



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
July 9, 2008

DMV Employee Improperly Accessed Database

SUMMARY OF FINDINGS/RECOMMENDATIONS

The New York State Inspector General's Office (Inspector General) established that Jennifer Berry, an employee of the New York State Department of Motor Vehicles (DMV), improperly used her state computer to access DMV information for personal reasons unrelated to her employment. She then made an erroneous claim in a Family Court proceeding based on the information she obtained from this improper access. The Inspector General recommended that DMV take appropriate disciplinary action. DMV advised the Inspector General that following a formal disciplinary proceeding, Berry immediately forfeited two days of paid leave, with the forfeiture of an additional three days of paid leave held in abeyance dependent on Berry's good conduct over the next year.

ALLEGATIONS

On December 18, 2007, the Inspector General's Office received a complaint alleging that DMV employee Jennifer Berry inappropriately accessed DMV records to assist herself in a personal matter pending before the Albany County Family Court.

SUMMARY OF INVESTIGATION

Jennifer Berry has been employed by DMV as a Motor Vehicle Representative (MVR) in the Title Services Bureau in Albany since November 2006. Her primary duty is the processing of DMV vehicle titles. Berry uses the DMV computer system to access DMV records and research the status of titles. DMV's computer system includes individuals' personal information filed with DMV.

A DMV employee provided with access to DMV records to fulfill his or her job duties does is prohibited from this information for non-DMV matters or disclose this information to others. The Federal Driver's Privacy Protection Act (Title 18 of the United States Code §§ 2721-2725) bars the knowing disclosure of personal information about an individual maintained by any state department of motor vehicles, unless the disclosure is for one of the specific limited uses set forth in the statute. In addition,

section 10.6 of the DMV Employee Handbook, entitled “Disclosure of Information,” sets forth agency policy governing access and use of DMV information. It states:

Any misuse of file information by an employee (that is, the use of information for any purpose other than the processing of official Department business) could lead to legal action against the Department [of Motor Vehicles]. Therefore, an employee may not obtain, ask any other employees to obtain, or use customer file information for any purpose other than carrying out his or her assigned duties in the Department. Any violation of this policy is subject to disciplinary action.

Albany County Family Court records obtained by the Inspector General’s Office contain documentation filed by Berry, in which she claimed that a certain female individual, who is referred to in this report as “Jane Doe” for reasons of confidentiality, does not possess a valid New York State driver license. Berry apparently submitted this material because she believed that Jane Doe was her ex-boyfriend’s new girlfriend and had been driving their children in a vehicle without a license. In her Family Court filing, Berry cited what she believed was Jane Doe’s lack of a driver license as part of a petition she brought against her ex-boyfriend. Additionally, an audio recording of a court proceeding held on January 3, 2008, further revealed that Berry claimed to the court that she became aware that Jane Doe did not possess a valid driver license when a fellow DMV employee whom Berry identified as “Marianne Patella” accessed Jane Doe’s information on the DMV computer system.

The DMV computer access system is a secure system requiring a user to enter an identification code and secret password. The sign-in system allows DMV to determine what computer files have been accessed by a specific employee. DMV provided the Inspector General with a computer printout indicating that on December 3, 2007 “jberry” – the identification code assigned to Jennifer Berry – conducted a search of the DMV computer system for Jane Doe. The inquiry yielded 13 motorists matching the name of Jane Doe, five of which were further accessed under Berry’s identification code.

The Inspector General interviewed Berry, who admitted to personally accessing the DMV computer system to conduct a search for Jane Doe because she “wanted to know who she was. [She] wanted to know who was in the company of [her] children.” Berry further stated that she had previously received information that Jane Doe did not have a driver license, which she sought to verify by searching DMV computer files. When Berry determined that none of the Jane Does she located in the files were the person she knew to be her ex-boyfriend’s new girlfriend, she assumed that information to be correct. She then included this information in her filings with the court. Berry conceded that she later learned that Jane Doe was not the correct name of the person she was looking for in the DMV computer system. Berry also admitted that she conducted this improper search without any assistance from a co-worker. Berry admitted that she had provided the court with false information, in that she told the judge that a co-worker named “Marianne Patella” had informed her of Jane Doe’s driving status. Berry stated that she “made up” the co-worker’s name.

The Inspector General contacted the person Berry believed to be Jane Doe who informed the Inspector General that Jane Doe was her maiden name, which explained

why Berry could not locate a record under that name for her, and disclosed that, in fact, she does possess a valid New York State driver license.

FINDINGS AND RECOMMENDATIONS

The investigation by the Inspector General determined that Jennifer Berry, an employee of the Department of Motor Vehicles, improperly used her State computer to access DMV information for purposes unrelated to official DMV business in violation of federal law and DMV policy. Berry then attempted to use what she assumed she had learned from her query to her advantage in a court proceeding. She further made a false statement to the judge when queried about how she obtained private DMV information.

In addition, the Inspector General recommended that DMV take appropriate action against Berry for her violation of the Federal Driver's Protection Act as well as the violation of agency policy. By letter dated June 5, 2008, DMV advised the Inspector General that following a formal disciplinary proceeding, Berry immediately forfeited two days of paid leave, with the forfeiture of an additional three days of paid leave held in abeyance dependent on Berry's good conduct over the next year.

The Inspector General has notified Albany County Family Court of the investigative findings.