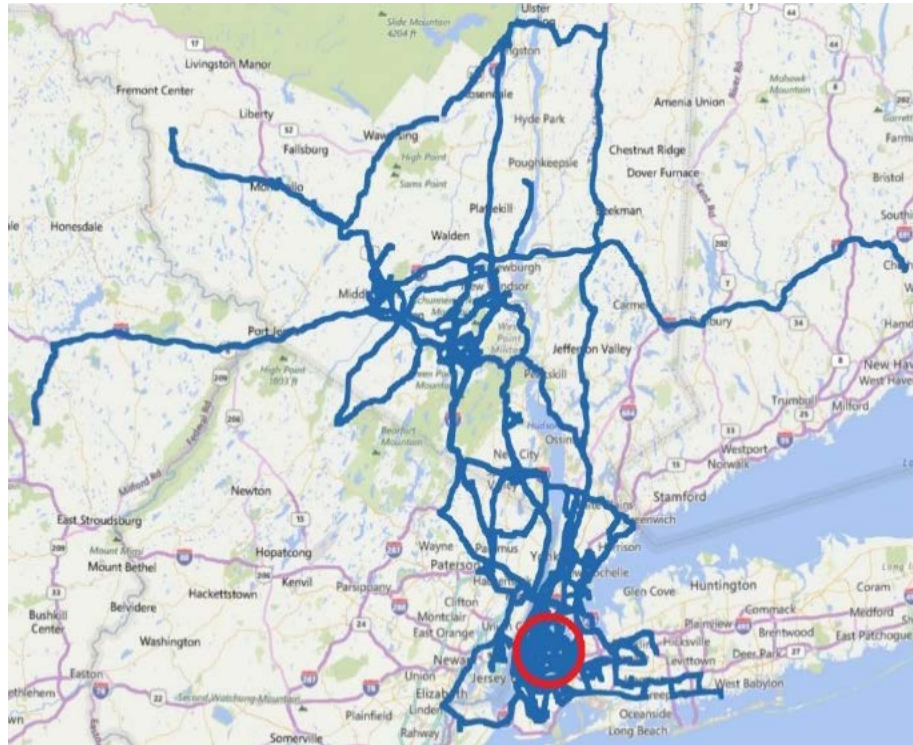
■ = Travel pattern based on GPS data

■ = Approximate area containing majority of DOC facilities.

In both of these cases, the analysis regarding the propriety of the usage was immediately clear. For the calendar year 2016 there was no out-of-state travel and very little out-of-borough travel except for commuting. In keeping with the stated purpose of this review, similar maps were quickly reviewed and dismissed from closer examination because there were no substantial irregularities found.

By comparison, the maps below are examples of readily apparent irregularities that plainly demonstrated the need for further review, including interviews of the staff members to explain the purpose of the travel.

¹² DOC employees are authorized to live outside of the five boroughs. The analysis described above looked at travel patterns that were both extensive and unrelated to regular commuting routes for each employee.



The preceding maps are but a few examples of the type of irregular vehicle usage that was flagged for further review. Of the 98 take-home vehicles and corresponding maps that were reviewed, DOI determined that approximately 40% of the maps demonstrated a similar pattern of irregular travel. Of those 40%, DOI focused on the most egregious patterns of misuse based on the following additional criteria:

- Multiple weekend trips to shopping malls
- Trips to John F. Kennedy, Newark and LaGuardia airports on nights or weekends
- Trips to beaches, resorts, or other non-work related locations
- Out-of-state or weekend travel with no corresponding timesheets

Ultimately DOI identified 25 staff members whose usage required further explanation.¹³ Each of the 25 selected staff members were interviewed and asked to verify the official business purpose for each anomalous trip. Two staff members were able to provide an official business purpose for all of the travel observed and therefore were cleared from further investigation. The remaining 23 staff members collectively had 272 identified instances of irregular travel.¹⁴ Based on the interviews, only five of those 272 instances were verified as having been for official business. All of the remaining travel outside of the five boroughs and/or New York State discovered on the take-home maps was acknowledged by the respective DOC staff as having been for personal use. These personal trips cost City taxpayers tens of thousands of dollars in City resources.¹⁵

As a result of this top-down practice of abuse, DOI is highlighting the vehicle usage of four top level executives.

a. Commissioner Joseph Ponte

In connection with his City employment, Commissioner Ponte has two assigned City vehicles. The first vehicle is operated by members of the Commissioner's security detail and provide security and transportation for Commissioner Ponte, including limited personal use, wholly consistent with City policy.¹⁶ Commissioner Ponte's second City vehicle is a "Full-Time, Take Home [vehicle] with Commuting Privileges" as defined in sections 3.1-3.2¹⁷ of the City

¹³ The remaining staff members who were identified as part of the initial 40% but whose maps demonstrated lesser patterns of irregularities may be subject to further review in consultation with the appropriate authorities to whom this matter is being referred.

¹⁴ This report highlights 21 of these 23. DOI's investigation remains ongoing and further referrals are anticipated.

¹⁵ As per the City Comptroller, the reimbursable rate for the personal use of a City vehicle is the same as the fringe benefit rate set by the IRS each year. For this reporting period, the rate was \$.54/mile. Based on this rate, DOI determined that the combined cost of the unreimbursed use of City resources by DOC staff exceeds \$20,000.

¹⁶ City Driver Vehicle Handbook, Section I Preamble Paragraph 3.

¹⁷ The term "Full Time" is defined in the Handbook as exclusive use of the vehicle as opposed to a pool car. It does not supersede the prohibition on personal usage.

Vehicle Driver Handbook.¹⁸ DOI obtained and analyzed the associated GPS, Gas Card data, E-ZPass records, and fringe benefit filings for Commissioner Ponte's take-home vehicle for 2016.

A review of these records revealed the following:

- In 2016 Commissioner Ponte drove his assigned vehicle outside of New York State on 28 occasions, often for multiple days at a time.¹⁹ The majority of the trips were to areas of Coastal Maine.
- Commissioner Ponte and his vehicle were outside of New York State on personal business for 90 calendar days of 2016, which constitutes approximately 24.6% of the calendar year.²⁰
- Commissioner Ponte added approximately 18,500 miles of out-of-state travel onto his City vehicle's odometer in 2016. All of these trips were for personal business.
- In 2016, Commissioner Ponte's vehicle only travelled to his office at DOC Headquarters on four occasions, and each occasion was either immediately before or after an extended trip out of town.
- The total amount of gasoline charged to Commissioner Ponte's City gas card in 2016 was \$1,345.67. Of that total amount, \$1,043.44 was charged out of state.
- During 2016, Commissioner Ponte accrued \$746.56 in E-Z Pass charges that were incurred during non-City business trips and which were not reimbursed to the DOC.

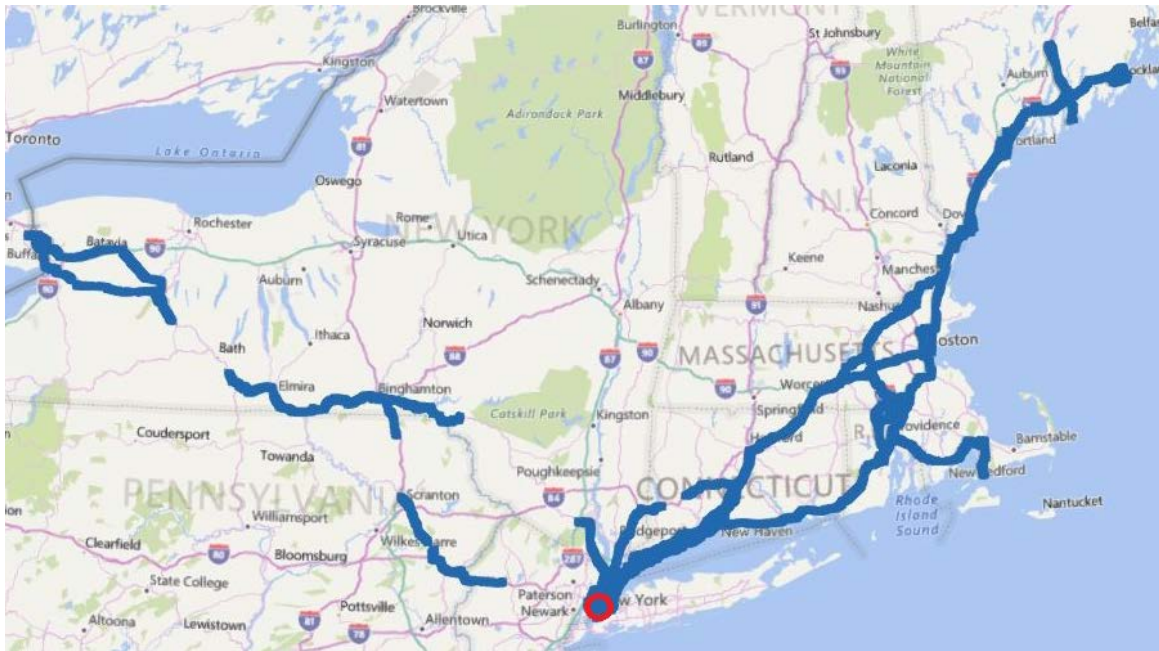
The map and calendar below represents Commissioner Ponte's out-of-state travel in his assigned City vehicle in 2016.²¹ As depicted by the map, and consistent with GPS data, Commissioner Ponte's vehicle was almost exclusively used for personal travel outside of the vicinity of DOC facilities, and the five boroughs.

¹⁸ It should also be noted that as per DOC records, DOC pays Commissioner Ponte's landlord \$3,600 per year plus fees to lease a parking space for his second take-home vehicle.

¹⁹ This calculation is inclusive of a 4-day vacation to Niagara Falls, which while technically is within New York State, is outside of the long-distance travel radius as defined by City Comptroller's Directive #6, which defines long-distance travel as anything outside of a 75-mile radius from Columbus Circle.

²⁰ Of the 90 days out-of-state, 35 were during the work week. Commissioner Ponte only took leave on six of those days. The remaining 29 days when he was out-of-state he reported that he was working an 8-hour-day.

²¹ GPS coordinates are accurate to within a few meters. Gaps in the map lines delineated below are the result of service outages due to outside conditions, for example cloud coverage or mountainous terrain, and indicate times when the vehicle's GPS device was temporarily not connecting to the satellite.



Out-of-City Travel for DOC Commissioner Joseph Ponte for 2016

Jan 2016						
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17	18	19	20	21	22	23
24	25	26	27	28	29	30

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28	29					

Mar 2016						
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May 2016						
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29	30	31				

Jun 2016						
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Jul 2016						
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Aug 2016						
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Sep 2016						
S	M	T	W	T	F	S
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Oct 2016						
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30	31					

Nov 2016						
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Dec 2016						
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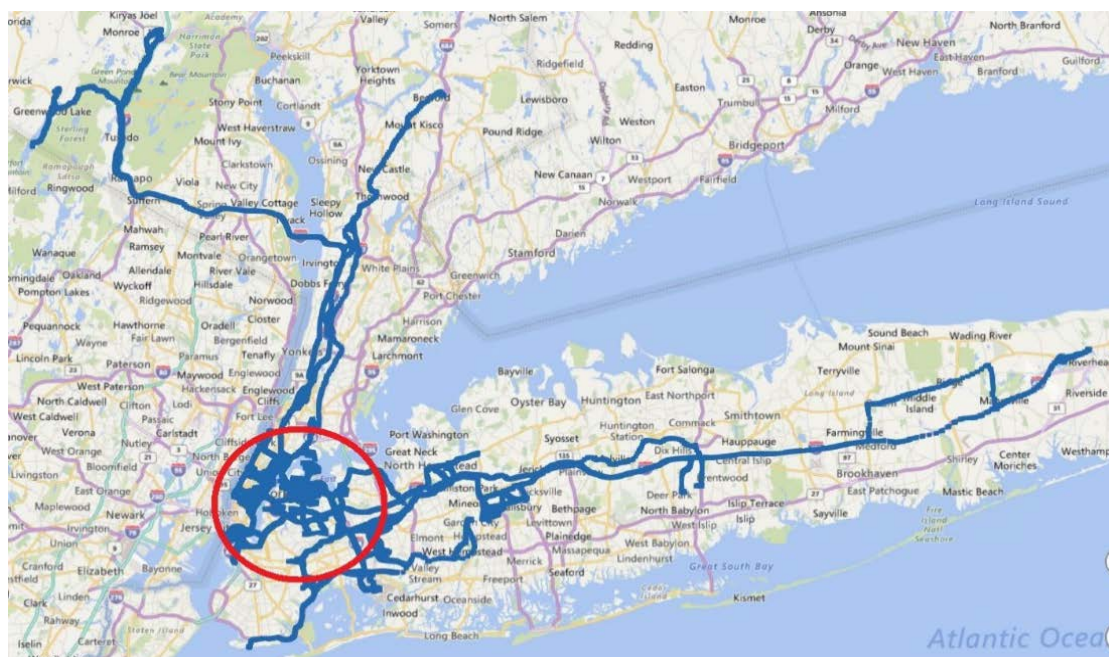
■ = Days that Commissioner Ponte was outside of the five boroughs with his take-home vehicle

Commissioner Ponte informed DOI that he considered himself on “24-hour call” and believed he could take his City vehicle with him wherever he went, including trips back to his home state of Maine. DOC records indicate that there were a variety of serious incidents that occurred at times when Commissioner Ponte was out-of-state with the City vehicle, including 27

inmate-on-inmate stabbings or slashings, three slashings of DOC officers, an on-duty death of staff, an unexpected death of an inmate,²² and an inmate escape.²³ However, Commissioner Ponte informed DOI that he never actually responded from Maine to any DOC emergency. Commissioner Ponte explained that if he was a few hours away it would not be practical to respond to incidents at DOC and instead would rely on his staff who was at the Department at the time of the emergency to physically respond and brief him via phone and email.

b. Acting First Deputy Commissioner Cynthia Brann

Acting First Deputy Commissioner (“AFDC”) Cynthia Brann, like Commissioner Ponte, is assigned two City vehicles: one vehicle utilized by a security detail,²⁴ and a second take-home vehicle. The map below represents AFDC Brann’s take-home vehicle usage and has been modified to only reflect times when her CityTime records indicate that she was not at work.²⁵



²² Meaning that an inmate died suddenly in a housing area, as opposed to a terminally ill inmate who passes away while under medical care.

²³ The inmate in this instance did not make it off of Rikers Island. He escaped onto the roof of the jail and was recaptured.

²⁴ Pursuant to DOC Op. Order 08/14, employees in the title of First Deputy Commissioner are eligible to have a security detail, which provides a car and driver.

²⁵ Due to a mechanical error, the GPS data for this vehicle only captured data between January – August 2016.

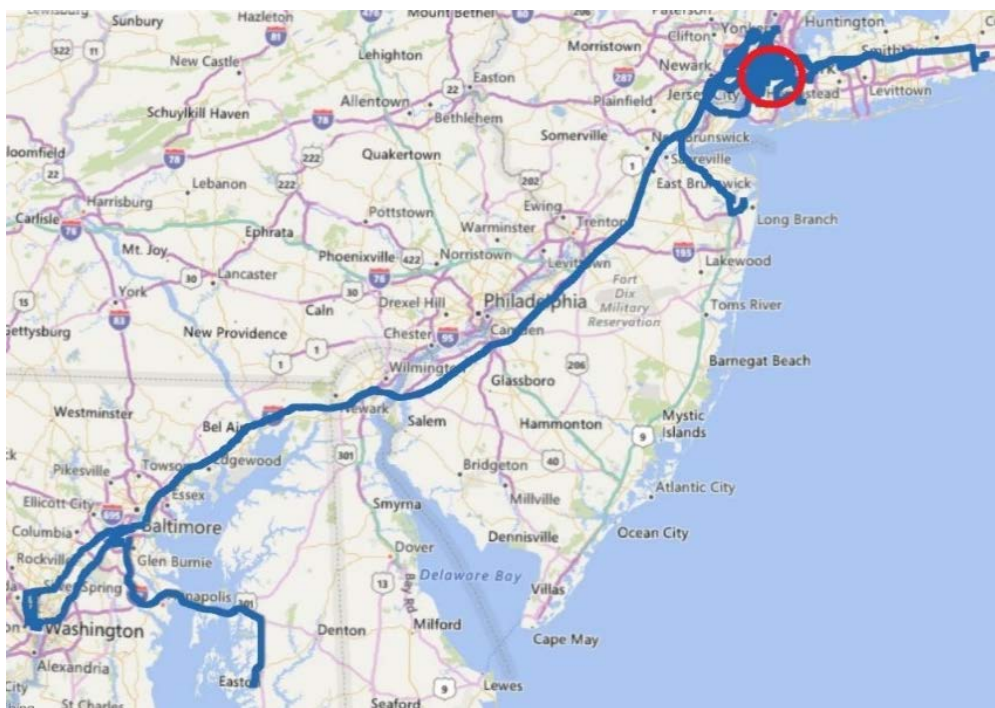
AFDC Brann informed DOI that she uses the City vehicle on weekends almost exclusively for shopping. GPS data support AFDC Brann’s account of her usage, which confirmed the following trips to various retail locations in New York State between January – August 2016:

- Gallery at Westbury Plaza on 1/09/16, 2/27/16, 3/5/16, 4/17/16, 8/13/16, 5/15/16
- Roosevelt Field Mall, Garden City on 1/09/16, 2/27/16, 3/20/16, 4/23/16, 8/13/16
- Century 21, Westbury on 2/6/16, 2/27/16
- Woodbury Commons Outlets, Woodbury on 4/2/16, 5/29/16
- Stop and Shop, Great Neck on 4/3/16
- Tanger Outlets, Riverhead on 4/24/16
- Gateway Plaza Mall, Brooklyn on 7/10/16

AFDC Brann also stated that she has picked up her husband at JFK airport on at least one occasion when he visited from their home state of Maine.²⁶ AFDC Brann stated that she never physically responded to departmental emergencies with her City car. Instead, her subordinates would respond on her behalf and brief her via telephone and email.

c. Chief of Staff (“COS”) Jeff Thamkittikasem

Below is the map of his vehicle usage for 2016:



On two occasions in 2016, COS Thamkittikasem traveled to the Washington D.C. area, once in March and again in August. When compared to corresponding timesheet records, it at first

²⁶ GPS data indicates three separate trips to JFK. Acting First Deputy Commissioner Brann could not recall what the other occasions were for but thought it may have been times when she was dropped off to catch a flight back to Maine.

appeared that this travel was for official business as timesheets indicated that COS Thamkittikasem was clocked in at work. However, COS Thamkittikasem informed DOI that in March there was a problem with a residence he owned in downtown D.C. and he used his City vehicle to travel there for a few days to address the problem. In August, COS Thamkittikasem stated that he used his City vehicle to drive to a friend's house on Virginia's Chesapeake coast for a birthday party, stopping at Baltimore International Airport on the way to pick up another friend to bring to the party. COS Thamkittikasem informed DOI that since he answered phone calls and emails while he was out of town, he considered that the equivalent of being at work, and so he submitted his timesheet to reflect that he had been at work.²⁷ COS Thamkittikasem stated that he believed such usage of his assigned City vehicle was permissible because he is on "24-hour call" despite acknowledging that a physical response to an emergency from these locations was not feasible.

COS Thamkittikasem also stated it is his regular practice to use his City vehicle to transport his parents to and from the airport when they visit him in New York. This is corroborated by GPS data that shows multiple trips to NYC area airports. In apparent contradiction to his purported "24-hour call" justification to use his work vehicle for these trips, COS Thamkittikasem stated that when his parents are in town, he explicitly informs the Commissioner that he is off duty.

²⁷ According to DOC records, Chief of Staff Thamkittikasem left New York City on Tuesday, 3/29/16 at approximately 2:00am and arrived in Washington D.C. later that morning at 5:30am. According to the timesheet he submitted, he began his workday at 7:30am on 3/29/16 and worked a 12½ hour day, clocking out at 8:00pm. On Friday, 8/19/16, he arrived in coastal Virginia at approximately 4:00am for his friend's birthday party, and then reportedly worked from 8:00am to 7:00pm.

d. Deputy Commissioner Gregory Kuczinski

Deputy Commissioner (“DC”) Gregory Kuczinski oversees the Department’s internal investigations, supervising both the Investigation Division and Correction Intelligence Bureau. Below is the map of DC Kuczinski’s travel patterns for 2016.



A review of DC Kuczinski’s vehicle usage for 2016 revealed widespread misuse of his take-home vehicle privileges. DOI found that DC Kuczinski took over 20 trips to Westchester County on personal business, including one occasion when he used his City vehicle on a vacation day to go golfing, despite the fact that his primary residence is within the five boroughs. DC Kuczinski traveled to JFK airport and LaGuardia Airport on eight separate occasions, all at times when his timesheet records indicate he was not at work. Additionally, DC Kuczinski stated that it is his regular practice to transport his wife in the City vehicle when he goes out to dinner or other recreational activities due to the fact that he is on “24-hour call,” which he interprets to mean that he is expected to respond from wherever he is.

It should be noted that DC Kuczinski was previously fined \$1,500 by the COIB for having a subordinate transport him and his family members to JFK Airport for the purposes of going on a family vacation in 2015.²⁸ On February 25, 2016, DC Kuczinski entered into a public disposition with the COIB wherein he stipulated that, “I did not have authorization from DOC for any of my family members to be passengers in a departmental vehicle, which was assigned to the

²⁸ *Matter of Gregory Kuczinski COIB 2015-497.*

Investigations Division to perform investigations and was to be used for official business only.” The majority of the suspected misuse involving DC Kuczinski noted in this report occurred after he was fined by COIB for similar misuse of a City vehicle.

During his interview with DOI, DC Kuczinski stated that he did not maintain a trip sheet or recall the purpose for the multiple non-work related trips he took and that there was no need for him to recall this because he was on “24-hour call” and all use is permissible. However, DOI confirmed that on August 17, 2015 DC Kuczinski received an email from DOC’s Transportation Division which expressly stated that personal use of the take-home vehicle was not permissible.

e. Misuse by other DOC staff

In addition to the four executives highlighted above, DOI’s investigation revealed a pattern of widespread use of take-home vehicles for personal reasons by 17 other high ranking DOC staff including: visiting girlfriends, going to the beach, shopping malls, salons and spas, amusement parks, and casinos.²⁹ In total this investigation determined that 21 members of DOC staff were in violation of existing policy.

Over the course of interviewing all the subjects of this investigation, several common themes emerged: (1) less than 1% of the irregular activity identified on the maps was for official business; (2) 21 out of 25 staff members readily admitted that the vehicle usage in question was personal; and (3) all stated that they believed they could use the City vehicle for any and all manner of personal business because they were considered on “24-hour call”, yet no staff member could cite a specific policy to support using a City vehicle for personal business, and, indeed, all had received copies of the City policy prohibiting such use. The “24-hour call” justification was also not supported in practice, as no staff member reported having responded to any departmental emergency from the below locations cited by DOI.

- Maine
- Cape Cod
- Niagara Falls
- Mohegan Sun Casino
- Washington D.C.
- Coastal Virginia
- The Hamptons
- The Poconos
- Central Connecticut
- The Catskills
- 4 trips to the Tanger Outlets in Riverhead
- 12 trips to the Woodbury Commons Outlets
- 6 trips to LaGuardia Airport to pick up family or friends
- 7 trips to Newark Airport to pick up family or friends
- 29 trips to JFK Airport to pick up family or friends, or for personal travel

Moreover, DOI met with senior DCAS officials who confirmed there is no 24-hour on-call allowance or exception as asserted by DOC staff. DCAS further indicated that such use would expressly violate existing City policy as promulgated by DCAS.

²⁹ Not all subjects of this investigation have been named in this report. A complete list of subjects will be made available to the appropriate authorities to whom this matter is being referred.

DOI's investigation revealed that while the misuse of City vehicles was widespread throughout DOC, there were many staff members in compliance with City vehicle use policy. Those that DOI found to be in compliance included high ranking uniformed and civilian staff. For example, DOI found that DOC's fleet manager was in compliance, as was DOC's General Counsel and Deputy Commissioner for Human Resources, among many others. On the uniformed side, staff assigned to the Chief of the Department's office and the Bureau Chief of Facility Operations, were all found to be in compliance.

One supervisor whose usage was in compliance stated that it is common knowledge that the "24-hour call" practice is only used to justify doing "whatever they want" with the vehicles. This supervisor stated that it is clear to him from reading the City Handbook and DOC policies that take-home vehicles cannot be used for personal business.

DOC staff routinely failed to maintain trip sheets and properly file their taxable fringe benefit.

DOI's review of trip sheets for staff assigned take-home vehicles revealed that the Transportation Division is failing to ensure that employees consistently submit the monthly sheets.³⁰ Only 3 out of 25 employees interviewed by DOI reported that they actively maintain trip sheets as required by DOC policy. The rest of the staff either stated they were unfamiliar with the policy or did not know the procedure for maintaining the trip sheets. Additionally, DOI found that the records maintained by the Transportation Division were unorganized and incomplete, making it very difficult for DOC to maintain oversight of the take-home vehicles.

DOC regulations state that the only authorized personal use of a City vehicle is for commuting to and from work, which is considered a fringe benefit under Federal tax law. Historically DOC has calculated this fringe benefit, when applicable,³¹ by asking each staff member to report their daily round-trip mileage and then multiplying that amount by how many days the employee worked. However, because this report showed widespread use of the take-home vehicles well beyond commuting to and from work, DOC is failing to capture thousands of miles of personal travel referenced in this report. Employees such as Commissioner Ponte, Acting First Deputy Commissioner Brann, Chief of Staff Thamkittikasem, Deputy Commissioner Kuczinski, and many others appear to be out of compliance with the Federal law and now need to update their tax benefits.

Failure to comply with this Federal law is best illustrated by analyzing Commissioner Ponte's vehicle usage. According to DOC records, Commissioner Ponte's daily commute was calculated at 4 miles per day, and reported as \$530.48³² in taxable fringe benefit income in 2016. DOI's investigation, however, determined that he drove over 18,500 miles in 2016, which means

³⁰ DOC Operations Order 01/14 entitled "Motor Vehicle Accountability" states in section III: "It is the policy of this agency to accurately track fleet utilization to determine vehicle availability, to anticipate changing needs, to implement maintenance schedules, and to oversee daily vehicle deployment."

³¹ Only City employees whose salary exceeds \$150,200 are required to calculate their fringe benefits based on mileage. See Human Resources annual memo, "Reporting Taxable Fringe Benefits – Use of City-Owned Vehicles 2015-2016."

³² Pursuant to the New York City Comptroller's Directive #6 and US006/16 Taxable Fringe Benefits Reporting Requirements, the mile rate for the applicable 2016 reporting period is \$0.54 cents per mile.

his actual fringe benefit income, inclusive of the entirety of his vehicle use, would be approximately \$9,990.³³

III. Conclusion and Recommendations

DOI's overall review of DOC's vehicle usage by senior staff found systemic misuse of take-home vehicle privileges and a disregard for City rules and regulations. The pattern uncovered by DOI was a top-down practice with the most serious misuse attributed to Commissioner Ponte and members of his senior staff.

DOI concluded that regardless of the official reason for being granted take-home car privileges, there is no justification for using DOC vehicles for personal reasons beyond incidental stops to and from work. This belief is supported by DCAS rules and regulations, DOC policy and procedures and numerous rulings by COIB.

To remedy the systemic abuse of take-home car privileges and to ensure compliance with City rules and regulations, DOI is recommending the following:

- DOC should reissue to all drivers the Citywide rules and regulations that prohibit the use of City vehicles for personal use, and each individual driver needs to acknowledge receipt of the policies.
- DOC must enforce existing policies related to vehicle usage, including the requirement that drivers maintain trip sheets. DOC should implement a centralized (preferably electronic) system of collecting trip sheets.
- DOC should conduct periodic audits of E-ZPass and gas card usage to ensure that no unauthorized out-of-state travel is occurring.
- DOC should conduct annual audits of vehicle usage. GPS data should be used to aid in these audits.
- DOC's Transportation Division needs to conduct a thorough audit to ensure compliance with the Federal rules for filing tax fringe benefits by the agency and by individual drivers.
- DOC's Transportation Division needs to conduct an audit immediately to ensure that they are receiving all vehicle-related documents from drivers and to ensure the information is maintained in an organized and readily accessible manner.
- DOC should review, in consultation with DCAS, the current policy of providing two vehicles to staff members who elect to have a security detail and a second take-home vehicle.

³³ DOI is requiring that DOC's Transportation Division audit all take-home vehicle usage so that appropriate tax fringe benefit filings can be made.

DOI provided the Mayor's office with a copy of this Report. The Mayor's office has agreed to implement the above recommendations. In addition, the Mayor's office has committed to taking further steps to ensure city-wide compliance with the City's vehicle policy.