



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
February 10, 2009

SUMMARY OF FINDINGS/RECOMMENDATIONS

The Inspector General found that New York State Department of Transportation (DOT) employee Jose G. Correa, Jr., fraudulently ordered and misappropriated agency cell phones valued at approximately \$6,800, which he then sold for personal gain. Correa resigned his DOT position and was charged on January 9, 2008, with Grand Larceny and Falsifying Business Records.

The Inspector General also found that Correa failed to disclose a prior conviction to DOT when he initially applied for employment in 1993. DOT also was unaware that Correa was convicted a second time in 1997, while employed by DOT, as the agency does not require employees to report an arrest or conviction.

The Inspector General further determined that DOT did not adequately oversee Correa's activities or effectively manage the procurement, inventory, and distribution of agency cell phones. DOT has undertaken a formal review of its telecommunication equipment purchasing, inventory, and use, to ensure that proper safeguards are implemented. DOT anticipates that the review will result in substantial cost savings.

ALLEGATION

On December 7, 2007, the DOT Special Investigations Unit reported to the Inspector General that Correa fraudulently arranged for DOT to purchase a large number of unnecessary cell phones, which he then sold for personal gain.

SUMMARY OF INVESTIGATION

Correa's Fraudulent Purchases

DOT issues approximately 3,900 cell phones to agency employees at an annual cost of about \$1.4 million. Prior to a reorganization in August 2007, DOT Senior Mail and Supply Clerk Jose G. Correa, Jr., was assigned sole responsibility for ordering, receiving, and distributing all cellular telephones and equipment for use by DOT. Under the procedure in place at the time, employees requiring new cell phones or related equipment submitted a request form, accompanied by a supervisor's approval, to DOT's Information Technology Help Desk at the agency's main office in Colonie. The Help

Desk forwarded the request forms to Correa. Correa compiled the requests into an order form, which he forwarded by DOT e-mail to the vendor. Correa accepted the shipments on behalf of DOT, and distributed the phones to the employees who had made the requests. Correa was also responsible for adding the new phones to an inventory list that he maintained.

According to the procedure then in place, DOT Information Technology Specialist IV Dionne Pepicelli was responsible for remitting payment to the vendors. Pepicelli advised the Inspector General that she made payments after comparing vendor invoices, which she received directly, with the order form provided to her by Correa. Correa maintained the related employee request forms in a file drawer at DOT. Pepicelli did not reconcile the employee request forms to Correa's order form or to the bill from the vendor.

In August 2007, prior to DOT's discovery of any wrongdoing by Correa, DOT Information Technology Specialist III Jane Hallum assumed the payment responsibilities from Pepicelli as part of an agency reorganization. At the same time, another employee assumed Correa's ordering and distribution responsibilities. Hallum soon discovered that a significant number of cell phones had been purchased that were not supported by requests from employees. Hallum notified her supervisor, who questioned Correa about the discrepancies. According to the supervisor, Correa admitted to misappropriating and selling a number of phones. DOT then contacted the Inspector General and the Colonie Police Department, and suspended Correa.

Due to Correa's poor and intentionally inaccurate recordkeeping, the Inspector General was unable to determine the extent of Correa's fraud prior to Hallum's discovery in August 2007. However, the Inspector General determined that, subsequent to Correa's reassignment in August 2007, he continued to make fraudulent purchases by contacting the vendor and adding additional telephones to already submitted purchases. Between August and December 2007, Correa misappropriated dozens of telephones worth approximately \$6,800. When a shipment arrived, Correa separated the phones he had fraudulently ordered from those that had been ordered legitimately for DOT employees. Correa admitted that he then sold the fraudulently-ordered phones on the street and on the Internet.

Correa told the Inspector General and Colonie Police that he acted alone in carrying out his scheme. He stated that he altered order forms and took other actions so that Pepicelli could not easily detect his fraud. When interviewed under oath by the Inspector General, Pepicelli testified that she was unaware of Correa's scheme. The Inspector General found that Correa's and Pepicelli's activities were not subjected to adequate review by supervisors. Further, the cell phone inventory that Correa was charged with maintaining was haphazard and incomplete.

On January 9, 2008, Correa was arrested by the Inspector General and Colonie Police on charges of Grand Larceny and Falsifying Business Records. Correa was immediately suspended by DOT and shortly thereafter resigned. The Albany County District Attorney's Office is pursuing criminal charges against Correa.

Correa's Criminal History Unknown to DOT

During the course of the investigation, the Inspector General learned that Correa was convicted of Criminal Mischief in 1989, but failed to disclose the conviction when he applied for employment with DOT as an apprentice printer in 1993. The application Correa completed included the question, "Were you ever convicted of any violation of law other than minor traffic violations?" In response, Correa checked the "No" box.

In 1997, while a DOT employee, Correa was convicted of Criminal Possession of a Controlled Substance, but did not report the conviction to DOT. DOT advised the Inspector General that it does not require employees to notify the agency in the event of an arrest or conviction.

Systemic Cell Phone Mismanagement at DOT

Due to incomplete and poorly maintained cell phone procurement and inventory records, DOT advised the Inspector General that it is unable to precisely determine the extent of Correa's fraud prior to August 2007. To date, DOT cannot identify all of the employees who have been provided DOT cell phones, and has not determined if it is still paying monthly bills for any of the telephones Correa misappropriated.

Following discovery of Correa's thefts, DOT commenced an internal audit of cell phone use that is continuing. As of September 2008, the audit had determined that approximately 400 phone lines had gone unused for the preceding six months. DOT canceled those lines, projecting savings of \$11,835 per month. DOT also switched to best-rate phone plans and intends on combining other telecommunications services, for an anticipated annual savings of \$375,000.

DOT officials stated that they plan to implement "exception reporting" to identify excessive personal use. It also hopes to provide invoices directly to managers to ensure that there is a need for each employee's cell phone. Further, heavy users will be monitored to verify that the calls are business related.

Violation of Federal Tax Guidelines

DOT officials informed the Inspector General that the agency permits limited incidental personal use of cell phones, and does not require employees to reimburse the agency for personal calls. However, IRS guidelines require employers to report unreimbursed personal use of call phones as taxable income to the employee. Specifically, DOT must distinguish personal from business use of cell phones, and either obtain reimbursement from employees for personal use, or report the personal use as taxable income on annual employee W-2 forms. If the agency fails to distinguish personal from business use of a cell phone, IRS guidelines require DOT to include the full amount of the annual telephone charges as taxable income to the employee using the phone. DOT officials confirmed that the agency neither includes the full amount of the telephone charges in employee W-2 statements, nor does it ask employees to identify or provide reimbursement for personal charges on the monthly bills.

FINDINGS AND RECOMMENDATIONS

The Inspector General determined that DOT Senior Mail and Supply Clerk Jose G. Correa, Jr., abused his authority within DOT to purchase cell phones together costing at least \$6,800, which he then sold for personal gain. Correa was arrested on charges of Grand Larceny and Falsifying Business Records, and resigned his DOT position.

The Inspector General also determined that DOT was unaware that Correa had been subject to two criminal convictions prior to the present case, and that Correa falsely reported on his job application that he had never been convicted of a crime. Although Correa was convicted of a crime during his employment at DOT, the agency was unaware of the conviction. The Inspector General recommended that DOT require current employees to report an arrest or conviction that occurs during the employee's tenure at the agency.

The Inspector General further determined that DOT did not adequately oversee Correa's activities or effectively manage the procurement, inventory, and distribution of agency cell phones. DOT is currently performing a review of its telecommunication equipment purchasing and inventory system. DOT should determine which employees are issued cellular telephones and ensure that it complies with IRS rules requiring personal cell phone use be reported as taxable income.

By letter dated January 8, 2009, DOT Chief Investigator Robert Keihm responded as follows to the recommendation that DOT require employees to report an arrest or conviction that occurs during their employment: "The Investigations Bureau has determined after consultation with Legal and Employee relations Bureau, that this is not a requirement as per the current negotiated bargaining unit agreements and will not be sought in future negotiations. It is unreasonable to expect or require employees to disclose arrests and/or convictions that occurred during the employee's tenure at the agency that are unrelated to their job duties. Currently, employees whose duties require a valid driver license are required to notify the Department of any change of status of their driving privilege and any arrest or convictions for alcohol or drug-related driving offenses."