



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
September 27, 2012

SUMMARY OF FINDINGS/RECOMMENDATIONS

The New York State Inspector General determined that Glenn Olds, the former Clinton County Deputy County Clerk and supervisor of the Clinton County Department of Motor Vehicles (DMV) in Plattsburgh, misused his position on numerous occasions to access the DMV database for purposes that were unauthorized and unrelated to his official duties. Olds's improper conduct included an egregious instance when he accessed information about the vehicle of an investigator at the request of then State Parole Board Member and former State Assemblyman George Ortloff, who was the subject of a criminal investigation.

The Inspector General also found that other employees of the Clinton County DMV similarly made database accesses which were unauthorized and unrelated to official business. On numerous occasions, unauthorized accesses were conducted at the specific request of Clinton County Clerk John Zurlo.

As Olds has resigned his position, disciplinary action against him is precluded. However, the Inspector General has recommended that Clinton County officials review the conduct of Clinton County DMV staff involved in the unauthorized and improper database accesses and take action as warranted.

The Inspector General further recommended that the New York State DMV conduct random audits of the Clinton County DMV to ensure compliance with database access protocols, and provide relevant training to Clinton County DMV staff.

In response to the Inspector General's findings and recommendations, the DMV advised that it will prepare training materials and implement on-site training within the next several months to reemphasize proper use of DMV data. The DMV also will conduct periodic, random audits of the Clinton County DMV and other county clerk DMV offices to ensure compliance with the law and DMV policy.

ALLEGATION

In March 2009, the New York State Department of Motor Vehicles provided information to the Inspector General indicating that a DMV database access had been conducted during an investigation of then State Parole Board Member and former State Assemblyman George Ortloff.

SUMMARY OF INVESTIGATION

Background

While DMV operations in New York State are governed by the Commissioner of the DMV, in 51 counties, including Clinton County, DMV duties are fulfilled by the office of the County Clerk. The County Clerk acts as an agent of DMV. Although hired and supervised by the County Clerk, county employees possess the same duties and must adhere to the same guidelines as those employed directly by the DMV. These guidelines include prohibitions regarding the use of DMV information for non-official matters.

As Deputy County Clerk for Clinton County from 1994 until his resignation in June 2011, Glenn Olds was tasked with supervising the day-to-day responsibilities of the County DMV office located in Plattsburgh. Olds and the 12 DMV employees he supervised were all granted electronic access to New York State driver information contained in DMV's electronic databases. These databases include such personal information as drivers' social security numbers and home addresses.¹ In order to maintain electronic system integrity and allow tracking of accessed records, DMV employees who are authorized access to the electronic database are issued a specific user name identification and password. John Zurlo, the elected County Clerk to whom Olds reported, is not among those granted access to these databases.

The federal Driver's Privacy Protection Act² (DPPA) prohibits the release and use of certain personal information from state motor vehicle records and states, in pertinent part: "[A] State department of motor vehicles, and any officer, employee, or contractor thereof, shall not knowingly disclose or otherwise make available to any person or entity personal information . . . about any individual obtained by the department in connection with a motor vehicle record."³ Personal information under this provision is defined as information which identifies an individual, including an individual's photograph, social security number, driver identification number, name, address, telephone number, and medical or disability information.

¹ According to DMV, the DMV employees at issue in this report do not have access to social security numbers when accessing the DMV database.

² 18 U.S.C. § 2721, *et. seq.*

³ Several non-applicable exceptions are included in this provision.

DPPA violations may result in both civil and criminal actions. A person who knowingly violates the DPPA is subject to a criminal fine. A motor vehicles agency found to have engaged in a “policy or practice of substantial noncompliance” is subject to a civil penalty imposed by the United States Attorney General of not more than \$5,000 a day for each day of substantial noncompliance.⁴ In addition, a person who violates the DPPA is also liable to the individual to whom the information pertains and an action can be brought against that person in federal district court for obtaining, disclosing or using personal information from a motor vehicle record for purposes not permitted under the DPPA.⁵

The New York State DMV has also promulgated policy with similar prohibitions. Specifically, Section 10.6 of the DMV Employee Handbook entitled “Disclosure of Information,” 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.

The Violation of Federal Law and DMV Policy

In September 2008, a law enforcement agency was conducting a criminal investigation of George “Chris” Ortloff to determine if he was soliciting sex with underage girls. On September 8, 2008, while the investigation was active and ongoing, Ortloff contacted Glenn Olds, with whom he was acquainted, and requested that Olds access information regarding the registration of a license plate of what turned out to be the car of an investigator. To prevent any compromise of its investigation of Ortloff, the law enforcement agency waited until the investigation was concluded and Ortloff had been arrested in October 2008 before informing the DMV that the license plate of an investigator had been accessed in the DMV database during the investigation.⁶ Upon being advised that the integrity of the DMV database had been compromised, the DMV contacted the Inspector General, which initiated an investigation of the reported database access. Ortloff, who was arrested and awaiting trial, agreed to cooperate with law enforcement and speak with the Inspector General about the database access, which had occurred at the Clinton County DMV.

⁴ 18 U.S.C. § 2723.

⁵ 18 U.S.C. § 2724.

⁶ On December 24, 2008, Ortloff pleaded guilty to a federal charge of On-line Enticement of Minors for attempting to arrange to have sex with two under-age girls at an Albany motel. The girls were fictitious, and part of the investigation that led to his arrest. On August 10, 2010, Ortloff was sentenced to 12½ years in federal prison and was fined \$50,000.

In his interview, Ortloff admitted to the Inspector General that he had repeatedly e-mailed and called a woman he believed was the mother of 11- and 12-year-old sisters to arrange a meeting with them to have sex at a motel. Ortloff said that after meeting the woman at a coffee shop sometime in July or August 2008, he had noted the license plate of her vehicle. He told the Inspector General that he had called to ask him to run the license plate to learn her identity and rule out the possibility she was a police officer.

Ortloff admitted to the Inspector General that he had invented a story and told Olds that he had been cut off by an unknown vehicle, and that he wanted to know with whom he was dealing before he went to the police. After Ortloff provided Olds with the license plate number of the woman's vehicle, Olds ran the plate in the DMV system, and, over the telephone, provided Ortloff with the name, address and zip code of the registered owner of the vehicle. According to Ortloff, at no time during their conversation did Olds indicate it was not permissible for him to access the database as requested, although Ortloff stated he knew this conduct was improper. Ortloff stated that this incident was the only time he made such a request of Olds, and he believed that Olds complied because of their friendship and Ortloff's local political stature, and because Olds took pride in his reputation for being helpful.

When questioned by the Inspector General in July 2009, Olds acknowledged that he knew Ortloff, but denied ever accessing the DMV database on Ortloff's behalf. When asked specifically if he recalled Ortloff contacting him to request an inquiry in the DMV database, Olds responded that he did not. When asked if it were possible that Ortloff asked John Zurlo, the County Clerk, who in turn asked him, Olds again responded that he could not recollect any such incident.

Olds's denials are contradicted by phone records of his office desk telephone and Ortloff's cellular telephone obtained by the Inspector General. Specifically, the records substantiated that three calls were placed between Ortloff and Olds on September 8, 2008, including one call that lasted two minutes and another several minutes later that lasted four minutes during the exact time DMV records confirmed that Olds accessed the investigator's license plate.

Inspector General Finds Misuse of Database Was Common in Clinton County DMV

During the review of Olds's access to the DMV database, the Inspector General uncovered that thousands of inquiries into the system were made monthly under Olds's user name at the Clinton County DMV office. The Inspector General's investigation revealed that Olds had instructed the four Help Desk employees to log on to the DMV system using his user ID and password. Therefore, not only did it appear that Olds made thousands of inquiries monthly, but it was impossible to connect a specific employee with any particular database inquiry.

When interviewed, Olds informed the Inspector General that he routinely turned on the computers in the morning, logging into the system under his user name and password. Olds reported that since the Help Desk personnel shared a single computer

terminal, he instructed them to keep the computers logged on under his user name and password, claiming this helped to keep the flow of telephone inquiries and customers in the DMV moving without personnel continually having to log on and off the system. In direct contravention of the purpose of individual user names and passwords, Olds's username and password were written on a piece of paper attached to the Help Desk computers in the event personnel forgot it.

Olds was shown a list compiled by the Inspector General of search inquiries performed on Clinton County DMV computers which appeared questionable and for which no documented transaction occurred. He was asked if he was familiar with any of the names on the list which had been searched and if he could recall if he had made the inquiries. Olds admitted he and his staff had made DMV inquiries of family members and people with whom he had personal relationships. While Olds claimed that the inquiries had been made for legitimate purposes, he could not provide a reasonable explanation for a number of inquiries. In numerous instances, Olds stated, he had accessed the DMV database at the request of Zurlo, the County Clerk, who wanted information such as addresses and birthdates of constituents so he could send them birthday cards. Asked how often Zurlo had requested searches of this kind, Olds replied:

[M]y God, in my career? Since 1996? He started in '96. Frequent. Once a week, twice a week, three times a week. It's easy for him to say, "Glenn, look up this plate number. Hey, I need a birthday; I've got to send a birthday card out. Ah, what's this guy's address?"

Olds stated that he never questioned Zurlo about the need for the searches, claiming he felt obligated to comply with the requests of his superior. Olds explained that because Zurlo did not have a DMV username or password of his own, he requested that Olds runs the inquiries for him. Asked if Zurlo knew that Olds should not be conducting non-DMV related inquiries in the DMV database, Olds stated: "[D]oes John Zurlo know that I am not to arbitrarily pull information off the computer, the answer is 'Yes,' he knows that."

Four other DMV employees who were questioned about these unauthorized searches also admitted they used the DMV database to access information of family members and people with whom they had personal relationships.

Olds was also questioned about a New York State DMV auditor who had conducted a routine audit of the Clinton County DMV in 2007. Records show that after the auditor had completed her audit, Olds's user name had been used to make an inquiry of the auditor in the DMV database. Although Olds recalled the auditor, he said he did not remember this search. When Olds was asked if he could provide any reason why any of his employees might have conducted a search of her, Olds offered that it might have been out of curiosity: "[T]o figure out how old she is. That would be a guess, no, is there a reason to do it, no."

Having learned of the breach of DMV policy and the misuse of the DMV database at Ortloff's request, on September 28, 2009, DMV removed Olds's authorization to access the database, which prohibited him from making electronic inquiries or processing electronic transactions. DMV informed Olds that it was taking this action because Olds, and therefore the Clinton County office, were not DPPA compliant. Olds, however, under Zurlo, continued as supervisor of Clinton County DMV operations. In the meantime, DMV had re-issued Help Desk employees unique usernames and passwords, and an additional computer was installed at the Help Desk. A subsequent review by the Inspector General in January 2010 revealed that employees were in compliance with DMV protocols in that they were conducting electronic transactions using their own assigned usernames and passwords.

On February 3, 2010, Clinton County Clerk Zurlo wrote to the New York State DMV Commissioner requesting that Olds's database access privileges be restored, noting, "We are now DPPA compliant and the office is totally aware that the non-business use of customer data is in violation of DMV policy." On February 4, 2010, Olds himself wrote to the DMV Commissioner, expressing a "formal apology for the violations of the rules governing the security of an employee's sign-on and passwords," adding, "I now know that this was wrong, but I can assure you that there was never any intent to infringe on anyone's rights." However, Olds did not specifically acknowledge, or apologize for, his own misuse of the database. In his letter, Olds requested that his access privileges be restored, stating that "now all employees use their own sign-on and there is no more sharing of user sign-on's [sic] at the Plattsburgh DMV." Despite Zurlo's and Olds's appeals, DMV did not reactivate Olds's access.

Further investigation by the Inspector General found evidence contradicting Olds's claim in his letter to the DMV Commissioner that "all employees" were in compliance with access protocols. In fact, the evidence indicates that Olds himself was in violation of the protocols at that time.

Between August 2010 and June 2011, the Inspector General received a number of complaints from Clinton County DMV employees that Olds was continuing to access the database under user names of other DMV employees, which is prohibited. The Inspector General investigated these complaints and substantiated that Olds had used the user names of several employees, including one who had retired and another who was on long-term medical leave, to access the database. The Inspector General learned that after Olds's own authorization had been revoked, he obtained the passwords of these employees under the guise of assisting them with their work. The Inspector General identified a number of instances in which Olds, using these other employees' logons, processed transactions, including some which had been properly rejected by DMV clerks. Records indicate that Olds began conducting these improper database accesses approximately a month after DMV had revoked his access privileges in September 2009, were occurring at the time he appealed to the DMV Commissioner for restoration of his privileges in February 2010, and continued for months thereafter.

Conduct of Clinton County Clerk John Zurlo

The Inspector General questioned County Clerk John Zurlo about his involvement in improper database searches. Asked if he had requested Olds or Help Desk staff to access driver and license plate information, Zurlo replied, "I'm guilty." Zurlo stated that he had requested birth dates and addresses so he could send birthday greetings to constituents, and that on occasion he had asked for the names of drivers who had waved to him from their vehicles but whom he did not recognize. In other instances, Zurlo acknowledged, he requested the addresses of persons whose obituaries he had read so he could send the families sympathy cards. Additionally, according to Zurlo, he asked for the identities of drivers who, as reported to him by his son, Michael Zurlo, the Clinton County Administrator, had parked vehicles in restricted spaces at the County Government Center.

On June 7, 2011, Inspector General investigators called Zurlo's office to ascertain if Zurlo would be in the office the following day, when the investigators planned to return to the Clinton County DMV. As Zurlo was not present when they called, a message was left with his assistant. The next day, June 8, 2011, before the investigators arrived at the Clinton County DMV office, Olds resigned. When questioned by the investigators, Zurlo acknowledged that he had notified Olds the previous day of the investigators' call.

The Inspector General has been advised that since Olds's resignation, his supervisory responsibilities have been assumed by a long-tenured senior clerk in the office. In addition, the complainants advised that Zurlo no longer makes improper requests for database information and that the office is in compliance with DMV protocols.

FINDINGS AND RECOMMENDATIONS

The Inspector General has determined that Glenn Olds, while serving as Clinton County Deputy Clerk and supervisor of the Clinton County DMV office, violated DMV policy and the federal Driver's Privacy Protection Act when he accessed the DMV database for purposes that were unauthorized and unrelated to his official responsibilities. Olds's improper conduct included an egregious incident on September 8, 2008, when he accessed information regarding the vehicle of an investigator on behalf of then State Parole Board Member and former State Assemblyman George Ortloff, who was the subject of a criminal investigation.

The Inspector General also found that other employees of the Clinton County DMV similarly and regularly made database accesses which were unauthorized and unrelated to official business. Additionally, on numerous occasions, unauthorized accesses were made at the specific request of Clinton County Clerk John Zurlo, who knew the accesses were improper.

As Olds has resigned his position, disciplinary action against him is precluded. However, the Inspector General has recommended that Clinton County officials review the conduct of Clinton County DMV staff involved in the unauthorized and improper database accesses and take action as warranted. The Inspector General further recommended that the New York State DMV conduct random audits of the Clinton County DMV to ensure compliance with database access protocols.

The Inspector General will provide to the United States Attorney for the Northern District of New York information relating to violations of the federal Driver's Privacy Protection Act.

The Inspector General further recommended that the New York State DMV provide training to Clinton County DMV staff on DMV policy with respect to proper use of the database and disclosure of information.

RESPONSE BY THE DEPARTMENT OF MOTOR VEHICLES

In response to the report's findings and recommendations, DMV thanked the Inspector General for the thorough investigation of the abuses that occurred in the Clinton County Clerk's DMV office.

The DMV will conduct random, periodic audits of the Clinton County DMV office and other county clerk DMV offices to ensure compliance with the law and DMV policy. As to the recommendation that DMV provide training to Clinton County DMV staff on DMV policy with respect to proper use of the database and disclosure of information, the DMV will prepare training materials to reemphasize proper use of DMV data and compliance with the DPPA. DMV advised that on-site training will take place within the next several months.