

(803) 896-3501, 896-3601
or
(864) 583-6056, 596-1600

General Statement:

Discuss the Nature of the office of OIG. Why it will be recorded. We operate under executive order. We conduct administrative investigations.

This is a routine investigation as a result of a complaint that we received. This interview is being conducted today as an attempt to gather facts to substantiate or refute the allegations of the complaint.

Major Parrish:

Present at Interview: George Davis, Inv. Roger Myers Inv.

- A) Your full name for the record is? Your current job title is? How long have you been employed at this facility? At TRCI for about a year and a half and was promoted to Major in April of this year.
- B) What are your normal working hours? How much over-time is you required to work? Are you one of the individual would be called back to the facility in the case of an emergency? How often have you been called back to Tyger River for an emergency? Normal working hours are 8-4 on scheduled work days. One late night per quarter/ he personally has not had any call back for emergencies. The individuals that are called back are usually the Warder and Deputy Warden
- C) Tell me about your working relationship with the staff at Tyger River? Good working condition
1. There is a complaint that says the nurses cook watch TV, they invite the warden and major to eat with them. Can you comments on this?
 2. The policy on uniformed officers eating in the cafeteria and the non uniformed personnel eating lunch in the cafeteria? Most people do not in the Staff Dining hall.

- D) Have you ever made any derogatory remarks to co-workers or employees that you supervisor? If so can you tell me about the incident? Never made any comment directly toward any person. There was a CRT message sent to all supervisors to have them follow-up with their employees to ensure that they meet the dress codes that are in place at the agency for all officers.
- E) Do you have any knowledge of an internal CRT message that was sent to employees regarding some employees being fat? Yes, there was an email sent to his supervisors advising them that they should be encouraging their staffs that they need to consider the weight and condition as well as their dress and uniform.
1. Is there a DOC policy on the physical condition of an employee? Does it state or outline how to address this issue?
- f) Though the course of conducting these interviews we have been told that comments have been made at staff meeting that, **if you as an employees don't like this job that you can leave?**
1. And in other meeting that you can go and work for Wal-Mart. Have you ever made this type of comment staff meeting?
 2. Have you heard this comment made?
 3. Can you tell about the incident?

Sick and Annual Leave Policy

- G) What is the leave policy at Tyger River for the use of sick leave?
1. Call in and advance leave?
 2. I understand that there is a policy that that states, **if an individual exceeds more than 70 hour of sick leave in a year they would receive corrective action, is this correct?**
 3. Is this policy still in effect? Can you explain the procedure and what would be corrective action?
- H) When a person calls in on sick leave or emergency leave what information does DOC policy requires documentation?

1. What is the Tyger River have another policy that requires documentation If a person call in sick or uses emergency leave?
- I) Do you require a person to provide any type of verification of the reason that they call in leave request?
1. Is a request for verification in line with Tyger River's Policy? And is it across the board for all employees including management?

Grievance and Hostile Working conditions

- A) Complainants have alleged that the working condition at Tyger River is hostile and management does know how to treat employees. Who you like to comment on this allegation?
- B) Could you tell me how many grievances or complaints that you are aware of that have been filed by employees at Tyger River?
1. Could you tell me about the grievance filed by Jacqueline Cothran?
 2. Do you recall a meeting with Officer Cothran, Warden Lane and Captain Duncan?
 3. Tell me about that meeting?
 4. Do you remember anyone yelling at Officer Cothran and tell her to shut up?
 5. Do you recall anyone telling Officer Cothran what happen in the meeting needs to stay in the meeting?
 6. In her complaint she said that you told her that she needed to bring in a receipt or a note indicating that she had her door fixed?
 1. Have you ever called any employee on sick leave after they have provided a doctor excuse? Is it normal to ask them what their illness?
- C) Do you recall a grievance filed by Richard Wade?
- a. 1. Can you tell me about the complaint?
 - b. 2. Can you tell me about any meeting you had in regards to this complaint?

D) This office was told by an employee that you told them you were going to write them up until they decided to quite DOC. Did you make this comment to an employee? Could you explain why you made this comment?

What are your expectations of your employees?

As it relates to job performance?

As it relates to following policy?

Being Flexible?

Interview notes of Warden Riley

September 13, 2011

Complaints as Listed:

A) How long have you been Warden at TRCI?

Been with TRCI for about five years

B) Who is the Investigator at TRCI?

C) What is the regulation with food services giving away mayo, mustard and coffee? Why would it be a problem?

D) Have you or have you witness your higher ranking employees make derogatory remarks toward other employees?

He has made comments to employees when they continue to complain about their jobs. He has told employees who complain, if they don't like their jobs they can go to work somewhere else. That he have not heard anything other than general comments in a joking way not in a derogatory way.

E) How many time have you or your deputy warden been officially called out from home for official duty?

Think there have been Two (2) occasions when they were called back to TRCI.

Complaint questions:

- 1 Warden uses his state vehicle to commute from the Columbia area to the Tyger River CI and that he is furnish a car, gas, oil, tires and insurance.
Response: The Departmental policy allows commission officers that are on call in emergency situation to be assigned a state vehicle for 24 hour emergency response. The because of the difficulties in finding qualified

individual that live in certain location the DOC has had to hire experienced personnel from other area then the county in which the facility is located. This not limited to the Tyger River facility is has happen in other locations as well i.e.; Charleston etc. Wardens are not paid moving expense for a move nor are they required to relocation to a certain county. Will provide copy of budget and control board policy on moving. Copy of LAC report will be provided. First priority would be to hire locally or someone willing to relocate. Some law enforcement vehicles eliminated to cut cost. OIG Thoughts: Need to discuss LAC Report, Policy on state and where or how the line is drawn on which law enforcement officer will use that state vehicle to commute to and from work. Riley's comments: His commuting with the state assigned vehicle is within the agency's policy and guidelines. The way he see it he save the state money my having the time to discuss issue with his staff on the way to work. That he does not go out of his way to pick-up any one that rides with him. They meet his on the interstate and they ride in together. He is a law certified law enforcement officer and has to respond to emergencies at TRCI. Currently he conducts night duty about twice a quarter and uses the state vehicle for the after hour commute.

- 2 Two associate wardens and major rides from Columbia area with the warden for free. When the warden is not working the others drive the car to work. Response: The two Associate Warden and Major are all Law enforcement officers and are covered by policy that provides that Law Enforcement officers are exempt from commuting miles. They would also be clear to drive the state vehicle as commission officers. Riley's comments: They are within the agency's policy which allows them use of the state vehicle.
- 3 The warden and the associate are able to bring their cell phone with them inside the prison. Employees phone are taken if they bring them inside the prison. Response: DOC policy allows wardens and associates maintains their cell phones while at work for communication purposes. DOC policy also allows wardens to take employees cell phone if they bring them inside the prison. OIG Thoughts: DOC requires (Policy) the warden and associates to maintain their cell phone to maintain contact

the warden and staff. Riley's comments: That he has a state issued cell phone with he uses inside the facility. The agency policy allows them to bring state issued cell phones into the facility to maintain communication with other management staff.

- 4 Suggestion to limit spending limits on inmates. **Response:** Doc has policy that deal with medical spending on inmates. **OIG Thoughts:** DOC Policy should be in place on this our office is not able to evaluate the medical needs or conduct a comparison of what other state procedures are. Riley's comments: State policy says that they have to treat inmates and some have special procedures. You have to provide medical treatment for inmates.
- 5 Suggestion to do parole hearing via satellite or a letter to Tyger River CI. **Response:** Some of the hearings are currently being conducted via satellite at the Tyger River CI. **OIG Thoughts:** Recommend that DOC continue using the satellite video conference to expand parole reviews. Riley's comments: TRCI does use the nearest facility for some video hearing and when possible TRCI will use the nearest facility to conduct parole hearings.
- 6 Lack promotion from within to higher paying jobs. **Response:** This area has more to do with management problem that Tyger River has had in the past and leadership style. Sometime new management has to hire new employees to move the facility in a different management direction. Riley's comments: Employees and all applicants interviewed are evaluated on the point system, which is used by the state policy. They are evaluated on education, experience and their interview. Interview process and selections are reviewed by DOC's Personnel Office. That he try to hire the proper training and a person that he can trust.

- 7 Warden works at recruiting and employment and that she is too involved with the hiring process. The warden takes hiring pack back and forth from Columbia to Tyger River CI. **Response:** The DOC follows the state policy on hiring for positions. The point system applies this was recently review by the LAC and was covered in their report. The warden wife doesn't have any involvement in the decision making process. The warden take hiring pack to and from Columbia may have been a mean of expediting the hiring process. **OIG Thoughts:** A copy of the LAC Report is to be provided. Will also provide information on recent hires for Tyger River. Riley's comments: The hiring packs are carries back to Columbia from TRCI as a matter of convenience and to speed up the hiring process.
- 8 Warden tells employees that will receive corrective action if they miss more than 70 hours of sick leave in a year. **Response:** This area was brought to his attention as a complaint. Tim Riley was contacted in regards to his policy on the use of sick leave. Mr. Riley was told by e-mail that this policy was not in line with DOC' sick leave guidelines and corrections were to be made. **OIG Thoughts:** A copy of the e-mail to Mr. Riley will be provided to this office. Riley's comments: He does have a policy where review leave for individuals that taken by employees. He did have some problem with employees taking excessive leave. Most of the leave problems with employees were because of the prior administration. That he has stopped reviewing employee leave because it is more difficult to do now. However, he was never told to stop the policy of reviewing employee sick leave over seventy hours (70) taken per year.
- 9 Major Parrish another rides from Columbia for free, tells employees that they are fat; management needs training on how to treat employees. Poor supervision: management walks by without speaking and is rude. **Response:** Mr. Ward was not aware of any complaints received concerning comments made by Major Perry and that he could follow-up on any negative comments made by Major Perry. Suggested maybe comment was being made as to how an officer should looks as an employee and law enforcement official. He also explained that a lot of

training was eliminated as a result of budget cut. OIG Thoughts: That
OIG could talk with some of the employee at Tyger River CI. Riley's
comments: He was not aware of this being said as a negative way by any
employee. If the comment was made it was probably meant as a joke
with people just teasing around with one another. He was not aware of
any e-mail or CRT message that was sent by a supervisor calling an
employee fat.

- 10 Mike Fowler Food Service supervisor needs to be checked, he gives
employees all the mayo, mustard, and coffee they ask for. **Response:**
Employees are allowed to buy lunch at the facility and not if they are
given condiments with meal or gross misuse. Mr. Ward thought that
there may be instances that employees would get coffee at no charge;
however ne had not received any complaints concerning Mike Fowler.
OIG Thoughts: Thoughts were that Mr. Fowler employees need to be
interviewed. Riley's comments: If some needs a cup of coffee they can
get enough coffee to drink or a pack of mustard of mayo.
- 11 Two lieutenants that were married were asked to resign and two married
couple was having an affair and nothing happen in that situation.
Response: Recently DOC reviewed there policy on employees dating
and other personal relationship at the agency. As a result policy
changes were made to address inappropriate employee relationship.
This policy review was done to address complaints and concerns. OIG
Thoughts: Copy of policy to be provided to OIG. Riley's comments: That
there was an incident with individuals were dating and it was handled
according to policy. The agency has policy that deal with employee
relationships and TRCI.
- 12 Tyger River has nine nurses Warden. Suggestion is that they be reduced
down to two per yard. They invite the Warden, Major and the
Investigator to eat with them; the doctor makes too much money he
could be replaced with a nurse practitioner. **Response: The Tyger River**
location was two facilities that were combined. They have two groups
of employee which would be necessary to manage both facilities. Some

management positions were consolidated. Have not had any complaints about the nurses cooking and watching TV all day or inviting warden major or investigator to eat with them. OIG Thoughts: The OIG cannot advise on the need for nurses or medical staff. Follow-up should be done of concerning the nurses watching TV and providing meal for the warden, major and the investigator. Riley's comments: The two facilities merged and that same number of nurses is required to operate both yards. There were some merge and elimination of management positions. That he can't speak to what is needed in the medical area.

Notes:

September 29, 2011

James Uzzell contacted our office in regards to the Tyger River Correctional Institution. Mr. Uzzell had some concerns with Deputy Warden Lane and Major Parrish.

(803) 896-3501, 896-3601 Gary Lane Warden I
or
(864) 583-6056, 596-1600

General Statement:

Discuss the Nature of the office of OIG. Why it will be recorded. We operate under executive order. We conduct administrative investigations.

This is a routine investigation as a result of a complaint that we received. This interview is being conducted today as an attempt to gather facts to substantiate or refute the allegations of the complaint.

Deputy Warden Gary Lane:

Present at Interview: George Davis, Inv. Roger Myers Inv.

- A) Your full name for the record is? Your current job title is? How long have you been employed at this facility? (4) years-currently Deputy Warden - 2007
- B) What are your normal working hours?
- C) Work and supervisory experience? Yes, Kirkland as Captain
- D) What are your expectations of your employees? Job performance, following policy being flexible with schedule changes?
 - 1. How more over-time are you required to work?
 - 2. Are you one of the individual would be called back to the facility in the case of an emergency? Yes
 - 3. How often have you been called back to Tyger River for an emergency?
- C) Tell me about your working relationship with the staff at Tyger River?
 - The warden use of the state owned vehicle to commute from his home in Irmo to Tyger River.
 - Two associate wardens and major rides from the Columbia with the warden for free. They ride together from Columbia, Caldwell, Riley and Lane.
 - When the warden is not working the associate warden or major drives the car to works. **How does it work when the warden is not working? Who drives the car?** Either Caldwell or Lane drives Riley's state car.

- The investigator has a state vehicle assigned to his and he never leaves the office. **Who is the investigator?** Investigator Donald Lane with the Office of Internal Affairs
- The warden and associate are able to bring cell phone into the facility and employees are not allowed to bring in their cell phone. He does not take his phone into the facility. However it is covered by policy. He has a state issued pager.
- Suggestion to limit medical spending on inmates.
- Suggestion to do parole hearing via satellite or a letter to Tyger River Correctional Facility. They are using other facility for parole hearing to take advantage of the satellite hearing. (i.e.) Perry Lieber, Evans and Broad River.
- Lack of promotion from within. Some individuals just think about the increase in money rather than the job and it shows in the interviews. Employees that interview for new jobs must do well doing the interview process to get hired.
- Warden's wife works at recruiting and employment and she is too involved with hiring process.
- Warden has a policy for corrective action for the use of over 70 hours of sick leave. This was in place when got to TRCI.
- The Major tells employees that they are fat and is rude employees.
- The food service supervisor gives employees mayo, mustard and coffee if they ask for it. Any employee get what allocated for meals
- Inappropriate relationship between employees, dating and having affairs.
- Number of nurse need to be reduced.
- The nurses cook watch TV, they invite the warden and major to eat with them.

Not aware of that happen in the nurse area they have had lunch with them, not watch TV and sit around having lunch all day.

- The doctor makes too much money and needs to be replaced with a nurse practitioner.

1. The nurses cook watch TV, they invite the warden and major to eat with them. They may have lunch with the nurses about twice a month. They don't sit around and watch TV all day.

2. The policy on uniformed officers eating in the cafeteria and the non uniformed personnel eating lunch in the cafeteria? The non uniformed personnel are required to have a lunch ticket and the uniformed personnel can eat get certain meals free.

D) Have you ever made any derogatory remarks co-workers or employees that you supervisor? If so can you tell me about the incident?

E) Do you have any knowledge of an internal CRT message that was sent to employees regarding some employment being fat?

1. Is there a DOC policy on the physical condition of an employee? Does it state or outline how to address this issue? TRCI is a dangerous place and officers need to be in shape to handle whatever comes about in the prisons. Sometime this requires physical action or force. Correctional officers need to be able to respond. TRCI is not a facility that can be fully locked. There are only a few areas of TRIC that can be locked.

f) Though the course of conducting these interviews we have been told that comments are made at staff meeting that if you as an employees don't like this job that you can leave?

1. And in other meeting that you can go and work for Wal-Mart. Have you ever made this type of comment staff meeting?

2. Have you heard this comment made?

3. Can you tell about the incident?

Sick and Annual Leave Policy

G) What is the leave policy at Tyger River for the use of sick leave?

1. Call in? Does the write up come when you can reach someone on a call back

2. Emergency leave? Does the write up come when you can reach someone on a call back does the policy allow management to require verification of the emergency? And if not supplied is a corrective action given?

3. Call sick leave? The write up come when you can reach someone on a call back?

2. I understand that there a policy that if an individual exceeds more than 70 hour of sick leave in a year they would receive corrective action, is this correct?.

The sick leave policy is in place, it was put there because there were a lot of call sick leave request.

3. Is this policy still in effect? Can you explain the procedure and what would be corrective action?

H) When a person calls in on sick leave or emergency leave what information does DOC policy require documentation?

1. What is the Tyger River have another policy that requires documentation If a person call in sick or uses emergency leave?

I) Do you require a person to provide any type of verification of the reason that they call in with a leave request?

1. What type of additional document does management require?

2. Was this request in line with Tyger River's Policy?

The 70 days sick leave policy is it still in place at Tyger River?

Grievance and Hostile Working conditions

A) Complainants have alleged that the working condition at Tyger River is hostile and management does know how to treat employees. Who you like to comment on this allegation?

B) Could you tell me how many grievances or complaints have been filed by employees at Tyger River?

1. Could you tell me about the grievance filed by Jacqueline Cothran?

2. Do you recall a meeting with Officer Cothran, Major Parrish and Captain Duncan?

3. Tell me about that meeting?

4. Do you remember anyone yelling at Officer Cothran and tell her to shut up?

5. Do you recall anyone telling Officer Cothran what happen in the meeting needs to stay in the meeting?

6. In her complaint she said that she was told that she needed to bring in a receipt or a note indicating that she had her door fixed do you have any knowledge of this being done?

7. Are you aware of anyone that was off on sick leave being called and asked to bring additional sick leave information in as supporting documentation?

- C) Do you recall [REDACTED]
- a. 1. Can you tell me about the complaint?
 - b. 2. Can you tell me about any meeting you had in regards to this complaint?

D) This office was told by an employee that you told them you were going to write them up until they decided to quite DOC. Did you make this comment to an employee? Could you explain why you made this comment?

Down 22 – 25 security employees

Cothran has a corrective action meeting

Furlough five days (5) 2010

July thru March (5) furlough

Notes:

Phone Interview with Captain Cathy Duncan

Date 10/7/2011

This investigator spoke with Captain Cathy Duncan regarding the meeting Jacqueline Cothran. Captain Duncan was asked if she recall the meeting with Ms. Cothran, Major Parrish and Warden Lane. Duncan was asked to tell me as much as she could remember about that particular meeting and incident that happen on May 3, 2010, with Officer Cothran.

Captain Duncan remembered taking with Cothran when she call in and stated that she would not be coming in that she was going to be out on emergency leave. There was a problem with her not being able to lock her doors at home. Duncan remembered asking her to bring in proof that she had a problem with that door. Duncan contacted Major Parrish to discussed Office Cothran's call in leave request and the conversation she had with Office Cothran. After taking with Major Parrish she was told to ask Officer to bring in a receipt showing she had some work done on her home or where she purchased a new door for her home.

When Officer Cothran was told to bring information to verify that she had work done on her door or a receipt showing that she purchased a replacement door she became upset about having to produce a receipt or proof that she had her door repaired. When Officer Cothran returned to work she did not have the requested receipt. Cothran was written up and received corrective action for abuse of leave.

The meeting in question was the results of the written reprimand that given to Officer Cothran. When officers receive corrective action the officer and supervisor is required to meet with the warden for a review of the corrective action. It was at this meeting that Officer Cothran was very upset with the fact that she received the corrective action and that she was asked to produce a receipt or some type of proof that she had a problem with her door. Present at the meeting was Major Parrish Associate Warden Lane and Captain Duncan. That was clearly not happy with receiving that written reprimand and have to provide prove of having that door repaired. Officer was very loud and would not allow anyone else in the meeting talk without interrupting and was unprofessional. At the point when Major Parrish was talking she called him a lie. She was asked by Associate Warden Lane be quite and clam down because she was very upset. After she refused to control herself the meeting was terminated.

Notes:

Phone Interview with Amy Spenser

Date 10/11/2011

This investigator spoke with Amy Spenser who is nursing staff manager with Tyger River. Spenser is responsible for eight nurses employed at Tyger River. Fully staff there is eight nurses at Tyger River and herself. Currently there are two nurses out on leave and she has to fill in when necessary for staffing needs. Three areas of concerns were discussed with Spenser they were:

Spencer was asked to tell me about the ratio of nurses to inmates at Tyger River was consistent with other institutions?

The ratio of nurses to inmate is about the same as other institutions in the state. The only different would be that Tyger River has two (2) individuals that are leave that make it more difficult to manage. The nine nurses are very needed to manage the number of inmates. There are occasions where she would also assume the responsible of staff nurses to fill in.

She was asked to explain how treatment of inmates handled in emergency cases and regular hospital visits.

In cases where an inmate has an emergency or accident where they need immediate medical attention they are taken to the local hospital for treatment. However scheduled treatment has to be performed under contracts that are handled through the procurement process.

She explained the state contract procedures and how it effect where the inmates receive treatment.

In the case of scheduled treatment inmates have to be taken to which ever provided that is under contract for a particular service.

The increase use of psychiatrist Medication, the inmates request for treatment and counseling.

The inmate pays \$5 per medication up to three different type of medication. The medication is paid for out of the inmate's cooper account. If exceeds three different medication then the maximum of \$15 dollars would be applied. When inmates do not have \$5 the medication is free.

There has been an increase in the use of psychiatrist medication and counseling at Tyger River. All of psychiatrist medication provided to inmates are free and not subject to the \$5 payment. There has been a large increase in the amount of psychiatrist medication and counseling at Tyger River as well as other institutions. Spenser's opinion is that because Tyger River male institution and the counselors all females, the inmates see it as an opportunity to sit with a female and talk for a while. Also if they patients can manage a way to smuggle the medication back to the prison population it can be sold to other inmates.

Spencer discussed the medical affect of Tyger River's large population of chronically ill inmates.

Like a lot of the institution Tyger River has a large population of chronically ill inmates that requires special treatment. Because the services are provided under state contract they inmates have to go where the providers are located. Tyger River review and monitor medical spending as closely as possible.

Called - October 26, 2011

The area does not have stove to prepare meals. The staff uses microwave primarily for warming food previously prepared at home.

The intuition does have grills outside which anyone can use.

Case # 2011-30

Referral Date: 08/11/2011

Department of Correction – The complainant alleges that the warden of Tyger River CI is using his state owned vehicle to primarily travel to and from work on a daily basis. The warden is said to live in the Columbia area and travel from Columbia to his office at the Tyger Ricer CI. The complainant also, alleges that his two (2) associate wardens and a major who lives in the Columbia area rides with the warden on a regular basis.

August 12, 2011 - Contacted Mont Alexander with the SC Department of Revenue regarding the taxability of fringe benefit received from the personal use of the state owned vehicle. Mr. Alexander advised that the commuting cost could be considered a fringe benefit and referred me to the IRS Publication 15-B-2011. Law Enforcement Officers are exempt for the IRS rule on commuting.

Commuting Rule

Under this rule, you determine the value of a vehicle you provide to an employee for commuting use by multiplying each one-way commute (that is, from home to work or from work to home) by \$1.50. If more than one employee commutes in the vehicle, this value applies to each employee. This amount must be included in the employee's wages or reimbursed by the employee.

You can use the commuting rule if all the following requirements are met.

- You provide the vehicle to an employee for use in your trade or business and, for bona fide noncompensatory business reasons, you require the employee to commute in the vehicle. You will be treated as if you had met this requirement if the vehicle is generally used each workday to carry at least three employees to and from work in an employer sponsored commuting pool.
- You establish a written policy under which you do not allow the employee to use the vehicle for personal purposes other than for commuting or *de minimis* personal use (such as a stop for a personal errand on the way between a business delivery and the employee's home). Personal use of a vehicle is all use that is not for your trade or business.
- The employee does not use the vehicle for personal purposes other than commuting and *de minimis* personal use.
- If this vehicle is an automobile (any four-wheeled vehicle, such as a car, pickup truck, or van), the employee who uses it for commuting is not a control employee. See *Control employee* below.

Vehicle. For this rule, a vehicle is any motorized wheeled vehicle, including an automobile manufactured primarily for use on public streets, roads, and highways.

Control employee. A control employee of a nongovernment employer for 2011 is generally any of the following employees.

- A board or shareholder-appointed, confirmed, or elected officer whose pay is \$95,000 or more.
- A director.
- An employee whose pay is \$195,000 or more.
- An employee who owns a 1% or more equity, capital, or profits interest in your business.

A control employee for a government employer for 2011 is either of the following.

- A government employee whose compensation is equal to or exceeds Federal Government Executive Level V. (See the Office of Personnel Management website at www.opm.gov/oqa/payrates/index.asp for 2011 compensation information.)
- An elected official.

Highly compensated employee alternative. Instead of using the preceding definition, you can choose to define a control employee as any highly compensated employee. A highly compensated employee for 2011 is an employee who meets either of the following tests.

1. The employee was a 5% owner at any time during the year or the preceding year.
2. The employee received more than \$110,000 in pay for the preceding year.

You can choose to ignore test (2) if the employee was not also in the top 20% of employees when ranked by pay for the preceding year.

August 12, 2011 - Mr. Martin contacted DOC to schedule a meeting with Mr. Bob Ward, Interim Director of DOC. The meeting is scheduled for Friday, August 19.

August 12, 2011 - Contacted Kevin Paul, BCB Office of Human Resources, obtained name, address and position classification information from Mr. Paul.

Warden of Tyler River CI

Timothy Riley, Warden II, 220 Pond Oak Drive Columbia, SC

Associate Wardens

Laura Caldwell, Warden I, 233 Dove Trace Drive West Columbia, SC

Gary Lane, Warden I, 370 Wharfsdale Road, Irmo, SC

Estimated Cost for commuting mile from Columbia to Tyger River CI. :

Miles Drive Per day one way 75

Complete miles per day- $75 \times 2 = 150$

Weekly miles- $150 \times 5 = 750$

Weekly Cost @ 750×1.50 (under the IRS commuting rule) = 1,125

Monthly Cost @ $1,125 \times 4 = 4,500$

Annual Cost @ $4,500 \times 12 = 54,000$

Questions:

- 1) Does the Warden have a second home located closer to the Tyger River CI?
- 2) Are the individuals using the state vehicle Law Enforcement Officers or required to be on 24 hour call by the agency?
- 3) What is the written policy on commuting mileage and use of state owned vehicles?
- 4) How does this policy affect the other individuals who are benefiting from the use of the vehicle? If they not assigned a vehicle, should they have access to a state vehicle for commuting to work? Are they law enforcement or on 24 hour call?
- 5) Is there any policy in place for working with outside employment recruiting agency?

Complaints as Listed:

- 1 Warden uses his state vehicle to commute from the Columbia area to the Tyger River CI and that he is furnish a car, gas, oil, tires and insurance.
Response: The Departmental policy allows commission officers that are on call in emergency situation to be assigned a state vehicle for 24 hour emergency response. The because of the difficulties in finding qualified individual that live in certain location the DOC has had to hire experienced personnel from other area then the county in which the facility is located. This not limited to the Tyger River facility is has happen in other locations as well i.e.; Charleston etc. Wardens are not paid moving expense for a move nor are they required to relocation to a certain county. Will provide copy of budget and control board policy on moving. Copy of LAC report will be provided. First priority would be to hire locally or someone willing to relocate. Some law enforcement vehicles eliminated to cut cost. OIG Thoughts: Need to discuss LAC Report, Policy on state and where or how the line is drawn on which law enforcement officer will use that state vehicle to commute to and from work.
- 2 Two associate wardens and major rides from Columbia area with the warden for free. When the warden is not working the others drive the car to work. **Response:** The two Associate Warden and Major are all Law enforcement officers and are covered by policy that provides that Law Enforcement officers are exempt from commuting miles. They would also be clear to drive the state vehicle as commission officers.
- 3 The warden and the associate are able to bring their cell phone with them inside the prison. Employees phone are taken if they bring them inside the prison. **Response:** DOC policy allows wardens and associates maintains their cell phones while at work for communication purposes. DOC policy also allows wardens to take employees cell phone if they bring them inside the prison. OIG Thoughts: DOC requires (Policy) the

warden and associates to maintain their cell phone to maintain contact the warden and staff.

- 4 Suggestion to limit spending limits on inmates. **Response:** Doc has policy that deal with medical spending on inmates. **OIG Thoughts:** DOC Policy should be in place on this our office is not able to evaluate the medical needs or conduct a comparison of what other state procedures are.
- 5 Suggestion to do parole hearing via satellite or a letter to Tyger River CI. **Response:** Some of the hearings are currently being conducted via satellite at the Tyger River CI. **OIG Thoughts:** Recommend that DOC continue using the satellite video conference to expand parole reviews.
- 6 Lack promotion from within to higher paying jobs. **Response:** This area has more to do with management problem that Tyger River has had in the past and leadership style. Sometime new management has to hire new employees to move the facility in a different management direction.
- 7 Warden works at recruiting and employment and that she is too involved with the hiring process. The warden takes hiring pack back and forth from Columbia to Tyger River CI. **Response:** The DOC follows the state policy on hiring for positions. The point system applies this was recently review by the LAC and was covered in their report. The warden wife doesn't have any involvement in the decision making process. The warden take hiring pack to and from Columbia may have been a mean of expediting the hiring process. **OIG Thoughts:** A copy of the LAC Report is to be provided. Will also provide information on recent hires for Tyger River.

- 8 Warden tells employees that will receive corrective action if they miss more than 70 hours of sick leave in a year. **Response:** This area was brought to his attention as a complaint. Tim Riley was contacted in regards to his policy on the use of sick leave. Mr. Riley was told by e-mail that this policy was not in line with DOC' sick leave guidelines and corrections were to be made. **OIG Thoughts:** A copy of the e-mail to Mr. Riley will be provided to this office.
- 9 Major Parrish another rides from Columbia for free, tells employees that they are fat; management needs training on how to treat employees. Poor supervision: management walks by without speaking and is rude. **Response:** Mr. Ward was not aware of any complaints received concerning comments made by Major Perry and that he could follow-up on any negative comments made by Major Perry. Suggested maybe comment was being made as to how an officer should look as an employee and law enforcement official. He also explained that a lot of training was eliminated as a result of budget cut. **OIG Thoughts:** That OIG could talk with some of the employee at Tyger River CI.
- 10 Mike Fowler Food Service supervisor needs to be checked, he gives employees all the mayo, mustard, and coffee they ask for. **Response:** Employees are allowed to buy lunch at the facility and not if they are given condiments with meal or gross misuse. Mr. Ward thought that there may be instances that employees would get coffee at no charge; however they had not received any complaints concerning Mike Fowler. **OIG Thoughts:** Thoughts were that Mr. Fowler employees need to be interviewed.
- 11 Two lieutenants that were married were asked to resign and two married couple was having an affair and nothing happen in that situation. **Response:** Recently DOC reviewed there policy on employees dating and other personal relationship at the agency. As a result policy changes were made to address inappropriate employee relationship. This policy review was done to address complaints and concerns. **OIG Thoughts:** Copy of policy to be provided to OIG.

12 Tyger River has nine nurses Warden. Suggestion is that they be reduced down to two per yard. They invite the Warden, Major and the Investigator to eat with them; the doctor makes too much money he could be replaced with a nurse practitioner. **Response:** The Tyger River location was two facilities that were combined. They have two groups of employee which would be necessary to manage both facilities. Some management positions were consolidated. Have not had any complaints about the nurses cooking and watching TV all day or inviting warden major or investigator to eat with them. **OIG Thoughts:** The OIG cannot advise on the need for nurses or medical staff. Follow-up should be done of concerning the nurses watching TV and providing meal for the warden, major and the investigator.

Information to be provided to OIG:

- 1 OHR Regulation on moving expenses
- 2 Policy on use of state vehicle
- 3 Policy on employee relationship
- 4 Memo to Warden Riley concerning sick leave
- 5 Recent hire information
- 6 Use of cell phone policy

Interview notes of Warden Riley

September 13, 2011

Complaints as Listed:

A) How long have you been Warden at TRCI?

Been with TRCI for about five years

B) Who is the Investigator at TRCI?

C) What is the regulation with food services giving away mayo, mustard and coffee? Why would it be a problem?

D) Have you or have you witness your higher ranking employees make derogatory remarks toward other employees?

He has made comments to employees when they continue to complain about their jobs. He has told employees who complain, if they don't like their jobs they can go to work somewhere else. That he have not heard anything other than general comments in a joking way not in a derogatory way.

E) How many time have you or your deputy warden been officially called out from home for official duty?

Think there have been Two (2) occasions when they were called back to TRCI.

Complaint questions:

- 1 Warden uses his state vehicle to commute from the Columbia area to the Tyger River CI and that he is furnish a car, gas, oil, tires and insurance.

Response: The Departmental policy allows commission officers that are on call in emergency situation to be assigned a state vehicle for 24 hour emergency response. The because of the difficulties in finding qualified

individual that live in certain location the DOC has had to hire experienced personnel from other area then the county in which the facility is located. This not limited to the Tyger River facility is has happen in other locations as well i.e.; Charleston etc. Wardens are not paid moving expense for a move nor are they required to relocation to a certain county. Will provide copy of budget and control board policy on moving. Copy of LAC report will be provided. First priority would be to hire locally or someone willing to relocate. Some law enforcement vehicles eliminated to cut cost. OIG Thoughts: Need to discuss LAC Report, Policy on state and where or how the line is drawn on which law enforcement officer will use that state vehicle to commute to and from work. Riley's comments: His commuting with the state assigned vehicle is within the agency's policy and guidelines. The way he see it he save the state money my having the time to discuss issue with his staff on the way to work. That he does not go out of his way to pick-up any one that rides with him. They meet his on the interstate and they ride in together. He is a law certified law enforcement officer and has to respond to emergencies at TRCI. Currently he conducts night duty about twice a quarter and uses the state vehicle for the after hour commute.

- 2 Two associate wardens and major rides from Columbia area with the warden for free. When the warden is not working the others drive the car to work. Response: The two Associate Warden and Major are all Law enforcement officers and are covered by policy that provides that Law Enforcement officers are exempt from commuting miles. They would also be clear to drive the state vehicle as commission officers. Riley's comments: They are within the agency's policy which allows them use of the state vehicle.
- 3 The warden and the associate are able to bring their cell phone with them inside the prison. Employees phone are taken if they bring them inside the prison. Response: DOC policy allows wardens and associates maintains their cell phones while at work for communication purposes. DOC policy also allows wardens to take employees cell phone if they bring them inside the prison. OIG Thoughts: DOC requires (Policy) the warden and associates to maintain their cell phone to maintain contact

the warden and staff. Riley's comments: That he has a state issued cell phone with he uses inside the facility. The agency policy allows them to bring state issued cell phones into the facility to maintain communication with other management staff.

- 4 Suggestion to limit spending limits on inmates. **Response:** Doc has policy that deal with medical spending on inmates. **OIG Thoughts:** DOC Policy should be in place on this our office is not able to evaluate the medical needs or conduct a comparison of what other state procedures are. Riley's comments: State policy says that they have to treat inmates and some have special procedures. You have to provide medical treatment for inmates.
- 5 Suggestion to do parole hearing via satellite or a letter to Tyger River CI. **Response:** Some of the hearings are currently being conducted via satellite at the Tyger River CI. **OIG Thoughts:** Recommend that DOC continue using the satellite video conference to expand parole reviews. Riley's comments: TRCI does use the nearest facility for some video hearing and when possible TRCI will use the nearest facility to conduct parole hearings.
- 6 Lack promotion from within to higher paying jobs. **Response:** This area has more to do with management problem that Tyger River has had in the past and leadership style. Sometime new management has to hire new employees to move the facility in a different management direction. Riley's comments: Employees and all applicants interviewed are evaluated on the point system, which is used by the state policy. They are evaluated on education, experience and their interview. Interview process and selections are reviewed by DOC's Personnel Office. That he try to hire the proper training and a person that he can trust.

- 7 Warden works at recruiting and employment and that she is too involved with the hiring process. The warden takes hiring pack back and forth from Columbia to Tyger River Cl. **Response:** The DOC follows the state policy on hiring for positions. The point system applies this was recently review by the LAC and was covered in their report. The warden wife doesn't have any involvement in the decision making process. The warden take hiring pack to and from Columbia may have been a mean of expediting the hiring process. **OIG Thoughts:** A copy of the LAC Report is to be provided. Will also provide information on recent hires for Tyger River. Riley's comments: The hiring packs are carries back to Columbia from TRCI as a matter of convenience and to speed up the hiring process.
- 8 Warden tells employees that will receive corrective action if they miss more than 70 hours of sick leave in a year. **Response:** This area was brought to his attention as a complaint. Tim Riley was contacted in regards to his policy on the use of sick leave. Mr. Riley was told by e-mail that this policy was not in line with DOC' sick leave guidelines and corrections were to be made. **OIG Thoughts:** A copy of the e-mail to Mr. Riley will be provided to this office. Riley's comments: He does have a policy where review leave for individuals that taken by employees. He did have some problem with employees taking excessive leave. Most of the leave problems with employees were because of the prior administration. That he has stopped reviewing employee leave because it is more difficult to do now. However, he was never told to stop the policy of reviewing employee sick leave over seventy hours (70) taken per year.
- 9 Major Parrish another rides from Columbia for free, tells employees that they are fat; management needs training on how to treat employees. Poor supervision: management walks by without speaking and is rude. **Response:** Mr. Ward was not aware of any complaints received concerning comments made by Major Perry and that he could follow-up on any negative comments made by Major Perry. Suggested maybe comment was being made as to how an officer should looks as an employee and law enforcement official. He also explained that a lot of

training was eliminated as a result of budget cut. OIG Thoughts: That
OIG could talk with some of the employee at Tyger River CI. Riley's
comments: He was not aware of this being said as a negative way by any
employee. If the comment was made it was probably meant as a joke
with people just teasing around with one another. He was not aware of
any e-mail or CRT message that was sent by a supervisor calling an
employee fat.

- 10 Mike Fowler Food Service supervisor needs to be checked, he gives
employees all the mayo, mustard, and coffee they ask for. **Response:**
**Employees are allowed to buy lunch at the facility and not if they are
given condiments with meal or gross misuse. Mr. Ward thought that
there may be instances that employees would get coffee at no charge;
however ne had not received any complaints concerning Mike Fowler.**
OIG Thoughts: Thoughts were that Mr. Fowler employees need to be
interviewed. Riley's comments: If some needs a cup of coffee they can
get enough coffee to drink or a pack of mustard of mayo.
- 11 Two lieutenants that were married were asked to resign and two married
couple was having an affair and nothing happen in that situation.
Response: Recently DOC reviewed there policy on employees dating
and other personal relationship at the agency. As a result policy
changes were made to address inappropriate employee relationship.
This policy review was done to address complaints and concerns. OIG
Thoughts: Copy of policy to be provided to OIG. Riley's comments: That
there was an incident with individuals were dating and it was handled
according to policy. The agency has policy that deal with employee
relationships and TRCI.
- 12 Tyger River has nine nurses Warden. Suggestion is that they be reduced
down to two per yard. They invite the Warden, Major and the
Investigator to eat with them; the doctor makes too much money he
could be replaced with a nurse practitioner. **Response:** The Tyger River
location was two facilities that were combined. They have two groups
of employee which would be necessary to manage both facilities. Some

management positions were consolidated. Have not had any complaints about the nurses cooking and watching TV all day or inviting warden major or investigator to eat with them. OIG Thoughts: The OIG cannot advise on the need for nurses or medical staff. Follow-up should be done of concerning the nurses watching TV and providing meal for the warden, major and the investigator. Riley's comments: The two facilities merged and that same number of nurses is required to operate both yards. There were some merge and elimination of management positions. That he can't speak to what is needed in the medical area.

10f9

On 6-15-10 I called in sick/family medical leave for the 1st time stated I had a family emergency. I received a write up and corrective action on the 17th due to I did not return a call back. When I returned to work on the 17th I did produce a doctor and hospital statement for my excuse on the 15th and 16th. I talk to AW Caldwell and Major Parrish on the 17th. The fourth page in this stack of documents that was written in the supervisor's comments by Major Parrish that it was a pattern with me. Well it's not a pattern with me because this was the 1st time I didn't return a call back and the 1st time calling in. I called in on 5-10-10 saying I was going to be late cause of a family emergency. I am human things do happen to me and in my family. June 24th seven days later after talking to AW Caldwell and the Major he called me into his office about same issue that was already taken care of and after I have received my write up and corrective action, I now feel harassed. He states to me about the top part of the doctor note I tore off and that somebody told him they didn't know I was married, my reply was I don't tell my private life and it's none of their business. I also stated to him about the top of the doctor statement I tore off that it was not none of his business what my wife heath issues is. I did call Columbia and spoke with Robin Gracein about him calling me into his office after I had already spoke to him, received an employee corrective action, and the situation was taken care of. She said to me that maybe he wanted to make sure that I will/can receive family medical leave. I felt he had no reason talking to me again about it at all.

TO:

1, 2 of 7
Capt. Duncan
EMPLOYEE/SUPERVISOR

I called
Columbo

FROM:

CONTROL ROOM OFFICER
TYGER RIVER CORRECTIONAL INSTITUTION-UPPER YARD

SUBJECT:

Sgt. Uzzell
OFFICER/EMPLOYEE

DATE&TIME:

10-15-10 4:40

On the above date and time Officer/Employee telephoned and stated that he/she:

Circle the appropriate number given by employee:

1. Late reporting for work
2. Sick
3. Will not be reporting for work on the Assigned Shift:

A-Card

B-Card

C-Card/8 hr.

Reason:

Family Emergency

Telephone Number the Employee Can Be Reached At:

[REDACTED]

s/

Cpl. Thomas

Control Room Officer

Per

Supervisor's Comments:

Called left message @ 730pm
Paged @ 735pm no return call

3 of 7

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

TYGER RIVER CORRECTIONAL INSTITUTION
MEMORANDUM

TO: Tim Riley, Warden
Tyger River Correctional Institution

FROM: CATHY DUNCAN, CAPT A-2

SUBJECT: EMPLOYEE CORRECTIVE ACTION
JAMES UZZELL, SGT
NAME OF EMPLOYEE AFFECTED

DATE: JUNE 15, 2010

Please find attached incident reports and relevant supporting documentation. Recommendations for Corrective Action are:

Violation Code#: 090 Name of Violation: UNAUTHORIZED ABSENCE FROM WORK.

Brief Summary of Incidents: SGT. UZZELL CALLED IN STATING HE HAD A FAMILY EMERGENCY. SGT. UZZELL FAILED TO ANSWER THE PHONE WHEN CALLED, DID NOT CALL BACK AS INSTRUCTED AND DID NOT ANSWER 2 LET PAGES.

Name, Title, Comments, and Date Forwarded: Capt Duncan Capt 6/15/10
FORWARDED TO MAJOR PARRISH FOR ACTION

Name, Title, Comments, and Date Forwarded: MAJOR JAMES PARRISH 6-16-10.
RECOMMEND A WRITTEN WARNING. PER POLICY SGT. UZZELL WILL NOT BE PAID FOR 12.0 HOURS. FORWARD TO WARDEN RILEY.

Name, Title, Comments, and Date Forwarded:

Name, Title, Comments, and Date Forwarded:

4 of 7

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

Page 1 of 1

Institution/Center: <u>TYRRELL</u>				
Date of Report: <u>JUNE 15, 2010</u>			Time of Report: <u>APPROX 1150pm</u>	
Reporting Official: <u>CATHY DUNCAN, CAPT 019538</u>			Date of Incident: <u>JUNE 15, 2010</u>	
Location of Incident: <u>4Y OPS</u>			Time of Incident: <u>APPROX. 4:40pm</u>	
Inmate(s)/Resident:	SCDC#	Age	Race	Sex
1.				1. <u>SGT. J. UZZELL</u>
2.				2.
3.				3.
4.				4.
5.				5.
Employee(s) Involved:				
On the above date and approximate time: <u>SGT. JAMES UZZELL CALLED IN AND STATED HE WOULD NOT BE REPORTING TO WORK BECAUSE OF A FAMILY EMERGENCY. I, CAPT. CATHY DUNCAN, ATTEMPTED TO CONTACT SGT. UZZELL BY PHONE TO FIND OUT THE NATURE OF THE EMERGENCY. THE PHONE CALL WENT UNANSWERED SO I LEFT A MESSAGE AND AT THIS TIME HAVE NOT RECEIVED A CALL BACK. SGT. UZZELL WAS PAGED TWICE ON HIS RET PAGER AND HAS NOT RETURNED EITHER OF THOSE PAGES. ON 6/10/10 SGT UZZELL CALLED AND STATED HE WOULD BE LATE REPORTING TO WORK DUE TO AN EMERGENCY AT HOME. SGT. UZZELL REPORTED TO WORK AT APPROX. 1100pm.</u>				
Signature: <u>Cathy Duncan, Capt</u>				
Evidence: <u>CALL IN SHEETS, IN+OUT HISTORY</u>				
Witness(es):				
Supervisor's Comments: <u>THIS IS A PATTERN WITH SGT. UZZELL FORWARD FOR EMPLOYEE CORRECTIVE ACTION.</u>				
<u>090-UNAUTHORIZED ABSENCE FROM WORK</u>				
Signature: <u>[Signature]</u>		Title: <u>Major</u> Date/Time: <u>6-16-10</u>		
Major / Responsible Authority: <u>10:20AM</u>				
<div style="border: 1px solid black; padding: 5px;"> <p>STG Related - Refer to STG Committee</p> <p>() Yes (<input checked="" type="checkbox"/>) No () Unknown</p> <p>This Incident is DRUG related</p> <p>() Yes (<input checked="" type="checkbox"/>) No () Unknown</p> </div>				
<div style="border: 1px solid black; padding: 5px;"> <p style="text-align: center;">Action Taken</p> <p>() Informal Resolution</p> <p>() Administrative Resolution</p> <p>() Refer to Disciplinary Hearing</p> </div>				
Signature:		Title:		Date:

S of 7

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
EMPLOYEE CORRECTIVE ACTION

COPIES TO: 1
1. IN 151-255,
INVESTIGATIVE
CORRECTIVE ACTION

Employee Name: JAMES LEEZEL SS#: 093574
Division/Institution: TYRRE

REVIEW MEETING

Meeting Date: JUNE 18, 2010 Time: 2:15 PM Location: WARDEN'S OFFICE
Alleged Violation: 550 - UNAUTHORIZED ABSENCE Date of Incident: JUNE 15, 2010
FROM 2024

Charging Party: LENNY DUNCAN, CAPT Date: JUNE 18, 2010
Reprimanding Authority: TIM RILEY WARDEN Date: JUNE 16, 2010

Receipt of Notification
Employee Signature: James Leezel Date: 6-18-10
I choose to waive the 24-hour advanced notice of the review meeting.
Employee Signature: James Leezel Date: 6-17-10

INFORMAL RESOLUTION

INFORMAL RESOLUTION: (Original corrective action imposed) Violation: _____
Action: _____ Effective Date: _____

In consideration of the reduced corrective action listed below, I agree to waive my appeal rights. I voluntarily agree to enter into Informal Resolution and I understand that I have seven (7) calendar days from this date to reconsider my decision by certified letter to the Reprimanding Authority at which time the original procedure violation/corrective action listed above will be restored.

Employee Signature: _____ Date: _____

VIOLATION CHARGE

Procedure Violation: Violation of Written Rules, Regulations, Policy 050 Code: _____

CORRECTIVE ACTION

<input checked="" type="checkbox"/>	Written Warning	Effective Date: _____	No. of days: _____	
	Probation	Effective Date: _____	No. of hours: _____	Return On: _____
	Suspension	Effective Date: _____	No. of hours: _____	Return On: _____
	Demotion	Effective Date: _____	From _____	To _____
		Without Salary Reduction	Position _____	
		With Salary Reduction	Location _____	
	Reassignment	From: \$ _____ To: \$ _____	Band/Level _____	
	Termination	Effective Date: _____	Concurrence/Approval _____	Date _____
Justification for Termination:			General Counsel Signature: _____	
			Employee Relations Signature: _____	
<input type="checkbox"/> No action imposed (give reason): _____ <input type="checkbox"/> Oral counseling only (not to be placed in employee's personnel file). <input type="checkbox"/> Referral to SCDC Employee Assistance Program (EAP).				

SIGNATURES

I acknowledge receipt of this action and understand that this information will be placed in my personnel file unless no action is imposed. I also understand that repeat violation(s) may result in termination of my employment. If I choose to appeal a grievable action and I have not agreed to Informal Resolution, I must contact the Employee Relations Branch within 14 calendar days of the effective date of the action to file an appeal.

Employee: James Leezel Date: 6-17-10
Reprimanding Authority: T. Riley Date: 06/17/10

6 of 9

MARY BLACK MEMORIAL HOSPITAL

1700 SKYLYN DRIVE • SPARTANBURG, SOUTH CAROLINA • 864557-3000

This is Not a Legal Prescription Unless Imprinted Below or Filled Out Completely By The Doctor

MARY BLACK HEALTH SYSTEM
CHAMPION PAMELA J
08/31/1969 40 F SOP MR#: 248457883
EASTIN EMORY LEVON DOS: 06/14/10
PAT#: 3021281



Doctor's Name (Printed)	Easton	Circle M.D. / D.O.
Address		
City/State/Zip		
Telephone Number		
EA Number	SC License Number	

Patient Name

Date

Address

Refills	
None	
1	2
3	4
5	
PRN	
Label Contents	
Yes	No



Uzma Small SPN
Mr. ~~Champion~~ was attending his wife at the hospital 6-14 thru 6-16-10
P. T. Easton

Dispense As Written
1605-MBH-044 9/07

Substitution Permitted

7069

☒ 1686 SKYLYN DRIVE, SUITE 101
SPARTANBURG, SC 29307
PHONE ALL HOURS: (864) 585-3456

Disability Statement

☐ 2995 REIDVILLE ROAD, SUITE 290
SPARTANBURG, SC 29301
PHONE: (864) 574-4483

Mrs. ☐ Ms. ☐ Mr. Uzzell

☐ Is able to return to work or school on _____

☐ Should be excused from work or school from _____ to _____ for medical reasons.

Remarks: Mr. Uzzell was attending his wife at the hospital
6-14 thru 6-16/10

Dr. E. J. Easter MD / Paro JPN

Date 6/14/10

2 of 8

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

I called columbo

Page 1 of 1

Institution/Center: TYGER RIVER				Date of Report: 08-21-2011			
Reporting Official (Full Name): BARRY TUCKER				Time of Report: 12:50 AM			
Employee ID #: [REDACTED]				Date of Incident: 08-20-2011			
Location of Incident: MAIN GATE				Time of Incident: 12:00 AM			
Inmate(s)/Resident: SCDC# Age Sex Race				Employee(s)/Witnesses Involved:			
1. N/A				1. JAMES UZZELL, SGT.			
2. N/A				2. MATTHEW GILRETH, OFC.			
3. N/A				3.			
4. N/A				4.			
5. N/A				5.			
<p>On the above date and approximate time: CAPTAIN TUCKER WAITED AT THE MAIN GATE TO CHECK IN SGT. UZZELL WHEN HE ARRIVED FOR WORK BUT SGT. UZZELL DID NOT SHOW. ON 8-20-11 AT APPROXIMATELY 12:00 PM SGT UZZELL SENT CAPT. TUCKER A TEXT MESSAGE TO INFORM CAPT. TUCKER OF HIS OVERTIME FROM RRT DUTIES. CAPT. TUCKER ASKED SGT. UZZELL TO REMIND HIM AT WORK ON THE NIGHT OF 8-20-11 AND THE TIME WOULD BE RECORDED ON A TIME SHEET. SGT. UZZELL TOLD CAPT. TUCKER THAT HE WAS OFF TONIGHT FOR RDO BUT CAPT. TUCKER REMINDED SGT. UZZELL THAT HE WAS TOLD BY LT. CARSON ON 08/17/2011 TO REPORT TO WORK ON 08/20/2011. CAPT. TUCKER ALSO INFORMED UZZELL THAT HE WAS EXPECTED TO BE AT WORK NO LATER THAN MIDNIGHT AND SGT. UZZELL DID NOT SHOW. SINCE SGT. UZZELL DID NOT REPORT BY MIDNIGHT CAPT. TUCKER HAD CONTROL ROOM OPERATOR MATTHEW GILRETH TO CALL UZZELL'S CONTACT NUMBER [REDACTED] BUT UZZELL WOULD NOT ANSWER. CAPT. TUCKER ALSO PAGED UZZELL ON HIS RRT PAGER (803-654-1401) AND SGT. UZZELL STILL WOULD NOT RETURN A CALL. ALL TEXT MESSAGING BETWEEN SGT. UZZELL AND CAPT. TUCKER IS STILL SAVED ON CAPT. TUCKER'S CELL PHONE.</p>							
Signature: <i>Barry J. Tucker</i>				Title: CAPT.			
Evidence: TEXT MESSAGES ON CELL PHONE							
Disposition of Evidence: N/A							

Supervisor's Comments: REFER TO MAJOR PARRISH FOR		
CORRECTIVE ACTION AND/OR REMOVAL FROM RRT TEAM FOR		
NOT RESPONDING TO PAGE.		
Printed Name: GRADY B. CARSON		
Signature: <i>Grady B. Carson</i>	Title: LIEUTENANT	Date/Time: 8/21/11 1:05 AM
Major/Responsible Authority:		
<i>forward to [unclear] file</i>		
<i>Carson with Capt. [unclear]</i>		
<i>decision</i>		
Printed Name: JAMES PARRISH		
Signature: <i>JP</i>	Title: [unclear]	Date: 8-22-11

STG Related - Refer to STG Committee

() Yes - (X) No () Unknown

This incident is DRUG related

() Yes (X) No () Unknown

Responsible Authority

Action Taken

() Informal Resolution

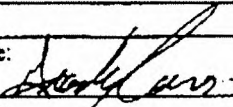
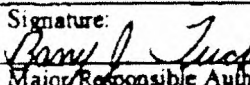
() Administrative Resolution

() Refer to Disciplinary Hearing

3 of 8

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT**

Page 1 of 1

Institution/Center: TYGER RIVER CORRECTIONAL				Date of Report: 8/21/11	
Reporting Official (Full Name): GRADY CARSON				Time of Report: 12:20 A.M.	
Employee ID #: [REDACTED]				Date of Incident: 8/20/11	
Location of Incident: UPPER YARD OPERATION				Time of Incident: 12:00 A.M.	
Inmate(s)/Resident: SCDC#		Age	Sex	Race	Employee(s)/Witnesses Involved:
1. N/A					1. SGT JAMES UZZELL
2. N/A					2. N/A
3. N/A					3. N/A
4. N/A					4. N/A
5. N/A					5. N/A
<p>On the above date and approximate time: ON 8/20/11 SGT JAMES UZZELL WAS SUPPOSED TO REPORT TO WORK BUT DID NOT SHOW. I (LT G. CARSON) INFORMED UZZELL ON 8/17/11 THAT HE NEEDED TO REPORT TO WORK ON 8/20/11 DUE TO THE FACT THAT THE SHIFT HAD UNEXPECTED ABSENCES THAT CAUSED A SHORTAGE IN STAFF. CAPT. TUCKER ALSO INFORMED ME THAT HE HAD COMMUNICATED WITH SGT. UZZELL AND TOLD HIM TO BE AT WORK BY MIDNIGHT.</p>					
Signature: 				Title: - LIEUTENANT	
Evidence: N/A					
Disposition of Evidence: N/A					
Supervisor's Comments: REFER TO MAJOR PARRISH FOR REVIEW					
AND/OR CORRECTIVE ACTION. (090 UNAUTHORIZED ABSENCE					
FROM WORK)					
Printed Name: BARRY TUCKER					
Signature: 		Title: CAPTAIN		Date/Time: 8/21/11 12:45 AM	
Major Responsible Authority:					
Printed Name:					
Signature:		Title:		Date:	

STG Related - Refer to STG Committee

() Yes (X) No () Unknown

This incident is DRUG related

() Yes (X) No () Unknown

Responsible Authority

Action Taken

() Informal Resolution

() Administrative Resolution

() Refer to Disciplinary Hearing

4 of 8

3 pages total

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

6407 6-23-11

EMPLOYEE CORRECTIVE ACTION

Employee Name: <u>James Uzzell</u>	SS#: <u>[REDACTED]</u>
Division/Institution: <u>Tyger River</u>	

REVIEW MEETING

Meeting Date: <u>8-23-11</u>	Time: <u>8:30 a.m.</u>	Location: <u>A.W. Lane's Office</u>
Alleged Violation: <u>090 Unauthorized Absence</u>		Date of Incident: <u>8-20-11</u>
From Work		
Charging Party: <u>Barry J. Tucker</u>	Date: <u>8-21-11</u>	
Reprimanding Authority: <u>A.W. Gary Lane</u>	Date: <u>8-23-11</u>	
Receipt of Notification		
Employee Signature: <u>[Signature]</u>	Date: <u>8-23-11</u>	
I choose to waive the 24-hour advanced notice of the review meeting.		
Employee Signature: <u>[Signature]</u>	Date: <u>8-23-11</u>	

INFORMAL RESOLUTION

INFORMAL RESOLUTION: (Original corrective action imposed) Violation: _____	
Action: _____	Effective Date: _____
In consideration of the reduced corrective action listed below, I agree to waive my appeal rights. I voluntarily agree to enter into Informal Resolution and I understand that I have seven (7) calendar days from this date to reconsider my decision by certified letter to the Reprimanding Authority at which time the original procedure violation/corrective action listed above will be restored.	
Employee Signature: _____	Date: _____

VIOLATION CHARGE

Procedure Violation: _____	Code: _____
----------------------------	-------------

CORRECTIVE ACTION

<input checked="" type="checkbox"/>	Written Warning		
<input type="checkbox"/>	Probation	Effective Date: _____	No. of days: _____
<input type="checkbox"/>	Suspension	Effective Date: _____	No. of hours: _____ Return On: _____
<input type="checkbox"/>	Demotion	Effective Date: _____	From _____ To _____
		Without Salary Reduction	Position _____
		With Salary Reduction	Location _____
<input type="checkbox"/>	Reassignment	From: \$ _____ To: \$ _____	Band/Level _____
<input type="checkbox"/>	Termination	Effective Date: _____	Concurrence/Approval _____ Date _____
Justification for Termination: _____		General Counsel Signature: _____	
		Employee Relations Signature: _____	
<input type="checkbox"/>	No action imposed (give reason): _____		
<input type="checkbox"/>	Oral counseling only (not to be placed in employee's personnel file).		
<input type="checkbox"/>	Referral to SCDC Employee Assistance Program (EAP).		

SIGNATURES

I acknowledge receipt of this action and understand that this information will be placed in my personnel file unless no action is imposed. I also understand that repeat violation(s) may result in termination of my employment. If I choose to appeal a grievable action and I have not agreed to Informal Resolution, I must contact the Employee Relations Branch within 14 calendar days of the effective date of the action to file an appeal.	
Employee: <u>[Signature]</u>	Date: _____
Reprimanding Authority: <u>[Signature]</u>	Date: <u>8-23-11</u>

5 of 8

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

Page 1 of 1

Institution/Center: TYGER RIVER				Date of Report: 08-22-2011	
Reporting Official (Full Name): BARRY TUCKER				Time of Report: 12:30 AM	
Employee ID #: [REDACTED]				Date of Incident: 08-21-2011	
Location of Incident: UPPER YARD OPERATIONS				Time of Incident: 8:18 AM	
Inmate(s)/Resident: SCD#		Age	Sex	Race	Employee(s)/Witnesses Involved:
1. N/A					1. JAMES UZZELL, SGT.
2. N/A					2.
3. N/A					3.
4. N/A					4.
5. N/A					5.

On the above date and approximate time: CAPT. TUCKER CALLED SGT. JAMES UZZELL (8:18 AM ON 8-21-11) TO INFORM SGT. UZZELL THAT HE NEEDED TO REPORT TO WORK BY MIDNIGHT. SGT. UZZELL DID NOT ANSWER HIS PHONE [REDACTED] SO CAPT. TUCKER HAD TO LEAVE THE INFORMATION ON A VOICEMAIL. CAPT. TUCKER ALSO PAGED SGT. UZZELL ON HIS RRT PAGER (803-654-1401) AND LEFT A MESSAGE FOR HIM TO REPORT TO WORK BY MIDNIGHT FOR 8-21-2011. SGT. UZZELL DID NOT RESPOND TO PHONE CALL OR PAGE AND DID NOT REPORT FOR WORK AT ALL FOR THE SHIFT BEGINING ON 8-21-2011.

Signature: <i>Barry J. Tucker</i>		Title: CAPTAIN
Evidence: RRT PAGER CONFIRMATION		
Disposition of Evidence: N/A		

Supervisor's Comments: REFER TO MAJOR PARRISH FOR FURTHER REVIEW AND CORRECTIVE ACTION.		STG Related – Refer to STG Committee <input type="checkbox"/> Yes- <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown This incident is DRUG related <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown
Printed Name: GRADY B. CARSON Signature: <i>Grady B. Carson</i> Title: LIEUTENANT Date/Time: 8/22/11 12:40 AM Major/Responsible Authority:		Responsible Authority Action Taken <input type="checkbox"/> Informal Resolution <input type="checkbox"/> Administrative Resolution <input type="checkbox"/> Refer to Disciplinary Hearing
Printed Name: _____ Signature: _____ Title: _____ Date: _____		

6 of 8

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS EMPLOYEE CORRECTIVE ACTION

Total of 3 p
Used For Corr
Action

Employee Name: James Uzzell SS#: [REDACTED]
Division/Institution: Tiger River

REVIEW MEETING
Meeting Date: 8-23-11 Time: 8:30 a.m. Location: A.W. Lucas Office
Alleged Violation: 990 - Unauthorized Absence From Work Date of Incident: 8-21-2011
Charging Party: Barry Tucker, Capt. Date: 8-22-11
Reprimanding Authority: A.W. Lucas Date: 8-23-11
Receipt of Notification: _____ Date: _____
Employee Signature: _____ Date: _____
I choose to waive the 24-hour advanced notice of the review meeting.
Employee Signature: _____ Date: _____

INFORMAL RESOLUTION
INFORMAL RESOLUTION: (Original corrective action imposed) Violation: _____
Action: _____ Effective Date: _____
In consideration of the reduced corrective action listed below, I agree to waive my appeal rights. I voluntarily agree to enter into Informal Resolution and I understand that I have seven (7) calendar days from this date to reconsider my decision by certified letter to the Reprimanding Authority at which time the original procedure violation/corrective action listed above will be restored.
Employee Signature: _____ Date: _____

VIOLATION CHARGE
Procedure Violation: _____ Code: _____

CORRECTIVE ACTION

Written Warning	Effective Date: _____	No. of days: _____	
Probation	Effective Date: _____	No. of hours: _____	
Suspension	Effective Date: _____	Return On: _____	
Demotion	Effective Date: _____	From _____ To _____	
	Without Salary Reduction	Position _____	
	With Salary Reduction	Location _____	
Reassignment	From: \$ _____ To: \$ _____	Band/Level _____	
Termination	Effective Date: _____		

Justification for Termination: _____

Concurrence/Approval	Date
General Counsel Signature: _____	
Employee Relations Signature: _____	

No action imposed (give reason): _____
Oral counseling only (not to be placed in employee's personnel file).
Referral to SCDC Employee Assistance Program (EAP).

SIGNATURES
I acknowledge receipt of this action and understand that this information will be placed in my personnel file unless no action is imposed. I also understand that repeat violation(s) may result in termination of my employment. If I choose to appeal a grievable action and I have not agreed to Informal Resolution, I must contact the Employee Relations Branch within 14 calendar days of the effective date of the action to file an appeal.
Employee: _____ Date: _____
Reprimanding Authority: Barry Tucker Date: _____
Date: _____

Pink - Personnel File

Pink - Employee Relations

Yellow - Employee

12/22/2011 10:00 AM

20F 8

Send a message from the web to a wireless messaging subscriber

Page 1 of 2

Send A Message Investor Relations

MY ACCOUNT

SOLUTIONS

PRODUCTS

CUSTOMER SUPPORT

CI

SEND A MESSAGE

Page Sent

PAGER ID: 8036541401

MESSAGE: Come to work on 8-21-11 at midnight

(35 character message out of a maximum of 240)

Thank you for visiting USA Mobility®

FREQUENTLY ASKED QUESTIONS



**BIG Savings
ON YOUR**
Cellular & Paging
Needs with USA Mobility

PARTNER

USA Mobility
and affordable
solutions to the
enterprise and

LEARN MORE

8/21/2011

8 of 8

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Human Resources

BJ
@
03:22 hrs.
5-30-11

SECTION I: LEAVE OF ABSENCE/OVERTIME REQUEST

Name: JAMES OZZELLSocial Security Number: [REDACTED]Position: OFFICERLocation: TYRCI

SECTION II: LEAVE OF ABSENCE REQUEST

NATURE	DATE	HOURS
Annual		
Sick		
Military		
Holiday Comp Time	AUGUST 21 & 22 2011	24HRS
Overtime Credit		

NATURE	DATE	HOURS
Funeral		
Election		
Jury Duty		

James Ozzell
Employee's Signature

5-30-11
Date

Supervisor's Signature

Date

All time should be entered in increments of hours and quarter hours:

08 - 22 minutes = .25
23 - 37 minutes = .50
38 - 52 minutes = .75
53 - 60 minutes = 1.0

SECTION III: OVERTIME/CALL BACK REQUEST

DATE	AMOUNT OF OVERTIME	AMOUNT OF CALL BACK	REASON FOR OVERTIME/CALL BACK
			Approved for 2.18 Disapproved for 2.2 Military Duty TRAINING AND EXCESSIVE ANNUAL

Justification: _____

(✓) 2.18 Approved

(✓) 2.2 Disapproved

S/ _____
Supervisor Date

S/ _____
Authorizing or Confirming Official Date

White - Employee's Leave Record
Yellow - Attach to SCDC Form 16-2 Leave and Attendance
Report for Each Leave Period
Pink - Employee

On October 22, 2010 approximately four months after my 1st call in I called in sick due to I had oral surgery. Captain Duncan called me leaving me a message to call the institution back and I did. When I called back and talk to her I explain to her that I had oral surgery and was taken pain pill which had me sleepy, she then says to me she can put me in smu and I told her I'm not driving after have taken pain pills. I worked the next night Saturday the 23rd not taken any pain pills at all this day due to I wanted to work. I was in pain threw out the night, after getting off that morning Sunday the 24th when I got home I started taking my pain pills again and called out of work for Sunday the 24th and Monday the 25th. Captain Duncan called me at 9:05am and Lieutenant Carson called me at 7:05 pm leaving a message saying I needed to bring in a doctor statement and call the institution. I never returned the call due to I was already told in the voice message by both of them to bring a doctor statement so there was no need for me to return their call. November 22nd almost a month later I received an employee corrective action for unauthorized absence on October 24th and the 25th, three write up for not returning their calls. Two of the incident reports were dated on October 24th from Captain Duncan and Lieutenant Carson about me not returning their calls, and the third one from Carson dated on October 25th about him calling to check up on my status and for me to return his call. Dated October 24th on page three in this stack of documents at the bottom left and right sides there is a note that they both wrote saying they left me a message to bring in a doctor statement with the time they called me. In the incident reports on pages 5/6 do not have that they told me to bring a doctor statement, it just says they called me and I never returned their calls. Those reports just saying I didn't return their calls, and not saying they told me to bring in doctor statement as they wrote on page three. I had to speak with AW Lane about the write up & employee corrective action, approximately a day later he approached me saying that my doctor statement was not accepted due to it was dated after my call in. My dentist is not open on Sunday I received my statement on Tuesday October the 26th when I was in his office for my follow up. So how cannot accept my statement and don't pay me for the time I was out when I had my doctor statement. Policy says if you out of work in excess of three consecutive days you have to bring in doctor statement and if your supervisor suspects you abusing your sick leave they can request one. I was not out three consecutive days or have I abused my sick leave, this is the third time in 2010 I called in sick. My supervisors cannot say or prove that I have abused my sick leave.

289

TO:

Capt Duncan / P. Carson
EMPLOYEE/SUPERVISOR

FROM:

CONTROL ROOM OFFICER
TYGER RIVER CORRECTIONAL INSTITUTION-UPPER YARD

SUBJECT:

Sgt Uzzell
OFFICER/EMPLOYEE

DATE & TIME:

10/27/10 6:55pm

On the above date and time Officer/Employee telephoned and stated that he/she:

Circle the appropriate number given by employee:

1. Late reporting for work

2. Sick

3. Will not be reporting for work on the Assigned Shift:

A-Card

B-Card

C-Card/8 hr.

Reason:

Sick

Telephone Number the Employee Can Be Reached At:

[REDACTED]

s/

Cpl Pennington
Control Room Officer

Per:

Supervisor's Comments:

Sgt Uzzell stated he had some
dental work done [REDACTED]
[REDACTED]

Unauthorized absence.

Major J. P.

3 of 9

TO:

Capt. Puncaro
EMPLOYEE/SUPERVISOR

FROM:

CONTROL ROOM OFFICER
TYGER RIVER CORRECTIONAL INSTITUTION-UPPER YARD

SUBJECT:

Uzzell
OFFICER/EMPLOYEE

DATE&TIME:

10/24/10 8:57 am

On the above date and time Officer/Employee telephoned and stated that he/she:

Circle the appropriate number given by employee:

1. Late reporting for work

(2) Sick

3. Will not be reporting for work on the Assigned Shift:

(A-Card)

B-Card

C-Card/8 hr.

Reason:

mouth broke, taking

Telephone Number the Employee Can Be Reached At:

tonight + tomorrow

s/

K. Puncaro
Control Room Officer

Per:

*705
Left message
told to bring
Dr. Statement*

Supervisor's Comments:

*Called left
message @ 905 am
told to bring Dr
Statement + Dr
Lil
(CS)*

unauthorize

absence

maya 9/11

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

Page 1 of 1

403

Institution / Center: <u>Tiger River Correctional Institute</u>				
Date of Report: <u>10/24/10</u>		Time of Report: <u>4⁰⁰ pm</u>		
Reporting Official: <u>Off. K. Prunkert</u>		Date of Incident: <u>10/24/10</u>		
Location of Incident: <u>U/V Control</u>		Time of Incident: <u>approx. 8⁵⁵ am</u>		
Inmate(s)/Resident:	SCDC#	Age	Race	Sex
1.				
2.				
3.				
4.				
5.				

On the above date and approximate time: I, Off. Kristin Prunkert took a call in call from Sgt. James Uzzell. Sgt. Uzzell was calling in for the night of 10/24/10 and 10/25/10 because of pain from oral surgery and [REDACTED] When I asked for a number where Capt. Duncan could reach him he stated "not that it will be much use" before giving me the number

END OF REPORT

Signature: [Signature]

Evidence:

Witness(es):

Supervisor's Comments: REFER TO MAJOR

Signature: [Signature] Title: Capt Date/Time: 10/24/10 405pm

Major / Responsible Authority: Supporting Documentation

Signature: [Signature] Title: Major Date: 10/28/10

SCDC 19-29A (Rev. February 2004)

STG Related - Refer to STG Committee
() Yes () No () Unknown

This Incident is DRUG related
(☒) Yes () No () Unknown

Action Taken

() Informal Resolution
(☒) Administrative Resolution
() Refer to Disciplinary Hearing

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

509

Page 1 of 1

Institution/Center: TYRET				
Date of Report: OCT 24, 2010			Time of Report: APPROX 12:00p	
Reporting Official: CATHY DUNCAN CAPT 01558			Date of Incident: OCT 24, 2010	
Location of Incident: OPS			Time of Incident: APPROX 905AM	
Inmate(s)/Resident:	SCDC#	Age	Race	Sex
1.				1. SGT J UZZELL
2.				2.
3.				3.
4.				4.
5.				5.

On the above date and approximate time: I, CAPT. CATHY DUNCAN ATTEMPTED TO CALL SGT JAMES UZZELL BACK AND SPEAK WITH HIM ABOUT HIS CALL IN. I LEFT A MESSAGE FOR SGT UZZELL TO CALL ME BACK. AS OF THIS WRITING, SGT UZZELL HAS FAILED TO RETURN MY CALL.

Sgt Uzzell received corrective action for this same situation on June 17, 2010. You upgraded this offense to a Written Rule Violation. There are two separate charges here. He should be charged for unauthorized absence and also failing to obey Capt. Duncan's directives.

Signature: *Cathy Duncan, Capt*

Evidence:

Witness(es):

Supervisor's Comments: Refer to Major Parrish for information and/or action.

Signature: *[Signature]* Title: *Capt* Date/Time: *10/27/10 8:30am*

Major/Responsible Authority:

Unauthorized absence. Forward to Warden Bailey for action

Signature: *[Signature]* Title: *Major* Date: *11-19-10*

STG Related - Refer to STG Committee
() Yes () No () Unknown

This Incident is DRUG related
() Yes () No () Unknown

Action Taken
() Informal Resolution
() Administrative Resolution
() Refer to Disciplinary Hearing

NORTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

6089

Page 1 of 1

Institution / Center: TYRRETT

Date of Report: 10/25/10

Time of Report: Approx 8:26 AM

Reporting Official: Lt Gandy Carson #025866

Date of Incident: 10/24/10

Location of Incident: Upper yard Cell 201

Time of Incident: Approx 7:05 PM

Inmate(s)/Resident: SCDC# Age Race Sex

Employee(s) Involved:

1.

1. Sgt. James Uzzell

2.

2.

3.

3.

4.

4.

5.

5.

On the above date and approximate time: I (Lt Carson) called Sgt. Uzzell at approximately 7:05 pm to check on his call in status. It was 3 or 4 times on work voice mail. I left a message for him to call me back. I had not heard him at all last night or this morning.

Signature: [Signature]

Evidence:

Witness(es):

Supervisor's Comments: REFER TO MAJOR

STG Related - Refer to STG Committee
() Yes () No () Unknown

This Incident is DRUG related
() Yes () No () Unknown

Signature: [Signature] Title: Capt Date/Time: 10/25/10 9:00 AM

Major / Responsible Authority: Supporting Document
action. For what it's worth
file for action.

Action Taken
() Informal Resolution
() Administrative Resolution
() Refer to Disciplinary Hearing

Signature: [Signature] Title: Major Date: 10-25-10

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT**

7 of 9

Page 1 of 1

Institution / Center: <u>TYRCI</u>				
Date of Report: <u>10/25/10</u>		Time of Report: <u>Approx 8:20 pm</u>		
Reporting Official: <u>Lt. Grady Carson #025866</u>		Date of Incident: <u>10/25/10</u>		
Location of Incident: <u>Upper Yard Control Room</u>		Time of Incident: <u>Approx. 7:20 pm</u>		
Inmate(s)/Resident:	SCDC#	Age	Race	Sex
1.				1. <u>Sgt. James Uzrell</u>
2.				2.
3.				3.
4.				4.
5.				5.

On the above date and approximate time: I (Lt. Carson) called Sgt. Uzrell approximately 7:20 pm to check on his situation. I left a message for him to back. I was going to page him, but there is a note that his pager is not working.

Signature: Grady Carson

Evidence:

Witness(es):

Supervisor's Comments: REFER TO MACE

Signature: Grady Carson Title: Capt Date/Time: 10/25/10 8:30 pm

Major / Responsible Authority: Supporting Decision

STG Related - Refer to STG Committee
☐ Yes ☐ No ☐ Unknown

This Incident is DRUG related
☐ Yes ☐ No ☐ Unknown

Action Taken
☐ Informal Resolution
☐ Administrative Resolution
☐ Refer to Disciplinary Hearing

Signature: J Ph Title: Mace Date: 10-25-10

FRICK & JONES, P.A.
practice limited to periodontics

809

Kenneth E. Frick, DDS

David W. Jones, DMD, MHS

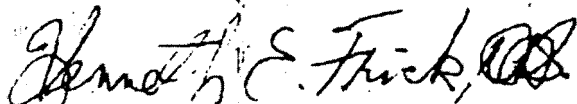
October 26, 2010

To Whom It May Concern,

James Uzzell was seen in our office last week for a dental procedure. Due to the nature of this procedure it was necessary for James to miss work on Sunday, Oct. 24th and Monday, Oct. 25th. We appreciate your help in allowing James the time to come in for this required treatment. Unfortunately, scheduling conflicts sometime make it necessary for a patient to miss time at school or work, but we try to minimize the interruption of the normal routine by scheduling far enough in advance to avoid recurrent absenteeism.

If you have any questions regarding this situation, please feel free to give us a call. Again, we thank you for your patience and understanding.

Sincerely,



Kenneth E. Frick, DDS

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
EMPLOYEE CORRECTIVE ACTION

909

11-29-10

Employee Name: JAMES UZZELL

SS#: [REDACTED]

Division/Institution: TYRCT

REVIEW MEETING

Meeting Date: NOV 22, 2010

Time: 830am

Location: WARDENS OFFICE

Alleged Violation: UNAUTHORIZED ABSENCE

Date of Incident: OCT 20 - OCT 24

24 HOURS

24

24

Charging Party: CATHY DUNCAN, CAPT / LT. GRADY CARSON Date: NOV 19, 2010

Reprimanding Authority: TIM RILEY, WARDEN / H/W A & Y Date: NOV 19, 2010

Receipt of Notification

Employee Signature: Refuse to Sign / [Signature] Date: 11-22-10

I choose to waive the 24-hour advanced notice of the review meeting.

Cathy Duncan, Capt 11/22/10

Employee Signature:

Date:

INFORMAL RESOLUTION

INFORMAL RESOLUTION: (Original corrective action imposed) Violation: _____

Action: _____ Effective Date: _____

In consideration of the reduced corrective action listed below, I agree to waive my appeal rights. I voluntarily agree to enter into Informal Resolution and I understand that I have seven (7) calendar days from this date to reconsider my decision by certified letter to the Reprimanding Authority at which time the original procedure violation/corrective action listed above will be restored.

Employee Signature: _____

Date: _____

VIOLATION CHARGE

Procedure Violation: _____

Code: _____

CORRECTIVE ACTION

<input checked="" type="checkbox"/>	Written Warning	Effective Date: _____	No. of days: _____	
<input type="checkbox"/>	Probation	Effective Date: _____	No. of hours: _____	Return On: _____
<input type="checkbox"/>	Suspension	Effective Date: _____		
<input type="checkbox"/>	Demotion	Effective Date: _____	From: _____	To: _____
<input type="checkbox"/>		Without Salary Reduction	Position: _____	
<input type="checkbox"/>		With Salary Reduction	Location: _____	
<input type="checkbox"/>	Reassignment	From: \$ _____	To: \$ _____	Band/Level: _____
<input type="checkbox"/>	Termination	Effective Date: _____	Concurrence/Approval: _____	Date: _____
Justification for Termination: _____			General Counsel Signature: _____	
			Employee Relations Signature: _____	
<input type="checkbox"/>	No action imposed (give reason): _____			
<input type="checkbox"/>	Oral counseling only (not to be placed in employee's personnel file). _____			
<input type="checkbox"/>	Referral to SCDC Employee Assistance Program (EAP). _____			

SIGNATURES

I acknowledge receipt of this action and understand that this information will be placed in my personnel file unless no action is imposed. I also understand that repeat violation(s) may result in termination of my employment. If I choose to appeal a grievable action and I have not agreed to Informal Resolution, I must contact the Employee Relations Branch within 14 calendar days of the effective date of the action to file an appeal.

Employee: Refuse to Sign / [Signature] LT. 11-22-10 Date: _____

Reprimanding Authority: H/W A & Y Date: 11-22-10

Original - Employee Personnel File

Pink - Employee Relations

Yellow - Employee

White - Employee Notice of Review

After calling in on Friday 8-26-11 saying my doctor had me out of work until September 9th, I received a voice message from Captain Tucker saying he needs to know what's wrong with me and to call the institution. I called the institution and told the control room officer that I do not want to talk to Tucker and tell him that policy don't say I have to tell him what's wrong with me or my health problems, I then hung up. I called back talked to Tucker and told him policy do not say I have to tell you my health problem and it's none of your business. Captain Tucker stated to me " AW Lane said Monday by 4pm you need to fax a doctor statement". Monday August 29th I faxed my doctor statement I called the institution to confirm receipt of my fax and I was told they had received it. Wednesday 8-31-11 I received a voice message from Sergeant Nashon saying to call the institution Major Parrish wanted to speak with me. I called the institution and spoke to him, he wanted a diagnosis and prognosis of my request for sick leave, I told him it's none of his business and I hung up on him. I received a certified letter Friday 9-2-11 from him stating " on 8-26-11 Captain Tucker Directed me to fax a diagnosis to him detailing why I would be out of work nine days on sick leave. I already faxed my doctor statement on 8-29-11, so how did I refused Captain Tuckers directives from what the Major states in the certified letter. In the letter it has a paragraph on policy about if your supervisor suspects abuse of sick leave they can request a diagnosis and prognosis before approving sick leave. How can I be suspected of abusing my sick time when my doctor put me out of work? Policy also states when you are out in excess of 3 consecutive days you have to bring in a doctor statement, I already had my doctor statement that I faxed on 8-29-11 as I stated above. I have copies in this stack of documents with the 1st fax of my doctor statement/ conformation sheet, a second fax with a letter to AW Lane/ conformation sheet, and the certified letter from Major Parrish. I called 803-896-1637 and talk to Corrie Unthank in Human Resource/ Employee Relations about Major Parrish calling me and I was told he was not supposed to have done that. As you see I was left a voice message two times one from Tucker and Parrish while I was out on sick leave, I felt harassed by them. My doctor also had put me out of work August 9th and 10th and when I called in for those two days saying the doctor had me out off work I never was called back.

Fax Call Report

HP LaserJet M3035 MFP Series

Page 1

2087

Fax Header Information

Culpepper Landing
864-486-0025
2011-Aug-29 01:29 PM

Fax Job	Date/Time	Type	Identification	Duration	Pgs	Result
5356	2011-Aug-29 01:28 PM	Send	18038963544	0:51	1	Success

↓
this is the fax number
to (Tyrect) Tiger River Correctional Institution

Fax Call Report

HP LaserJet M3035 MFP Series

Page 1

4 of 7

Fax Header Information

Culpepper Landing
864-486-0025
2011-Sep-07 09:50 AM

Fax Job	Date/Time	Type	Identification	Duration	Pgs	Result
5398	2011-Sep-07 09:48 AM	Send	18038963544	1:13	2	Success

↓
This is ^{the} number to
Tyger River (extinct) Institution

My name is Sergeant James Uzzell with passing on all this information to you I do not want to be retaliated on and I don't want to be anonymous. I work A-2 shift at Tyger River Correctional Institution thank you.

1-08-1

On 8-11-11 I called into the Institution and advised the control officer that I will be late. After I arrived and my id was scanned I was approximately five minutes late, I received a late slip from Captain Tucker. Sergeant Glenn was late the same day and on 8-16-11 Sergeant Wade came in late; I don't believe neither was given a late slip. On 9-13-11 Officer Meadows was late and I don't believe he was given a late slip. Why single me out and just give me a late slip, I'm not being treated fair when I'm the only person receiving a late slip. We were told in briefing if we come in after the pledge to the flag we late and will receive a late slip. Captain Tucker has written me up in the past for not returning his phone call to the institution and not answering my beeper page. After I look into it the control room officer had called the wrong telephone number, I notified Tucker about it and the write up was voided. Major Parrish called me into his office about the incident and I told him the control room officer called the wrong number and my pager didn't beep, he act like he didn't want to hear what I had to say. Before I left his office he stated " I was going to keep writing you up until you quit". Captain Tucker has told me in the past that the Major don't like me and with what the Major said to me I felt harassed and that I'm single out. I should not have been told that from him being the Major of the institution that is very unprofessional. I know that everybody is not going to like me but Tucker could have kept that to himself. These are the people that have been promoted as supervisors and they wonder why we have people quitting because we are not being treated right.

[REDACTED] has told me about other [REDACTED] personal business and family problems and that's very unprofessional as an [REDACTED] and this all happen when we were on duty. He's told me how [REDACTED] went to [REDACTED] and complains about not being trained in other areas like main control room and or front gate and [REDACTED] told him [REDACTED] needed to be train

How [REDACTED] had to go see the major and warden. He was told he needed start coming to work and he's not going to another shift. How [REDACTED] goes to a doctor by [REDACTED] for [REDACTED]

How [REDACTED] went behind his back and talk to [REDACTED] about him.

How the [REDACTED] told [REDACTED] to bring in the document he requested when he was out.

These things I mention [REDACTED] has told me are none of my business, not professional, and should have stayed between him and those officers.

Case #: 2011-30

Complaint Form
Office of Inspector General

Date 8 / 11 / 2011

Compl Name _____ State Employee? Yes ___ No ___
Remain Anonymous ☒ Phone # H () - C () -

Address _____ Zip Code _____

Agency of Event Department of Correction - DOC

Subject name Tim Riley

Division/Section Tyger River CI Position Warden

Classify Event? Fraud ___ Abuse ☒ Waste ☒ Mismanagement ___

Narrative of Event:

This complaint was mailed to the Office of Inspector General. The complaint alleges that the Warden of the Tyger River CI is using his state issued vehicle to travel from Columbia to his work location at Tyger River. The complaint also, allege that three other state employees working at Tyger River CI sometime car pool with the warden. Tyger River CI is located in Enoree, SC.

Witnesses to Event? Yes ☒ No ___

Continue on back

Name _____ Phone # () -

Name _____ Phone # () -

Do you have documents to support this event? Yes ___ No ☒
Will you mail to OIG? Yes ___ No ☒

Have you contacted the agency? Yes ___ No ___

Have you contacted any other agency regarding event? Yes ___ No ___

Name of Agency _____

Report taken by Roger Myers

To Inspector General.

I have a few concerns that I would like to share with you, all this is at Tyger River CI. The warden we have is from Columbia area he is furnished a car, gas, oil, tires, insurance to come to work, he also rides the two associate wardens and the major from the Columbia area in other words they come to work free of charge, the burden is put on the tax payer this should stop, they knew how far it was to Tyger River when they accepted the job, they should have to move here if they are going to work this area, if this was cut it would save money, we all have to buy our own cars and gas and upkeep, when the warden is not working the others drive the car from Columbia, they all have cell phones and they bring them in them inside prison, they don't need a cell phone paid for by the state, we have to leave ours in the car, if we accidentally leave it in our bag the warden keeps it till he gets ready to give it back.

The medical spending needs a limit on the amount they spend on inmates, they take them to MUSC for dermatology appointments in Charleston S.C. it is a 3 hour drive down there and 3 hours back the appointment only last 15 minutes, they should cut out outside appointments, they pay for contacts, laser eye surgery, all the psych meds are free, they will sell them on the yard this is way to much money, if they have money the only pay for 3 prescriptions, the amount they pay to see the doctor is \$ 5.00 this should be increased, we have some inmates that owe several thousands of dollars to medical for sick call with Malingering illnesses.

Parole should be cut out no one makes parole they take a bus to Perry CI every week and no one makes it, they could do it via -satellite or with a letter or come to Tyger River CI this is a all day trip with two officers and a big bus.

The moral with the employees is very low, when a job comes open they hire from the outside, people that work there don't have a chance to get promoted to a higher paying position, I have been screened out with every job I have applied for and they hire someone from outside this is a insult to employees. This should stop, the interviews should be done with a outside agency not wardens and associates wardens they give employees low scores to keep from promoting Tyger River employees. I guess we will all have to seek employment else where to get promoted and raises, the hard working dedicated employees are over looked. Usually they hire someone from the Columbia area. The wardens wife works at recruiting and employment and she is too involved with the hiring process at Tyger he takes the hiring packs back and forth to Columbia this doesn't go through Human Resources at Tyger River like it should.

The warden is always telling employees that they will get corrective action if they miss more than 70 hours of sick leave in a year it doesn't matter if you have had surgery he will write you a warning, you get 120 hours a year of sick time but can't use over 70 hours without being threatened, this is becoming a very hostile place to work.

Major Parrish another Columbia employee that rides for free, he will tell employees they are fat, this causes a lot of hostility with employees. This management could use some training on how to treat employees no wonder they have a hard time keeping officers poor supervision in all areas of this prison. All of them will walk by you and not speak to you this is so rude we don't get a kind word out of them. All of them need to be investigated and reprimanded for there actions with employees.

The investigator doesn't need a state car either he is also furnished one with all the

expenses paid by the state he never leaves his office ,he could use one of the state vehicle that are parked at the prison if he needs to go else where this would save a lot of money .

Mike Fowler Food Service supervisor also needs to be checked on he give employees all the mayo ,mustard, coffee etc, that they ask for .

We had a captain that was having a affair with a nurse at Tyger River management was told on numerous times and they did nothing about him ,he retired and the nurse is still working there .

We had two Lieutenants that got married they were asked to resign and they were single and married ,I guess its ok to have affairs with married people but single people have to resign .This looks really bad when all management knew about the married captain from SMU seeing the nurse and nothing happened about that situation .

I think you need to send out letters about your job with contact numbers and addresses and you would get some more results about our workplace waste and fraud.

We have 9 nurses and they could be cut down to 2 per yard they cook all day and watch TV and invite the Wardens, Major and the Investigator to eat with them the nurses make over 40,000.00 a year .The Doctor makes too much money he could be replaced with a nurse practitioner and save a lot of money .

Tax should be put back on food ,everybody eats .

Please look into this if you can because the employees are mistreated and passed over when they should be first to be promoted when we are qualified for the vacancies at TYRCL.

Thanks for your time !



State of Maryland

Policies and Procedures for Drivers of State Vehicles

July 2010

Department of Budget and Management

Table of Contents

DEFINITIONS.....	1-2
1. INTRODUCTION.....	3
1.1 Scope.....	3
1.2 Exceptions	3
1.3 Failure to Comply with Policies and Procedures.....	3
2. DRIVER ELIGIBILITY AND USAGE OF STATE VEHICLES	3
2.1 Driver Eligibility.....	3
2.2 Driver Record Review	4
2.3 Permissible Use of State Vehicles	4
2.4 Vehicle Mileage Log.....	4
2.5 Safety.....	5
2.6 Moving Violation Reporting	6
2.7 Accident Guidelines and Reporting.....	6
3. DRIVER ASSIGNMENT, COMMUTE, AND TAX LIABILITY.....	6
3.1 Assignment Criteria.....	6
3.2 Driver Commute Charge	6
3.3 Commute Records	7
3.4 Commute Exemptions.....	7
3.5 Tax Liability	7
4. VEHICLE MODIFICATION	8
5. FUEL	8
6. MAINTENANCE AND REPAIR	8
6.1 Driver's Responsibility.....	8
6.2 Fleet Maintenance and Repair Services Agreement	8
7. REIMBURSEMENT FOR PARKING AND TOLLS	9
Appendices	10
1 - Policies and Procedures Acknowledgement Statement	11
2 - Vehicle Mileage Log.....	12
3 - General Guidelines When Involved in an Accident.....	13
4 - Sample Auto Fringe Value Calculation/Reporting Form	14
Index	15

DEFINITIONS

AGENCY HEAD: The chief executive officer at the Agency, or the officer's designee.

ALTERNATIVE FUEL: Fuel other than gasoline or diesel such as methanol ethanol and other alcohols; mixtures of 85% or more of these other alcohols with other fuels such as gasoline; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels derived from biological materials, electricity, etc.

ASSIGNED VEHICLE: Any State vehicle assigned to an individual in accordance with the DBM assignment criteria.

AUTHORIZED DRIVER: A State employee who meets the eligibility criteria to drive a State vehicle as set forth in the *Policies and Procedures for Drivers of State Vehicles*, and has certified an understanding of the rules by signing the Acknowledgement Statement.

BI-FUEL VEHICLE: Vehicles that have two fuel systems, one with an alternative fuel and one with a conventional fuel, and which may operate on one fuel at a time, or, in some medium- and heavy-duty systems, a combination of the alternative and conventional fuels.

COMMUTE MILES: Distance traveled between driver's home and the driver's assigned office location.

COMMUTE CHARGE: A bi-weekly charge assessed to non-exempt authorized drivers for commuting privileges.

DBM: The Department of Budget and Management

FLEET MAINTENANCE AND REPAIR SERVICES AGREEMENT: An agreement between a Fleet Maintenance and Repair Services Contractor and the State permitting the State to access a network of maintenance and repair facilities and obtain pricing on vehicle maintenance and repair services for those State vehicles enrolled with the Contractor.

FLEXIBLE-FUEL VEHICLE: Any motor vehicle engineered and designed to be operated on an alternative fuel, a petroleum fuel, or a broad mixture of the two.

LTVs: Pick-up trucks and vans with a gross vehicle weight of 8,500 pounds or less.

LAW ENFORCEMENT OFFICER: A person who in an official capacity is authorized by law to make arrests.

MAINTENANCE SERVICE COUPON: The coupon provided to agencies from the National Fleet Service Contractor used to obtain maintenance, repairs, and emergency road services from approved network vendors.

MOBILE COMMUNICATIONS DEVICE: A mobile communications device is a mobile telephone, email appliance, wireless personal digital assistant, or a device combining two or more of these functions.

OFFICE: The principal office or official duty station to which an authorized driver is assigned as determined by the Agency Head.

POOL VEHICLE: Any State vehicle that is not assigned to an individual.

SECRETARY: The Secretary of Budget and Management or the Secretary's designee.

STATE VEHICLE: Any motor vehicle titled, rented or leased to the State of Maryland.

1. INTRODUCTION

1.1 SCOPE

These policies and procedures apply to all State-owned or leased motor vehicles used for official State business within the Executive Branch of the State Government. These policies and procedures are adopted pursuant to State Finance and Procurement Article §3-503 of the Annotated Code of Maryland. Unless otherwise provided, all requests, reports and forms required by these policies are to be submitted to the State Fleet Administrator in the DBM Fleet Administration Unit.

These policies and procedures are designed as minimal requirements and do not prohibit agencies from establishing and enforcing more stringent requirements within their own jurisdiction. State agencies shall establish necessary procedures to ensure compliance with established policies and procedures.

1.2 EXCEPTIONS

Exceptions to any of the provisions of the Policies and Procedures for Drivers of State Vehicles require written authorization from the Secretary.

1.3 FAILURE TO COMPLY WITH THE POLICIES AND PROCEDURES

Failure to comply with these policies and procedures may subject an employee to disciplinary action, including termination.

2. DRIVER ELIGIBILITY AND USAGE OF STATE VEHICLES

Only authorized drivers are eligible to drive a State vehicle. The privilege to drive a State vehicle is contingent upon compliance with the Policies and Procedures for Drivers of State Vehicles.

Prior to driving a State vehicle, the driver shall sign the Policies and Procedures an Acknowledgement Statement (Appendix 1). A copy of the signed Acknowledgement Statement shall be retained by the Agency fleet manager. Drivers who do not sign the Acknowledgement Statement are NOT authorized to drive State vehicles.

2.1 DRIVER ELIGIBILITY

In order to be eligible to drive a State vehicle a driver must have a driver's license valid in the State of Maryland and appropriate for the class of vehicle driven and have five (5) or fewer points on his/her current driving record.

Eligibility shall be immediately suspended for a driver who is charged with any motor vehicle violation for which a penalty of incarceration is possible while driving a State vehicle. Motor vehicle citations for these violations will indicate that the violation is a "Must Appear" violation and that the driver must appear when

notified by the Court. Eligibility shall remain suspended until the Agency's Accident Review Board has reviewed the occurrence, and a decision regarding further action is made.

Drivers who have had their driving privilege suspended as a result of point accumulation, being charged with any offense for which a penalty of incarceration is possible while driving a State vehicle, or a determination by the Accident Review Board or Agency Head shall be reimbursed for use of a private vehicle at no more than one-half of the effective State reimbursement rate.

2.2 DRIVER RECORD REVIEW

The driving record of each authorized driver will be reviewed by the Agency when the driver signs the Acknowledgement Statement and when information is received pertaining to an authorized driver's accumulation of points from the MVA's License Monitoring System (LMS) or Direct Access Records System (DARS), or otherwise affecting driver eligibility.

Drivers with out-of-state driver's licenses must provide a certified copy of their driver record to the Agency when they sign the Acknowledgement Statement, and annually thereafter. Drivers with out-of-state driver's licenses must notify their Agency fleet manager in the event they accumulate more than five (5) points on their driving record. This notification must occur within ten (10) days of the points being assessed.

2.3 PERMISSIBLE USE OF STATE VEHICLES

State vehicles are to be used to conduct official State business. Whenever possible, trips should be planned to coincide with other authorized driver travel requirements so that vehicles are used efficiently and economically.

- a. Except in the case of State Officials who receive Executive Protection from and are provided driver services by the Maryland State Police, State vehicles shall not be used for personal reasons, including transporting friends or members of the family (e.g. transporting children to and from school).
- b. Passengers in State automobiles are limited to persons being transported in connection with State business.
- c. There shall be no smoking in State vehicles.

2.4 VEHICLE MILEAGE LOG

- a. A Vehicle Mileage Log shall be maintained in each State sedan or LTV on a monthly basis.
- b. All drivers must complete a Vehicle Mileage Log, indicating all destinations by official and commute mileage. Agencies are required to maintain these logs for audit purposes. A Vehicle Mileage Log is included as Appendix 2.

- c. Elected Officials, Department Secretaries and heads of independent Agencies are not required to maintain a Vehicle Mileage Log. However, month-ending odometer readings must be reported in WebFleetMaster for each vehicle driven by an Elected Official, Department Secretary or independent Agency Head.

2.5 SAFETY

All drivers shall operate State vehicles in compliance with the Motor Vehicle Laws of the jurisdiction in which the vehicle is being driven and in a manner that reflects concern for safety and courtesy towards the public.

- a. An authorized driver shall operate a State vehicle in accordance with any license requirements or restrictions, such as corrective lenses, daytime only, etc.
- b. The driver of a State vehicle should take every precaution to ensure the safety of passengers. No person may ride in a State vehicle unless properly restrained by a seat belt or, in the case of children, an appropriate child safety seat. It shall be the driver's responsibility to ensure that all passengers are properly restrained.
- c. All traffic and parking laws are to be obeyed. Posted speed limits are not to be exceeded, nor is the vehicle to be operated above safe driving speeds for road conditions. All traffic and parking violations and fines, including any late fees or penalties, are the responsibility of the driver involved. Failure to promptly pay a violation or fine may result in disciplinary action.
- d. Employees driving State vehicles are required to comply with all state and local laws regarding the use of a mobile communications device while driving. If a mobile communications device must be used by an employee while driving a State vehicle, a hands-free device must be used. Drivers are encouraged to keep mobile communications device use to a minimum. Whenever possible, employees should not make or receive calls while driving. Only in the case of an emergency is the use of a hand-held mobile communications device without a hands-free device permitted.

This policy does not apply to law enforcement officers or operators of authorized emergency vehicles.

- e. The driver of a State vehicle shall take every precaution to ensure the safety of the vehicle and its contents. The driver shall lock the vehicle and take the keys, except in those instances when a commercial parking garage requires the keys be left with the vehicle.
- f. Authorized drivers of State vehicles are personally responsible for vehicles operated by them. If a State vehicle is damaged as a result of misuse or gross negligence, the operator of the vehicle may be required to make restitution to the State. If a State vehicle is damaged beyond repair as a result of misuse or gross negligence the operator of the vehicle may be required to make restitution of the difference between the amount obtained as salvage value and the amount of the then current wholesale value of the vehicle as reported in the *National Auto Research Black Book*

2.6 MOVING VIOLATION REPORTING

An authorized driver, including an Agency Head, charged with a moving violation or a must appear violation while driving a State vehicle shall notify his/her Agency fleet manager immediately, and in no case later than the following business day. In turn, the Agency shall notify DBM in writing within two business days of receiving notice of the charge. Failure to timely report the receipt of a moving violation or a must appear violation may result in disciplinary action.

2.7 ACCIDENT GUIDELINES AND REPORTING

If there is an accident involving a State vehicle the State Accident Guidelines (Appendix 3) should be followed. A copy of these guidelines will be kept in the Vehicle Mileage Log folder.

Authorized drivers should familiarize themselves with the State's Accident Guidelines, which are to be provided to the driver along with a copy of the Policies and Procedures for Drivers of State Vehicles. In the event there is an accident involving a State vehicle the Guidelines should be followed.

An authorized driver, including an Agency Head, who is involved in an accident while driving a State vehicle, shall report the accident to their Agency fleet manager immediately and in no case later than one business day after the accident, even if no other vehicle is involved or there are no apparent injuries or damages.

Accidents involving State vehicles being driven by an Agency Head must be reported to DBM FAU immediately.

3. DRIVER ASSIGNMENT, COMMUTE AND TAX LIABILITY

3.1 ASSIGNMENT CRITERIA

Assignment of a State vehicle to an individual authorized driver is based solely on the requirement for official use, and should result in the most effective and economical use of the vehicle. In assigning State vehicles, agency fleet staff shall consider the driver's expected official mileage accumulation, specific field assignment, and the need for specialized vehicle equipment in performance of the driver's job.

3.2 DRIVER COMMUTE CHARGE

In most cases, drivers who are assigned a State vehicle are subject to a commute charge. The commute charge is based upon the driver's normal commute from their home to their assigned office at a per mile rate determined by DBM. This charge is collected via payroll deduction and will be amended by the Agency if the driver moves, is reassigned to a new office, or is assigned a higher cost vehicle.

The assigned driver shall complete a State Auto Commute Charge Form MFOMS-17 prior to accepting

assignment of a State vehicle. This form will be provided by the Agency fleet manager.

3.3 COMMUTE RECORDS

All commute miles shall be recorded in the Vehicle Mileage Log. If an authorized driver leaves home in a State vehicle and comes to the assigned office any time during the day, the normal one-way commute mileage shall be recorded on the Vehicle Mileage Log. If the authorized driver returns home that same day, a normal two-way commute shall be recorded on the Vehicle Mileage Log. However, if an authorized driver leaves home and conducts business without stopping at the assigned office, mileage up to the driver's normal round trip commute is to be recorded as commute miles on the Vehicle Mileage Log, and only those miles in excess of the driver's normal commute are to be recorded as official miles on the Vehicle Mileage Log.

Authorized drivers whose duties are primarily field assignments and who report to the designated office on an average of once a week or less, and have a DBM approved commute exemption (see Section 3.4) are not required to record commute miles. Commute miles includes the mileage from your home to your first work location of the day and the mileage from your last work location of the day to your home.

As provided in Section 2.4, Elected Officials, Department Secretaries, and heads of independent Agencies are exempt from this requirement.

3.4 COMMUTE EXEMPTIONS

In a limited number of situations, upon request by the Agency Head, an assigned driver may be exempted by DBM from paying the commute charge. These exemptions are limited to situations in which (1) the assigned driver does not commute in the vehicle, (2) the vehicle is assigned to field personnel who report to the assigned office one day or less per week, (3) the assigned driver is a law enforcement officer, or (4) the assigned driver responds to emergency situations and requires highly specialized equipment to perform the driver's job. The decision to grant an exemption rests with DBM. Questions concerning eligibility for an exemption should be directed to the Agency fleet manager.

Assigned drivers who are eligible for an exemption shall complete a Certification of Exemption, State Motor Vehicle Commute Charge MFOMS-18, have the form signed by their supervisor, and submit the form to the Agency fleet manager for review and processing. The Agency fleet manager will provide this form.

3.5 TAX LIABILITY

Every individual who commutes in a State-owned or leased motor vehicle is required to report use of the vehicle as a fringe benefit for income tax purposes. **This requirement applies to authorized drivers who pay the State commute charge as well as those who the State exempts from paying the commute charge.** The exception is those employees who commute on an occasional or infrequent basis (once a month or less) or commute in a qualified non-personal use vehicle as defined by the IRS. In both cases, exceptions must be determined by the agency.

Each individual is personally responsible to the IRS for the submission of accurate information to his

employer. The taxable fringe benefit will be calculated based on IRS guidelines, and reported on an Auto Fringe Value Calculation/Reporting Form (a sample reporting form is included as Appendix 4). For certain reporting categories, these benefits include all capital costs and expenses incidental to the operation of the motor vehicle, including all salaries, fringe benefits and other expenses of a chauffeur less the amount paid to the State for use of a vehicle. The Agency will notify authorized drivers annually of reporting requirements and provide forms and instructions.

More information concerning the fringe benefit program is available on the DBM website at:
<http://dbm.maryland.gov/agencies/Pages/VehicleFringeBenefitReporting.aspx>

4. VEHICLE MODIFICATION

Modifications to State vehicles for personal reasons are prohibited. If necessary for official State business, the Agency may approve the modification of a State vehicle. Bumper stickers are prohibited.

5. FUEL

State vehicles shall be fueled from the Statewide Automated Fuel Dispensing and Management System except for emergencies or rare and unusual instances when such use is not possible. When available, alternative fuel shall be used in bi-fuel and flexible-fuel vehicles.

6. MAINTENANCE AND REPAIRS

6.1 DRIVER'S RESPONSIBILITY

Authorized drivers who are assigned a vehicle share responsibility with the Agency fleet manager for assuring that their assigned vehicle is properly maintained. Authorized drivers should discuss the Agency maintenance requirements, procedures, and the driver's specific responsibilities for maintenance with the Agency fleet manager or their designee.

Authorized drivers of pool vehicles are responsible for reporting observed mechanical problems to the Agency fleet manager or their designee.

6.2 FLEET MAINTENANCE AND REPAIR SERVICES AGREEMENT

Drivers shall use the existing contract for maintenance and repair services for all sedans, light trucks and vans with the exception of:

- Agencies having in-house maintenance and repair capabilities.
- Emergency conditions when the vehicle cannot be safely driven or towed to a network vendor.
- An Agency has been exempted in writing by DBM.

Each State vehicle that is enrolled in the Fleet Maintenance and Repair Services Agreement will have a Maintenance Service Coupon book. The Maintenance Service Coupon(s) may only be used for expenses

related to that State vehicle. Under no circumstance are these coupon(s) to be left in the custody of maintenance facility attendants.

7. REIMBURSEMENT FOR PARKING AND TOLLS

State employees shall be reimbursed for legitimate and documented parking and toll expenses incurred while conducting State business.

APPENDICES

**ACKNOWLEDGEMENT STATEMENT
POLICIES AND PROCEDURES FOR DRIVERS OF STATE VEHICLES**

TO: ALL DRIVERS OF STATE VEHICLES

Drivers are required to read the Policies and Procedures for Drivers of State Vehicles and sign this Acknowledgement Statement at the bottom of the page. The signed statement must be retained by the Agency Fleet Manager.

Only drivers who have signed this Acknowledgement Statement may operate state vehicles.

ACKNOWLEDGEMENT

The undersigned certifies he/she has read the Policies and Procedures for Drivers of State Vehicles.

I am aware that a violation of these rules would be cause for disciplinary action.

SIGNED: _____

NAME: _____

AGENCY: _____

CLASSIFICATION: _____

DATE: _____
(Please print or type all information)

[illegible]

GENERAL GUIDELINES WHEN INVOLVED IN AN ACCIDENT

1. Stop as near to the scene as is safely practical; avoid blocking traffic and otherwise minimize potential danger to others.
2. If necessary, notify appropriate emergency medical and/or fire rescue personnel.
3. Make every effort to have a police officer respond to the accident scene. The officer must be requested to make a formal report. Failure to follow this procedure must be fully explained in writing (Attach to AUTO LOSS REPORT).
4. Provide identification to involved parties.
5. Protect State property.
6. Cooperate with police and emergency medical personnel.
7. DO NOT admit negligence or fault or offer settlements.
8. Obtain names and addresses of witnesses and all involved parties.
9. Record the license plate numbers of all involved vehicles.
10. Obtain driver's license and insurance information from other involved parties.
11. Notify appropriate Agency representative as soon as possible.
12. Accidents involving evacuation by emergency medical personnel shall be reported immediately by telephone to the Insurance Division of the State Treasurer's Office at 410-260-7684.
13. The State Agency should advise the claimant/attorney to contact the Insurance Division of the State Treasurer's Office with questions.
14. The Insurance Division personnel will instruct the claimant/attorney as to the proper procedure for filing a formal notice of claim.
MAKE NO OTHER COMMENTS. VOLUNTEER NO INFORMATION.
15. Forward a copy of any correspondence received relative to a claim to the Insurance Division of the State Treasurer's Office at 80 Calvert Street, Room 400, Annapolis, MD 21401.

AUTO FRINGE VALUE CALCULATION/REPORTING FORM

Last Name	First Name	M.I.	Work Phone
Social Security No.	Agency Code	Auto Fringe Value	
SECTION I: COMMUTE RULE VALUATION METHOD			
1. Number of one-way commute trips from home to office or first work location of the day during the reporting period.			
2. Number of one-way commute trips to home from office or last work location of the day during the reporting period.			
3. Add lines 1 and 2 and enter sum here.			
4. Multiply line 3 total by \$1.50 and enter result here and on line 19.			
SECTION II: CENTS PER MILE RULE VALUATION METHOD			
5. Total number of commute/personal miles driven November 1 – December 31, 2008.			
6. Total number of commute/personal miles driven after January 1 – October 31, 2009.			
7. Multiply line 5 by (current POV Reimbursement Rate i.e. \$0.585) and enter here.			
8. Multiply line 6 by (current POV Reimbursement Rate i.e. \$0.550) and enter here.			
9. Enter salary and fringe benefits paid by the State for a State-provided chauffeur.			
10. Add lines 7, 8, and 9 and enter sum here and on line 20.			
SECTION III: LEASE VALUE RULE VALUATION METHOD			
11. Annual lease value amount (from IRS table).			
12. Total number of miles driven.			
13. Total number of commute/personal use miles.			
14. Percentage of personal to total miles (line 13 divided by line 12).			
15. Multiply line 11 by line 14 and enter here.			
16. Employer paid fuel – multiply line 13 by 5.5 cents and enter here.			
17. Enter salary and fringe benefits paid by the State for a State-provided chauffeur.			
18. Add line 15, 16 and 17 and enter sum here and on line 21.			
SECTION IV: TOTAL AUTO FRINGE VALUE			
19. Enter total from SECTION I, line 4 here.			
20. Enter total from SECTION II, line 10 here.			
21. Enter total from SECTION III, line 18 here.			
22. Enter total commute payments to State for use of a State vehicle.			
23. Subtract line 22 from line 19, 20, or 21; enter here and in section marked "AUTO FRINGE VALUE" above (do not enter value less than 0).			

The information on this sheet is furnished by me and is true and correct to the best of my knowledge and belief.

Signature: _____

Date: _____

INDEX

A

Accident Guidelines	6
Accident Reporting.....	6
Accident Review Board	4
Acknowledgement Statement.....	1, 3, 4, 11
Agency Head	1, 4, 5, 6, 7
Alternative Fuel.....	1, 8
Assigned Driver	6, 7
Assigned Vehicle.....	1, 6, 8
Assignment Criteria.....	1, 6
Authorized Driver	1, 2, 3, 4, 5, 6, 7, 8
Auto Fringe Value Calculation/Reporting	8
Form.....	14
Automated Fuel Dispensing and Management System	8

B

Bi-Fuel Vehicle	1, 8
-----------------------	------

C

Commute Charge.....	1, 6, 7
Form	6
Commute Exemption	
Form	7
Commute Exemptions	7
Commute Miles.....	1, 4, 7
Commute Record	7

D

DBM	1, 2, 6, 7, 8
Disciplinary Action.....	3, 5, 6
Driver Assignment.....	6
Driver Eligibility.....	3
Driver Eligibility Suspension	3, 4
Driving Record Review.....	4

E

Elected Officials.....	5, 7
------------------------	------

F

Fines	5
Fleet Maintenance and Repair Services Agreement.....	1, 8
Fleet Manager.....	3, 6, 7, 8
Flexible-Fuel Vehicle	1, 8
Fuel	1, 8

L

Law Enforcement Officer.....	1, 7
LTVs.....	1, 8

M

Maintenance and Repairs	1, 8
Maintenance Service Coupon	1, 8
MFOMS-17.....	6
MFOMS-18.....	7
Mobile Communications Device.....	1, 5
Moving Violations Reporting.....	5, 6
MVA's	
Direct Access Records System (DARS)	4
License Monitoring System (LMS)	4

O

Office.....	2
-------------	---

P

Parking Expenses	9
Parking Violations	5
Passengers	4
Pool Vehicle	2, 8
Private Vehicle Reimbursement Rate	4

R

Reimbursement for Parking and Tolls	9
---	---

S

Safety.....	5
Secretary	2, 3
Smoking.....	4
State Vehicle.....	2

T

Tax Liability	7
Taxable Fringe Benefit	8
Toll Expenses	9

U

Use of State Vehicles	4
-----------------------------	---

V

Vehicle Mileage Log	4, 6, 7, 12
Vehicle Modifications	8

W

WebFleetMaster	5
----------------------	---

From: Myers, Roger
Sent: Wednesday, August 01, 2012 10:22 AM
To: Myers, Roger
Subject: Emailing: FAQs for government entities regarding meal and vehicle expenses



[Home](#) | [Change Text Size](#) | [Contact IRS](#) | [About IRS](#) | [Site Map](#) | [Español](#) | [Help](#)



SEARCH

[Advanced Search](#) [Search Tips](#)

- [Individuals](#)
- [Businesses](#)
- [Charities & Non-Profits](#)
- [Government Entities](#)
- [Tax Professionals](#)
- [Retirement Plans Community](#)
- [Tax Exempt Bond Community](#)

[Federal, State, & Local Gov'ts](#) | [Governmental Liaisons](#) | [Indian Tribal Gov'ts](#)

Federal, State, & Local Gov'ts Topics

- [About FSLG](#)
- [FSLG Newsletter](#)
- [FSLG Customer Services](#)
- [Educational Products](#)
- [FSLG Fact Sheets](#)
- [FSLG FAQs](#)
- [FSLG Toolkit](#)
- [FSLG Work Plan](#)
- [More Topics . .](#)

IRS Resources

- [Compliance & Enforcement](#)
- [Contact My Local Office](#)
- [e-file](#)
- [Forms and Publications](#)
- [Newsroom](#)
- [Frequently Asked Questions](#)
- [Taxpayer Advocate Service](#)
- [Where To File](#)

FAQs for government entities regarding meal and vehicle expenses

These frequently asked questions and answers are provided for general information only and should be cited as any type of legal authority. They are designed to provide the user with information required to respond to general inquiries. Due to the uniqueness and complexities of Federal tax law, it is imperative to ensure a full understanding of the specific question presented, and to perform the requisite research to ensure a correct response is provided.

The freely available [Adobe Acrobat Reader](#) software is required to view, print, and search the questions and answers listed below.

-
1. A county pays meal money allowances, including lunch and dinner, for its ballot clerks. They are not required to eat their meals on the premises and usually go to a local restaurant. Are these payments taxable?
 2. A town has a public safety director who is a retired police chief. He carries a firearm and has arrest powers. He drives a regular unmarked vehicle and commutes in this vehicle from home to the office. Is he entitled to exclude the value of the use of this car from his income?
 3. For purposes of defining a qualified nonpersonal use vehicle, what qualifies as a clearly marked police or fire vehicle?
 4. A town provides cars which its officials and other employees use during the workday for business purposes. These employees also use the cars for commuting to and from work. Is the use of these vehicles for commuting taxable income to the employees?
 5. Can an appointed executive or official have a portion of his salary paid to him as reimbursement for mileage, phone calls, etc., and the balance as salary subject to FICA and withholding?
 6. A fire chief uses his own pickup truck for work. He accounts for the business use of his truck and is reimbursed for his mileage. He sometimes travels to and from the fire station outside of his regular work schedule. Is this considered commuting and would reimbursement be taxable?
-

A county pays meal money allowances, including lunch and dinner, for its ballot clerks. They are not required to eat their meals on the premises and usually go to a local restaurant. Are these payments taxable?

The facts indicate that the allowances are taxable. Section 62(a) of the Code provides that gross income means all income from whatever source derived, including fringe benefits. There is no exclusion that applies to a fringe benefit of this type. There is no contention that the meals are provided on the business premises for the convenience of the employer. Cash cannot be excludable except as a de minimis benefit under very limited circumstances as outlined in Regulation 1.132-6(d)(2). Regular meal money does not qualify for the exclusion. The exclusion for meal money must meet three criteria: it is provided (1) on an occasional basis, (2) because overtime work necessitates the extension of the employee's normal work schedule, and (3) to enable the employee to work overtime.

The meal money in this case is provided on a routine basis and is not excludable from income.

[Return to List of FAQs](#)

A town has a public safety director who is a retired police chief. He carries a firearm and has arrest powers. He drives a regular unmarked vehicle and commutes in this vehicle from home to the office. Is he entitled to exclude the value of the use of the car from his income?

As a general rule, the use of an employer-owned car by an employee results in taxable income.

Section 132(a)(3) of the Code allows an exclusion for a working condition fringe. A working condition fringe is any property or services provided to an employee by an employer to the extent if the employee paid for the property or services, the payment would be allowable as a deduction under section 162 or 167.

The value of a "qualified nonpersonal use vehicle" can be excluded from income as a working condition fringe if the use of the vehicle conforms to the requirements of paragraphs (k)(3) through of section 1.274-5T of the regulations. An employee does not have to substantiate the business use a nonpersonal use vehicle in order to exclude its value from income.

A qualified nonpersonal use vehicle means any vehicle that is not likely to be used more than a minimal amount for personal purposes. Common examples include a fire engine, a clearly marked police or fire vehicle, a public safety officer vehicle, a flatbed truck, school bus, ambulance, etc.

There are limited circumstances under which an unmarked police car qualifies as a nonpersonal use vehicle. First, the driver must be a "law enforcement officer." A law enforcement officer must satisfy all of the following requirements. He or she must be a full-time employee of a governmental unit that is responsible for preventing or investigating crimes involving injury to persons or property (including catching or detaining persons for these crimes). The officer must be authorized by law to carry firearms, execute search warrants, and to make arrests. The officer must regularly carry firearms, except when it is not possible to do so because of the requirements of undercover work. A "public safety director," or any employee, regardless of title, must meet these tests to qualify under this exclusion.

Second, any personal use of the vehicle must be authorized by the government agency or department that owns or leases the vehicle and employs the officer, and, third, the use must be incident to law-enforcement functions, such as being able to report directly from home to a stakeout or surveillance site, or to an emergency situation. Use of an unmarked vehicle for vacation or recreation trips cannot qualify as an authorized use.

Whether the individual's use of the vehicle is authorized by the governmental agency which employs him or whether the use is incident to law-enforcement functions depends on the facts and circumstances. If the individual is allowed to use the vehicle as a courtesy and for commuting purposes, it does not qualify as a nonpersonal use vehicle, and the commuting value is income subject to FICA and income tax withholding.

[Return to List of FAQs](#)

For purposes of defining a qualified nonpersonal use vehicle, what qualifies as a clearly marked police or fire vehicle?

A police or fire vehicle is clearly marked if it has insignia or words which make it clear that it is a police or fire vehicle. A marking on a license plate is not a clear marking for this purpose.

According to the regulations, the exclusion for a clearly marked police or fire vehicle applies only to a vehicle that is required to be used for commuting by a police officer or fire fighter who, when not on regular shift, is on call at all times. Other than commuting, personal use of the vehicle, outside the limit of the police officer's arrest powers or the fire fighter's obligation to respond to an emergency must be prohibited by the governmental unit.

[Return to List of FAQs](#)

A town provides cars that its officials and other employees use during the workday for business purposes. These employees also use the cars for commuting to and from work. Is the use of these vehicles for commuting taxable income to the employees?

The value of noncash fringe benefits is taxable income to the recipient. Thus the commuting value of a vehicle owned or leased by a public entity usually represents taxable income to the employee.

One exception is for the qualified nonpersonal use vehicle, described above. Thus, for example, if a law enforcement officer drives a clearly marked police car to his or her residence when off duty and otherwise satisfies the requirements described above, the commuting value of that vehicle is not taxable income to the employee.

There are several ways to value the commuting use of a car for income and FICA tax purposes: the cents-per-mile rule, the lease value rule, and the commuting rule. Under the cents-per-mile rule, the value of the use of a car is the standard mileage rate (51 cents per mile in 2011) multiplied by the number of personal miles driven. Under the lease value rule, the value of the use of the car is the annual lease value (in the regulations) less the amount of use which would be a working condition fringe to the employee. See section 1.61-21(d)(2), Income Tax Regulations, which also discusses the valuation method in detail. To qualify as a working condition fringe, the business use must be deductible as a business expense by the employee. This means that the employee must keep a log and account for the business miles driven. More information about these methods can be found in Publication 15-B, Employer's Tax Guide to Fringe Benefits.

Under limited circumstances, the "commuting rule" can be used to determine the commuting value of a car. Under this rule, the employer determines the commuting value by multiplying each one-way commute (from home to work or from work to home) by \$1.50. If more than one employee commutes in the vehicle, this value applies to each employee. The employer must meet all the following requirements:

1. The employer owns or leases the vehicle and provides it to one or more employees for business use.
2. For bona fide noncompensatory business reasons, the employee is required to commute in the vehicle. The employer is treated as meeting this requirement if the vehicle is generally used each workday to carry at least three employees to and from work in an employer-sponsored commuting pool.
3. The employer establishes a written policy under which the employee is not allowed to use the vehicle for personal purposes, other than for commuting or de minimis personal use (such as a stop for a personal errand on the way between a business delivery and the employee's home).
4. The employee does not use the vehicle for personal purposes, other than commuting and de minimis personal use.
5. If this vehicle is an automobile, the employee who must use it for commuting is not a control employee. An elected official is always a control employee. (For tax year 2011, a control employee is a government employee who is an elected official or one whose compensation is \$145,700 or more for the year.)

The term "bona fide noncompensatory business reason" means that the employee must be required to commute in the vehicle for the benefit of the employer, not for the benefit of the employee. Examples include the following:

- The employee was driving a van in an employer-sponsored carpool.
- The car, though unmarked, was outfitted with communications or other equipment that the employee would need if on call 24 hours a day.
- The unavailability of parking at the workplace.
- An employee in the field, who would otherwise have to return to the workplace before going home, might be able to work longer if allowed to commute in an employer-provided vehicle. It is not enough for the employer to simply state that it requires employees to commute in employer-owned vehicles.

[Return to List of FAQs](#)

Can an appointed executive or official have a portion of his salary paid to him as

reimbursement for mileage, phone calls, etc., and the balance as salary subject to FICA and withholding?

To be excluded from wages, reimbursements must be for actual documented expenses under an accountable plan, i.e., a reimbursement or other expense allowance arrangement set up by the employer. Code section 62(c) and section 1.62-2.

To qualify as a reimbursement or other expense allowance arrangement, the arrangement must require (1) that the employee substantiate all expenses to the employer, and (2) that the employee return an amount in excess of substantiated expenses. An expense should be substantiated within 60 days after it is paid. If the individual receives an advance, any money not accounted for must be returned within 120 days. See section 1.62-2(g) of the Income Tax Regulations, defining a "reasonable period" for the purpose of this section.

To substantiate the expense, the employee must document the amount, time and place of travel, the business purpose, and the business relationship to the taxpayer of the people involved if the expense is for entertainment. Miscellaneous expenses must also be documented. In other words, the substantiation requirement involves furnishing the employer a detailed breakdown of expenses and providing receipts. The employee must be required to document business expenses, must be required to return any portion of an advance that is requirements.

[Return to List of FAQs](#)

A fire chief uses his own pickup truck for work. He accounts for the business use of his truck and is reimbursed for his mileage. He sometimes travels to and from the fire station outside of his regular work schedule. Is this considered commuting and would the reimbursement be taxable?

This travel is commuting and is a personal expense. It does not matter whether the fire chief is commuting outside of his regular work schedule. Any reimbursement for commuting in his own vehicle is taxable to the employee.

[Return to List of FAQs](#)

Page Last Reviewed or Updated: January 26, 2012

[Accessibility](#) | [Freedom of Information Act](#) | [Important Links](#) | [IRS Privacy Policy](#) | [USA.gov](#) | [U.S. Treasury](#)



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
September 2, 2009

SUMMARY OF FINDINGS/RECOMMENDATIONS

The Inspector General found that the State Liquor Authority (SLA) failed to monitor or regulate use of agency vehicles. SLA's vehicle policy was poorly enforced, with many employees inaccurately or incompletely filling out vehicle mileage reports. The lack of complete records prevents SLA from identifying improper use of its vehicles. Moreover, several senior employees demonstrated a misunderstanding of applicable laws, leading to misreporting or underreporting of taxable benefits to the IRS. Despite two recent revisions, the SLA's vehicle policy still does not provide sufficient guidance regarding segregation and identification of commuting miles for tax purposes. In addition, the Inspector General found that SLA permitted several employees to use state vehicles almost exclusively for long distance commuting, incurring large expenses at little or no benefit to the agency.

The Inspector General recommended that SLA clarify to its employees, through written policy and training, applicable rules regarding differentiating business from commuting mileage, including specific scenarios that employees may encounter, for example, making a stop in between work and home. In addition, the Inspector General recommended that SLA consider revisions to its vehicle mileage reporting form to improve data collection, and enforce completion of these reports. Further, the Inspector General advised that no SLA employee is exempt from federal laws requiring employees to report the taxable benefit of commuting, and accordingly recommends that all SLA employees, including all three commissioners, report such commuting benefit to the State Comptroller on forms provided each year. Finally, the Inspector General recommended that SLA review its vehicle assignments to restrict long distance commuting, and eliminate exclusive or near-exclusive use of vehicles for commuting, to ensure that vehicle assignments are in the best interest of the state and are fiscally responsible.

ALLEGATION

On December 23, 2008, SLA General Counsel Thomas Donohue requested that the Inspector General conduct a review of the assignment, use and supervision of the agency's fleet of state vehicles, as well as the agency's compliance with a new vehicle policy promulgated on October 8, 2008.

METHODOLOGY

The Inspector General obtained and reviewed all vehicle policies and related documentation for the past six years. In addition, the Inspector General examined all vehicle cost records for November and December 2008, plus vehicle records for all of 2008 for select staff. The Inspector General also reviewed employee forms reporting personal taxable benefit, and obtained official work station and home address information for employee-assigned vehicles. The Inspector General interviewed several supervisors and employees of SLA, as well as General Counsel Donohue, former Fleet Manager Mark Anderson, and all three commissioners.

SUMMARY OF INVESTIGATION

Background

The New York State Liquor Authority (SLA) was created in 1934 by Chapter 478, the Alcoholic Beverage Control Law, to “regulate and control the manufacture, sale, and distribution within the state of alcoholic beverages...[for the] protection, health, welfare, and safety of the people of the state.” The SLA has two main functions: issuing liquor licenses and permits, and ensuring that licensees are in compliance with the provisions of the state’s Alcoholic Beverage Control Law.

During the pendency of this investigation, the SLA was governed by a board of three commissioners, Daniel B. Boyle, Noreen Healey, and Jeanique Greene, appointed by the governor with the advice and consent of the Senate. The governor designates one of the commissioners as chairman. Daniel B. Boyle was serving as chairman until Dennis Rosen was sworn in on August 18, 2009. In addition to overseeing agency operations, the board authorizes liquor licenses (although some of this authority is delegated to the local offices) and may hold hearings regarding violations and impose fines.

SLA has a staff of approximately 170, including 40 investigators. The SLA maintains three “zone” offices in New York City, Albany, and Buffalo, and one satellite office in Syracuse. SLA maintains a fleet of 41 unmarked vehicles. Three of the vehicles are assigned to the three commissioners. Thirty-five vehicles are assigned to investigators in SLA’s Enforcement Division, and one is assigned to a New York City employee responsible for conducting “500-foot rule” checks.¹ The two remaining vehicles are treated as “pool” vehicles.

Agency Policies Regarding Vehicle Use

In April 2008, members of the Inspector General’s office met with then-Chairman Boyle to discuss an allegation that SLA employees misused agency vehicles. Boyle agreed to review the agency’s vehicle policy and report back to the Inspector General. During his review, the SLA adopted a new vehicle policy effective May 1, 2008, to incorporate revisions promulgated by the state Office of General Services. Once the agreed-upon review was complete, the SLA again revised its policy, effective October 8, 2008.

¹ Alcoholic Beverage Control Law Chapter 478 prohibits certain liquor-serving establishments from locating within 500 feet of another such establishment, unless the SLA board determines that such placement would be in the “public interest.”

From October 1, 2003 until May 1, 2008, the SLA's vehicle policy prohibited commuting by all employees except the three commissioners, who were permitted unrestricted use of their state vehicles.² This policy advised the commissioners that commuting use of state vehicles was reportable to the Internal Revenue Service. The May 1, 2008, revisions permitted some commuting for weekend assignments or if it was "more practical to start a work assignment from home." However, the May 1 version made no mention of commuting use as reportable income. General Counsel Donohue informed the Inspector General that this omission was an oversight.

The third policy, dated October 8, 2008, included revisions prompted by the Inspector General's request for a review. Still in effect today, it acknowledges the position of fleet manager and clarifies the fleet manager's responsibilities to assign vehicles and determine whether an employee may use a state vehicle to commute. It instructs the fleet manager, in making vehicle assignments, to consider the availability of secure overnight parking at the employee's work station and the employee's use of the vehicle. The policy also states, "Commuting to and from an employee's official work station is considered personal use of the vehicle." Enforcement Division personnel are not permitted to use their vehicles for personal business other than commuting. The policy prohibits use of state E-Z Pass for commuting but is silent on use of gasoline. Therefore, at present, employees are not required to reimburse the state for gasoline used for commuting. In 2008, the SLA paid a total of \$96,000 in fuel charges.

Under all three versions of the policy, employees were required to complete vehicle cost record forms whenever a state vehicle was used. The forms require starting and ending odometer readings, daily destinations and an indication of whether any miles were used for commuting. The October 8, 2008, policy designates the fleet manager responsible for reviewing the monthly forms and forwarding the information to the Office of General Services. Anderson was the fleet manager responsible for reviewing the monthly forms until he left the agency in December 2008.

In New York State, the State Comptroller distributes an annual Payroll Bulletin on the reporting of taxable value of commuting in a state vehicle. The Comptroller's Payroll Services Division also distributes a separate "taxable value" form requesting state employees to report personal and commuting use of their state vehicles for inclusion in state-issued W-2 forms. According to Comptroller officials, this form is required of all state employees who are assigned vehicles, including agency heads.

Furthermore, on May 21, 2007, then-Counsel to the Governor David Nocenti and then-Director of State Operation Olivia Golden distributed a memorandum to "All Agency Heads and Chamber Employees," specifically addressing segregation of business and personal mileage by senior state employees granted unrestricted use of the state vehicles, as well as associated tax obligations. Nocenti and Golden advised agency heads of IRS guidelines requiring them to "maintain a detailed log of all their business-related uses of the vehicle. Any mileage not reported as having a valid business purpose will be treated as imputed personal income to the employee, and all employees who have

² According to guidelines of the NYS Department of Budget, "State officials of cabinet rank and heads of agencies assigned a vehicle shall have unrestricted use of their assigned vehicles."

individually assigned vehicles must report the imputed income from non-business travel on their tax returns.” The memorandum continued, “Travel between home and work in an individually-assigned vehicle is generally not considered a business purpose, and thus must be included in the imputed income calculation (emphasis original).”

Tax Implications of Use of a State Vehicle

Except in certain narrowly-defined circumstances, unreimbursed personal or commuting use of an employer-owned vehicle is considered personal income that must be reported to the Internal Revenue Service on an employee’s annual W-2 form. According to IRS guidelines, employees must maintain records that differentiate between personal and business use of employer-owned vehicles. Lacking such records, any use that is not documented as business use is considered personal, taxable income. IRS guidelines state that it is “the employer’s responsibility to determine the actual value of this fringe benefit [personal or commuting use of a vehicle] and to include the taxable portion in the employee’s income.”

The IRS has defined certain vehicles for which personal use is not reportable as income, as the vehicle is not likely to be used more than a minimal amount for personal purposes. In general, these “qualified nonpersonal use vehicles” only include vehicles such as marked police cars, ambulances, school buses, tractors, and certain trucks.

As applicable to unmarked vehicles such as those employed by the SLA, the IRS defines qualified nonpersonal use vehicles as follows: “Unmarked vehicles used by law enforcement officers if the use is officially authorized, and the vehicle is used by a full-time law enforcement officer who regularly carries firearms, is authorized to carry firearms, execute warrants and make arrests.” SLA enforcement officers are not police officers, do not carry firearms, and do not execute warrants or make arrests. Accordingly, SLA vehicles do not qualify for the nonpersonal use exemption, and the personal benefit derived by employees from their use must be reported as taxable income.

General Counsel Donohue, in a memorandum to then-Chairman Boyle dated August 18, 2008, informed the chairman that SLA vehicles do not qualify for the exemption discussed above:

None of the vehicles operated by the Authority meets the definition of unmarked vehicles used by law enforcement officers. Therefore, the value of the commuting use of such vehicles is income to our employees. While I do not believe that the agency is required to review employee’s income tax returns to make sure that our employees are properly reporting such use, I believe it is necessary and appropriate for the agency to require all drivers to disclose and record all personal use of agency vehicles.

The IRS provides three methods for calculating income derived from personal use of a vehicle. Most SLA employees who are assigned vehicles qualify for the

“commuting rule.” If the car is used exclusively for business and commuting, the employee is considered to have received a benefit equal to \$1.50 per commuting trip, or \$3.00 per day, as taxable income, including fuel. The commuting rule is only available to employees earning less than \$143,000, and requires that the agency prohibit personal use of the vehicle other than commuting. Depending on the income of the employee and the use of the vehicle, the employer may also report personal or commuting income at 55 cents per mile, or may calculate such income based on the fair market value of the vehicle in question using tables published by the IRS.

For IRS purposes, commuting is considered travel between an employee’s home and permanent work station. There are no exceptions for executives, or public or law enforcement officials, even if they consider themselves to be continually on-duty. There are also no exceptions if work is performed en route, including planning or telephone calls. However, as relevant to this investigation, the Inspector General was informed by the counsel’s office of the State Comptroller that travel from an employee’s home to a temporary work station is not considered commuting. Moreover, where a commute between an employee’s permanent work station and his home involves a work-related stopover, the entire trip is considered business related.

Executive Use of Vehicles

As noted above, state guidelines permit agency heads, such as the SLA commissioners, unrestricted use of their assigned state vehicles. However, the Inspector General found varying usage and methods of reporting among the commissioners.

Boyle explained that he reported only starting and ending mileage for the month and did not differentiate between business and commuting mileage because he believed all his travel was business related, explaining that he was always conducting business, even while commuting. Boyle also said that he had numerous discussions with his accountant about this issue and his accountant agreed that all his travel was business related. Boyle stated that each week he traveled from his home in Syracuse to his work station in Albany. During the week Boyle resides in an apartment in Albany.³

General Counsel Donohue reported that he had advised Boyle on multiple occasions that he was required to report his commuting mileage as taxable but that Boyle protested that his personal accountant had advised otherwise. According to Donohue, Boyle also argued that he does not have to report commuting mileage because he is always working on the agency’s behalf. Despite Donohue’s statements to the Inspector General and the memorandum from Governor’s counsel, Boyle informed the Inspector General that he has never been given any “clear guidance” regarding vehicle use.

Contrary to Boyle’s assertion that none of his vehicle use is commuting miles, he provided the Inspector General with a copy of a 2008 “taxable value” and a memorandum dated January 2009 to the Office of General Services. Boyle claimed 78 trips on the form, with a taxable value of \$1.50 each under the special commuting rule. However, neither the Office of General Services nor the Comptroller has a record of receiving the form. Moreover, according to Boyle’s records, the form was sent after the 2008 W-2 forms were provided to state employees, and therefore the reported income could not

³ For instance, Boyle reported approximately 3,800 miles during November and December 2008.

have been included in Boyle's W-2. In addition, the Inspector General found that Boyle used an incorrect method of calculation. According to IRS guidelines, the special commuting rule is only available to an employee whose agency policy prohibits use of the vehicle for personal use. Because SLA's policy permits the commissioners to use their vehicles for personal use, they are not eligible for this method of calculation

Commissioner Greene was assigned a vehicle beginning November 2008. Therefore, Greene was not required to complete a taxable value form for 2008, as the period covered by the form ended October 31, 2008. Greene stated that she uses the vehicle primarily to commute to her New York City work station, and to travel to Albany and Buffalo for business meetings; however, on occasional weekends, she uses the car for personal use. Even though she clearly uses the vehicle for some business-related use, Greene reports all mileage as personal, thereby incurring greater tax liability – a choice that is entirely within her rights. Greene informed the Inspector General that she was instructed by an SLA staff member to report only starting and ending mileage for each month on vehicle mileage reports.⁴ However, in an abundance of caution, Greene reported that she later contacted the Office of General Services (OGS) to determine whether she was reporting her mileage correctly. OGS confirmed that she need not distinguish between commuter and business miles because she reports all usage as personal. Commissioner Greene, in her response to this report, stated that she still intends to report all miles as personal and incur all attendant tax implications even though she could legitimately claim, to her advantage, some usage as business-related.

Commissioner Healey listed her daily mileage and detailed her commuting mileage. Healey did complete a 2008 taxable value form reporting her commuting mileage for income tax purposes calculating her liability at \$1.50 per trip using the special commuting rule consistent with her temporary and restricted use vehicle assignment.⁵ In her response to this report, Healey stated: "Having been assigned a state vehicle with exclusive privileges as a Commissioner and head of agency for the first time during November 2008, I will report my 2009 mileage liability differently and as directed in your report." Indeed, since her unrestricted use vehicle assignment, Healey has correctly reported travelling about 800 miles in November and 700 miles in December, with approximately half devoted to commuting in each month.

The Enforcement Division's Use of Vehicles

The Inspector General reviewed monthly mileage logs for November and December 2008, and all taxable value forms filed by Enforcement Division employees assigned vehicles during this period. Investigators assigned to the Enforcement Division examine premises licensed by the board, and identify violations of the Alcoholic Beverage Control Law. Most investigators use their assigned vehicles almost daily to visit bars, restaurants, and liquor stores, often working in the evenings.

Vehicle use varied daily, as investigators sometimes traveled directly to the office and sometimes traveled to a field location. Enforcement officials reported that investigators have always been assigned vehicles and have been permitted to commute

⁴ For instance, Greene reported approximately 600 miles for the month of December, reporting only her starting and ending mileage for the month.

⁵ As a commissioner, Healey was entitled to an unrestricted vehicle for her entire tenure as commissioner; however, she was incorrectly provided a vehicle with temporary and restricted use.

because overnight parking is unavailable or unsecure near the agency buildings. As discussed above, this permission was not reflected in SLA's vehicle policy until May 1, 2008. Between October 1, 2003 and May 1, 2008, the vehicle policy prohibited commuting by all personnel except the commissioners.

Investigators report their activities in daily logs detailing their visits to liquor-serving locations, and complete individual activity reports for each location visited. Investigators also typically submit receipts if they have purchased alcohol at the visited location. The required mileage logs are separate, requiring the investigator to list some of the same information recorded in the daily investigative logs, along with vehicle mileage.

A preliminary review by General Counsel Donohue found that investigators were filing incomplete vehicle mileage reports. The Inspector General's subsequent review concurred. Some investigators failed to record mileage on a daily basis, while others failed to list destinations. Many did not list their residence as the overnight location for the state vehicle, as required. Where employees were asked to list the number of commuting mileage each day, many forms were blank.

Some investigators reported to the Inspector General that they did not complete the mileage forms because information regarding their daily whereabouts was already recorded in their daily investigative logbooks. Others stated they did not believe they were expected to complete the forms. One supervisor reported that he knew he was responsible for completing the form, but did not do so. Another investigator stated that his reports were "unreliable."

Former Fleet Manager Anderson was responsible for collecting vehicle mileage reports and making vehicle assignments based on employee usage, but he stated that it was not his responsibility to review vehicle mileage reports prior to October 2008. Anderson claimed that it was the supervisors' responsibilities, but the supervisors claimed that this was not so. Accordingly, there was no review of such records prior to October 2008. Anderson also stated that he reviewed gas and E-Z Pass usage of staff only on an "ad-hoc" basis.

Despite the incomplete vehicle mileage records, the Inspector General found that the vast majority of employees did complete the form requiring them to compute taxable value for their commuting benefit. The Inspector General's review of the SLA's 2008 forms found that all employees submitted this form, except for former Assistant Director of Enforcement Peter Person. (Person is discussed further below.) Investigators stated that they used their daily investigative logbooks to reconstruct their commuting trips for the year.

Although the forms were completed by most employees as required, the Inspector General found that the executive and enforcement staff did not have a complete understanding of rules related to vehicle commuting. As a result, they were inconsistent in their mileage reporting. Most employees recognized that a trip between home and their assigned work station was considered commuting mileage. However, the Inspector General interviewed three supervisors who offered different opinions. One supervisor opined that unless he spends the entire day in the office, a trip from home to the office is not considered commuting. Another supervisor posited that if he takes a business-related

phone call on the way, the commute qualifies as a business trip. A third supervisor stated that he believes that SLA's vehicles are qualified nonpersonal use vehicles under IRS guidelines, and that, since he is always on call, any travel to the office is business-related. This supervisor does not keep track of commuting mileage as required, but "to cover" himself he claims one to two weekly trips as commuting on his annual taxable value forms. Investigators and supervisors also reported differing interpretations as to whether a trip directly from home to a field location, or a trip to the office including a brief stopover, was considered commuting.

Abuses and Irregularities

In general, the Inspector General found that mileage reporting was inconsistent and, even if completed properly, the forms failed to provide sufficient information to ensure that all employees used vehicles appropriately. The form itself does not require a starting location or a case number or reason for travel. Also, the form is premised on the driver's making only one trip per day, and does not lend itself to accurate reporting of multiple trips.

The review also uncovered some irregularities and potential abuses. Primarily, the Inspector General identified instances in which employees were permitted to commute long distances in state vehicles. In some cases, there appears to be little business justification for these investigators to have been assigned vehicles, since the vehicles were used primarily for commuting.

Until recently, one investigator assigned to the New York City office was permitted to commute from her home near Albany in a state vehicle, approximately 300 miles per day. This investigator had little or no field responsibilities, and was therefore using the state vehicle almost exclusively for commuting. During 2008, the investigator traveled more than 41,000 miles in the state vehicle for which the SLA paid approximately \$5,500 for gas. The employee claimed a benefit of \$3 per day on the taxable value form, but did not indicate any commuting mileage during the first ten months of 2008 on her vehicle mileage logs. Beginning in early 2009, SLA required the investigator to park the vehicle at a state police location in Tarrytown over night, rather than at her Albany home.

The Inspector General identified other employees who used their vehicles for long commutes. One now-retired investigator drove a state vehicle 13,609 miles over eight months in 2008. During this time, the investigator recorded fewer than 300 miles for business travel. The remaining 13,316 miles were devoted to commuting between his home and his assigned work location, a distance of 70 miles each way. Another investigator, who lives 45 miles from his assigned work location, listed commuting miles only for the last three months of 2008. For these months, the investigator averaged 83 percent commuting usage. Yet another enforcement staff member, who resides 69 miles from his work station, logged commuting mileage for only the last three months of 2008 and reported almost 6,700 miles during the period; 45 percent for commuting.

The Inspector General also identified instances in which investigators' reported mileage did not correspond to the recorded destinations. Such inconsistencies could indicate improper vehicle use and should be monitored by SLA's fleet manager. For example, one investigator reported 30 commuting miles on each of four days in

November, although the distance from his home and his work location is 16 miles, leaving 14 miles of travel unexplained on each of these days. Another investigator reported varying daily mileage from 130 to 161 miles. The distance between the investigator's home and work location is approximately 138 miles round trip. No explanation was provided for the variation in the logs. In some instances, individuals did not account for all the mileage incurred during a particular day or month. In other cases, investigators only listed a county as a destination each day, while others listed no destination at all. Four of the seven investigators assigned to enforcement in Buffalo listed only a county as a destination each day.

Assistant Enforcement Director Peter Person

Until his resignation in March 2009, former Assistant Enforcement Director Peter Person's official workstation was SLA's New York City office in Manhattan. Each week, Person was permitted to commute in his state vehicle between Manhattan and his home in Keeseville, New York, nearly 300 miles away. Typically, Person left Keeseville for New York City on a Sunday or Monday and returned to Keeseville on Thursday or Friday afternoon.⁶ The vehicle would remain in Keeseville through the weekend. During the work week, Person commuted to a relative's residence on Long Island, approximately 54 miles from the New York City office.

In 2008, Person traveled more than 56,000 miles in a newly-purchased state vehicle, with the state paying almost \$6,000 in gas expenditures. Person's weekly trip to and from Keeseville, combined with a minimum of three trips to Long Island each week amounts to approximately 750 commuting miles per week.

Person's mileage logs are plagued with errors and inconsistencies, with mileage that does not correspond with his stated destination. Between January and September 2008, Person claimed no commuting miles even though his mileage records record his destination as his residence in Keeseville on 11 days. (Keeseville, a town of less than 2,000 residents, is far from Person's Manhattan workstation, and it is extremely unlikely that Person routinely had official business in Keeseville during this time.) In October, Person began documenting some commuting miles. However, he still reported just 856 commuting miles, despite accumulating almost 13,000 miles. Person did not fill out a taxable value form and accordingly no taxable commuting benefit was incorporated in his W-2 for 2008.

Former Fleet Manager Anderson received Person's vehicle records, but stated that he never approved nor questioned the documents. General Counsel Donohue stated that he had believed Person drove to Keeseville in his personal vehicle on weekends. Donohue stated, "It would seem unimaginable to me that we would be letting someone drive a state car home on the weekend, when they live – however far it is." Boyle said that while he knew Person lived in Keeseville, he believed Person resided in Long Island during the week. Boyle also stated that he was aware that Person may have taken his state vehicle to Keeseville on some weekends, but not every weekend. Further, Boyle agreed with the Inspector General that any trip Person made from the New York City

⁶ The Inspector General received no evidence or allegation indicating that Person did not fulfill his scheduled weekly hours.

office or Long Island to Keeseville should be considered commuting mileage and reported as such, adding that Person “should have known better.”

Under applicable rules and guidelines, prior to permitting an employee to utilize a state-owned vehicle for commuting, an agency is required to analyze whether the assignment is based upon a valid business reason (such as lack of space to store the vehicle, the need for the employee assigned the vehicle to respond to emergency calls, or the security of the vehicle) and engage in a cost-benefit analysis to determine whether the vehicle assignment is economically reasonable.

Prior to the May 2008 revision of SLA policy, with the exception of the three commissioners, SLA employees were prohibited from commuting in state vehicles; therefore, prior to May 2008, Person’s use of a state vehicle for his long-distance commute from New York City to Keeseville directly violated agency policy. While the May 2008 revision permitted commuting in certain circumstances, it is difficult to discern a valid business rationale for Person’s commute 300 miles north of his official work station or the cost-effectiveness of paying for the gas for this extraordinary commute.

In regard to the other SLA personnel assigned vehicles, accurate record keeping is a prerequisite for adequate analysis of the underlying business reason and cost-effectiveness of a vehicle assignment. SLA’s lax record keeping and corresponding lack of internal review of vehicle use prevented the required analysis from being performed in any meaningful manner.

FINDINGS AND RECOMMENDATIONS

The Inspector General found that SLA employees failed to accurately and fully report their vehicle mileage as required by SLA’s vehicle policy. This failure hinders SLA from monitoring and preventing unauthorized use and has led to inaccurate reporting, or lack of reporting, of taxable benefits received by SLA employees. In addition, the Inspector General found that SLA allowed several employees to use state vehicles primarily to commute long distances. In these instances, the agency incurred expenses out of proportion to the benefit it received from having these employees park and maintain the vehicles.

The Inspector General recommended that SLA further revise its vehicle policy to clarify rules and employee obligations in distinguishing business and commuting mileage, and provide training to employees regarding the policy. The Inspector General also recommended that SLA review the format of vehicle mileage logs to ensure that all necessary information is requested and that the format is appropriate to the information being recorded. The forms should require employees to list both starting and ending destinations for each trip, and require a case number or other reason for each trip. The agency may wish to consider combining this report with the required daily investigative logs to eliminate duplicate paperwork.

The Inspector General also found that the vehicle policy in place was unenforced, and that forms completed by employees were not reviewed for completeness or accuracy or audited to identify potential improper use. The fleet manager should review all vehicle mileage forms for accuracy and completeness and supervise periodic audits of employee

vehicle usage and gas purchases. Fields such as “destination” should be filled out identifying the exact address, rather than a county name. In response to this report, then-Chief Executive Officer Woody Pascal, who had also assumed the role of fleet manager, informed the Inspector General that he requested permission to hire a chief fiscal officer and that OGS conduct an audit.⁷

With regard to specific SLA executives, the Inspector General found that former Chairman Boyle did not file a timely taxable value form in 2008, and former Assistant Enforcement Director Peter Person did not submit a taxable value form for 2008. Consequently, both may have underreported their incomes to tax authorities. The Inspector General will provide these findings to the New York State Department of Taxation and Finance.

The Inspector General advised that all SLA employees, including the commissioners, should accurately complete and submit taxable value forms to the State Comptroller for inclusion in employee W-2 forms. As discussed above, the plain language of the IRS guidelines reveal that SLA vehicles are not qualified nonpersonal use vehicles. Therefore, all SLA employees who commute in state vehicles, including the commissioners, are required to report commuting trips as taxable fringe benefits. Any trip between an SLA employee’s home and his or her official work station is considered a taxable commute, regardless of whether a telephone call or other business is conducted in the car, although trips between home and temporary work station or a field location may be considered business. To this end, according to Pascal’s response to the Inspector General’s report:

The ABC has posted the division’s vehicle policy on its intranet site to ensure that it is easily accessible to all of its employees. ABC Staff that uses fleet vehicles were requested to attend a training session led by Counsel Donohue to review the revised (10-8-08) fleet management policy. Further, employees were requested to acknowledge receipt stating that they had received and reviewed the most current policy.

Finally, the Inspector General recommended that SLA establish policies limiting the commuting miles that can be incurred at the state’s expense by an individual, and review vehicle assignments to ensure that such assignments are warranted based on the individual’s work responsibilities.

⁷ As of August 19, 2009, Woody Pascal’s resignation was accepted by the board; newly sworn-in Chairman Dennis Rosen named Catherine Trina Meade as his replacement.



NIKKI R. HALEY, Governor
WILLIAM R. BYARS, JR., Director

February 9, 2012

Mr. Jim Martin, Inspector General
State of South Carolina
110 Centerview Drive
Kingstree Building, Suite #201
Columbia, South Carolina 29210

Dear Mr. Martin:

We appreciate the opportunity afforded the South Carolina Department of Corrections to officially respond to the report involving the South Carolina Department of Corrections and Tyger River Correctional Institution before it was made available for public review. Enclosed please find our response to your report. It is our understanding that the response will become a permanent part of the final OIG report.

Also, I wanted to again thank you for granting the extension for additional time Mr. Ward requested during my absence. This allowed us to do a more comprehensive review. I want to ask that you indulge us with one further request – that is, if possible, please notify me of when the final report will be released for public review.

Please feel free to contact me or Mr. Robert Ward, Deputy Director for Operations, if you have questions.

Sincerely,

William R. Byars, Jr.

WRB:dbh
Enclosure

FEB 10 2012

Office of the Inspector General

1. Consider options in lieu of assigning a state vehicle to a Warden:

We have given a great deal of thought to the comments made by the writer of this report regarding options in lieu of assigning state vehicles. As you will note from the comments below, we feel strongly that the options that were presented were not viable ones. We further take exception to the characterization of Wardens as administrative employees. We note that the writer closed by stating "The OIG is not taking issue as it relates to either class I Officers or the application of (State Proviso 89.108) in regard to the DOC's Class II Officers. It is understood that Class II Officers do in fact have the powers as expressed in (State Proviso 89.108)."

It would appear that the writer of this report is unfamiliar with the duties of a Warden, and the Mission of the South Carolina Department of Corrections (SCDC). SCDC is responsible for housing and transporting some of the most dangerous citizens in South Carolina. All are convicted felons! This is a never-ceasing responsibility that places an extremely high degree of accountability on Wardens.

The writer of this report alludes to the duties of a Warden as being administrative in nature. Wardens are the absolute authority in all matters, including all emergencies, which occur at their assigned institutions. These emergencies include, but are not limited to, escapes, attempted escapes, institutional disturbances, hostage situations, serious assaults on employees and inmates, fires, power outages, contraband being thrown over our perimeter fences, work stoppages, security breeches, natural disasters, and any other incidents requiring the implementation of that institution's Emergency Plan. We believe that the fact that the Warden of this particular institution only had to respond under emergency two (2) times in the past five (5) years to be a testament for the high level of training and management skills of that particular Warden.

Further, the SCDC requires Wardens to work with other agency divisions and areas as a team. This team work includes conducting Security Audits and Management Reviews at institutions other than their own. This requires state-wide travel. Additionally, Wardens may be summoned to assist in emergencies at neighboring institutions.

Other than these uses, SCDC policy prohibits any personal use of an assigned state vehicle.

The SCDC has prepared Wardens for emergency vehicle response driving through training provided by the South Carolina Criminal Justice Academy and equipped their vehicles with the required blue lights and siren for such response. All Wardens are class two (2) certified law enforcement officers and work in the community (depending on assignment and detail). All Wardens are weapons certified and carry firearms in the application of their duties in compliance with South Carolina Code of Laws, 1976, 24-1-280 wherein Wardens are granted legal authority to serve warrants and make arrests.

The SCDC operates twenty-eight (28) prisons located in all areas of the state. In the 1980's and 1990's prisons were built in rural areas of the state as it was those communities who sought the economic advantages of such construction. A Warden's position requires years of training, experience and seasoning to achieve success. With the collapse of the economy and the companioning low funding for SCDC, institutional management training was ceased many years ago. It became necessary to select individuals who did not mind commuting additional distances rather than relocate to the aforementioned communities. Such relocation can uproot spouses from jobs and family, and takes children out of thriving school districts. In cases where spouses are highly trained and have jobs that would not be available in the new location, tough decisions have to be made. Also, the state of the current housing market makes selling a home less than desirable.

The idea of 'alternative transportation' for Wardens during emergencies is faulty at best with its potentially negative impact on public safety. The temperament of a prison population can turn from calm to explosive in seconds. It is imperative that a Warden be capable of immediate response to these prison emergencies. Minutes can literally mean the difference between securing a situation, and losing an entire institution. The image of a Warden having to use 'alternative transportation' to get to an emergency would not speak well of our state's concern for public safety. What would delays say to our Correctional Officers, Staff, and the General Public? The delay in the response time could be the difference in preventing loss of life as well as holding down the cost of damage caused by rioting inmates.

Further, other Law Enforcement Agencies cited in this report as possible "alternative transportation" have staff and resource shortages as well. It is unclear how we could expect a State Trooper or SLED Agent to be on call twenty-four (24) hours a day, seven (7) days a week for twenty-eight (28) Wardens or their designees and still allow for timely emergency response.

Emergency response vehicles are not a luxury. They are a core and basic need. They have been a part of SCDC Warden's equipment for decades as they attempt to manage the most dangerous individuals in our state.

We will take the issues related to the IRS under advisement.

Further, as a result of this investigation, we will formally consider "proximity to assigned institution" in all future Warden Interviews.

2. Increase attention to medical issues:

All psychiatric medications are dispensed by licensed clinical psychiatrists and are dispensed in accordance with American Psychiatric Association requirements.

We are currently involved in a state lawsuit that has been ongoing for a number of years and one which may have national implications. The lawsuit alleges that we are not providing adequate care to mentally ill inmates.

3. Leave requests and use of corrective action:

The SCDC has policies to address the appropriate use of accrued leave and the implementation of corrective action. The Office of Operations and the Division of Human Resources will meet with Tyger River Correctional Institution's management staff to ensure clarity on both issues noted.

4. Employee relations:

The SCDC provides training and orientation for all new employees. This training begins with a one (1) day "on-boarding" session on the first day of employment. It introduces them to the agency organizational structure, grooming requirements and important personnel information needed to operate our South Carolina Enterprise Information System (SCEIS). New employees are then scheduled for new employee orientation which is a week long session of classes to include good security practices, interaction with subordinates and staff, legal issues, cultural awareness and employee/inmate relations.

Newly promoted sergeants are required to attend Transition From Employee To Supervisor, Supervisory 101 and Essential Skills For New

Supervisors. Non-uniformed supervisors can also attend these training classes. All Wardens, Associate Wardens, Majors, Captains and Lieutenants are required to attend the Command Leadership Institute (CLI) which is a three day class that covers Effective Communication, Look Like You Lead, and Ethics and Values. The CLI is also available to staff designated by the Warden or Division Directors. In addition to the above, all certified employees, including wardens, must complete twenty-three (23) hours of in-service recertification training annually. Certified employees must also maintain their Continuing Law Enforcement Education (CLEE) certification as required by the South Carolina Criminal Justice Academy.



NIKKI R. HALEY, Governor
WILLIAM R. BYARS, JR., Director

November 23, 2011

Mr. Jim Martin, Inspector General
State of South Carolina
110 Centerview Drive
Kingtree Building, Suite #201
Columbia, South Carolina 29210

RE: Case #2011-30 - Tyger River CI/Alleged Waste & Mismanagement

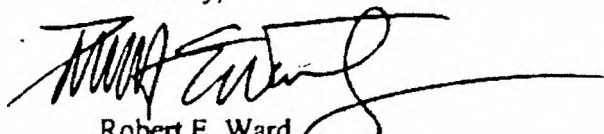
Dear Inspector General Martin:

I have received and thank you for sending me a draft report on your investigation involving Tyger River Correctional Institution. According to the fax cover sheet, you have asked that SCDC provide you with a written response addressing any inaccuracies, misstatements or references to policy that need to be corrected within fifteen days. As SCDC received the report on November 16, 2011, this response is currently due on December 5, 2011. Because your draft report addresses a total of twenty-four separate allegations and will require staff to meet with supervisors in several areas of the Agency, I am writing to respectfully request that you extend the initial deadline until January 4, 2012, as we are in the midst of the end of year holiday.

Also based upon the fax cover sheet, it is my understanding that after submitting this initial response, SCDC will be permitted the opportunity to officially respond to the report before it is available for public review and that this response will become a permanent part of the final OIG Report.

Thank you for considering this request. I would appreciate it if you would notify me whether the request has been granted or denied.

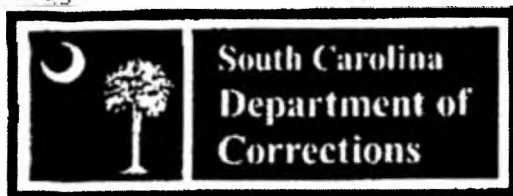
Sincerely,



Robert E. Ward
Acting Agency Director

REW:smp

RECEIVED



NIKKI R. HALEY, Governor
WILLIAM R. BYARS, JR., Director

January 4, 2012

Mr. Jim Martin, Inspector General
State of South Carolina
110 Centerview Drive
Kingtree Building, Suite #201
Columbia, South Carolina 29210

Dear Mr. Martin:

The purpose of this letter is to respond to the draft report regarding matters involving the South Carolina Department of Corrections (SCDC) and Tyger River Correctional Institution. We appreciate your granting of the extension for this response.

In reviewing the report for incorrect statements or inaccuracies, we identified one area of concern. It was noted that there may be an issue with the interpretation of the IRS regulation as it applies to employees using assigned emergency-equipped state vehicles for commuting purposes. All SCDC employees who are issued state vehicles are certified Class I or Class II law enforcement officers. Those who are Class II are authorized to and do carry firearms, are authorized to execute warrants in the performance of their duties, and are authorized to make arrests in the performance of their duties. These employees are first responders to emergencies, either at the institutional or Agency level, and are expected to respond at any time.

While we note only the one discrepancy noted above in this response, we look forward to further addressing the interpretation of other facts in the report at a later date. Again, thank you for your willingness to extend the deadline for this response.

Sincerely,

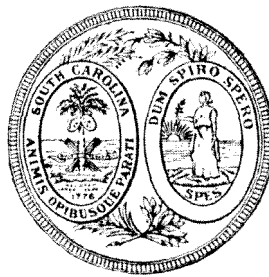
Robert E. Ward
Acting Agency Director

REW:js:smp

RECEIVED

JAN 06 2012

Office of Inspector General



State of South Carolina Office of the Inspector General

JAMES V. MARTIN
INSPECTOR GENERAL

NIKKI R. HALEY
GOVERNOR

February 15, 2012

Honorable Judge William R. Byars
4444 Broad River Rd.
Columbia, SC 29221-1787

Dear Judge Byars:

I am writing in regard to your recent response and correspondence to the Office of Inspector General's (OIG) Final Report relative to the Tyger River Correctional Institution, Case 2011-30.

You requested that you be notified when the referenced report would be available for public review. The Final Report is actually available for public review when the agency's response is received by the OIG and is made ready for dissemination. Now, having stated that, understand my original idea was to post all final reports issued by the OIG to its website for public review. However, funds have not been available to implement this function in the office's operation. Therefore, OIG final reports are available, but there is no mechanism in place currently to notify the public that such information exists. The final reports are therefore only disseminated when a request is made for either a specific report or a request for all closed or final reports is received by the OIG. In a recent ten month report I prepared for and submitted to the sponsors of Senate Bill 258 legislatively establishing an Office of Inspector General, I included all final reports to date. However, the Tyger River report was not included because the time period for your agency's response had not expired.

My objective of posting the final reports to the website was gleaned through discussions with other States' Inspector General and reviewing their websites. It was felt the posting of such reports for public review was not only a tremendously effective marketing tool, but also it was believed to serve as a deterrent of committing those acts for which the OIG was established to investigate.

In closing, let me reiterate that while the final report for Case 2011-30 is available for public review, at this time an individual would have to request either the specific report or request that all final reports regarding closed cases be provided.

Should you have additional questions, please do not hesitate to contact me.

Sincerely,

James V Martin

JM/pw

OFFICE OF THE INSPECTOR GENERAL
KINGSTREE BUILDING
110 CENTERVIEW DRIVE, SUITE 201
COLUMBIA, SOUTH CAROLINA 29210
OFFICE: 803.896.4729 • FAX: 803.896.4309
EMAIL: OIG@OIG.SC.OIG
TOLL-FREE HOTLINE: 1.855.SCFRAUD (1.855.723.7283)

November 28, 2011

Mr. Robert E. Ward, Acting Agency Director
SC Department of Corrections
4444 Broad River Road
Columbia, SC 29221-1787

Dear Mr. Ward:

I am in receipt of your November 23, 2011 correspondence requesting an extension period for your agency to respond to the draft report regarding certain matters involving the Tyger River Correctional Institute (TRCI). I should have considered the approaching holidays and the distance and logistics between your location and TRCI and provided more time initially. January 4, 2012 will be fine.

Please keep in mind when you review the draft, this office is not seeking a detailed response to the report at this time. This office is interested in your identifying incorrect statements or inaccuracies not with findings or recommendations, but rather items such as any Department of Correction policies or procedures that were referenced in the report or even quoted. Another example might be when it is stated the Warden for TRCI lives in Irmo. This office may have received incorrect information and he actually resides in Newberry. Therefore the calculations would be incorrect. This office would prefer to correct items of this nature before the final report is prepared. It was also thought by providing a draft; the agency could begin to work on their formal response with high assurance that the final report would be extremely similar to the draft.

I will admit, this office being new is still testing the various procedures in not only investigating matters, but how to report and make sure we assist cabinet agencies in these endeavors; not the reverse.

In closing, again, January 4, 2012 will be fine for your response. Thanks for all your and your staffs assistance in this matter.

Sincerely,

Jim Martin
State Inspector General

Cc: Roger Myers

JM:pw

OFFICE OF THE INSPECTOR GENERAL

TO: MR. TED PITTS, DEPUTY CHIEF OF STAFF, OFFICE OF GOVERNOR NIKKI HALEY
MR. ROBERT E. WARD, INTERIM DIRECTOR, DEPARTMENT OF CORRECTIONS
JIM MARTIN, INSPECTOR GENERAL

FROM: ROGER MYERS, INVESTIGATOR

SUBJECT: TYGER RIVER CORRECTIONAL INSTITUTION/ALLEGED WASTE AND MISMANAGEMENT-
FINAL REPORT

DATE: 1/8/23/2012

You are being provided a copy of the Final Report for case number 2011-30 regarding the recent investigation relative to allegations/complaints filed with the Office of Inspector General.

Thank you for your review and response to our Draft Report. As you may recall, the Draft Report included a recommendation that DOC review its policy as it relates to definition of Law Enforcement Officers and commuting mileage to ensure the agency's Wardens meet the exemption requirements as set forth by the IRS Code of Laws. The Final Report reflects changes that were made and additional information in an attempt to clarify this office's position on this particular matter.

It is hoped you find this Report a true and accurate presentation of the facts and findings associated with this investigation. In addition, any recommendations made by the OIG regarding this matter are set forth in the Report for the express purpose of assisting your agency in enhancing the effectiveness, efficiency, and/or accountability as you continue to serve the citizens of the State.

Should you choose to provide a formal response to this Report; please provide such comments in writing to the OIG within fifteen (15) calendar days from the date of this correspondence. Your response will be made a part of the Final Report of the OIG and will be disseminated along with any request for the identified Report and will be included for review by the public when it is posted to the OIG website.

It has been a pleasure working with you and your designated staff while fulfilling the mission of the OIG. The cooperation shown by you and your staff is most appreciated.

Thank you.

Meeting: Interim Director Mr. Bob Ward

August 19, 2011

Complaints as Listed:

- 1 Warden uses his state vehicle to commute from the Columbia area to the Tyger River CI and that he is furnish a car, gas, oil, tires and insurance.
Response: The Departmental policy allows commission officers that are on call in emergency situation to be assigned a state vehicle for 24 hour emergency response. The because of the difficulties in finding qualified individual that live in certain location the DOC has had to hire experienced personnel from other area then the county in which the facility is located. This not limited to the Tyger River facility is has happen in other locations as well i.e.; Charleston etc. Wardens are not paid moving expense for a move nor are they required to relocation to a certain county. Will provide copy of budget and control board policy on moving. Copy of LAC report will be provided. First priority would be to hire locally or someone willing to relocate. Some law enforcement vehicles eliminated to cut cost. **OIG Thoughts:** Need to discuss LAC Report, Policy on state and where or how the line is drawn on which law enforcement officer will use that state vehicle to commute to and from work.
- 2 Two associate wardens and major rides from Columbia area with the warden for free. When the warden is not working the others drive the car to work. **Response:** The two Associate Warden and Major are all Law enforcement officers and are covered by policy that provides that Law Enforcement officers are exempt from commuting miles. They would also be clear to drive the state vehicle as commission officers.
- 3 The warden and the associate are able to bring their cell phone with them inside the prison. Employees phone are taken if they bring them

inside the prison. Response: DOC policy allows wardens and associates maintains their cell phones while at work for communication purposes. DOC policy also allows wardens to take employees cell phone if they bring them inside the prison. OIG Thoughts: DOC requires (Policy) the warden and associates to maintain their cell phone to maintain contact the warden and staff.

- 4 Suggestion to limit spending limits on inmates. **Response: Doc has policy that deal with medical spending on inmates.** OIG Thoughts: DOC Policy should be in place on this our office is not able to evaluate the medical needs or conduct a comparison of what other state procedures are.
- 5 Suggestion to do parole hearing via satellite or a letter to Tyger River CI. **Response: Some of the hearings are currently being conducted via satellite at the Tyger River CI.** OIG Thoughts: Recommend that DOC continue using the satellite video conference to expand parole reviews.
- 6 Lack promotion from within to higher paying jobs. **Response: This area has more to do with management problem that Tyger River has had in the past and leadership style. Sometime new management has to hire new employees to move the facility in a different management direction.**
- 7 Warden works at recruiting and employment and that she is too involved with the hiring process. The warden takes hiring pack back and forth from Columbia to Tyger River CI. **Response: The DOC follows the state policy on hiring for positions. The point system applies this was recently review by the LAC and was covered in their report. The warden wife doesn't have any involvement in the decision making process. The warden take hiring pack to and from Columbia may have been a mean of expediting the hiring process.** OIG Thoughts: A copy of the LAC

Report is to be provided. Will also provide information on recent hires for Tyger River.

- 8 Warden tells employees that will receive corrective action if they miss more than 70 hours of sick leave in a year. **Response:** This area was brought to his attention as a complaint. Tim Riley was contacted in regards to his policy on the use of sick leave. Mr. Riley was told by e-mail that this policy was not in line with DOC' sick leave guidelines and corrections were to be made. **OIG Thoughts:** A copy of the e-mail to Mr. Riley will be provided to this office.
- 9 Major Parrish another rides from Columbia for free, tells employees that they are fat; management needs training on how to treat employees. Poor supervision: management walks by without speaking and is rude. **Response:** Mr. Ward was not aware of any complaints received concerning comments made by Major Perry and that he could follow-up on any negative comments made by Major Perry. Suggested maybe comment was being made as to how an officer should looks as an employee and law enforcement official. He also explained that a lot of training was eliminated as a result of budget cut. **OIG Thoughts:** That OIG could talk with some of the employee at Tyger River CI.
- 10 Mike Fowler Food Service supervisor needs to be checked, he gives employees all the mayo, mustard, and coffee they ask for. **Response:** Employees are allowed to buy lunch at the facility and not if they are given condiments with meal or gross misuse. Mr. Ward thought that there may be instances that employees would get coffee at no charge; however ne had not received any complaints concerning Mike Fowler. **OIG Thoughts:** Thoughts were that Mr. Fowler employees need to be interviewed.
- 11 Two lieutenants that were married were asked to resign and two married couple was having an affair and nothing happen in that situation. **Response:** Recently DOC reviewed there policy on employees dating and other personal relationship at the agency. As a result policy

changes were made to address inappropriate employee relationship. This policy review was done to address complaints and concerns. OIG Thoughts: Copy of policy to be provided to OIG.

- 12 Tyger River has nine nurses Warden. Suggestion is that they be reduced down to two per yard. They invite the Warden, Major and the Investigator to eat with them; the doctor makes too much money he could be replaced with a nurse practitioner. **Response: The Tyger River location was two facilities that were combined. They have two groups of employee which would be necessary to manage both facilities. Some management positions were consolidated. Have not had any complaints about the nurses cooking and watching TV all day or inviting warden major or investigator to eat with them. OIG Thoughts: The OIG cannot advise on the need for nurses or medical staff. Follow-up should be done of concerning the nurses watching TV and providing meal for the warden, major and the investigator.**

Information to be provided to OIG:

- 1 OHR Regulation on moving expenses
- 2 Policy on use of state vehicle
- 3 Policy on employee relationship
- 4 Memo to Warden Riley concerning sick leave
- 5 Recent hire information
- 6 Use of cell phone policy