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State Comptroller

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Seventeen Years of Fraud
by the
Former Director
of the
Department of Correctional Services'
Food Production Center



April 13, 2010

Mr. Brian Fischer
Commissioner
NYS Department of Correctional Services
1220 Washington Ave, Bldg. #2
Albany, New York 12226-2050

Dear Commissioner Fischer:

Our audit and investigation finds past Correctional Services' management teams failed to uncover longstanding fraudulent practices by Howard Dean, the former Director of the Food Production Center in Oneida County. This failure in management was caused by either indifference or tolerance for special privileges afforded the Director. This culture needs to change.

Mr. Dean failed to work on Fridays for 17 years although he claimed to be working a five-day week on his time and attendance records. He also submitted fraudulent travel vouchers and hotel invoices for days he did not stay at a hotel in Rome, New York. These practices cost the taxpayers more than a quarter-million dollars.

Another quarter-million dollars in improper payments occurred because management failed in its responsibility to operate in the best interest of the State.

We provided our findings to the Oneida County District Attorney's Office for possible criminal charges including Conspiracy, Falsifying Business Records, Defrauding the Government, Larceny and Official Misconduct.

We urge you to work with your current management team to be sure similar practices are not occurring at other locations within the prison system and similar practices will not occur in the future.

Respectfully submitted,

Office of the State Comptroller

New York State Office of the Inspector General

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Summary

A joint audit/investigation conducted by the Offices of the New York State Comptroller and the New York State Inspector General, determined that as a result of intentional fraud coupled with mismanagement, if not conscious acceptance of improprieties, by senior staff at the Department of Correctional Services, Howard Dean, the now retired Correctional Services Food Processing Center Director, received inappropriate and unlawful time and travel payments totaling about \$500,000 from 1992 through August 2008.

Approximately \$240,000 of the misappropriated money was the result of several Central Office management decisions that violated guidelines issued by the Office of the State Comptroller, Division of the Budget and Correctional Services and, accordingly, were not in the best interest of the State. Specifically, Mr. Dean was assigned a concocted official work station that allowed him to be in purported travel status for 17 years; he was granted a State vehicle to commute to work with gas and tolls paid for by the state; and he was improperly allowed to lodge in State-provided housing.

The remaining \$259,000 of misappropriated money occurred because Mr. Dean submitted false timesheets and travel vouchers that, at a minimum, went unchecked by his supervisors in the Department of Correctional Services' Central Office. This included false timesheets in which Mr. Dean certified to having worked hours he did not, including every Friday for 17 years; false travel vouchers which stated he stayed in a hotel 75 nights when in fact he did not; and fraudulent travel vouchers that included meals and other travel costs he did not incur. Mr. Dean did not offer any reasonable explanation for his actions.

The Office of the State Comptroller and the State Inspector General provided the findings contained in this report to the Oneida County District Attorney's Office for possible criminal charges including Conspiracy, Falsifying Business Records, Defrauding the Government, Larceny and Official Misconduct.

The Office of the State Comptroller and the State Inspector General recommend the Commissioner of Correctional Services change the control environment in the prison

system to one that actually enhances internal controls and respects Office of the State Comptroller, Division of the Budget and Correctional Services' regulations and guidelines. Accordingly, it is essential that Correctional Services Central Administration management properly adhere to State regulations regarding travel, vehicle assignments and the agency's policy regarding staff housing.

Background

The New York State Department of Correctional Services is responsible for housing approximately 60,000 inmates at 69 correctional facilities and one drug treatment center throughout New York State. The Food Production Center, located on the grounds of the Oneida Correctional Facility in Rome, New York, is a state-of-the-art facility designed to provide food and drink on a daily basis to all inmates. It also contracts to supply approximately 1,900 meals a day to local jails in 12 participating counties.

The Food Center is staffed by approximately 140 inmates and 80 employees. The method of preparing the meals is known as “Cook/Chill.” This process allows the Food Center to prepare massive quantities of food and quickly chill it to near freezing before it is shipped to facilities throughout the State. The Food Center has an annual budget of more than \$55 million.

The Food Center and the Cook/Chill program were established in 1992 in response to a State Comptroller’s audit that identified significant waste in food preparation. The program was designed to streamline the manufacturing and service of meals to the inmate population. Prior to the Food Production Center, meals were prepared separately at each facility, which employed their own cooking staff and did their own food purchasing.

Mr. Dean served as the Director of the Food Production Center from its inception until his retirement on August 7, 2008. Under Mr. Dean’s supervision the Food Center grew from a pilot program to eventually having the capability of feeding all inmates in the system. The Food Center also grew in physical size, undergoing two large expansions necessary to meet the needs of the expanding program.

During his tenure as Food Production Center Director, Mr. Dean had several supervisors based at the correctional system’s Central Office in Albany. He was supervised by Deputy Commissioner Susan Butler from December 1991 through February 1994 and Deputy Commissioner Raymond Broaddus from February 1994 through July 1999. Both Ms. Butler and Mr. Broaddus supervised Mr. Dean about the time the Food Center was getting started. In July 1999, Chief Fiscal Officer Russell DiBello began supervising Mr.

Dean and remained his supervisor until Mr. DiBello retired in 2007¹. Finally, Deputy Commissioner Gayle Haponik supervised Mr. Dean from 2007 until Mr. Dean's retirement in August 2008. While Mr. Dean worked at the Food Center in Rome, his residence was located in Locke, New York approximately 88 miles from the Food Center.

Employees and officials from the Food Center and the Central Office described Mr. Dean as the primary advocate for, and leading authority on, the Cook/Chill program in New York State. According to Mr. Dean, he was initially offered the position at the Food Center by then-Commissioner Thomas Coughlin. Mr. Dean had previously discussed with Commissioner Coughlin the benefits of establishing the Cook/Chill program, and Mr. Dean believed he deserved the opportunity to run and develop the Food Center because of his previous work at Auburn Correctional Facility and then at the Central Office in Albany. Mr. DiBello described Mr. Dean as the "czar" of the Cook/Chill program and an expert in the food service field. As the program grew, Correctional Services officials increasingly considered Mr. Dean's supervision as critical to its success.

Fraudulent Travel Practices

Mr. Dean's Travel Arrangement with His Supervisors

In 1992, when Mr. Dean was first assigned to work fulltime at the Food Center, Correctional Services officials designated Albany or Auburn as his official work station. This decision, which Mr. Dean attributes to his then-supervisor, Deputy Commissioner Susan Butler, was made despite the fact Albany is located approximately 109 miles from the Food Center, where Mr. Dean maintained his office and performed his official duties, as well as 187 miles from his residence in Locke. This designation of an illusory official work station, and its perpetuation by future supervisors, allowed Mr. Dean to remain in fictitious travel status and accrue associated benefits during the ensuing 17 years. Specifically, Mr. Dean was able to obtain reimbursement for hotel fees and per diem

1 Mr. DiBello stated he began supervising Mr. Dean in approximately 1994 during a reorganization when the Food Production Center was moved from Program Services to Administration. Current management stated, however, the reorganization occurred in July 1999 which is when Mr. DiBello began supervising Mr. Dean. Due to this inconsistency, we were unable to conclusively determine when Mr. DiBello began his official supervision of Mr. Dean.

costs. This was accomplished through the submission of travel vouchers he certified and which were subsequently approved by his supervisors in Albany.

The rules regulating business travel for New York State employees are codified in the New York Code of Rules and Regulations which provide:

“The official station of every employee shall be designated by the head of the agency. Such designation shall be in the best interests of the state and not for the convenience of an employee or to maximize travel expense reimbursement. Every designation of the official station of an employee shall be subject to review by the Comptroller. If any designation of an official station is found to be inconsistent with the provisions of this Part, a request for travel expense reimbursement based upon such an inconsistent designation may be disapproved by the Comptroller.... No transportation costs will be allowed between any employee’s place of residence and his or her official station. The place of residence is considered to be the city or town in which the employee primarily resides.”

To be eligible for reimbursement of travel expenses and to justify the use of a State travel credit card, the employee must submit a “travel voucher,” which details the purpose of the travel, hotel cost and the per diem claimed. Correctional Service travel guidelines, which were designed to model the above regulations, specifically state: “Your Normal Work Location” is to be listed on the voucher in the official station field. Mr. Dean’s travel vouchers submitted each week for approximately 17 years stated his official work station or “normal work location” was Auburn during the early stages of the Food Center and then Albany². His justification for the travel was “to attend meetings” at the Food Center.

All relevant witnesses interviewed reported Mr. Dean reported every day to his office at the Food Center at Oneida Correctional Facility in Rome. They unanimously agreed Mr. Dean was not at the Food Center “to attend meetings,” but, rather, to fulfill his normal

2 During the two years preceding Mr. Dean’s transfer to the Food Production Center, he worked in the Correctional Services’ Central Office in Albany and his official work station was Auburn Correctional Facility, the place of his previous assignment, and he was in travel status while working full-time in Albany. While this review covers 1992 to 2009, the facts relating to Mr. Dean’s earlier assignments suggest a culture of disregard for adherence to travel regulations may have existed at Correctional Services for decades.

job duties of managing the Food Center. To illustrate Mr. Dean's practice, for 17 years he typically submitted travel vouchers in which he claimed he stayed at the Quality Inn Hotel in Rome on Monday, Tuesday, and Wednesday nights. On the voucher, Mr. Dean claimed per diem payments during the week. Mr. Dean justified his ostensible travel by stating he was required to be at the Food Center to "attend meetings" and listed Albany, his bogus official work station, in the official work station box. After Mr. Dean certified the travel voucher, it was forwarded to his supervisor in Albany, who signed it, and it was then processed through the business office at the Food Center.

Mr. Dean admitted his supervisors allowed him to use Auburn Correctional Facility and then the Albany Central Office as his official station so he could maintain travel status. Mr. Dean stated he was allowed to engage in this longstanding fraud in order to receive travel per diems in lieu of a pay raise. According to Mr. Dean, had he received a raise and been required to list his true work location – Rome – he would have lost his per diem money and would have been required to relocate his family closer to the Food Center, which he did not wish to do. Contrary to his claim of foregoing pay raises, Mr. Dean's salary history shows he received at least two pay grade increases during his 17 years at the Food Center while still collecting unjustifiable travel benefits.

Mr. DiBello, who supervised Mr. Dean from about July 1999 until 2007, confirmed he believed Mr. Dean was underpaid given the level of responsibility entrusted to him at the Food Center, and he knew Mr. Dean was frustrated by his compensation. Mr. DiBello further stated that, rather than seek an adjustment in Mr. Dean's pay, he preferred to first seek raises for subordinate Food Center staff. Mr. DiBello informed examiners that when he began supervising Mr. Dean, Mr. Dean's travel arrangement was already in practice. Mr. DiBello candidly admitted he allowed Mr. Dean the continued benefit of being in perpetual travel status and justified this fraud by stating "I knew the responsibilities of his job were such, his pay was such, that he had a heart attack at that time, and it was a stressful job he had . . . so I had no problem with him staying in a motel 3-4 nights a week." Mr. DiBello knew in order for Mr. Dean to collect these undeserved benefits, they had to concoct an official work station on the voucher and a fictional purpose for

travel. Mr. DiBello further knew these items were false when he approved the travel vouchers allowing Mr. Dean to receive the fraudulent payments.

Mr. DiBello stated he was not aware of the circumstances of the original approval for Mr. Dean's novel travel arrangement, but speculated it stemmed from an informal agreement. Mr. Dean was provided with substantial leeway because he purportedly did a good job and was the only one who knew the food service process. In a telling dialogue, Mr. DiBello said Correctional Services executive management's philosophy (specifically referring to the late Commissioner Coughlin) was, "...the Comptroller's requirements are really secondary as long as what you're doing is reasonable, responsible and consistent with the mission of the agency. When you had a commissioner like Coughlin, we could do anything we wanted; no one was going to challenge him. He was the man in town." It is noteworthy that although Coughlin retired in 1994, Mr. Dean's fraud continued for an additional 14 years. Mr. DiBello admitted he had limited contact with Mr. Dean, but stated he would stop by the Food Center once every six-to-eight months, if he were enroute to another facility. He stated he did not verify Mr. Dean's travel vouchers or time cards prior to signing them. Mr. DiBello added his secretary put them in his "in basket" and "I would sign them."

We determined this scheme rewarded Mr. Dean with \$66,079 in per diem payments and cost the State \$137,353 in hotel expenses. The total value of the fraud was \$203,432 over a 16-year period³. (See Exhibit A for further details.)

Mr. Dean's occasional travel to Albany also resulted in his receiving improper benefits. Specifically, in 13 separate instances, Mr. Dean submitted travel vouchers for overnight travel to the Food Center when E-ZPass records indicate he traveled to Albany on those dates. As discussed above, Mr. Dean was fraudulently assigned an official work station of Albany to afford him "travel" benefits he was not entitled to receive. Accordingly, when he was actually in Albany, he should have received no reimbursement. In other words, compounding his fraud, records reveal when Mr. Dean was actually in Albany – his fictitious official work station – he still submitted false documentation to avoid any

3 Mr. Dean moved to staff-housing owned by Correctional Services near the Oneida Correctional Facility in November 2007 and stayed in staff housing until he retired in August 2008. (See separate section on findings related to State- Provided Housing.)

interruption in his receipt of undue payments. In addition the State paid for his gas and tolls to travel to Albany. In total, the State paid \$1,682 in hotel costs, meals, tolls and gasoline expenses for the 13 days. (See Exhibit A for further details.)

Extra Hotel Charges and Travel Per Diems

An analysis of Mr. Dean's E-ZPass charges for the period September 25, 2005 to November 12, 2007, revealed Mr. Dean also falsified travel vouchers and provided illegitimate hotel invoices to support claims he stayed at the Quality Inn in Rome on 75 nights he did not. These fictitious hotel stays were primarily on Sundays and holidays. A review of Mr. Dean's E-ZPass records for this period found Mr. Dean routinely left his home to commute to the Food Center on Monday morning or the day after a holiday, but never on Sunday or on a holiday. As a result, the State incurred 75 extra hotel room charges at \$60 per night and Mr. Dean was paid a travel per diem of \$31-39 for each of the 75 days he claimed both breakfast and dinner on the Sunday or holiday preceding the overnight stay⁴. To illustrate this analysis, during the month of November 2006, Mr. Dean claimed he stayed at the Quality Inn on the 5th, 12th, 19th and 26th, all Sundays, and requested and received per diem payments for those dates. Mr. Dean's E-ZPass records, however, indicate he entered the Thruway on the following Monday mornings at Exit 34A and exited at Exit 33 near the Food Center near Rome later that morning. No E-ZPass activity was registered on the claimed Sundays.

Mansukh Paghdal, owner and manager of the Quality Inn in Rome, said he spent time with Mr. Dean either at the hotel or at dinner, and considered him a good customer. Mr. Paghdal stated he charged the extra nights to Mr. Dean's State credit card according to Mr. Dean's instructions. He said Mr. Dean instructed him or the front desk clerk as to which nights to reserve and charge to Mr. Dean's State credit card. Mr. Paghdal said he or the night clerk "checked in" Mr. Dean on nights he was not actually at the hotel, using the State credit card number on file at the hotel. Mr. Paghdal reported the extra room charges were then carried over to other dates to pay for Mr. Dean's then-Assistant Food Center Director, Robert Schattinger, to stay at the hotel. Mr. Paghdal stated Mr. Dean

4 This same practice most likely occurred before September 25, 2005, too, but records were not available for this review.

created this arrangement because Mr. Schattinger was not eligible to have the State pay for him to stay in a hotel in Rome.

Mr. Schattinger, who was promoted to Food Production Center Director after Mr. Dean retired, stated during an interview he was informed by Mr. Dean the rooms he used were complimentary and established as part of a block of rooms reserved for the Food Center's training program. Mr. Schattinger claimed he was unaware Mr. Dean was paying for the room on his State credit card. Mr. Schattinger also stated he did not stay at the hotel 75 times. An examination of Mr. Schattinger's E-ZPass records confirmed he stayed at the hotel on 21 nights. During a follow-up interview, Mr. Paghdal could not provide any explanation regarding who stayed in the room the State paid for during the remaining 54 nights. He repeated, however, the charges were made according to Mr. Dean's instructions.

While Mr. Dean denied he had the additional rooms charged to his State credit card, he attempt to justify Mr. Shattinger's stay at the hotel (even though Mr. Schattinger was not entitled to lodging under State guidelines). Specifically, Mr. Dean informed investigators he did not want Mr. Schattinger to have to drive home late after attending social events that were held at the end of a Food Center training session. Mr. Dean could not account for all 75 nights but corroborated Mr. Schattinger's claim he had informed Mr. Schattinger that the room was complimentary. Mr. Dean could not provide any justification for the per diem payments he requested and received for these 75 occasions other than to claim his secretary filled out the required forms based on his hotel receipts and he was negligent for never reading the travel vouchers prior to signing them.

This scheme alone cost the State \$7,393 in fraudulent travel expenses. It resulted in the Quality Inn receiving \$4,500 for rooms charged to Mr. Dean's State credit card for nights he was not actually lodged at the hotel and netted Mr. Dean \$2,893 for travel per diems he was not entitled to receive. (See Exhibit A for further details.)

Double Dipping

Records demonstrate that on several occasions Mr. Dean was compensated twice for the same expenses (double dipping). Mr. Dean submitted travel vouchers claiming per

diems on days the Food Center business office paid for his meals. In order to minimize per diem expenses incurred during training programs at the Food Center, the Food Center began arranging to have breakfast, lunch, and dinner served to the trainees and others present at the training. Mr. Dean participated in these meals at the Food Center, which were paid for by the Food Center business office in lieu of paying per diem to each traveler attending the training. However, contrary to the intent of the program, while submitting his routine false travel vouchers, Mr. Dean also requested and received per diems on these training days. We estimate these instances of double dipping cost the State \$1,831. (See Exhibit A for further details)

Discontinuation of Travel Benefits

Mr. Dean's fraudulent activity was allowed to continue for more than a decade and a half. In approximately November 2007, during the first year of her supervision of Mr. Dean, Deputy Commissioner Gayle Haponik questioned the arrangement and, after consulting Correctional Services Commissioner Brian Fischer, she prohibited Mr. Dean from collecting per diems and staying at the Quality Inn. Deputy Commissioner Haponik then allowed Mr. Dean to reside in nearby staff-housing instead.

Mr. Dean's Fraudulent Time and Attendance Practices

In addition to fraudulently receiving travel-related expenses, during the 17 years Mr. Dean was developing a reputation as being indispensable to the Cook/Chill program, he also received a full salary despite not working the State-required, full work week of 37.5 hours.

According to Correctional Services' records, Mr. Dean was required to work 7.5 hours a day, Monday through Friday. His official scheduled work day was from 7 a.m. to 3 p.m. with a half-hour break for lunch. However, Mr. Dean submitted false timesheets to his supervisors for 17 years certifying he worked on Fridays, when in fact, he never reported to work on Friday. Mr. Dean repeatedly falsely certified on his bi-weekly timesheets

he worked the required number of hours Monday through Friday and his supervisors approved the documents, attesting to their accuracy.

During his interview, Mr. Dean freely admitted he did not work on Fridays for the entire 17 years he was in charge of the Food Center. Mr. Dean claimed he worked longer hours Monday through Thursday, and while home on Fridays, he was available to his staff if they needed to contact him. Mr. Dean claimed his supervisors were aware of this arrangement, but confirmed he never sought or obtained approval to work a compressed four-day work schedule. Mr. Dean's story, however, lacks credibility. Mr. Dean could not provide us with a specific or legitimate reason why he needed to be at the Food Center after his official work day ended at 3 p.m., other than during expansions in the earlier days of the facility. Mr. Dean also agreed "being available" on Friday was not the same as being present and working at the Food Center.

Correctional Services' policy allows staff to work a four-day, compressed work week (37.5 hours in 4 days) upon express approval by management. According to Mr. Dean and his supervisors, however, he never requested a four-day, compressed work week. Neither Mr. DiBello nor Ms. Haponik provided us with a reason why Mr. Dean would be required to work late each day and then possibly take off Fridays as compensation. Moreover, Mr. Dean's supervisors stated they were not aware he did not work a five-day week. Mr. DiBello, whose supervision of Mr. Dean commenced in July 1999, admitted having had little contact with Mr. Dean and claimed he was ignorant of the fact Mr. Dean never worked on Friday.

Records reviewed undermine Mr. Dean's claim he worked extended days Monday through Thursday. We reviewed Mr. Dean's timesheets, E-ZPass records, and travel vouchers for the period June 4, 2007 through August 6, 2008. This analysis determined Mr. Dean did not charge leave accruals for 452 hours he did not work during this 14-month period. As noted previously, records revealed Mr. Dean had a consistent travel pattern of driving on the Thruway, entering at his home exit on Monday mornings and returning on Thursday afternoons. These records indicate Mr. Dean was generally late to work on Mondays and at times left early on Thursdays. Mr. Dean's office phone records also fail to support a claim he engaged in any late evening work as they show no calling activity in those hours. Employees interviewed further informed investigators

they did not know what tasks Mr. Dean would be performing after hours. Even Mr. Dean's secretary was not aware of any activity that would keep him in the office every night. By way of comparison, current Food Center Director Robert Schattinger stated he works five days a week from 8 a.m. to 4 p.m. and he has no need to work longer hours.

The cost to taxpayers based on Mr. Dean's submission of fraudulent timesheets was significant over the 17 years Mr. Dean committed this fraud. Included in this fraud is the value of time not worked for which Mr. Dean was paid, the value of vacation exchanges in which Mr. Dean participated, and the value of a retirement lump sum payment to Mr. Dean based on 212 vacation leave credits. It is estimated Mr. Dean realized an unwarranted financial benefit of approximately \$247,830.

Vehicle Assignment, Gas and Tolls

Mr. Dean received a further improper benefit through the use of a State-owned vehicle which was approved by supervisors. This benefit was granted in direct violation of Correctional Services' policies designed to prevent the abuse of State vehicle privileges.

Correctional Services' policy requires employees to be in travel status a majority of their time (approximately 75 percent) to have a vehicle assigned to them. The vehicle is assigned for official business only. Correctional Services' policy allows the Commissioner to assign a vehicle when it is critical to the agency's business of maintaining the safety and security of the agency's facilities. The policy also requires the vehicle operator to complete a Daily Vehicle Log (Form 1665) for each day the vehicle is in use.

Mr. Dean was assigned a vehicle which he used for commuting throughout his tenure as Food Center Director. For a time he drove an older station wagon, but in 2004 he was provided a new eight-passenger Astro van. He used the vehicle primarily for his normal commute from home to the Food Center and back each week. In addition, he used the vehicle to drive to dinner each night during the week and to and from the Quality Inn. Mr. Dean never completed a Daily Vehicle Log as required. He also filled the vehicle

with gasoline supplied by the State at a fuel pump at the Oneida Correctional Facility and received a State E-ZPass to cover all his tolls.

E-ZPass records reveal Mr. Dean's travel pattern as driving from his home on Monday and returning on Thursday. He did very little travel away from the Food Center, except for an occasional trip to Albany. E-ZPass records and Mr. Dean's travel vouchers show few trips to anywhere other than the Food Center.

While Mr. Dean's position as the Director of the Food Center was an important role at Correctional Services, he was never deemed to be critical to the agency in terms of maintaining safety and security. Again, by comparison, Mr. Dean's successor, Robert Schattinger, is not assigned a permanent vehicle, evidence of the lack of need for the Food Center Director to be assigned a State vehicle.

Correctional Service's policies also include the following requirement under the heading of Fraud Prevention: "Each unit head or employee supervisor should review and verify the appropriate use of credit cards, E-ZPass charges and personal mileage reimbursement for each employee under their direction." Clearly, this type of review was never conducted by any of Mr. Dean's supervisors. Mr. DiBello was not even aware Mr. Dean had been assigned the 2004 van and Deputy Commissioner Haponik, Mr. DiBello's successor, did not know Mr. Dean had a permanently assigned vehicle.

New York State Division of the Budget, Budget and Reporting Manual, D-750 "State Vehicles" Section 4, issued September 23, 2003, states the purchase and assignment of larger vehicles, such as station wagons, 4x4s, small trucks, vans and SUVs should be authorized only when additional passenger and/or cargo room is required and/or special circumstances apply (e.g. extensive winter and/or rough terrain travel). This review determined Mr. Dean had no business need to drive a large passenger van.

The effect of Correctional Services' managers allowing Mr. Dean to have a State vehicle and gas and tolls paid for by the State cost taxpayers an estimated \$32,293 over the 17 years Mr. Dean received these improper benefits. This total includes the \$18,555 cost of

the Astro van which he received in 2004 and drove until his retirement in August 2008, \$12,235 in gas, and \$1,503 in tolls. (See Exhibit A for further details.)

Correctional Services Provided Staff Housing

According to Correctional Services' Directive 4005, department-owned staff housing is to be used by Correctional Services' employees who are transitioning to a new facility. Such employees are permitted to stay in staff housing for a short time while seeking permanent living arrangements at their new location. The Directive makes it clear State provided housing is not intended for long-term use. Staff housing is provided in the following order: (1) Facility Superintendents; (2) First Deputy Superintendents; (3) Deputy Superintendents and (4) other employees on a "house-available basis" according to title and grade, seniority, and the need for the employees to live near the facility for the convenience of the Correctional Services.

Following Correctional Service's discontinuation of Mr. Dean's travel benefits in 2007, Deputy Commissioner Haponik allowed Mr. Dean to reside in staff housing from mid-November 2007 until his retirement on August 7, 2008. The housing provided consists of a room in a house owned by Correctional Services located adjacent to the Oneida Correctional Facility. However, according to Directive 4005, Mr. Dean was not entitled to State housing because he was not in transition to a new facility, nor as Food Center Director was it necessary he live near the Food Center. No reasonable justification for Mr. Dean's use of staff housing was provided. Notably, current Food Center Director Schattinger does not stay in staff housing and lives many miles away from the Food Center.

Records indicate Mr. Dean paid, on average, \$43.50 bi-weekly, or \$87 a month, to stay in State-provided housing. In contrast, the median rent for apartments in the Oneida County area is \$461 per month. As a result, Mr. Dean was given an improper benefit which saved him \$374 monthly or \$2,992 for the more than eight months he stayed in staff housing. The actual cost per person for staff housing at the Oneida Correctional Facility could not be determined because Ms. Haponik said the operating cost of staff housing is co-mingled with other facility costs at each individual facility. (See Exhibit

A for further details.) Ms. Haponik is not alone in allowing Correctional Services' employees to reside in State provided housing in violation of the directive. This audit identified two other Food Center employees who resided in State-housing, one for more than 10 years. This fact is evidence that but for Mr. Dean's retirement he would have been allowed to remain in staff housing indefinitely.

In response to the many questions regarding his travel and work schedule, Mr. Dean ultimately stated, "You are questioning my integrity and I never did anything dishonest that I knew of. This does upset me very much. Correctional Services didn't give me one red cent more than I honestly earned. In the back of my mind I never received anything I wasn't entitled to." Mr. Dean said, in a response to question regarding his move to staff housing "... I can't remember nothing and that's the truth, that's why I retired."

How This Fraud Was Allowed to Occur: Supervisory Acceptance and Mismanagement

As detailed above, the improper activity discovered in this matter cost New York taxpayers approximately \$500,000. Notably, this fraud was not merely the product of Dean's intentional deception but was facilitated and allowed to occur through mismanagement, if not conscious acceptance of improprieties, by Mr. Dean's immediate supervisors. This supervisory neglect resulted in allowing Dean to receive improper benefits and the fostering of an environment that permitted Mr. Dean to collect unearned compensation and false travel reimbursements.

The fraud can be described in two basic categories: First, approximately \$240,000 was misappropriated because Correctional Services Central Administration managers made decisions that violated relevant Office of the State Comptroller, Division of the Budget and Correctional Services' guidelines and, as a result, were not in the best interest of the State. These include allowing Dean the following benefits he was not entitled to: assigning him a concocted official station that allowed him to be in fictitious travel status

for 17 years, assigning him a State vehicle, paying for his gas and tolls, and allowing him to improperly stay in State-provided housing.

In failing to comply with the relevant Office of the State Comptroller, Division of the Budget and Correctional Services guidelines and by not acting in the best interest of the State, Correctional Services Central Administration managers cavalierly disregarded the State's system of internal control.

For example, Mr. DiBello informed examiners that Mr. Dean was allowed to have an official station that was not consistent with his actual work requirements and was not in the best interest of the State because he was given a lot of responsibility in creating the Food Production Center and ensuring it was successful. He added he provided Mr. Dean with a lot of leeway because Mr. Dean did a good job and was the only one who knew the food service process. Mr. DiBello characterized management's philosophy toward state guidelines as "...the Comptroller's requirements are really secondary as long as what you're doing is reasonable, responsible and consistent with the mission of the agency."

The Comptroller and the Inspector General disagree. The managers' conduct was not only unreasonable but abrogated their duty to the Department of Correctional Services and the public. Management failed to properly supervise the Food Production Center and its staff allowing Mr. Dean's fraud to continue for nearly two decades. The Comptroller's requirements are put in place to ensure financial transactions are in the best interest of the State's taxpayers. The managers' attitude demonstrates a willful disregard for internal controls. As a result, they created an environment susceptible to fraud, waste and abuse.

The environment created by management lead to the second category of abuse: the lack of direct supervision that permitted dishonest and illegal activity by Mr. Dean to go unchecked. Approximately, \$259,000 of the misappropriated money occurred because Mr. Dean submitted false timesheets and travel vouchers. This included false timesheets declaring that he worked hours when in fact he was not at work (i.e. every Friday for 17 years), false travel vouchers which stated he stayed in a hotel on 75 nights when he was not at the hotel, and false travel vouchers that included meals and other travel costs he

did not incur. Mr. Dean did not offer an explanation for his actions. Consistent with Mr. DiBello's rationale for violating state protocol, Mr. Dean did state that he believed he did not receive anything he was not entitled to receive.

Mr. Dean's supervisors did not adequately monitor his actions. Mr. Dean's actual work location was in Oneida while his supervisors were located at the Central Administration in Albany. Mr. DiBello and Ms. Haponik both conceded they rarely visited the Food Production Center and had limited communication with Mr. Dean. Mr. DiBello stated that because it was his understanding that things were going well at the Food Production Center, he gave Mr. Dean a lot of leeway regarding operation of the Center.

The magnitude and duration of the deception that occurred highlights not only its systemic nature, but also the cultural environment within the Department which allowed it to occur. It is simply unacceptable and belied by the evidence to believe Mr. Dean merely deceived his supervisors. Mr. Dean's fraud occurred for 17 years. For nearly two decades, Mr. Dean failed to work twenty percent of the work week for which he was paid. It strains credulity to believe for 17 years his supervisors were entirely ignorant of Mr. Dean's arrangement and never attempted to call him on a Friday to discuss business-related activities only to discover he was not there. Mr. Dean, who took no steps to conceal his unusual and unauthorized work schedule, was permitted to operate in any manner he saw fit regardless of rules applicable to other state employees. The managers' failure to act to prevent this fraud is an affront to their office and a violation of their responsibility as supervisors. Mr. Dean was allowed to continue his routine fraudulent activity for over a decade and a half, until the travel benefits were discontinued by Ms. Haponik.

Also, staff at the Food Service Center knew Mr. Dean was not working Fridays. Unfortunately for the Commissioner, his senior managers did not establish effective communication channels with staff, which severely inhibited their ability to detect this corrupt behavior. In addition to impeding the flow of information regarding Mr. Dean's misconduct, mismanagement and acceptance of Mr. Dean's behavior by supervisory staff impaired fulfillment of these subordinate's legal obligation to report this type of abuse. Specifically, under the State Executive Law, employees of agencies such as the Department of Correctional Services are required to report allegations of corruption,

fraud, criminal activity, conflicts of interest or abuse by other agency officials to the Inspector General and may be disciplined or discharged for failing to disclose such improprieties⁵. Although merely reporting Mr. Dean's misconduct to Correctional Services' supervisors would not have been sufficient to satisfy the subordinates' duty to report malfeasance to the Inspector General, the atmosphere fueled by management also substantially inhibited concerns being voiced within the agency. Indeed, Food Production Center employees said Mr. Dean created a dictatorial work environment. Subordinates witnessed the many benefits afforded Mr. Dean, but were fearful of saying anything because they believed there was an 'understanding' between Mr. Dean and his Central Administration managers and therefore felt any disclosure would be futile. This examination reveals that these employees' understanding of, at a minimum, supervisory acquiescence of Mr. Dean's misconduct, were well-founded and their trepidation of reporting the misconduct to agency officials amply justified.

The evidence reveals that at least some of Mr. Dean's supervisors, specifically Mr. DiBello, were aware of, and condoned, the fraud that was perpetrated. If so, they are also culpable as Mr. Dean in harming the taxpayers by violating their duties and not acting in the best interest of the State.

The control environment⁶ is management's responsibility. It needs to be significantly improved. The Department functions as a quasi-military organization but some managers are not listening to their front-line workers. Communication channels should flow up and down the organization. The managers who oversaw the Food Production Center failed to properly carry out their management functions.

This examination focused solely on the fraudulent activities of one person – Mr. Dean, the former Director of the Food Production Center. A logical extension of these findings is, in light of this information, what other misconduct could have occurred because

5 See Executive Law § 55(1). Prior to 2006, similar reporting requirements existed under Executive Orders issued by Governors Mario Cuomo and George Pataki.

6 Management's attitude, philosophy, and operating style; the ethics and integrity of the people in the organization and the competence of the people involved in the operations.

of the lax attitude and willful disregard of state guidelines by certain managers in the Department of Correctional Services.

Recommendations

1. Change the control environment at Correctional Services to one that actually enhances internal controls and respects compliance with the regulations and guidelines of Office of the State Comptroller, Division of Budget and Department of Correctional Services.
2. Correctional Services Central Administration managers should properly monitor the Food Production Center to ensure adequate controls are in place to prevent fraud, waste and abuse of State resources.
3. Improve the communication channels in the prison system to encourage reporting of fraud, waste abuse and mismanagement to executive staff.
4. Remind all Correctional Services employees, including executive staff, of their obligation under the State Executive Law to report corruption, fraud, criminal activity, conflicts of interest or abuse by Correctional Services employees to the State Inspector General and their obligation under State Comptroller guidelines to report any suspected theft, loss, misuse or inappropriate action involving State funds, equipment, supplies and other assets to the State Comptroller's Office.
5. Ensure all Correctional Services staff properly adheres to State regulations regarding travel, vehicle assignments and the agency's policy regarding staff housing.

Scope, Methodology And Authority

Our objective was to determine whether the former Director of the Food Production Center in Oneida County carried out his time, attendance and travel practices in a manner that complied with all laws, regulations and policies of the State. Our audit scope covered the period January 1, 1992 through October 14, 2009.

The State Comptroller's Office and The State Inspector General's audit staff did this performance audit according to generally accepted government auditing standards. Those standards require auditors plan and do the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for their findings and conclusions based on the audit objectives.

The work was done according to the State Comptroller's authority in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, as well as New York State Executive Law Article 4-A which establishes the Office of the New York State Inspector General and outlines its duty and authority to investigate allegations of corruption, criminal activity, conflicts of interest or abuse in agencies, such as Correctional Services. The State Inspector General further has the duty to review and examine the policies and procedures of agencies regarding the prevention of misconduct and to recommend remedial action to prevent or eliminate such abuses.

The State Comptroller, in addition to being the State Auditor, also performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial Statements; and approving State contracts, refunds and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. It is the Comptroller's opinion these functions do not affect the ability of staff to conduct independent audits of program performance.

Reporting Requirements

Preliminary copies of this report have been transmitted to the Commissioner for his review and comment and his comments in preparing this draft report. The Correctional Services Commissioner generally agreed with our preliminary audit findings.

A written response to this report is requested within 30 days of issuance. The response will be attached in its entirety to our final report.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Correctional Services Commissioner will report to the Governor, the State Comptroller, and the leaders of the legislature and fiscal committees, advising what steps were taken to implement our recommendations, and if recommendations were not implemented, the reasons why.

Contributors To The Report

Major contributors to this report include Office of the State Comptroller staff members David R. Hancox, Walter Irving, Melissa Little, Eileen Chambers, Suzanne Mazon, Thalia Melendez, Meredith Holmquist, Devisha Baldeo, Anthony Cartusciello, Joseph Fiore, and Office of the New York State Inspector General staff members Nelson R. Sheingold, Daniel Sullivan, Gregory Schreffler, and Mercedes Edwards.

Appendix A - Summary of Improper Expenses

	Actual Benefits Received During Audit Period	Estimated Amount Projected back to January 1992, unless otherwise stated	Total Actual & Estimated Costs
Travel Reimbursement	\$43,539.01 4/15/1996 to 12/11/2007	\$22,540.00 1/1992 to 4/14/1996	\$66,079.01
Hotel Expenses	\$24,302.65 1/2004 to 8/22/2008	\$113,050.00 1/1992 to 1/2004	\$137,352.65
Payments for Travel to Albany (Official Station)	\$1,682.00	n/a	\$1,682.00
Hotel Room Charges When the Director Did Not Stay in Hotel	\$4,500 75 Vacant Rooms from 9/25/2005 to 11/12/2007	n/a	\$4,500.00
Extra Meals Earned When the Director Did Not Stay in Hotel	\$2,893.00	n/a	\$2,893.00
Double Dipping	\$1,831.00 Duplication of Travel Reimbursements	n/a	\$1,831.00
Benefits of Accumulated Time Accruals	\$23,116.59 Value of Work Absences for the period 6/2007 to 8/2008 based on salary levels	\$206,648.00 Value of Work Absences for the period 1/1992 to 6/2007 based on salary levels	\$229,765.00
	\$2,162.18 Value of Vacation Exchange for 37.50 vacation hours	\$3,677.91 Value of Vacation Exchange for 2005 and 2006	\$5,840.09
	\$12,224.98 Value of Retirement Lump Sum based on 212 vacation hours	n/a	\$12,224.98
	\$1,100 Annual increase to his pension based on 1,432.50 sick leave hours	n/a	
	Free Monthly health insurance premium based on 1,432.50 sick leave hours – Value is \$210.88 per month	n/a	
Value of 2004 Astro Van 7- 8 Passenger	n/a	\$18,555.00 (MSRP) 8/2004 to 8/2008	\$18,555.00
Gas for Normal Commute	n/a	\$12,234.89 4/1993 to 8/2003	\$12,234.89
Tolls for Normal Commute	\$273.27 8/2005 to 7/2008	\$1,229.72 1/1992 to 7/2005	\$1,502.99
Benefit of Staff Housing	\$2,992.00 Value of staff housing benefit based on payroll bi-weekly deduction vs. \$461 average apartment rent for same size area	n/a	\$2,992.00
Total Value of Benefits			\$497,452.61



BRIAN FISCHER
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS – BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

February 22, 2010

Mr. David R. Hancox
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Nelson R. Sheingold, Esq.
Chief Counsel
Office of the State Inspector General
Empire State Plaza
Agency Building #2
Albany, NY 12223

Dear Messrs. Hancox and Sheingold:

This letter serves as the Department of Correctional Services' official response to your joint report on the audit and investigation of the time, attendance, and travel of the former Director of the Department's Food Production Center, Howard Dean.

The original decisions to accord Mr. Dean travel status and to designate Auburn initially and later Albany as his official duty stations when he actually worked at the Food Production Center in Oneida County for the entire period were made during the tenure of former Commissioner Coughlin in 1992. I was appointed Acting Commissioner on January 1, 2007, was confirmed by the Senate March 12, 2007, and first became aware of potential irregularities involving Mr. Dean's arrangement in the summer of 2007. At the time, Deputy Commissioner for Administration Gayle Haponik, whom I appointed, brought those apparent irregularities to my attention after she had begun reviewing Mr. Dean's travel vouchers and questioned his listed official duty station as Albany. Following an internal review, I directed Deputy Commissioner Haponik to revoke Mr. Dean's travel status and designate his official duty station as the Food Production Center. Mr. Dean's travel status was discontinued in November 2007.

As Commissioner, and before that as a Supervising Superintendent, I have delivered to all newly appointed superintendents and directors the stern message to conduct themselves ethically at all times. They are expected to set the example for all staff at

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Nelson R. Sheingold
February 22, 2010
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their new facility. Accordingly, they are reminded that under no circumstances should they secure for themselves any unwarranted privileges, that they must scrupulously follow all rules pertaining to such matters as time and attendance, travel and use of state equipment, and that failure to do so could cost them their job.

To underscore the seriousness with which I take these issues, I invited the Deputy Director for Training from the Office of the State Inspector General, Ed Meyer, to address Supervising Superintendents and executive staff at a December 2009 meeting. There, Mr. Meyer explained the responsibilities of his office and the types of investigations and the reporting of fraud and abuse his office initiates in connection with the State workforce.

In direct response to your report and its specific recommendations, I have attached my letter of October 6, 2009 to the Audit Supervisor in response to your preliminary findings because the positions I outlined in that letter are equally relevant to this final report.

Of all the abuses you documented, the most egregious pertained to time and attendance. Mr. Dean would routinely leave the Production Center on a Thursday and be at home on Friday, ostensibly to take phone calls if necessary. No one had given him permission to work a compressed week, and as you documented, he in fact did not work longer hours Monday through Thursday. Based upon this practice alone, you estimated that Mr. Dean realized an unwarranted financial benefit of \$247,830.

Mr. Dean's apparent fabrication of travel vouchers for seventy-five Sundays and holidays in which he claimed he had stayed at the Quality Inn when in fact he had not is almost equally egregious.

The fact that over the years his then-supervisors sanctioned Mr. Dean's original placement into travel status and the designation of first Auburn and then Albany as his official duty station in 1992 begs the question of whether this in any way mitigates Mr. Dean's culpability. Certainly, it does not justify the fabricated travel vouchers.

I strongly disagree with your conclusion that Mr. Dean was not entitled to occupy staff housing after I discontinued his travel status and correctly established the Food Production Center as his official duty station. I allowed Mr. Dean to reside in staff housing to ensure the continued operation of the Food Production Center without disruption. The pertinent directive is currently under review and will be revised to address those situations where the Commissioner determines such an arrangement is in the best interests of the Department.

Similarly, the Department is in the process of amending its current directive governing the assignment and permissible uses of state vehicles to cover all the different scenarios that can arise in regard to the legitimate assignment of state vehicles and how they can be used in relation to the normal workday.

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It is unfortunate that the success of the agency's Food Production Center initiative has been tarnished by the unacceptable behavior of its former director. The "cook-chill" process at the Food Production Center was and continues to be a significant success story for the Department, resulting in nutritious, standardized and cost-effective food products and food service delivery for all of our correctional facilities and, more recently, many county jails. Because of this record of success, the Legislature amended Correction Law Section 177 in April of 2009 to allow cook-chill food and drink products to be sold to food kitchens, homeless shelters and other eleemosynary organizations funded in whole or in part by the federal, state or local governments, and to counties for non-jail governmental purposes. Currently, the Department provides food services to 19 counties as well as the New York Psychiatric Center operated by the Office of Mental Health. Since April 1, 2009, the program has generated \$585,244.

Let me now respond to the five specific recommendations in your report.

Recommendation Number 1:

Change the control environment at Correctional Services to one that actually enhances internal controls and respects compliance with the regulations and guidelines of the State Comptroller, Division of the Budget and Department of Correctional Services.

Response:

While I fully understand your frustration as a result of the cavalier responses you received from a prior supervisor regarding Mr. Dean's travel status and duty station, let me state unequivocally that this type of flawed thinking has no place in the Department under my leadership and has not, and will not, be tolerated by me nor any of my top managers. After we became aware of this irregularity in 2007 and completed an investigation, the practice was halted. Whatever the culture may have been in the past, I can assure you that since I became Commissioner in 2007, I have repeatedly reminded all managerial staff, both in Central Office and in the facilities, that they will be held accountable for all of their actions and that they must adhere to the highest ethical standards.

Recommendation Number 2:

Correctional Services Central Administration managers should properly monitor the Food Production Center to ensure adequate controls are in place to prevent fraud, waste and abuse of State resources.

Response:

We have done so. As noted, I designated the Food Production Center as the official duty station of the current Director, who commutes to that location from his home in his personal vehicle and reports directly to the Superintendent of Oneida Correctional Facility, on whose grounds the Food Center is located, for operational matters. For policy matters, the new Director reports directly to the Deputy Commissioner of

David R. Hancox
Nelson R. Sheingold
February 22, 2010
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Administration. In addition, central office staff will make more field site visits to enhance our level of supervision.

Recommendation Number 3:

Improve the communication channels in the prison system to encourage reporting of fraud, waste, abuse and mismanagement to executive staff.

Response:

The Department employs about 30,000 people in nearly 75 separate work locations. I am considering incorporating a component on this specific issue in our annual training, which is mandatory for every Department employee.

Recommendation Number 4:

Remind all Correctional Services employees including executive staff of their obligation under the State Executive Law to report corruption, fraud, criminal activity, conflicts of interest or abuse by Correctional Services employees to the State Inspector General and their obligation under State Comptroller guidelines to report any suspected theft, loss, misuse or inappropriate action involving State funds, equipment, supplies and other assets in the State Comptroller's Office.

Response:

In addition to the training component described in the response to #3 above, the Department is considering a potential update to Directive 2260, New York State Ethics. I believe Mr. Dean's abuse of his situation went uncorrected for as long as it did because his supervisors were located far from where he actually worked. Like Mr. Dean's successor, the overwhelming majority of Department employees report to supervisors who are also physically stationed at the same work location. Thus, any potential time and attendance or similar abuses should become readily apparent to the supervisor. To be proactive and guard against a situation like Mr. Dean's, I have had the Department's Personnel Office draft a new internal policy entitled "Designation of Office Work Station." The policy and accompanying form requires a review that ends in the Commissioner's Office. In addition, any approval is then provided to the employee's payroll and fiscal offices to ensure proper compliance with all appropriate OSC regulations.

Recommendation Number 5:

Ensure all Correctional Services staff properly adheres to State regulations regarding travel, vehicle assignments and the agency's policy regarding staff housing.

Response:

As mentioned above, directives that govern time and attendance and work site policies are being updated to remove current shortfalls and ambiguities. Lastly, the agency's directives regarding state vehicle assignments and staff housing are in the process of being updated in order to address specific areas of concern.

David R. Hancox
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February 22, 2010
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Thank you for the opportunity to comment on this report.

Sincerely,



**Brian Fischer
Commissioner**

Attachment



BRIAN FISCHER
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS – BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

October 6, 2009

Ms. Melissa A. Little
Audit Supervisor
Office of the State Comptroller
110 State Street
Albany, NY 12236

Dear Ms. Little:

First let me thank you for allowing my office to review the preliminary findings on this agency's Food Production Center, particularly as your report details the actions of Mr. Howard Dean. It is clear Mr. Dean acted inappropriately, and to a large degree illegally. I am embarrassed for this Department by his actions.

In reviewing your findings, Mr. Roy, Mr. Annucci and I see several separate issues. Some deal directly with Mr. Dean's behavior while others relate to agency policy, and past decisions that were made. We also have some questions regarding conclusions reached by your office.

Official Work Station

This is the area that is most problematic as it sets the stage for much of what follows. Prior to 2007 when Deputy Commissioner Haponik and I first formally reviewed Mr. Dean's activities, it was generally assumed that Mr. Dean had an approved travel status, authorized by his previous supervisor. However incorrect that status was, as the employee, his prior supervisor approved it. What is unclear, and what creates the falsehood is Mr. Dean's claim he traveled to Oneida to attend meetings when in fact he went there to supervise the operation. I was led to believe that Mr. Dean was permitted to submit travel vouchers supporting his weekly travel from home to Oneida and back, authorized by his previous supervisor. The fact that his vouchers stated a different reason suggests something completely different.

Vehicle Assignment

Mr. Dean's use of a state vehicle on a regular basis was a result of his being authorized to be on travel status each week. Again, since his supervisor authorized his travel status, and it was deemed more economical for him to use a state vehicle,

one was provided. Admittedly, the Department's policy regarding the use of state vehicles needs further revision beyond those changes recently made in light of recent updated guidelines promulgated by the Division of the Budget and the Office of Taxpayer Accountability.

With respect to Mr. Dean being assigned an Astro van in 2004, it is believed this occurred since Astro vans were purchased for use throughout the Department for civilian transports, including Superintendents. Station wagons were phased out years ago and replaced by Jeeps, Astro vans and other passenger vehicles. Mr. Dean's old vehicle was simply replaced by whatever new passenger vehicle the agency bought through contract in 2004. Again, since Mr. Dean was considered on travel status, he received a replacement vehicle. The problem is not the vehicle, or its value, but the authorization of its use by Mr. Dean.

Since a vehicle was assigned by the agency, and he was on travel status, his use of an EZ pass and state gasoline would have been considered appropriate by the agency at that time. This of course does not excuse the inappropriate use by the individual.

Staff Housing

In 2007, Mr. Dean was assigned staff housing by Deputy Commissioner Haponik as a means to end his travel status. As such he was required to pay rent, in accordance with established policies, and effectively curtail his per diem status.

While the Department's policy lays out a number of rules, historically those rules were seen as guidelines. Steps have begun for the agency to update and restructure those rules. Nonetheless, we believe Mr. Dean's assignment to state housing was an appropriate management decision given the unusual circumstances we found ourselves confronted by.

Extra Hotel Charges

There can be no argument that Mr. Dean inappropriately falsified travel vouchers for 75 nights he did not stay. His justification, and his allowing Mr. Schattinger to become involved, is completely unacceptable.

Double-Dipping

Like the extra hotel charges, Mr. Dean's false travel vouchers in the amounts of \$1,682 for hotel, meals, tolls, etc., and \$1,831 for per diem meals would appear to be clearly inappropriate and possibly illegal.

Time and Attendance

The facts documented in this area and Mr. Dean's unacceptable "justification" for working on four (4) days per week was the most embarrassing issue presented. There can be no excuse for Mr. Dean's actions.

Summary Comments

I am aware that the State Office of the Inspector General is also reviewing this case, and that criminal charges may be seriously considered. This Department will assist in any way requested in this matter.

I do believe, however, that the \$18,555 considered the value of his 2004 vehicle, and the \$2,244.12 charge related to staff housing be pulled for any final estimated costs for reasons noted above.

Likewise, given his per diem travel status having been authorized by a former Deputy Commissioner, some discussions should be considered before moving forward on any attempt to recoup those expenses, and before criminal prosecution is considered.

I would like an opportunity for all of us to meet and review your report and my comments.

Sincerely,



Brian Fischer
Commissioner

