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Offices of the Inspector General



Investigation of the New York State  
Department of Motor Vehicles Manhattan North  
Traffic Violations Bureau

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## EXECUTIVE SUMMARY

The New York State Offices of the Inspector General received two complaints alleging that clerks at the New York State Department of Motor Vehicles (DMV) Manhattan North Traffic Violations Bureau (TVB) engaged in a scheme to dismiss traffic tickets in exchange for money.

Upon investigation, the Inspector General found that a clerk at the Manhattan North TVB accessed confidential DMV records and utilized information gleaned from these records to take money from motorists in exchange for the dismissal of their traffic tickets. Additionally, the Inspector General found that a second Manhattan North TVB clerk, in exchange for money, conspired with the first clerk to provide him with motorists seeking to have their tickets dismissed. The Inspector General also found that several clerks at the Manhattan North TVB improperly received money and other gifts from attorneys in exchange for referring motorists to these attorneys, and a number of clerks violated DMV policies restricting personal cellular telephone use by exchanging calls and text messages with attorneys and others during work hours. Lastly, the Inspector General found that Manhattan North TVB clerks lack meaningful supervision.

The Inspector General recommends that DMV establish uniform policy and best practices for all TVBs and retrain all TVB employees on the mandates of New York State Public Officers Law and DMV policy, including restrictions on soliciting and accepting money or other gifts in connection with the performance of official duties, authorized access and use of internal confidential information, appropriate interactions and communications with attorneys conducting business at the TVBs, and restrictions on cellular telephone use during business hours. Upon the conclusion of this training, DMV should require all employees to sign an acknowledgement of their agreement to abide by these laws and policies. The Inspector General also recommends that DMV restrict access to its confidential information to those employees whose job responsibilities require such access, and limit access to only those records needed to conduct business. Lastly, the Inspector General recommends that DMV retrain and regularly remind all employees, including those staffing TVBs, of their obligation to report suspected fraud and abuse to the Inspector General, as required under Executive Law Article 4-A.

This matter was presented for prosecution, which was declined. The Inspector General has referred the findings of this investigation to DMV to take whatever disciplinary action it

deems appropriate against those clerks involved in the ticket dismissal and attorney-referral schemes, and using their personal cellular telephones during the workday. In addition, the Inspector General has referred the investigative findings to DMV for whatever disciplinary action it deems appropriate against supervisors who were negligent in their oversight of the TVB clerks. The Inspector General has also provided a copy of this report to the New York State Joint Commission on Public Ethics (JCOPE) for its review of the findings regarding the clerks involved in the ticket dismissal and attorney-referral schemes. Additionally, the Inspector General has referred the investigative findings regarding the several attorneys who may have violated Public Officers Law prohibitions on gift giving to the New York State Supreme Court Appellate Division First Judicial Department Attorney Grievance Committee, for whatever action is deemed appropriate.

In response to the Inspector General's investigation and report, DMV advised it implemented or is implementing the recommendations made in the report and commenced disciplinary action against involved employees. Specifically, DMV advised that clerks' access to the specific information that was exploited to further the ticket-fixing scheme has been restricted, TVB policies and practices have been reviewed and modified, steps have been taken to minimize unsupervised conduct between clerks and attorneys, access to DMV records is limited to only those employees requiring it to conduct business, TVB supervisors have been reminded to regularly conduct direct oversight of clerks, and DMV will have new cameras installed above TVB workstations. Additionally, DMV reported that as part of its annual training, employees will be advised on the mandates of New York State Public Officers Law, DMV policies, and of their obligation to report suspected fraud and abuse to the Inspector General, and employees will be required to sign an acknowledgement of their agreement to abide by the same.

## BACKGROUND

### **Department of Motor Vehicles Traffic Violations Bureaus**

DMV, which is responsible for administering the State's motor vehicle laws, operates nine administrative courts known as TVBs to process and adjudicate non-criminal traffic violations in Rochester and the five boroughs of New York City. Motorists who receive tickets for non-criminal traffic violations must respond within a specified time, usually 15 days, by pleading online, by mail, or in person at a TVB office. Motorists may plead guilty and pay all

finest online, by mail, or at a TVB. Those who plead not guilty must schedule a TVB hearing online, by telephone or in a TVB office.

Motorists who visit a TVB to plead, pay a ticket, and/or schedule a hearing are handled by a clerk, who enters their ticket information into the TVB computer system. Motorists who plead guilty at a TVB are required to pay fines, and those pleading not guilty either appear before an administrative law judge that day or may reschedule their hearing date. Administrative law judges may levy fines as well as revoke or suspend a driver's license and/or motor vehicle registration. Motorists may be represented by an attorney in TVB proceedings.

### **Manhattan North TVB**

The Manhattan North TVB, located at 159 East 125th Street in Harlem, employs 12 full-time and two part-time motor vehicle representatives (clerks). Clerks primarily work at the front counter and assist motorists with scheduling hearing dates, collecting fines, and responding to questions and requests. Clerks also assist the administrative law judges in hearing rooms by recording the motorists' pleas and judges' verdicts, and calendaring hearing dates.

The clerks are overseen by Supervising Motor Vehicle Representative 1 (supervising clerks) Carol Marshall and Sonia Wise, who manage daily activities and assist with customer service. Wise and Marshall currently report to Motor Vehicle Representative 2 (head clerk) Andrea Sears. From 2008 through July 2014, the two reported to Head Clerk Vincent Palmieri, who is now the office manager for the DMV Peekskill District Office. TVB Clerical Manager Jean Flanagan manages all clerical staff at the TVBs.

The Manhattan North TVB is overseen by a chief administrative law judge who supervises the administrative law judges and establishes the policies and procedures specific to the TVB. Of note, the chief administrative law judge does not have supervisory authority over the clerks and reports any performance issues to the supervising clerks, who are responsible for discipline and counseling.

### **New York State Public Officers Law**

The Code of Ethics found in New York State Public Officers Law establishes specific standards of conduct with which state employees are required to comply.<sup>1</sup> As relevant to this

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<sup>1</sup> N.Y. Pub. Off. Law § 74 (Consol. 2017).

investigation, the Code prohibits covered employees from engaging in any transaction that is in substantial conflict with the proper discharge of their duties, disclosing confidential information obtained in the course of their official duties, using such information to further their personal interests, and using their official position to secure unwarranted privileges for themselves or others. Furthermore, state employees may not engage in conduct that may raise suspicion among the public that they are likely to be engaged in acts that violate the public's trust. In addition to disciplinary action and other legal remedies, state employees who knowingly and intentionally violate these provisions may be fined, suspended, or removed from employment. New TVB employees receive a booklet containing the Code of Ethics and are required to sign an oath of office affirming their receipt of the booklet and agreement to comply with its provisions.

Additionally, Public Officers Law prohibits state employees from soliciting, accepting or receiving any gift of more than a “nominal value,” including money or meals, “under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her, or could reasonably be expected to influence him or her, in the performance of his or her official duties or was intended as a reward for any official action on his or her part.”<sup>2</sup> Public Officers Law also prohibits any person from offering or making any such gift to a state employee under such circumstances.”<sup>3</sup> Regulations issued by the Joint Commission on Public Ethics in June 2014 define “nominal value” as an item with a fair market value of fifteen dollars or less.<sup>4</sup> State employees who accept multiple gifts of less than nominal value from the same source may also violate Public Officers Law if accepting such gifts creates an actual or apparent conflict of interest or the appearance of improper influence.<sup>5</sup>

State ethics regulations also prohibit a state employee from soliciting or receiving gifts from interested sources, including any person who appears before a state agency with which the state employee is employed, or is involved with ongoing legal actions or proceedings that are

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<sup>2</sup> N.Y. Pub. Off. Law § 73(5) (Consol. 2017).

<sup>3</sup> *Id.*

<sup>4</sup> 19 N.Y.C.R.R. § 933.2(q) (2017). Some of the conduct discussed in this report occurred before the Joint Commission on Public Ethics (JCOPE) issued the June 2014 regulations. The New York State Commission on Public Integrity (COPI), JCOPE's predecessor, issued an advisory opinion in 2008 defining “nominal value” as a small amount that could not reasonably be interpreted to influence a state employee or public official. COPI, Advisory Opinion No. 08-01, at III.B (Mar. 25, 2008).

<sup>5</sup> 19 N.Y.C.R.R. §§ 933.3(c); 933.5 (2017). The 2008 COPI advisory opinion similarly states, “[T]he acceptance of multiple gifts from a single donor on a regular basis, even gifts as nominal as a cup of coffee or a soft drink, could create a reasonable basis for the impression that the donor was improperly influencing the State officer or employee or enjoying his or her favor in the performance of the State officer's or employee's official duties.” COPI Advisory Opinion No. 08-01, III.C.

adverse to the state agency with which the state employee is employed.<sup>6</sup> With limited exceptions, gifts from interested sources are presumptively prohibited unless it is unreasonable to infer that the gift was intended or expected to influence the employee, or intended as a reward for official action.<sup>7</sup>

### **DMV Policies Governing Employee Conduct**

During new employee orientation, TVB employees receive the DMV Employee Handbook and sign an acknowledgement of their receipt and agreement to comply with the same. The handbook, which reiterates many of the prohibitions found in Public Officers Law, directs employees not to improperly disclose confidential information that they routinely access while processing business-related transactions, and not to accept anything of value during the performance of their official duties which could be construed as a bribe, among other things. It further cautions that an employee who solicits or accepts any benefit in exchange for violating his or her official duties is guilty of official misconduct.<sup>8</sup> The handbook also covers state employees' reporting obligations under New York State Executive Law. Specifically, the handbook notes that the bribe of a public servant, a felony, should be reported to the Inspector General, and lists various ways to contact the Inspector General. In 2015, TVB clerks also received the "MVR/Cashier Accountability Policy,"<sup>9</sup> which, among other things, instructs clerks to report any bribery attempts.<sup>10</sup>

The Employee Handbook also states that employee use of personal cellphones at work "is permitted only in situations that require the immediate attention of the employee in matters of health, welfare, safety, critical appointments and family concerns."<sup>11</sup> The handbook adds that

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<sup>6</sup> 19 N.Y.C.R.R. §§ 933.2(l); 933.3. The 2008 COPI advisory opinion construed Public Officers Law section 73(5) to prohibit state employees from soliciting or receiving gifts from "disqualified sources." COPI Advisory Opinion No. 08-01, at III.D. The regulations issued by JCOPE in 2014 replaced the term "disqualified sources" with "interested sources;" however, the definitions of the two terms, and the resulting proscriptions on gifts to state employees, are substantially similar.

<sup>7</sup> 19 N.Y.C.R.R. § 933.3(a).

<sup>8</sup> New York State Department of Motor Vehicles (DMV) Employee Handbook, 9.4, Disclosure of Information; Section 3.3d, Bribery Attempts.

<sup>9</sup> Department of Motor Vehicles MV-1006 (3/15) MVR/Cashier Accountability Policy. MVR is an acronym for motor vehicle representative. The reference guide summarizes policies and procedures set forth in DMV resources including the 4000 Procedures (electronic policies), series memoranda, the DMV Code of Conduct, Employee Handbook, Mailbags, Audit Alerts, and the personnel website. Most of these resources are also available on the DMV intranet. See MVR/Cashier Accountability Policy (Mar. 2015).

<sup>10</sup> When the policy was first distributed in 2015, employees were required to sign a document acknowledging its receipt. However, new employees are not required to sign such an acknowledgement.

<sup>11</sup> DMV Employee Handbook, Section 3.14a, Personal Use of State Facilities, Equipment and Services, Telephone Usage.

employees should endeavor to place personal cellphone calls during lunch, breaks, and other off-duty periods. The “MVR/Cashier Accountability Policy” similarly indicates that clerks must keep personal belongings, including cellphones, out of the workstation area, unless otherwise approved by their supervisors.

In addition, TVB distributes memoranda to clerical staff. As relevant to this investigation, on April 17, 2012, Clerical Manager Flanagan distributed a memorandum entitled, “Appropriate Conduct of Clerical Staff in the Traffic Violations Bureau.” The memorandum reminded staff members that motorists, police officers, and attorneys are entitled to “prompt, courteous, and efficient service *free from improper influence and favoritism.*” (Emphasis original.) The memorandum further stated that staff members may only provide factual information to those seeking assistance and are prohibited from offering opinions that could be construed as legal advice or from advising motorists how to plead a summons. Additionally, the memorandum stated that on occasion, clerical staff members may be called upon to assist an attorney or police officer and that “[s]uch interactions must be, *and must appear to be,* professional.” (Emphasis original.) The memorandum added, “Motorists must not receive the incorrect impression that the court . . . provides preferential treatment to motorists who hire attorneys,” and instructed staff members that they may not engage in unsuitable conversations with attorneys in public areas or other conduct that may create an appearance of impropriety. Flanagan reissued this memorandum to all clerical staff on January 13, 2015.

On September 24, 2012, Flanagan issued a second memorandum, “Protecting Internal Information re[garding] Police Officers,” reminding all clerical staff members of their “responsibility to protect . . . internal and privileged information.” The memorandum stated that clerks may not provide internal information to motorists or attorneys, apart from that information required to complete a business transaction.

MANHATTAN NORTH TVB CLERKS ACCESSED DMV RECORDS IN A SCHEME TO TAKE MONEY FROM MOTORISTS SEEKING TO HAVE THEIR TRAFFIC TICKETS DISMISSED

The Inspector General found that a clerk at the Manhattan North TVB accessed confidential DMV records and utilized information gleaned from these records to take money from motorists in exchange for the dismissal of their traffic tickets. Clerk Sam Alexis testified under oath to the Inspector General that he engaged in such a scheme to dismiss motorists’

tickets in exchange for money. Using confidential information contained in the TVB computer system, Alexis offered to dismiss tickets under certain circumstances.<sup>12</sup> Alexis advised,

“If the person seems like a down-to-earth person, I’ll just tell them, ‘Look, we can take care of [the ticket] now if you want. You’ll get your receipt; it’ll be done today.’ And if they say yes, they want to do that—of course, I say it in a way that they know . . . that this is under the books, you know what I mean—and I send them to the [hearing] room, they get it dismissed. When they come back out, they hand me the money and then that’s how I do that.”

Alexis testified that he requested \$20 to \$100 from motorists for each ticket he fixed, and made up to \$600 per week from his scheme. Although Alexis has worked at the Manhattan North TVB since 2006, he claimed he was unable to recall when his scheme commenced. Other Manhattan North TVB clerks testified to the Inspector General that they had witnessed, were aware of, or suspected Alexis was involved in this scheme, but failed to report the alleged misconduct to their supervisors, or to the Inspector General as required under New York State Executive Law Article 4-A.

A second clerk at the Manhattan North TVB, Alicia Eddie, also improperly accessed confidential DMV information and benefitted monetarily from Alexis’s scheme. In her testimony before the Inspector General, Eddie admitted to such access and to referring certain motorists who received traffic tickets to Alexis—whom she knew was involved in the ticket-fixing scheme—and that Alexis paid her approximately \$10 per referral. Eddie claimed that she had only done so “maybe twice, or whatever, because the lawyers . . . started complaining.” According to Eddie, in 2013 or 2014, two attorneys who were often present at Manhattan North TVB advised her and clerk Ingrid Wright of Alexis’s scheme. Wright, in testimony to the Inspector General, corroborated this statement. However, neither the two clerks nor the attorneys reported this wrongdoing to any supervisory staff or lodged a complaint with the Inspector General.

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<sup>12</sup> The circumstances under which Manhattan North TVB clerks dismissed traffic violation tickets will not be discussed in this report for security reasons.

MANHATTAN NORTH TVB CLERKS IMPROPERLY EXCHANGED NUMEROUS TELEPHONE CALLS AND TEXT MESSAGES WITH ATTORNEYS DURING THE WORKDAY AND RECEIVED IMPROPER PAYMENTS AND GIFTS FROM ATTORNEYS FOR REFERRING CLIENTS TO THEM

The investigation revealed that Alexis, Eddie and one former Manhattan North TVB clerk referred motorists to private attorneys who practice at the bureau and in exchange received money or meals from the attorneys. Indeed, Alexis testified to this scheme and his receipt of money from three attorneys. Two attorneys testified to the Inspector General that they had provided meals or money to Manhattan North TVB clerks, and one admitted that clerks had referred motorists to him, but he claimed the two actions were not linked and the meals or money were provided for reasons other than client referrals. Additionally, a review of cellular telephone records obtained by the Inspector General revealed regular and frequent communication between the clerks and at least five attorneys at the TVB during regular business hours, despite DMV policy prohibiting the same.

In testimony to the Inspector General, Alexis stated that in exchange for client referrals he received money from Attorney 1<sup>13</sup>, Attorney 2 and Attorney 3.<sup>14</sup> He described the scheme as follows:

“Basically, all we do is, if a motorist has a lot of points or if he’s facing possible suspension of his license . . . we tell them, ‘You know, you might want to think about hiring a lawyer. If you do want to go that route, I can let you know who to speak to; I can recommend you somebody.’”

If interested, Alexis identified an attorney for the motorist: “I just kind of tell them look over there. I try not to point. I tell them to, ‘Look that way—the guy with the suit on—just talk to him.’” Then, using his personal cellphone, Alexis either called the attorney or sent a text message identifying the motorist: “Well, if I called them then they know it was me, so I just send the motorist over. . . . If I didn’t call, I’ll just tell them go talk to him and send the motorist’s name in a text message, that way they know this person is coming to talk to you.”

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<sup>13</sup> Effective July 2015, Attorney 1 was suspended from the practice of law by the Departmental Disciplinary Committee for the First Judicial Department for complaints brought against him in 2012 and 2013 regarding his conduct while practicing at the Manhattan North and Bronx TVBs. Although the conduct leading to his suspension was not directly related to this investigation, the opinion ordering Attorney 1’s suspension notes, “[W]e find it of concern that [Attorney 1] attempted to undermine the functioning of the TVB by his repeated requests of the clerks to re-calendar cases, even after being informed by more than one clerk that what he was asking would violate TVB policy.” The First Judicial Department reinstated Attorney 1 on June 1, 2017.

<sup>14</sup> The attorney conduct described herein has been referred to the New York State Supreme Court Appellate Division First Judicial Department Attorney Grievance Committee.

Afterwards, the attorney surreptitiously gave money to Alexis: “Sometimes, right after, the attorney will just hand it, you know, not obvious, but kind of slide me over twenty dollars or might wait to the end of the day, but that’s pretty much it.” Alexis said that the attorneys involved in the scheme generally paid \$20 to \$40 per referral.

The Inspector General obtained and reviewed Alexis’s personal cellphone records, which revealed that from January 2014 through June 2015, Alexis exchanged a large number of calls and text messages with Attorney 1, Attorney 2 and Attorney 3. Specifically, Alexis called and texted Attorney 1 and Attorney 2 hundreds of times in that period, while Attorney 3 and Alexis communicated by text or telephone call approximately 50 times. Most of these communications occurred during TVB operating hours.

Additionally, clerk Eddie testified to the Inspector General that she directed motorists who requested an attorney to the attorney room—a separate room in the TVB where attorneys work and meet with clients—but claimed that she did not refer motorists to specific attorneys. Eddie further admitted that she solicited and received money from Attorney 2, Attorney 3 and Attorney 4 by sending text messages asking, “‘You buying lunch today?’ or something like that.”<sup>15</sup> Eddie’s cellphone records show she exchanged hundreds of calls and text messages with Attorney 4, more than 50 calls and text messages with Attorney 2, and nearly 20 calls and text messages with Attorney 3, among other attorneys at the TVB.

One former Manhattan North TVB clerk testified to the Inspector General that she frequently accepted money from Attorney 2 and Attorney 4, among others, but never requested a specific dollar amount. A review of her cellphone records revealed that in 2014, she exchanged nearly 50 calls and text messages with Attorney 2 and Attorney 3, and more than 100 calls and text messages with Attorney 4.

Other clerks interviewed by the Inspector General denied knowledge of or participation in the attorney-referral scheme, however a review of their cellphone records revealed many had regular and frequent contact with the TVB attorneys. For example, clerk Jamaal Lloyd denied he was involved in the scheme or received money from the TVB attorneys, but admitted he accepted offers from the attorneys to buy him meals. Lloyd also testified that when he began working at the Manhattan North TVB, Attorney 1 offered to “take care of” him if he referred

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<sup>15</sup> Eddie testified that the payments were typically around \$5. The Inspector General could not corroborate the veracity of that assertion.

motorists to Attorney 1.<sup>16</sup> Although Lloyd claimed to the Inspector General that he refused Attorney 1's offer, his cellphone records show that he exchanged hundreds of calls and text messages with Attorney 1 over the course of a year-and-a-half. Additionally, Lloyd called or texted Attorney 2 hundreds of times, and Attorney 4 nearly 50 times during this same period. Unconvincingly, Lloyd testified to the Inspector General that he did not recall when or why he exchanged cellphone numbers with the attorneys or know why he communicated with them so frequently. Other clerks also found to have regular workday text and cellphone communications with TVB attorneys attributed the exchanges to group text messages or other personal purposes, and claimed they were not part of the attorney-referral scheme.

Attorney 2 testified before the Inspector General and claimed that although he had been asked by a former TVB clerk to participate in the attorney-referral scheme, he declined the offer because it was "not ethical." Attorney 2 advised that ethical rules prohibit attorneys from providing money or gifts in exchange for referrals, but it was his understanding that, "I can get a referral from anybody, as long as there's no specific arrangement. I want to be careful of that."<sup>17</sup> Attorney 2 claimed that he had cautioned Alexis that he did not want to "get involved with any quid pro quos. I appreciate you looking out for me . . . but I do not want to get involved with any specific official interaction."

Yet Attorney 2 also testified that he had met with motorists who had been referred to him via text by Alexis and other clerks, and had given Alexis and most of the other clerks money—\$10 to \$20 at a time, approximately two-to-three times per month—and occasionally bought them lunches, in order to "keep on their good side."<sup>18</sup> Attorney 2 testified that some of the texts from clerks were to inform him, "'Hey, this guy [motorist] is looking for a lawyer. His name is such-and-such.' . . . And I said, 'Okay.' Some of them [motorists] I actually met; some of them I didn't." Even so, Attorney 2 insisted, "There was no quid pro quo. Period." Attorney 2's reliance on this untenable position is misplaced and his actions may be in conflict with attorney ethical rules of conduct regarding providing compensation for attorney referrals.

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<sup>16</sup> Lloyd never reported Attorney 1's improper solicitation to his supervisors, DMV management or the Inspector General.

<sup>17</sup> New York State Unified Court System, Rules of Professional Conduct, Rule 7.2 prohibits attorneys from compensating or giving anything of value to a person to recommend or obtain employment by a client.

<sup>18</sup> In discussing the money he gave to the clerks, Attorney 2 noted, "I shouldn't do it. I know I shouldn't do it. . . . I'm not doing it anymore, needless to say. And I don't intend to because it's just not a good situation. . . . It creates an appearance."

Moreover, Attorney 2's cellphone records reveal almost daily communication with clerks Alexis, Eddie and Lloyd, as well as frequent texts and cellphone calls with former clerks. Notably, Attorney 2 and Alexis exchanged hundreds of calls and text messages in a year-and-a-half period, and sometimes as often as 20 times in a single day.

Attorney 5 also testified to the Inspector General that he purchased meals for TVB clerks, but claimed he did not receive referrals from clerks, pay clerks for referrals or expect favors from the clerks in exchange for the gifts. Attorney 5 stated that he has a friendly relationship with several former and current clerks at the TVB and often exchanges texts and calls with them on primarily social matters, but also the occasional work-related inquiry.

Attorney 1, Attorney 3 and Attorney 4 were subpoenaed to appear before the Inspector General but refused to cooperate with this investigation. Attorney 1, who refused to appear for questioning, was found to often exchange calls and text messages with the TVB clerks, including hundreds of calls with clerks Alexis and Lloyd, among others. Attorney 3, who appeared before the Inspector General but refused to answer questions, was found to have exchanged more than 50 calls and text messages with Alexis. Attorney 4, who refused to appear for an interview, exchanged hundreds of calls and text messages with Eddie, Lloyd, Wright, and a former clerk.

#### MANHATTAN NORTH TVB CLERKS LACK MEANINGFUL SUPERVISION

The Inspector General's investigation found that Manhattan North TVB supervisors, including head clerk Andrea Sears and supervising clerks Carol Marshall and Sonia Wise, were either unaware of the ticket-fixing and attorney-referral schemes or failed to act upon their own knowledge or allegations brought to their attention. Although the supervisors observed clerks and attorneys engaged in prolonged conversations at the front counter and clerks using their cellphones during work hours, the supervisors neglected to take corrective action or report the matter to DMV or the Inspector General. Moreover, the investigation revealed that some of the TVB supervisors are unfamiliar with their obligations as state employees to report suspected fraud and abuse to the Inspector General. This inadequate supervision enabled the misconduct uncovered during this investigation to take place.

The Inspector General received sworn testimony from Carol Marshall, one of two supervising clerks who directly oversee the Manhattan North TVB clerks. Marshall, who became a supervising clerk at the TVB in 2013, supervises eight clerks, including Alexis and Wright. Marshall advised the Inspector General that she was aware of DMV policy and

memoranda addressing the appropriate conduct of TVB clerical staff and the protection of internal DMV information. Despite her knowledge of policy and her observations of wrongdoing by the clerks, Marshall failed to take remedial action.

Marshall testified that socialization between the clerks and attorneys at the TVB is an ongoing problem, which she described as “a free for all” that was lacking “any structure and people were just . . . doing what they wanted to do.” Indeed, Marshall noted that she frequently observed Alexis “fraternizing” with Attorney 1, and Wright talking with Attorney 4, but did not seek to counsel her two direct reports. Additionally, Marshall stated that she has often observed clerks using cellphones during the workday, and merely verbally admonished them for their misconduct. Marshall testified that she had not raised either issue to her supervisors, but had noted that cellphone use by clerks had ebbed after Sears distributed a policy memorandum regarding personal cellphone use in 2015. Marshall, in her defense, also claimed that she is unable to directly view from her desk the clerks at the front counter, or the surveillance monitor in her office, which oversees the front counter where the clerks work. Additionally, Marshall noted that the Manhattan North TVB, unlike other TVBs, does not hold regular staff meetings to address issues.

The bureau co-supervisor, Sonia Wise, who has worked at the TVB for almost two decades and been a supervising clerk since 2007, supervises eight clerks, including Lloyd, among others. Wise testified before the Inspector General under oath and stated that she became aware of a potential ticket-fixing scheme in 2012 or 2013, when Attorney 4 informed her that an unnamed clerk was profiting from the dismissal of certain tickets. Unconvincingly, Wise claimed to the Inspector General that because Attorney 4 had not named the clerk, she did not need to take further action, and did not report Attorney 4’s assertion to anyone, including her supervisors, others at DMV, or the Inspector General. Wise’s inaction allowed Alexis’s scheme to continue unabated until this investigation.

When asked by the Inspector General if she was aware of the attorney-referral scheme, Wise said she was not, but admitted that she frequently observed TVB attorneys talking with the clerks, and had advised the attorneys to leave the counter when she saw prolonged conversations. Wise also testified that employee cellphone use is “a big problem,” and she had often seen clerks using their cellphones to send text messages and view social media while at work. Wise stated she responded to this by directing clerks to put their cellphones away, and she discussed

employee cellphone misuse with Sears, who did not remedy the matter. Notably, although Wise claimed that she uses her cellphone sparingly at work, a review of her cellphone records revealed she exchanged hundreds of workday texts and calls with an auditor in the bureau with whom she is friendly.

Marshall and Wise report to Andrea Sears, who first began working at the Manhattan North TVB as its head clerk in September 2014, after moving from a position as a supervisor in the Harlem DMV district office. Sears testified under oath before the Inspector General that she too was unaware of either the ticket-fixing or attorney-referral scheme. Sears stated that she observed the clerks only when she made her walking rounds of the bureau, which she estimated she did 10 times each workday, and was unable to directly view from her desk the clerks or the monitor displaying the front counter. Sears added that had she observed misconduct, she would have reported it to either DMV or the Inspector General, and she was familiar with the Inspector General's hotline, 1-800-DO RIGHT.

Although Sears claimed DMV provided her neither the Employee Handbook nor other policies upon her employment at the TVBs, and she did not recall receiving the aforementioned memorandum on the appropriate conduct of clerical staff, she was familiar with DMV policies concerning the activities of clerks.<sup>19</sup>

Sears also testified that she was not aware that clerks frequently used their personal cellphones while at work, despite it being open and apparent by all other accounts. When the Inspector General provided Sears a detailed account of the thousands of calls and text messages exchanged between the clerks and attorneys, and among the clerks during the workday, Sears replied, "It's pretty easy to hide a phone, and it's hard to see someone with a phone until you're, like, standing on top of them if they're texting." Belying her testimony, Sears noted that clerks would put their cellphones away when she approached. Moreover, Sears stated that in late 2015, she wrote and distributed a memorandum notifying all clerical staff that cellphones must be kept in clear plastic bags at their workstations and not used during the workday.<sup>20</sup>

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<sup>19</sup> In fact, Sears received the DMV Employee Handbook in 2000, as well as a supervisor policy manual in 2015.

<sup>20</sup> The Inspector General obtained and reviewed this memorandum.

STATEWIDE TVB SUPERVISORS NEED TO STRENGTHEN OVERSIGHT AND IMPROVE TRAINING OF REGIONAL TVB SUPERVISORS

Vincent Palmieri testified before the Inspector General under oath about his tenure as Manhattan North TVB head clerk from 2009 to mid-2014, and his subsequent appointment to the position of clerical operations supervisor. In that position, Palmieri supervised Sears, among others. Since February 2018, Palmieri is the office manager for the DMV Peekskill District Office.

Palmieri stated that as the clerical operations supervisor he infrequently visited the regional TVBs and relied upon the reports of Sears and the oversight of Marshall and Wise at Manhattan North TVB. He testified that he was not aware of the ticket-fixing or attorney-referral schemes either when he was head clerk or clerical operations supervisor. Questioned by the Inspector General if prior issues concerning misconduct by clerks had prompted TVB Clerical Manager Flanagan to issue memoranda to clerical staff in 2012 and 2015 providing guidance on appropriate conduct and protecting internal DMV information, Palmieri stated he did not recall the memoranda or know why they had been issued. However, Palmieri testified that employee cellphone use was an “ongoing issue” at the Manhattan North TVB when he was head clerk, and he had frequently observed clerks using their cellphones.

Regarding training of TVB clerks and supervisors, Palmieri stated that employees complete a two-week training program during which they are informed of their duties and responsibilities, including their obligation to report wrongdoing to DMV and the Inspector General. However, at no time do TVB clerks and supervisors receive specialized ethics training, per DMV practice.

TVB Clerical Manager Jean Flanagan, who oversees clerical staff at all TVBs statewide from her office at the Brooklyn North TVB, testified to the Inspector General that she was not aware of the previously mentioned schemes being perpetrated at the Manhattan North TVB.

Flanagan, however, was aware that the relationship between many TVB clerks and attorneys working within the TVBs was at times almost collegial, despite her attempts to instruct otherwise. According to Flanagan, “One of the things I’m always doing is saying to clerks, ‘Do you understand attorneys don’t work for us? No, you can’t have a cup of coffee from them and stuff like that.’” Flanagan added, “The attorneys want to get all the information they can for their motorists, and if they can strike up a friendly conversation with a clerk on a daily basis, and

a clerk is vulnerable to that, then that's a bad thing. So clerks get reminded, 'He's just being your friend because he wants information.'" Flanagan also said that motorists frequently attempt to obtain information from the clerks, noting, "One of the things I am regularly trying to get across to clerks is we don't give legal opinions . . . You don't tell them they need an attorney." Flanagan stated that she discusses these concerns with the head clerks, who are expected to communicate this to clerical staff. Flanagan further advised that she issued memoranda in 2012 and 2015 to clerical staff that provided guidance on these matters, which were an ongoing concern and not prompted by any particular event.

Flanagan reported that the regional TVBs employ different practices to limit contact between clerks and attorneys. These practices are set by each TVB's senior administrative law judge. Some require attorneys to put traffic violation paperwork through a slot, where it is processed by clerks working in a separate office, while other TVBs have a separate window exclusively for attorneys to file documents. Nonetheless, Flanagan acknowledged, improper interactions between clerks and attorneys still may occur.

#### FINDINGS AND RECOMMENDATIONS

The Inspector General found that a clerk at the Manhattan North TVB accessed confidential DMV records and utilized information gleaned from these records to take money from motorists in exchange for the dismissal of their traffic tickets. Additionally, the Inspector General found that a second Manhattan North TVB clerk, in exchange for money, conspired with the first clerk to provide him with motorists seeking to have their tickets dismissed. Clerk Sam Alexis admitted under oath to the Inspector General that he solicited money from motorists by offering to dismiss traffic tickets in certain circumstances. Clerk Alicia Eddie also admitted under oath that she participated in the scheme by referring motorists who received such tickets to Alexis and receiving money in return.

Alexis and Eddie perpetrated this scheme by accessing internal DMV information and using this information to solicit payments from motorists contrary to New York State Public Officers Law prohibitions on the personal use of confidential business information, soliciting or accepting gifts, engaging in transactions that substantially conflict with official duties, and using official positions to secure unwarranted privileges, among others. Additionally, the clerks' actions violated DMV policies on appropriate clerical conduct, use of confidential information

for non-business purposes, and soliciting or accepting gratuities or gifts in exchange for violating official duties, among others.

The Inspector General also found that several clerks at the Manhattan North TVB improperly solicited and received money and other gifts from attorneys in exchange for referring motorists to these attorneys, and a number of clerks violated DMV policies restricting personal cellular telephone use by exchanging calls and text messages with attorneys and others during work hours. Specifically, Alexis admitted under oath that he used internal DMV information to identify motorists with multiple points or at risk of losing their licenses and referred those motorists to attorneys who practice at the Manhattan North TVB in exchange for money. Alexis's conduct is contrary to New York State Public Officers Law and DMV policy prohibiting the use of confidential information for personal gain, and accepting gratuities or gifts, among others. The Inspector General also found that clerks Eddie, Jamaal Lloyd, and a former clerk violated DMV policy by soliciting or accepting money from the attorneys, and may also have violated the gift restrictions of Public Officers Law.

Although a number of clerks, including Lloyd and Ingrid Wright, denied either knowledge of or participation in the attorney-referral scheme, the investigation revealed that they exchanged multiple calls and text messages with attorneys during the workday in violation of the Employee Handbook, MVR/Cashier Accountability Policy, and memoranda provisions that restrict the use of personal cellphones at work.

The Inspector General also found that five private attorneys who practice at the Manhattan North TVB may have violated New York State Public Officers Law gift restrictions prohibiting any person who regularly appears before a state agency from offering or giving gifts to employees of that state agency. In addition, these attorneys may have violated a Rule of Professional Conduct prohibiting attorneys from compensating or giving anything of value to anyone to recommend or obtain employment by a client or as a reward for having made a recommendation resulting in employment by a client. The two attorneys who cooperated with this investigation—Attorney 2 and Attorney 5—testified they were not involved in the attorney-referral scheme. However, their denials are contradicted by their sworn testimony that they gave money to or bought meals for the clerks, Attorney 2's testimony that Alexis would refer clients to him, and the frequent texts and calls exchanged between Attorney 2 and Attorney 5 and the clerks during the workday. While Attorney 1, Attorney 3, and Attorney 4 refused to cooperate

with this investigation, several clerks testified they received money from these attorneys and their cellphone records show regular calls and text messages exchanged with the clerks.

Additionally, the Inspector General found that Manhattan North TVB supervisors, including Andrea Sears, Carol Marshall and Sonia Wise, failed to provide meaningful oversight of the bureau clerks, thereby enabling the misconduct discovered during this investigation. The testimony of head clerk Andrea Sears indicated she was not aware that clerks at the Manhattan North TVB were involved in the two schemes, in part, because she did not closely monitor their behavior. Sears also testified that she was not aware that clerks frequently used their personal cellphones while at work, despite their use being open and apparent. Although Marshall claimed that she was not aware of the ticket-fixing or attorney-referral schemes, she admitted she observed attorneys socializing with the clerks, and clerks frequently using their cellphones, but failed to write counselling memoranda to document the infraction of DMV and TVB policies or escalate the issue to a supervisor for further action. Wise admitted that she had received an allegation that one of the clerks was involved in the attorney-referral scheme, but failed to pursue the allegation or report it to DMV or the Inspector General.

The Inspector General also found that Vincent Palmieri and Jean Flanagan, who oversaw operations and staff at the TVBs, bear some responsibility for the misconduct identified in this report and should improve their communications with and oversight of the supervising and head clerks at the TVB offices.

Lastly, the Inspector General found that a number of former and current clerks and supervisors violated provisions of New York State Executive Law Article 4-A and the DMV Employee Handbook by failing to report all crimes, including bribery, to the Offices of the Inspector General.

The Inspector General recommends that DMV establish uniform policy and best practices for all TVBs, and review current procedures at all TVBs to determine the feasibility of further limiting unsupervised conduct between clerks and attorneys. The Inspector General also recommends that DMV retrain all TVB employees on the mandates of New York State Public Officers Law and DMV policy, including restrictions on soliciting and accepting money or other gifts in connection with the performance of official duties, authorized access and use of internal confidential information, appropriate interactions and communications with attorneys conducting business at the TVBs, and restrictions on cellular telephone use during business hours. Upon the

conclusion of this training, DMV should require all employees to sign an acknowledgement of their agreement to abide by these laws and policies. The Inspector General also recommends that DMV restrict access to its confidential information to those employees whose job responsibilities require such access and limit access to only those records needed to conduct business. Additionally, the Inspector General recommends that front counter camera monitors be repositioned so that TVB supervisors are able to view the monitors from their desks, and TVB supervisors be required to make regular rounds of the bureau for direct oversight of the clerks. Lastly, the Inspector General recommends that DMV retrain and regularly remind all employees, including those staffing TVBs, of their obligation to report suspected fraud and abuse to the Inspector General, as required under Executive Law Article 4-A.

This matter was presented for prosecution, which was declined. The Inspector General has referred the findings of this investigation to DMV to take whatever disciplinary action it deems appropriate against those clerks involved in the ticket dismissal and attorney-referral schemes, and using their personal cellular telephones during the workday. In addition, the Inspector General has referred the investigative findings to DMV for whatever disciplinary action it deems appropriate against supervisors who were negligent in their oversight of the TVB clerks. The Inspector General has also provided a copy of this report to JCOPE for its review of the findings regarding the clerks involved in the ticket dismissal and attorney-referral schemes. Additionally, the Inspector General has referred the investigative findings regarding the several attorneys who may have violated Public Officers Law prohibitions on gift giving to the New York State Supreme Court Appellate Division First Judicial Department Attorney Grievance Committee, for whatever action is deemed appropriate.

#### DMV'S RESPONSE TO THE INSPECTOR GENERAL'S INVESTIGATION AND REPORT

In response to the Inspector General's investigation and report, DMV advised it implemented or is implementing the recommendations made in the report and commenced disciplinary action against involved employees. Specifically, DMV advised it has implemented new controls that now restrict clerks' access to the specific confidential information that was exploited to further the ticket-fixing scheme. Additionally, DMV reported it merged TVB Clerical Operations with Field Operations and continues to review its policies and practices to optimally align the two organizations. DMV also noted it reviewed TVB procedures to ensure vulnerabilities are minimized and unsupervised conduct between clerks and attorneys is limited.

Further, as part of its annual training, DMV reported that all employees will be advised on the mandates of New York State Public Officers Law, DMV policies, and of employees' obligation to report suspected fraud and abuse to the Inspector General, and all retrained employees will be required to sign an acknowledgement of their agreement to abide by the same. DMV also advised that access to DMV records is limited to only those employees requiring it to conduct business, and TVB supervisors have been reminded to regularly conduct direct oversight of clerks. Lastly, DMV noted that it is retaining a vendor to have new cameras installed above TVB workstations.