

State of New York  
Office of the Inspector General



Investigation of Licensing and Oversight  
of Commercial Bus Drivers in New York State  
Following Fatal Crash in the Bronx  
on March 12, 2011

September 2011

Ellen Biben  
State Inspector General

## I. SUMMARY OF FINDINGS

On March 12, 2011, a commercial tour bus operated by World Wide Travel of Greater New York (“World Wide”) crashed in the Bronx, killing 15 passengers and injuring many others. Almost immediately, questions arose about the qualifications of the driver of the bus, Ophadell Williams, Jr., when it was reported that he had a criminal record and that his driving privileges had been suspended on a number of occasions. Within days of the crash, Governor Andrew Cuomo, noting Williams’s history, asked the New York State Inspector General to investigate how Williams was able to obtain and retain a commercial driver license. Around the same time, other authorities commenced separate investigations to examine the cause of the crash, whether criminal charges are warranted, and other issues.<sup>1</sup>

The commercial bus industry is comprised of thousands of carriers<sup>2</sup> which operate commercial buses, transporting hundreds of millions of passengers annually throughout the nation. The industry is controlled by a system of federal and state laws and regulations, and a number of federal and states agencies are involved in implementing and enforcing these requirements. The standards for mechanical safety, inspection, and operation of commercial buses are generally established and enforced by the U.S. Department of Transportation; in New York, the New York State Department of Transportation and New York State Police (“State Police”) assist in this effort. The Inspector General’s investigation focused on a distinct aspect of the commercial bus regulatory structure – the licensing of commercial bus drivers in New York State, which primarily is the responsibility of the New York State Department of Motor Vehicles (“DMV”).

The Inspector General’s investigation identified weaknesses in commercial bus driver licensing and oversight in New York State that need to be remedied. Williams

---

<sup>1</sup> As of the date of this report, these investigations are ongoing.

<sup>2</sup> As used in this report, the term “carrier” or “commercial carrier” refers to the companies which operate commercial buses and employ bus drivers.

exploited these weaknesses by using multiple names and submitting applications with false or incomplete information to conceal significant details of his criminal and driving history from law enforcement officers, DMV, other state agencies, and prospective employers.

In particular, Williams had a driving history rife with tickets for operating a vehicle without a license and other serious infractions and a criminal history that included felony convictions. Between 1987 and 1991, before Williams obtained a driver license, the New York City Police Department (“NYPD”) issued him numerous tickets which he failed to pay and which resulted in 10 suspensions.<sup>3</sup> Because Williams did not have a license, DMV tracked these events in the name he apparently provided to police, “Eric Williams.” Over the years, some of Williams’s suspensions were cleared, but a few remained open and unresolved. In 1992, Williams was convicted for manslaughter, for which he was incarcerated until 1994. Williams obtained his first driver license in 1995, but because he previously used a different name, his past driving record was not attributed to him. Thereafter, he obtained a Commercial Driver License Class B (“CDL-B”) in 1996. After this, NYPD issued several more tickets to Williams, all resulting in suspensions which were later resolved. In 1998, Williams was convicted for grand larceny and served a prison sentence of two to four years. After his release in 2002, and after receiving additional driving violations, Williams applied for and obtained reinstatement of his driver license in 2003. In 2006, he obtained the necessary license to drive a commercial bus, a CDL-B with a passenger endorsement.

Due to limitations in DMV’s procedures and in the information available to it, DMV was unable to connect Ophadell Williams to records maintained in the name of “Eric Williams.” Furthermore, because the state statutory scheme related to commercial bus drivers relies heavily on drivers’ self-disclosure of their criminal and employment history, Williams’s complete background was not available to commercial bus carriers when they were considering whether to hire him. In addition, due to an absence of

---

<sup>3</sup> According to DMV, a suspension applies to an individual’s privilege to drive as well as a license.

effective communication between state agencies, pertinent information about Williams was not available to DMV at the time it issued licenses to Williams.

It cannot be said that Williams would have been denied a license if not for the above-noted weaknesses in the system. Neither his criminal nor driving history would have disqualified him from obtaining a license or employment to drive a commercial bus in New York under the statutory and regulatory framework that existed then, and continues to exist today. In addition, as described in this report, had Williams's full driving history been available to DMV, he easily could have resolved his open suspensions without any other consequences and obtained a commercial bus driver license.

Nonetheless, in the context of the commercial bus industry, which carries millions of passengers a year, it is essential that licensing authorities and carriers have access to all information necessary to evaluate a prospective driver's qualifications and fitness. As the Inspector General's investigation revealed, however, such access is not assured in the current system. As set forth below, the Inspector General recommends certain measures to improve state licensing and regulation of commercial bus drivers and carriers to ensure the safety of commercial bus passengers and the public at large.

## **II. BACKGROUND AND SCOPE OF INVESTIGATION**

### **A. The Bronx Fatal Bus Crash and Calls for Investigations**

On March 12, 2011, a tour bus operated by World Wide Travel of Greater New York was returning to New York City from an overnight trip to the Mohegan Sun casino in Connecticut and crashed on Interstate 95 in the Bronx. Fifteen of the passengers on the bus were killed and many others sustained injuries. The driver of the bus, Ophadell Williams, Jr., was not seriously injured. Questions regarding Williams's qualifications as a bus driver were raised after the crash when it was reported that he had a criminal record and that his driving privileges had been suspended on multiple occasions.

Immediately following the Bronx crash, the State Police and the Bronx District Attorney's Office commenced an investigation into the cause of the crash to determine whether criminal charges were warranted; the National Transportation Safety Board and other federal authorities also opened an investigation. On March 14, 2011, Governor Andrew Cuomo, noting Williams's criminal record and driving history, asked the New York State Inspector General to investigate how Williams was able to obtain and retain a commercial driver's license, and to coordinate the investigation with the other ongoing investigations. On March 15, 2011, DMV merged Ophadell Williams's records with those in the name of "Eric Williams," which due to his open suspensions, caused his driver license to be immediately suspended. On March 17, 2011, DMV issued an additional suspension on Williams's license for alleged false statements he made on his license or learner permit applications.

Concern about commercial bus safety greatly increased in the aftermath of the March 2011 Bronx crash and subsequent bus crashes. Two days after the Bronx crash, on March 14, a tour bus en route from New York City to Philadelphia crashed on the New Jersey Turnpike, killing the driver and a passenger and injuring 41 others. Since then, three additional commercial bus crashes in New York State alone have left three dead and 80 injured. Nationwide this year, according to a highway safety advocacy group, 33 people have been killed and 394 injured in tour bus crashes, more than in all of 2010.<sup>4</sup>

At the direction of Governor Cuomo, New York State authorities also have intensified inspection and enforcement efforts relating to commercial drivers and vehicles after the Bronx crash. Inspections by the Department of Transportation and State Police have resulted in the suspension of eight New York bus companies' operating licenses, and approximately 175 bus drivers and 140 buses have been taken off the road. Joint investigations by DMV, State Police, and other agencies led to the arrests of approximately 140 drivers accused of holding commercial driver licenses despite having licenses suspended under different names.

---

<sup>4</sup> Statistics provided by Advocates for Highway and Auto Safety ([www.saferoads.org](http://www.saferoads.org)).

While not directly related, the recent spate of serious bus crashes demonstrates that bus driver licensing and oversight should be subject to a higher level of scrutiny than has existed to date. The results of the Inspector General’s investigation underscore the need for such action.

### **B. Scope of the Inspector General’s Investigation**

The Inspector General’s investigation focused on the process by which Williams obtained and retained a license to operate a commercial bus, given his criminal and driving histories. In conducting this investigation, the Inspector General examined records of the DMV, New York State Division of Parole, New York State Department of State, New York State Racing and Wagering Board, New York Racing Association, and Metropolitan Transportation Authority, as well as the two private commercial carriers which employed Williams, Coach USA, Inc. (“Coach”) and World Wide. Interviews of officials representing these agencies and entities also were conducted.

## **III. LICENSING AND OVERSIGHT OF COMMERCIAL BUS DRIVERS**

The commercial bus industry is regulated by a system of federal and state oversight. This amalgam of federal and state laws establishes standards for the mechanical safety of buses, the training, qualifications, and health of bus drivers, and the responsibilities of commercial carriers. Specifically, the standards for commercial bus safety, including inspections and enforcement of safety regulations, are primarily handled by the federal government, including the Federal Motor Carrier Safety Administration (“FMCSA”) within the U. S. Department of Transportation,<sup>5</sup> and the National Transportation Safety Board, with the assistance of the New York State Department of

---

<sup>5</sup> Among other initiatives, the FMCSA maintains data provided by federal and state agencies to identify high-risk commercial carriers and drivers across the country. DMV advises that it is discussing with FMCSA ways to enhance its role in order to improve information sharing and enhance carrier safety.

Transportation and State Police. DMV, on the other hand, administers the licenses of commercial bus drivers.

### **A. DMV's Licensing Requirements**

The licensing of commercial bus drivers and the operation of carriers in New York are governed by DMV regulations and state and federal laws. These regulations and laws impose specific responsibilities on carriers, drivers, and DMV which are designed to ensure that qualified and responsible individuals are hired to operate the thousands of commercial buses that carry millions of passengers in the state each year.

To legally operate a commercial bus in New York State, licensed drivers who are residents of the state must obtain a Commercial Driver License Class B (CDL-B) with a passenger ("P") endorsement issued by DMV. To qualify for a Commercial Driver License, drivers must successfully complete a written examination and a road test, both administered by DMV, specific to the type and size of vehicle they intend to operate. The Class B designation permits operation of a vehicle with a gross weight of more than 26,000 pounds, and the "P" endorsement is required for operation of a vehicle designed to transport 15 or more adult passengers.

At present, there are approximately 11.5 million driver licenses of various types and 1.5 million non-driver identification cards which have been issued by DMV. On a daily basis, DMV processes tens of thousands of driver license and other applications, including approximately 7,000 new images associated with them, adding to the estimated 15 million images and records currently in DMV databases. There are more than 600,000 valid CDLs in the state, with approximately 19,000 added each year. Some 285,000 of the current CDLs have a "P" endorsement.

## **B. Responsibilities of Commercial Carriers**

New York State Vehicle and Traffic Law Article 19-A establishes specific requirements for carriers employing bus drivers. Currently, more than 2,400 such carriers are registered in the state.<sup>6</sup> Prior to their hiring, bus drivers must be at least 18 years old and, in accordance with federal law, pass a medical examination (with a follow-up examination every two years). The carrier must obtain drivers' driving records for the previous three years from DMV or the equivalent agency in other states, and then annually review the driving records. Driver employment records during the preceding three years also must be investigated. In addition to regularly observing the drivers while they are operating buses, the carrier must conduct written and skills testing of drivers every two years. The carrier is also required to implement safeguards to prevent drivers from operating buses while ill, fatigued, or under the influence of drugs or alcohol.

The carrier must submit applications and forms to DMV when a driver is added to, or removed from, its driving roster. DMV, in turn, provides the carrier with a letter acknowledging the driver's qualifications in accordance with Article 19-A, and must notify the carrier in the event that a listed driver's license has been suspended or revoked.

## **C. Disqualifications for Criminal Convictions and Serious Driving Offenses**

As provided in VTL Article 19-A section 509-c, individuals who have been convicted of specified sexual crimes and serious driving-related offenses may be permanently disqualified from operating commercial buses in New York State. Other criminal convictions and driving offenses may result in disqualifications or waiting periods ranging from six months to five years. Convictions for many serious crimes, including violent offenses, however, do not cause disqualification.<sup>7</sup>

---

<sup>6</sup> Pursuant to VTL 509-n, carriers are required to register if, during the prior year, they operated in New York State more than 100 days or 10,000 vehicle miles.

<sup>7</sup> A list of crimes and periods of disqualification for commercial and school bus drivers is included in the appendix to this report. On August 16, 2011, Governor Cuomo signed a law to expand the list of convictions which disqualify an individual from either permanently or temporarily operating a school bus. A copy of the press release announcing the signing of the law is also included in the appendix.

Under VTL section 509-i, bus drivers are required to notify their employers within one business day of their conviction of a disqualifying crime, and also must promptly notify employers of license suspensions or revocations, convictions of traffic infractions, and vehicle accidents. However, absent this self-disclosure, carriers might not learn of a prospective driver's criminal conviction.<sup>8</sup> While carriers might inquire about a prospective bus driver's criminal history on employment applications, they are not required by law or regulation to do so. Further, unlike school bus drivers, New York State law does not require that commercial bus drivers be fingerprinted as a means of identifying a criminal history.<sup>9</sup>

#### **IV. CRIMINAL AND DRIVING HISTORY OF OPHADELL WILLIAMS**

##### **A. Pre-License Activities Using Alias of "Eric Williams"**

Ophadell Williams, Jr. was born on December 14, 1970, in New York City and has resided at the same address in Brooklyn for most of his life. Records of Williams's criminal and driving histories indicate that Williams for many years used the alias "Eric Williams" instead of his legal name, Ophadell Williams, Jr.<sup>10</sup>

According to records, Williams's first involvement with the criminal justice system occurred on May 19, 1987, when, at age 16 and identifying himself as "Eric Williams," he was arrested by the NYPD for Intent to Obtain Transportation without Paying (turnstile jumping), a class A misdemeanor. The case was resolved on November 19, 1987, when Williams pleaded guilty to Trespass, a violation, and paid a \$25 fine.

---

<sup>8</sup> As discussed later in this report, DMV requires carriers to participate in a notification system, but this system only alerts carriers to events which disqualify a driver from driving a bus.

<sup>9</sup> The other states in the tri-state area, New Jersey and Connecticut, require fingerprinting of commercial bus drivers.

<sup>10</sup> The information that follows is an overview of Williams's criminal and driving records. Additionally, although records indicate that Williams also may have used the alias "Erick Williams" in some instances, for ease of reference, this report will only use the alias "Eric Williams."

Beginning at about this time, Williams also committed a number of driving offenses. From September 1987 through November 1990, when he was 16 to 20 years old, Williams was stopped by the NYPD for VTL violations on at least five occasions and issued a total of at least 10 tickets — all while he did not possess a valid driver license. As police did not have the ability to ascertain William’s legal identity at the time, he was ticketed in each instance as “Eric Williams,” the name records reflect he had provided to police. The 10 tickets Williams was issued during this period were for such infractions as driving without a license and failure to stop at a red light. Williams failed to answer any of the tickets either by mail or in person at DMV’s Traffic Violations Bureau (TVB), which functions as a traffic court in New York City.

When a New York State licensed driver is issued a traffic ticket, that event is entered in the driver’s DMV record by matching the name and Client Identification (CID)<sup>11</sup> number, which appear on the license, with information in the DMV database. Later actions relating to that ticket, such as a license suspension, also become part of the driver’s DMV record. On occasion, however, the information on a ticket does not match a name or CID on file. This can occur because of errors by law enforcement or data entry operators, the driver possessing an out-of-state license, or deceit by the driver in providing a false name or other pedigree information to police. In these instances where no match to a name and CID is made, DMV creates what it terms a “Header” record for the ticket. As Williams lacked a driver license, the name “Eric Williams” which he provided to police and which appeared on his traffic tickets could not be matched to, or merged with, an existing driver name or CID in DMV records. As a result, each of the tickets he was issued as noted above was posted to the “Eric Williams” Header record in DMV’s computer database.

For a licensed driver, the failure to answer a ticket results in the suspension of the license and an entry reflecting that action in the driver’s DMV record. When Williams failed to answer any of the tickets he received from 1987 to 1990 by the statutory

---

<sup>11</sup> Every New York State licensed driver is issued a unique CID which, among other functions, allows DMV to distinguish between drivers with the same name.

deadline, DMV issued 10 suspensions. These suspensions were issued on five different dates. However, because Williams did not have a license, the suspensions were posted to the Header record associated with the tickets issued to “Eric Williams.”<sup>12</sup> In accordance with DMV standard procedures, notices of the suspensions would have been mailed to the address indicated on the tickets, which was Williams’s home address at the time.

## **B. Williams Convicted of Manslaughter**

Beginning about 1991, Williams’s criminal activities became more serious. On May 2, 1991, Williams, identifying himself as “Eric Williams,” was arrested on charges of Intentional Murder and Criminal Possession of a Weapon in the July 29, 1990 death of a man in Brooklyn. Williams pleaded guilty to Manslaughter in the First Degree, a felony, on March 18, 1992, and was sentenced to a state prison term of three to nine years. He was released on parole on May 2, 1994. In court, prison, and parole records relating to that case, Williams is identified as “Eric Williams,” residing at the same Brooklyn address.

In July 1994, following Williams’s release from prison and while he still lacked a driver license, the NYPD again ticketed him as “Eric Williams” for failure to produce a valid license. When he failed to pay the ticket or appear in court, he was issued a suspension on October 21, 1994, which was cleared on October 28, 1994, when the fine due was paid.

On August 29, 1994, Williams (or someone acting on his behalf)<sup>13</sup> appeared at the TVB in New York City. On that date, eight of his 10 open suspensions were re-scheduled for December 1994; two of the suspensions were resolved, but it is not evident

---

<sup>12</sup> Knowingly driving with open suspensions constitutes Aggravated Unlicensed Operation of a Motor Vehicle under VTL § 511. Having three open suspensions for failure to answer a summons issued on three or more dates enhances the crime. However, as law enforcement did not have access to Header records, there was no mechanism to associate Ophadell Williams with the driving record of “Eric Williams.”

<sup>13</sup> According to DMV, the individual to whom a ticket is issued is not required to personally appear at the TVB to pay a fine.

from DMV records how or why they were resolved. Williams failed to appear on the adjourned date of December 1994, and, as a result, the eight suspensions were re-issued in early 1995.

### **C. Records Show “Eric Williams” Is Name Used By Ophadell Williams**

On December 8, 1994, seven months after his release from prison and while under parole supervision, Williams, identified as “Eric Williams,” was arrested by New York City Transit Police on charges of Petit Larceny and Theft of Services. On February 7, 1995, he pleaded guilty to disorderly conduct and was sentenced to three days community service.

Notably, due to other events, on December 30, 1994, law enforcement records for the first time indicate that “Eric Williams” was an alias used by Ophadell Williams. Previous records reflect that Williams had only been known to authorities as “Eric Williams.” On January 3, 1995, the New York State Division of Criminal Justice Services (“DCJS”) communicated information to the Division of Parole (“Parole”) which included the fact that Williams used the name “Eric” as well as “Ophadell”. However, neither DCJS nor Parole notified DMV of this fact, and no protocol or requirement for such communication exists.

### **D. Williams Issued His First Driver License**

On February 28, 1995, at age 24, Williams applied for and obtained his first driver license – a New York State Driver License Class D issued in his legal name of “Ophadell Williams, Jr.” A Class D license allowed Williams to operate passenger cars and light trucks. Williams would have been required to clear any open suspensions on his driving record in order to obtain this license. However, because the eight suspensions that remained open at that time were posted to the “Eric Williams” DMV Header record, they were not part of the driving record of Ophadell Williams. Williams presumably did not disclose the open suspensions or his prior use of another name on his license

application.<sup>14</sup> Had he done so, DMV would have had an opportunity to match and merge his records.

On June 25, 1996, Williams obtained a New York State Commercial Driver License Class B (CDL-B), permitting him to operate vehicles with a gross weight of more than 26,000 pounds. As with the Class D driver license described above, DMV should have required Williams to clear all previous suspensions prior to issuance of the new license, but the suspensions issued to “Eric Williams” still existed only in a Header file and had not been merged with Ophadell Williams’s driving record.<sup>15</sup>

In the 20 months following the issuance of his first driver license, Williams, identified as Ophadell Williams, had further encounters with law enforcement authorities and received at least six tickets for various driving-related infractions. Between December 1995 and February 1997, DMV issued six license suspensions after Williams failed to answer any of the tickets. DMV records show that as of February 11, 1997, five of these suspensions were cleared; with respect to the sixth suspension, Williams pleaded guilty to operating without insurance which resulted in the revocation of his license. In addition, Williams’s license in the name of Ophadell Williams had been suspended on December 28, 1996, for failure to pay child support, but this suspension was not resolved at that time.

Records reflect that Parole examined the circumstances of each of Williams’s arrests from his release from prison in 1994 through 1997. In each instance, Parole officials determined that Williams’s conduct did not warrant a parole revocation hearing.

---

<sup>14</sup> As DMV could not produce a copy of this application, it could not be examined as part of this investigation.

<sup>15</sup> From January to March 2006, DMV reviewed its records and cleared any open suspensions relating to tickets issued by police officers who were no longer in service. As a result, five of Williams’s suspensions were cleared without Williams having to take any action. However, three of Williams’s suspensions remained open.

### **E. Williams Imprisoned for Larceny Conviction**

In October 1997, while still on parole, Williams was charged with a crime that returned him to state prison for approximately four years. According to court records, on October 14, 1997, an employee of the Police Athletic League in New York City stole an \$83,905 check from the league and gave it to Williams. Williams, in turn, passed the check to a third individual, who deposited it in his bank account. Williams and the two others were arrested on January 5, 1998, on charges of Grand Larceny and Criminal Possession of Stolen Property. On April 2, 1998, Williams pleaded guilty to Grand Larceny in the Third Degree, and on April 21, 1998, began serving a sentence of two to four years. He was released on parole in May 2002. While in prison, Williams's driver license also expired.

On June 4, 2003, Williams, identified as Ophadell Williams, was arrested on charges of Unlawful Possession of Radio Devices and Aggravated Unlicensed Operation of a Vehicle. Williams pleaded guilty to Operating a Vehicle Without a License on July 11, 2003, and paid a fine of \$180.00 on October 7, 2003.

While it did not seek to revoke his parole as a result of this incident, on July 15, 2003, Parole imposed a special condition of parole under which Williams agreed that he would not operate a motor vehicle without a valid New York State driver license. Parole did not notify DMV of this special condition, as the two agencies do not have a formal mechanism for such communication.<sup>16</sup>

### **F. Reinstatement of Driver License in Name of Ophadell Williams**

In November 2003, Williams's December 1996 license suspension for non-payment of child support and his revocation for operating a vehicle without insurance were both cleared. Also, in November 2003, Williams applied for and obtained

---

<sup>16</sup> In contrast, as described later in this report, DMV has statutory authority to enforce conditions of probation, and a mechanism exists for DMV to receive such information from local courts.

reinstatement of his Class D driver license in the name of Ophadell Williams. However, suspensions in the name of “Eric Williams” remained open.

Williams’s reinstatement application contained false or misleading information. The DMV license application includes two questions regarding an applicant’s driving history. The questions ask: “Have you had a driver license, learner permit, or privilege to operate a motor vehicle suspended, revoked or cancelled, or an application for a license denied in this state or elsewhere? If ‘yes’, has your license, permit or privilege been restored, or your application approved?” Williams’s application contained the answer “yes” to both questions, despite the fact that eight suspensions he had been issued under the name “Eric Williams” remained open.<sup>17</sup> To the application question, “Has your name changed,” the answer provided was “No,” despite his use of an alias in the past.

Some six months later, Williams apparently provided false or incomplete information when submitting applications to state agencies other than DMV. On May 10, 2004, Williams applied to the New York State Department of State for a security guard license. Williams’s application falsely stated that he had never been convicted of a criminal offense and never had a license suspended. Following its standard hiring procedure and as permitted by law, the Department of State fingerprinted Williams. Upon learning of his criminal history through a check of his fingerprints by DCJS, the Department of State denied Williams’s license application on June 9, 2004.

Then, on June 30, 2004, Williams applied to the New York Racing Association (“NYRA”) for employment as a pari-mutuel clerk at a thoroughbred horse racing track. Williams’s job application contained an incomplete, non-responsive, and misleading answer to the question, “Have you ever been convicted of any crime other than traffic

---

<sup>17</sup> As discussed later in this report, this statement became the basis of an administrative action commenced by DMV against Williams on March 17, 2011, charging him with providing false information and citing the “Eric Williams” suspensions.

violations?” In response, the box for “Yes,” is checked, with the following explanation provided: “I had to pay a 25 dollar fine.”

Employment as a pari-mutuel clerk requires a racing license from the New York State Racing and Wagering Board (the “Board”). Therefore, on June 30, 2004, Williams also submitted an application to the Board for such license and was fingerprinted, per routine procedure and as legally permissible. Williams’s application for a racing license contained the false statement that he had never been convicted of a crime. Pending the results of his criminal background check and consistent with standard practice, the Board issued Williams a “receipt” which “temporarily permits” employment at a horse racing track, and Williams began work as a pari-mutuel clerk at about that time. When the Board became aware of Williams’s criminal history, it advised him by letter of August 4, 2004, that his license request had been denied. His NYRA employment ceased shortly thereafter.

#### **G. Williams Obtains License and Employment as Bus Driver**

Between March and November 2006, Williams, using the name “Ophadell Williams, Jr.,” submitted to DMV the three applications necessary to obtain a commercial driver license Class B (CDL-B) with a “P” passenger transport endorsement, which is required to operate commercial passenger buses. Each application contained false, incomplete, or inconsistent information regarding his prior suspensions and use of an alias. Williams’s March 9, 2006 application reflected the answer “No” to the question, “Have you had a driver license, learner permit, or privilege to operate a motor vehicle suspended, revoked, or cancelled?” His July 31, 2006, and November 8, 2006, applications, however, reflected the answer “Yes” to the above question, but also included “Yes” to the follow-up question, “[H]as your license, permit or privilege been restored?”<sup>18</sup> All three documents provided the answer “No” to the question, “Has your

---

<sup>18</sup> At the time, Williams still had open suspensions under the name “Eric Williams.” From January to March 2006, DMV had reviewed its records and cleared any open suspensions relating to tickets issued by police officers who were no longer in service. As a result of this, five of Williams’s suspensions were

name changed?” Notwithstanding that DMV previously had issued suspensions in the names of “Ophadell Williams” and “Eric Williams,” these apparently false statements were not detected and DMV issued Williams a CDL-B license.<sup>19</sup>

Having obtained the license and endorsement required to operate a commercial bus, Williams secured employment as a bus driver with Coach, a New Jersey-based commercial carrier, in April 2006. On his Coach employment application, Williams disclosed that he had a criminal history. While in practice some carriers undertake their own criminal background checks of applicants, the law does not require fingerprinting or additional steps to uncover an applicant’s criminal background beyond what is self-disclosed. As described above, none of Williams’s convictions would have statutorily disqualified him from driving a commercial bus.<sup>20</sup>

As discussed above, under Article 19-A of the VTL, a carrier must review an applicant’s driving history for the previous three years to ensure no serious driving infractions were incurred which would constitute disqualifying factors for employment as a bus driver. To meet this requirement, a carrier obtains from DMV an abstract of the driver’s record which contains, generally speaking, the driver’s activities for the preceding four years. According to DMV, the four-year limit reflects the record retention period established for driver records by the VTL.<sup>21</sup>

Consistent with DMV’s standard practice and its interpretation of the law, the abstract which DMV provided to Coach included Williams’s November 6, 2003, and November 10, 2003, license reinstatements, and his July 11, 2003, conviction for

---

cleared without Williams having to take any action. However, three of Williams’s suspensions remained open.

<sup>19</sup> As discussed below, the statements on the July 31 and November 8 applications were also cited in the administrative charges filed against Williams by DMV on March 17, 2011.

<sup>20</sup> The application process also included a form containing the question: “Have you ever been cited for driving under the influence of illegal drugs or alcohol in the past ten years in: a) Commercial Vehicles (i.e. Truck, Bus)? b) In any other vehicle?” In response to part “a” of the question, “N” (for “No”) is circled. On part “b,” “Y” for “Yes” is circled. No further information is provided, and the Inspector General’s search of public records revealed no arrest or conviction of Williams for such an offense.

<sup>21</sup> Notably, the statutory look-back period for an applicant’s driving history does not exclude time incarcerated, when the applicant presumably cannot be driving.

unlicensed operation of a motor vehicle and his payment of a \$150.00 fine. To the extent that these events related to suspensions which pre-dated the four-year period, some of the earlier information was included. The abstract Coach received did not include Williams's multiple tickets and license suspensions from the period September 1995 to February 1997 (which Williams subsequently cleared) because they fell outside the four-year period. Nor did the abstract include information about Williams's earlier tickets and suspensions (several which remained unresolved) issued in the name of "Eric Williams," as such records had not been merged with those in the name of "Ophadell Williams."

After successfully completing Coach's 20-day bus training program on July 19, 2006, and passing a road test on July 21, 2006, Williams began employment with Coach as a commercial bus driver. On January 9, 2007, Williams was operating a Coach bus in Paterson, New Jersey, that was reportedly side-swiped by a sport utility vehicle while changing lanes. None of the 15 passengers on the bus, nor Williams, was injured, and the bus was only slightly damaged.

In early February 2007, while still employed by Coach, Williams applied for and obtained a bus driver position with the Metropolitan Transportation Authority ("MTA") in New York City. The application requested information about Williams's criminal history, but complete and accurate information was not disclosed. On February 20, 2007, during his training and before he was assigned to operate a bus, MTA terminated Williams upon discovering through a fingerprint-based background check that he had been convicted of two felonies which he had failed to disclose.<sup>22</sup>

In April 2007, DMV posted two separate suspensions to Williams's license for failure to pay child support. Williams cleared one suspension on May 8, 2007, and the other on July 15, 2009, by providing proof of payment. On May 15, 2007, after one suspension had been cleared but while the other suspension remained in effect, Williams applied for, and was issued, a restricted license. The restricted license granted Williams

---

<sup>22</sup> None of the agencies to which Williams apparently applied for employment or licenses – the MTA, Department of State, and Racing and Wagering Board – referred the false statements on the applications to law enforcement.

limited driving privileges,<sup>23</sup> despite his license suspension, but changed his license class from CDL-B to D, meaning he was no longer eligible to drive a commercial bus. DMV's Article 19-A carrier records reflect that DMV issued disqualification letters to Coach regarding Williams as a result of both suspensions; DMV states that it also would have sent Coach a notice of his license class change.<sup>24</sup> Despite the license suspensions and class change, Coach's payroll records show that Williams continued employment with Coach until December 1, 2007.<sup>25</sup>

Between 2007 and 2010, Williams continued to update and maintain his license, filing various applications with DMV, two of which contained false or incomplete information, including inconsistent answers to the same question. Specifically, a September 10, 2009 license renewal application reflected the false answer that his license had never been suspended or revoked. His February 10, 2010 application to upgrade his license was incomplete in that the question about prior license suspensions or revocations was left blank. Although DMV policy prohibits clerks from processing incomplete applications, Williams's application was processed and his upgraded license was issued, notwithstanding his incomplete application.

As discussed above, Williams's driving history would not have precluded him from becoming a bus driver. If he had accurately and fully disclosed his record in the name of "Eric Williams," he would have been able to obtain a license once he had cleared his open suspensions. Under current law, the fact that a person previously had repeated suspensions or multiple open suspensions is not a basis for disqualification as a bus driver.

---

<sup>23</sup> A restricted license permits a driver to commute to and from work and school, and to travel to medical appointments, among other strictly defined uses.

<sup>24</sup> Under procedures in effect at the time, DMV did not keep copies of such letters or notices; however, since 2008, when it implemented an electronic notification system, electronic copies of these documents have been retained. DMV's electronic notification process is discussed later in this report.

<sup>25</sup> A representative of Coach advised the Inspector General that during the period May 2007 until the conclusion of his employment in December 2007, Williams only drove commercial passenger buses in New Jersey. The Inspector General's investigation determined that Williams has never had a New Jersey driver license.

## **H. Williams Hired as Bus Driver by World Wide Travel**

In August 2010, Williams applied for and obtained employment as a bus driver with World Wide, a commercial carrier based in Brooklyn. Williams successfully completed World Wide's own pre-employment road test and received training in his assigned route. On his employment application, however, Williams appears to have provided false and misleading information. In response to the application question about past license suspensions or revocations, Williams reported his April 2007 license suspension for failure to pay child support, but failed to disclose his numerous other suspensions. As required, World Wide obtained Williams's driving abstract from DMV. However, as previously occurred with Coach, the abstract World Wide received included Williams's license suspensions and reinstatements between 1996 and 2003, but not the suspensions (later cleared) from 1995 to 1996. Nor was World Wide aware of Williams's driving history under the name of "Eric" when it hired him. Williams disclosed to World Wide that he had a criminal history. As noted, neither Williams's criminal history nor driving record would statutorily disqualify him from driving a commercial bus.

Seven months after being hired by World Wide, on March 12, 2011, Williams was driving the World Wide tour bus which crashed on I-95 in the Bronx while returning to New York City from a trip to the Mohegan Sun casino in Connecticut. The crash killed 15 passengers and seriously injured many others.

On March 15, 2011, DMV merged Ophadell Williams's driving record with the Header record in the name of "Eric Williams." As a result of his open suspensions, Williams's driver license was automatically suspended. On March 17, 2011, DMV issued an additional suspension on Williams's license, pending a hearing, charging that he made false statements on license or learner permit applications on November 14, 2003, and July 31 and November 8, 2006. As noted above, on each application Williams apparently claimed that his prior license suspensions had been cleared when, in fact, suspensions he was issued as "Eric Williams" years earlier remained open. Following a

hearing on the matter held on April 14, 2011, an administrative law judge affirmed the charges against Williams in a decision issued on April 23, 2011, and ordered that Williams's license be revoked. Williams has appealed the revocation.

## **V. FINDINGS OF THE INSPECTOR GENERAL'S INVESTIGATION**

In its examination of bus driver licensing procedures and the actions of Ophadell Williams, the Inspector General uncovered a number of deficiencies and vulnerabilities in the system of state regulatory oversight of commercial bus drivers. The Inspector General also identified the absence of an effective means among state agencies to share certain relevant information regarding Williams's history. Through his use of multiple names and false statements, Williams exploited these weaknesses and was able to conceal aspects of his criminal and driving history from DMV, other state agencies, and law enforcement.

### **A. Weaknesses in Oversight of Bus Drivers and Commercial Carriers**

#### ***1. Deficiencies in the DMV Process***

DMV processes thousands of applications a day and manages a database containing many millions of records. The Inspector General recognizes the substantial challenges entailed in meeting these responsibilities. However, the licensing of commercial bus drivers is of particular concern as it impacts the safety of passengers, and, as discussed below, the Inspector General has identified shortcomings in DMV processes relating to information about drivers and their driving histories.

##### **a. DMV Headers Not Merged With Driver Records**

DMV maintains a complete driving record for every driver it licenses, specific to the individual's name and assigned Client Identification number (CID). When a New York State licensed driver is issued a traffic ticket, that event is entered on the driver's

record through a match with the name and CID (printed on the license) obtained by the issuing police officer. Thereafter, additional actions relating to that ticket, such as a license suspension or revocation, also become part of the driver's DMV record through a similar match.

According to DMV, it is not uncommon that personal information provided to DMV about a driver in connection with a traffic ticket, conviction, or vehicle accident does not match a name and CID on file. This can occur because of incomplete information; errors by law enforcement, the courts, or data entry operators; the driver possessing an out-of-state license; or deceit by the driver by providing a false name or other pedigree information to police. In these instances where no match to an existing driver record is made, DMV creates a "Header" record for the ticket or other event. If DMV subsequently matches a Header record with an existing name and CID, the multiple records are merged to create a full record of the driver's driving history.

As the Inspector General's investigation revealed, Williams was issued numerous tickets using the name "Eric Williams" from 1987 to 1994. Because the tickets (and resulting suspensions) were not matched to an existing driver's name and CID (Williams did not possess a license at the time under any name), they became part of the Header record for "Eric Williams." When, beginning in 1995, Williams applied for various driver licenses under his legal name of Ophadell Williams, DMV did not match him to the Header record of "Eric Williams." Despite 10 open suspensions in a Header record, DMV issued Williams a driver license in 1995 and then a CDL-B in 1996, reinstated his license in 2003, and issued another CDL-B and later a passenger endorsement in 2006. However, had his records been merged, his open suspensions would have caused DMV to deny the applications at least until he paid the fines to clear the suspensions.

Prior to issuing a license, DMV conducts an electronic search of Header records in an effort to match them with the license applicant.<sup>26</sup> However, as DMV's system

---

<sup>26</sup> DMV takes additional actions to identify license applicants who already have licenses under different names. For example, beginning in early 2010, DMV has utilized a facial recognition program to

currently functions, the search seeks to match records based on the first name, last name, and date of birth, and, as occurred with Williams, might not locate suspensions issued to the license applicant under another name or variant of a given name.

As noted by DMV, major causes of the large number of Header records are: one, handwritten tickets include inaccurate, incomplete, or illegible information which cannot be matched to driver records; and two, it is difficult to identify unlicensed drivers, and arresting and fingerprinting to assist in identification requires significant resources. According to DMV, a total of approximately 4 million tickets were issued in New York State in 2010, of which approximately 1.26 million originated in New York City. Of all Header records which are the result of tickets or other vehicle-related events involving drivers who reportedly live in New York State (1,808,695), a disproportionate number (1,177,060, or 65.1 percent) result from tickets issued or other events occurring in New York City, demonstrating that driver identification is a problem for some of the larger police departments. DMV is working with law enforcement across the state to improve driver identification at the time of ticketing.

A merger of Williams's records did not occur until after the March 12, 2011 fatal bus crash when an examination of his criminal history records revealed his use of both names. This information enabled DMV to locate the Header record in the name of "Eric Williams" and merge it with Ophadell Williams's driving record.

#### b. DMV Did Not Investigate Williams's Application Irregularities

Williams's various driver license applications submitted to DMV contained information that was false, misleading, or incomplete. For instance, a March 9, 2006 application had the answer "No" to the question, "Have you ever had a driver license,

---

electronically compare an applicant's photograph with all other license photographs on file. Since the March 12, 2011 crash, DMV also has used the program to identify current holders of CDLs with licenses in multiple licenses, and has taken appropriate action against individuals so identified. The facial recognition program, however, does not address the Header problem because Headers do not include driver photographs.

learner permit, or privilege to operate a motor vehicle suspended, revoked or cancelled?” However, DMV’s electronic records reflected that Williams, even as Ophadell Williams, had prior suspensions. Moreover, the answer on the March 9, 2006 application was inconsistent with answers on the November 14, 2003 application. Similarly, the answer “No” was provided to the same question on a September 9, 2009 application, when contradictory electronic records existed. Finally, on a February 10, 2010 application apparently submitted by Williams, the question was left unanswered, so the application was incomplete.

On these occasions and others, Williams effectively concealed his past license suspensions. While it may be impractical to require DMV clerks to examine paper copies of an applicant’s prior applications, in the instances noted, the answers to application questions were contradicted by available electronic DMV records. At a minimum, these indicators should have alerted DMV to problems with Williams meriting further review. Furthermore, under current DMV procedures, an incomplete application should not have been processed. DMV has advised the Inspector General that it recently issued staff a reminder on this issue.

The Inspector General also notes that although DMV license applications include the question, “Has your name changed?”, they do not inquire as to whether an applicant has ever been ticketed under a different name or ever had a license issued or suspended in another name. Nor do they ask if the applicant has been ticketed for driving without a license. The use of more specific questions would enable DMV to hold applicants accountable for false answers.

### c. DMV Provides Carriers With Limited Driving Histories

Under Article 19-A of the VTL, prior to hiring a bus driver, a carrier must review the driver’s driving history for the previous three years. In response to this requirement, DMV provides carriers not with a driver’s complete driving history, but rather an abstract

of the driver's record which contains, for the most part, the driver's activities only during the preceding four years.<sup>27</sup>

According to DMV, the four-year limit for most events which are included in the abstract reflects the length of time DMV is required to retain records of those events, as provided in VTL section 201. Notwithstanding that it actually may retain earlier records, DMV asserts that incidents which occur outside the four-year retention period legally are not part of the public record and therefore are not included in the driver abstracts provided to carriers and other entities. In DMV's opinion, a change in the statute would be required for it to provide a complete driver history to a carrier.

Consistent with its standard practice based on its view of the statute, DMV provided abstracts to Coach and World Wide which did not include all of Williams's license suspensions. Thus, the two carriers lacked a complete picture of Williams's driving history at the time they were considering employing him as a bus driver, both because of the abstract's limited information and because the Header records had not been merged with Williams's license records. While none of the above would have statutorily disqualified Williams, the additional information might have been useful to carriers in making hiring decisions.

## ***2. Over-Reliance on Driver Self-Reporting of Criminal, Employment, and Driving Records***

Information relating to criminal and employment histories, as well as updated driving records, is critically important to carriers when assessing the qualifications and fitness of prospective bus drivers and those already employed as drivers. As noted, under VTL section 509-i, drivers themselves are responsible for notifying employers if convicted of disqualifying crimes; they also must promptly notify employers of license suspensions or revocations, convictions of traffic infractions, and vehicle accidents. The

---

<sup>27</sup> Convictions for Driving While Intoxicated during the previous 10 years are also included. In addition, records concerning federally defined "major" violations committed by a CDL holder or driver while operating a commercial motor vehicle are retained in a driver's abstract for 55 years.

Inspector General found, however, that because the process relies in large part on self-reporting by bus driver applicants, carriers might not always have access to certain relevant information.

a. Criminal Background Information

VTL Article 19-A provides for the disqualification as a bus driver of persons convicted of specified crimes. However, no statutory authority currently exists in New York State to require commercial carriers to fingerprint bus driver applicants as part of a background check.<sup>28</sup> Carriers routinely ask prospective drivers about criminal histories, and some carriers conduct searches of public records. While the evidence does not reflect that Williams committed an offense during his employment with either Coach or World Wide which would have required this notification, a safeguard that is primarily dependent on self-reporting is precarious at best.

In contrast, current law requires the fingerprinting of school bus drivers prior to their employment. Fingerprinting affords important protections: it identifies past crimes committed by would-be bus drivers in New York State and elsewhere, barring employment to those convicted of disqualifying crimes; and, prospectively, it provides a more certain means for school bus operators to learn of disqualifying criminal conduct by drivers after they have been hired. DCJS, which maintains fingerprint records, alerts DMV when a school bus driver is convicted of a crime; DMV, in turn, notifies the carrier if the crime disqualifies the driver. As noted, absent a fingerprinting mandate, commercial carriers instead must primarily rely on drivers reporting their own criminal convictions.

---

<sup>28</sup> DMV previously submitted a proposal for legislative action which would have provided it with such authority, in February 25, 2008, but it was not successful.

## b. Driving Records

As noted above, VTL Article 19-A requires a carrier to obtain a bus driver applicant's driving history for the previous three years (§ 509-d). A carrier also is required to review the driving record of an employed driver at yearly intervals (§ 509-e), and must require each bus driver it employs to prepare and provide, at least once a year, a list of all vehicle and traffic law convictions during the prior 12 months (§ 509-f). Under § 509-i., drivers are required to notify their carriers of a license suspension within one business day and provide notice of a traffic infraction conviction within five business days. DMV, pursuant to § 509-m, must advise a carrier if a bus driver's licenses has been suspended or revoked. Additionally, § 509-i requires that carriers participate in DMV's 19-A notification system which provides information about driving-related events which disqualify a driver. On a voluntary basis, carriers can also participate in DMV's License Event Notification System (LENS), which provides notice of additional events involving the carriers' drivers, including traffic infraction convictions and vehicle accidents,

In 2008, DMV implemented a system which electronically alerts carriers to events relating to their drivers and provides on-line access to their 19-A accounts maintained by DMV. At present, according to DMV, 55% of carriers encompassing 87% of bus drivers participate in this voluntary electronic notification system. In instances where suspension of a bus driver's license is imminent, DMV also contacts the carrier by fax and telephone. Carriers not participating in the electronic system receive notification by mail or fax, although they too are contacted by fax or phone when a license suspension is imminent. DMV notes that the new system underscores the fact that under Article 19-A the management of a bus fleet is a carrier's responsibility.

Despite the statutory requirements and notification procedures described above, a gap remains in a carrier's access to certain pertinent information about the driving records of its bus drivers. Importantly, apart from the reliance on driver self-reporting, no system is in place to ensure that carriers are notified of a possibly wide range of events which fall short of disqualifying events. For example, a driver could be ticketed for a

serious VTL infraction, but would only be required by statute to report that incident to the carrier if and when a conviction ensued. DMV would only notify the carrier of such an event if and when it resulted in a disqualification through a suspension, revocation, or license restriction. Even under LENS, a voluntary program, only infractions resulting in convictions are reported.

### c. Previous Employment Information

Pursuant to VTL Article 19A, carriers are required to “investigate” prospective drivers’ employment records for the three-year period preceding their hiring. On employment applications, both Coach and World Wide ask applicants to list their previous employers for the past three years, specifically citing this legal provision. Here, too, however, carriers must rely on an applicant’s self-reporting.

DMV maintains a registry of bus drivers employed by all commercial carriers registered in New York State.<sup>29</sup> A driver is added to the registry when hired and qualified, and removed if disqualified or no longer employed by the carrier. Registries as maintained by DMV are carrier-specific, meaning that they include only drivers employed by that carrier, and that a carrier can only access its own registry, not that of other carriers. Consequently, when a carrier is considering a prospective bus driver for employment, no means is available for it to search other carriers’ registries maintained by DMV to ascertain whether the applicant was previously qualified and employed (and, perhaps more significantly, disqualified or terminated) by another carrier. Carriers can directly inquire of another carrier about a specific driver’s employment history, using a form provided by DMV. In practice, however, unless an applicant has accurately disclosed prior carriers by whom the applicant was employed, other carriers have no mechanism to ascertain such information.

DMV has advised the Inspector General that there are technical and legal hurdles to providing carriers broader access to registries. Nonetheless, such expanded access

---

<sup>29</sup> The requirements for registration are discussed above.

would potentially provide carriers with relevant information about prospective drivers which is not readily available to them at present, and is therefore recommended by the Inspector General.

## **B. Insufficient Inter-Agency Communication and Coordination**

The Inspector General's investigation revealed deficiencies relating to the communication between state agencies of pertinent information relating to state employment and licensing applications. As a result of this lack of an effective means of information sharing, relevant information regarding Williams was not available to DMV at the time it issued licenses to him.

### ***1. Knowledge of Aliases Not Systematically Shared With DMV***

As noted, prior to the March 12, 2011 bus crash, DMV was not aware that Ophadell Williams had used multiple names, or that he had been issued numerous tickets and suspensions under another identity. Consequently, DMV approved license applications from Williams which would have been denied, at least until his open suspensions under his other name were resolved.

Records indicate that state law enforcement agencies were aware of Williams's use of two names as long ago as late 1994 or early 1995, when Williams was under supervision by Parole following his release from prison. Knowledge that an individual uses multiple names is of obvious importance in law enforcement. Pointedly, as this investigation demonstrates, it also is of significant value to DMV. Specifically, this information could have assisted DMV in matching Williams to the tickets and suspensions in the Header record of "Eric Williams." However, no system currently exists to ensure that such information is regularly shared with DMV.

## ***2. Driving Conditions on Parolees Not Coordinated with DMV***

The Inspector General's investigation further found that not all driving-related restrictions imposed on individuals in the criminal justice system are coordinated with DMV. In July 2003, in response to Williams being ticketed for Driving Without a License, Parole officials required Williams to agree that he would not operate a motor vehicle without a valid New York State driver license. Although Parole regularly imposes such special driving conditions on parolees, no mechanism currently exists for Parole to communicate to DMV that such conditions have been imposed, or for DMV to communicate any pertinent information in return. Without such a mechanism, Parole must rely on a parolee's own reporting of a violation.

DMV advised the Inspector General that it possesses statutory authority with respect to driving conditions imposed on individuals on probation, but not persons on parole.<sup>30</sup> According to DMV, information concerning a probationer's driving restrictions is communicated to DMV by the local courts which imposed the conditions. For example, a court may require, as a condition of probation, that an individual whose license has been revoked upon conviction of certain offenses not operate a vehicle or apply for a driver license during the period of probation. In such an instance, the statute states that DMV may not restore the individual's license until the probationary period has concluded. No similar statutory provision exists for coordination between DMV and Parole regarding conditions of parole.

## ***3. No Mechanism for State Agencies to Share Information on False Statements by License and Job Applicants***

On repeated occasions, Williams apparently provided false information on applications to several states agencies. Applications to the Racing and Wagering Board for a racing license and to the Department of State for a security guard license contained the false statement that Williams did not have a felony conviction. A similar false statement was made on Williams's application for employment as a bus driver with the

---

<sup>30</sup> See VTL § 1193-2(e)(5).

MTA. When the false statements were discovered, Williams was denied the licenses and fired from the positions for which he applied.

While information about an individual's past job terminations or license denials could be of value to other agencies reviewing that individual's fitness for employment or qualification for licensing, no system currently exists for such information to be collected and shared among state agencies.

## **VI. CONCLUSIONS AND RECOMMENDATIONS**

Oversight of commercial bus drivers is a complex structure of laws and regulations enforced by various federal and state authorities. The Inspector General investigated a limited area of the regulatory structure — how a particular driver obtained and retained a commercial bus license in New York. In conducting this investigation, the Inspector General coordinated with DMV and other state agencies, and will continue to do so going forward.

The Inspector General's investigation found certain weaknesses in commercial bus driver licensing and oversight in New York State which need to be remedied. As detailed above, Williams exploited these weaknesses by using multiple names and submitting applications with false or incomplete information to conceal significant facts of his criminal and driving history from authorities and prospective employers.

It would be wrong to conclude that, in the absence of the above-noted deficiencies, Williams would have been denied the license necessary to drive a commercial bus. To the contrary, neither his criminal nor driving history would have statutorily disqualified him from driving a bus, and Williams easily could have cleared his open suspensions, which would have enabled him to obtain a valid license.

Notwithstanding this, in the context of the commercial bus industry, it is essential that licensing authorities and carriers have access to all information necessary to evaluate a prospective driver's qualifications and fitness. Based on the Inspector General's findings, however, such access is not assured in the current system. The Inspector General recognizes that DMV manages a system that involves processing thousands of applications daily for all types of licenses and identifications, of which a CDL is just one category. However, when it comes to licensing of drivers in the commercial bus industry, which assumes responsibility for the safe transport of millions of passengers annually nationwide, heightened scrutiny is required.

The Inspector General notes that DMV has been responsive to this investigation and already has undertaken efforts to address some of these issues. The Inspector General recommends measures to improve state licensing and regulation of commercial bus drivers and carriers, as described below. Responses by DMV to recommendations specific to DMV's procedures are included in summary form below. DMV's full response to the Inspector General's findings and recommendations is included in the appendix to this report.

## **A. Improving DMV Licensing Process and Carrier Oversight**

### ***1. DMV Should Improve Management of Header Records***

The Inspector General recommends that DMV more aggressively review Header records for matches with applicants, at a minimum for those seeking to obtain CDLs with passenger endorsements. DMV clerks should have access to technology to run broader searches through Header records to find matches, even if only partial information is available, which can then be further investigated. For example, in Ophadell Williams's case, until February 2010,<sup>31</sup> he seems to have consistently used the same last name, date

---

<sup>31</sup> Approximately one year before the March 2011 crash, in February 2010, Williams changed the address associated with his driver license.

of birth, and street address as when he gave ticketing police officers the name “Eric Williams” and, therefore, the Header record included that information.

*In response to this recommendation, DMV advised that it has established a team of senior executive staff to guide and oversee three working groups tasked with analyzing how Headers are created and suggesting means to reduce the number of Headers created for individuals with a record already in existence; mapping consistent procedures for merging records; and improving DMV’s ability to match valid CDLs with existing Header records. All three subgroups have begun work.*

In addition, in the absence of statutory authority to require fingerprint-based background checks for commercial bus drivers, DMV should work with DCJS and other law enforcement agencies to develop a system for identifying applicants who use aliases. For example, DMV should consider providing the names of bus driver license applicants to DCJS, to search its records for aliases.

*DMV advises that a subgroup described above is working with DCJS to develop an automated process to allow aliases linked to a particular criminal history to be shared with DMV. Such information will strengthen DMV’s ability to associate documented drivers with their known aliases and link any Header records with those aliases to the true driver history.*

Finally, DMV should continue its collaboration with police agencies to reduce the creation of Header records by improving law enforcement’s ability to identify drivers who fail to present licenses when ticketed.

*DMV reports that, in conjunction with the State Police, it is developing a system in which a driver’s DMV photo can be transmitted to a police vehicle in certain circumstances. This will assist an officer in confirming a driver’s identity so that a ticket issued can be linked to the correct driver record. DMV is also working with law*

*enforcement agencies to broaden use of electronic ticketing. Both initiatives should result in a reduction in Header records.*

## ***2. DMV Should Tighten CDL Application and Article 19-A Procedures***

DMV should supplement or modify questions on license applications to address issues raised by Williams's conduct. Specifically, the questions on license applications should include whether the driver has ever been ticketed for unlicensed operation of a vehicle, or has ever been licensed, ticketed, or suspended under another name. Likewise, DMV should institute better protocols for following up on inconsistent or incomplete information on license applications.

*DMV advises that it has revised relevant sections of the license application in response to the Williams matter, including a new requirement that applicants affirmatively state whether they have ever had their driving privileges revoked or suspended, either in the name on the application or in any other name. In addition, existing DMV policy requiring applicants to complete the entire application has been reinforced among all staff who conduct DMV transactions. Other potential changes to the application are being studied.*

DMV also should vigorously review applications to identify false statements or material omissions, particularly on CDL bus endorsement applications, so that administrative action can be taken to temporarily ban drivers from obtaining a license or referrals for prosecution can be made.

*DMV notes that under current regulations and procedures, an individual found to have made a false statement may have his or her license or privilege to obtain a license suspended or revoked. DMV further notes its longstanding practice of referring for criminal prosecution individuals who make false statements on applications. DMV's recent implementation of facial recognition technology has also assisted in detecting instances of false filings.*

### ***3. DMV Should Expand Carrier Access to Bus Driver Records***

As discussed above, commercial bus carriers have limited access to their drivers' driving history and records. The current system relies heavily on driver self-reporting of driving incidents and criminal activity. DMV should develop a mechanism to provide carriers with information about drivers' employment history with other carriers. For example, DMV could allow carriers to access their drivers' registries with other carriers and/or include this information on driver abstracts. DMV also should review its practice of limiting driver abstract information to four years, based on its statutory record retention schedules. Expansion of the information included in abstracts would provide carriers a fuller picture of a prospective driver's driving history.

*In its response, DMV notes that there are policy issues and system programming difficulties that are obstacles to expanding carrier access to driver information as recommended. DMV further notes that it does not release driver records outside its four-year retention period except by court-ordered subpoena, and believes legislative action would be required to change this practice.*

### **B. Improving Flow of Information Among State Agencies**

The Inspector General's investigation revealed an absence of a mechanism for effective communication of certain information between state agencies. Among other things, several state agencies received licensing and employment applications for Williams which included false statements or omissions regarding his criminal history. In each instance, the application problems ultimately were identified by the state agency and the applications were denied. Nevertheless, there is no system in place to track these types of incidents to alert other state agencies to potentially problematic applicants.

The state should consider developing a cost-effective mechanism for state agencies to share information about applicants or employees who submit false or misleading information on applications. This could be accomplished through creation of

a new database or utilizing an existing database. For instance, DCJS already retains a record whenever a state agency performs a fingerprint-based background check as part of a license or application review, and it includes this information as part of an individual's full history, upon request. However, DCJS does not currently track the status of the license or employment. Likewise, other states agencies, including the Inspector General, maintain databases which track other relevant information. The Inspector General will refer this issue to the state Spending and Government Efficiency (SAGE) Commission for consideration.

### **C. Legislative Proposals**

A number of the issues identified in the Inspector General's investigation relate to existing laws which govern aspects of commercial bus driver licensing. Thus, addressing these issues would require legislative action. Proposals which might be considered for legislative action include the following:

To improve the commercial driver licensing process, consideration should be given to granting DMV the same statutory authority to require fingerprinting of applicants as it does with school bus drivers, particularly for those applying for passenger endorsements. This reform would assist DMV and carriers in complying with the current statutory scheme that institutes bans on licenses to drivers convicted of certain crimes. Moreover, if such authorization is enacted, DCJS would be able to provide DMV with information on commercial bus drivers, including aliases and alerts of criminal incidents, and this in turn would improve DMV's ability to match records for licensed drivers to Header records.

Consideration should also be given to increasing the disqualifications and waiting periods for non-school bus drivers resulting from convictions for criminal offenses and driving infractions. This could be accomplished by increasing the number of points applied to certain infractions. In addition, the look-back periods for these bans and waiting periods should be modified to exclude any time an individual has been

incarcerated. Further, consideration should be given to holding a driver responsible for failing to promptly address tickets and resolve open suspensions by adding consequences for applicants who have had multiple open suspensions.

Similarly, to deter repeated incidents of driving without a license, legislation should be considered that would strengthen the applicable penalties. This change would not only improve incentives for police to better identify drivers at time of ticketing, but would also likely reduce the number of unidentifiable DMV Header records created. A similar deterrent to consider is holding more accountable the registered owners of the vehicles driven by unlicensed drivers by increasing the penalties applied to the owners.

Legislation should also be considered that would give DMV statutory authorization to enforce driving-related conditions of parole, similar to its current statutory authorization to enforce driving-related probation conditions.

The Inspector General will provide a copy of this report to the Federal Motor Carrier Safety Administration of the U. S. Department of Transportation, the National Transportation Safety Board, the New York State Department of Transportation, and other regulatory entities for their review.

## **APPENDIX**

Reproduced on the following pages are the list of crimes and driving offenses resulting in disqualifications and waiting periods for school and commercial bus drivers; the press release issued by Governor Cuomo announcing the expansion of the list of disqualifying convictions; and the New York State Department of Motor Vehicles' response to the Inspector General's report. .

# PERMANENT CRIMINAL DISQUALIFICATIONS FOR SCHOOL BUS DRIVERS \*

GUILTY OF CHARGE AS LISTED, OR ATTEMPTED, OR EQUIVALENT OUT-OF-STATE CHARGE.

\*CHARGES **MAY** ALSO DISQUALIFY NON-SCHOOL BUS DRIVERS (consult 509-c or see supervisor if there is any question).

NYS Penal Law Section	Description
100.13	Criminal Solicitation (1 <sup>st</sup> )
105.15	Conspiracy (2 <sup>nd</sup> )
105.17	Conspiracy (1 <sup>st</sup> )
115.08	Criminal Facilitation (1 <sup>st</sup> )
125.10	Criminally Negligent Homicide
125.12	Vehicular Manslaughter (2 <sup>nd</sup> )
125.15	Manslaughter (2 <sup>nd</sup> )
125.20	Manslaughter (1 <sup>st</sup> )
125.25	Murder (2 <sup>nd</sup> )
125.26	Aggravated Murder
125.27	Murder (1 <sup>st</sup> )
130.30 *	Rape (2 <sup>nd</sup> )
130.35 *	Rape (1 <sup>st</sup> )
130.40	Criminal Sexual Act (3 <sup>rd</sup> ) - formerly Sodomy (3 <sup>rd</sup> )
130.45 *	Criminal Sexual Act (2 <sup>nd</sup> ) - formerly Sodomy (2 <sup>nd</sup> )
130.50 *	Criminal Sexual Act (1 <sup>st</sup> ) - formerly Sodomy (1 <sup>st</sup> )
130.60 *	Sexual Abuse (2 <sup>nd</sup> )
130.65 *	Sexual Abuse (1 <sup>st</sup> )
130.70	Aggravated Sexual Abuse (1 <sup>st</sup> )
135.20	Kidnapping (2 <sup>nd</sup> )
135.25	Kidnapping (1 <sup>st</sup> )
150.20	Arson (1 <sup>st</sup> )
160.15	Robbery (1 <sup>st</sup> )
220.18	Criminal Possession of Controlled Substance (2 <sup>nd</sup> )
220.21	Criminal Possession of Controlled Substance (1 <sup>st</sup> )
220.39	Criminal Sale of Controlled Substance (3 <sup>rd</sup> )
220.41	Criminal Sale of Controlled Substance (2 <sup>nd</sup> )
220.43	Criminal Sale of Controlled Substance (1 <sup>st</sup> )
220.44(2) ***	Criminal Sale of a Controlled Substance on/near School Grounds/School Bus: In Violation of §220.39
260.00	Abandonment of a Child
263.05	Use of Child in a Sexual Performance
263.10	Promoting an Obscene Sexual Performance by a Child
263.15	Promoting a Sexual Performance by a Child
265.04	Criminal Possession of a Dangerous Weapon (1 <sup>st</sup> )

\*\*\* approved by Legal 4/8/11

**NEED CERTIFICATE OF RELIEF FROM CIVIL DISABILITIES OR CERTIFICATE OF GOOD CONDUCT AND BE RELEASED FROM PRISON 5 YEARS TO BE REQUALIFIED.**

**5-YR. CRIMINAL DISQUALIFICATIONS - SCHOOL BUS DRIVERS (FROM CONVICTION DATE)**

GUILTY OF CHARGE AS LISTED, OR ATTEMPTED, OR EQUIVALENT OUT-OF-STATE CHARGE.

\* CHARGES ALSO DISQUALIFY NON-SCHOOL BUS DRIVERS IF CONVICTED IN NY.

\*\* DISQUALIFICATION DOES NOT APPLY TO NON-SCHOOL DRIVERS HIRED ON OR AFTER 9/15/85

<b>NYS Penal Law Section</b>	<b>Description</b>
100.10	Criminal Solicitation (2 <sup>nd</sup> )
105.13	Conspiracy (3 <sup>rd</sup> )
115.05	Criminal Facilitation (2 <sup>nd</sup> )
120.03	Vehicular Assault (2 <sup>nd</sup> )
120.04 *	Vehicular Assault (1 <sup>st</sup> )
120.04-A *	Aggravated Vehicular Assault (new 11/1/07)
120.05	Assault (2 <sup>nd</sup> )
120.10	Assault (1 <sup>st</sup> )
120.25	Reckless Endangerment (1 <sup>st</sup> )
121.12	Strangulation in the second degree
121.13	Strangulation in the first degree
125.13 *	Vehicular Manslaughter (1 <sup>st</sup> )
125.14**	Aggravated Vehicular Homicide (new 11/1/07)
125.40	Abortion (2 <sup>nd</sup> )
125.45	Abortion (1 <sup>st</sup> )
130.20	Sexual Misconduct
130.25	Rape (3 <sup>rd</sup> )
130.55	Sexual Abuse (3 <sup>rd</sup> )
135.10	Unlawful Imprisonment (1 <sup>st</sup> )
135.55	Substitution of Children
140.17	Criminal Trespass (1 <sup>st</sup> )
140.25	Burglary (2 <sup>nd</sup> )
140.30	Burglary (1 <sup>st</sup> )
145.12	Criminal Mischief (1 <sup>st</sup> )
150.10	Arson (3 <sup>rd</sup> )
150.15	Arson (2 <sup>nd</sup> )
160.05	Robbery (3 <sup>rd</sup> )
160.10	Robbery (2 <sup>nd</sup> )
220.06	Criminal Possession of a Controlled Substance (5 <sup>th</sup> )
220.09	Criminal Possession of a Controlled Substance (4 <sup>th</sup> )
220.16	Criminal Possession of a Controlled Substance (3 <sup>rd</sup> )
220.31	Criminal Sale of a Controlled Substance (5 <sup>th</sup> )
220.34	Criminal Sale of a Controlled Substance (4 <sup>th</sup> )
220.60	Criminal Possession of Precursors of Controlled Substances
221.30	Criminal Possession of Marihuana (1 <sup>st</sup> )
221.50	Criminal Sale of Marihuana (2 <sup>nd</sup> )
221.55	Criminal Sale of Marihuana (1 <sup>st</sup> )
230.00	Prostitution
230.05	Patronizing a Prostitute (2 <sup>nd</sup> )
230.06	Patronizing a Prostitute (1 <sup>st</sup> )
230.20	Promoting Prostitution (4 <sup>th</sup> )
230.25	Promoting Prostitution (3 <sup>rd</sup> )
230.30	Promoting Prostitution (2 <sup>nd</sup> )
230.32	Promoting Prostitution (1 <sup>st</sup> )
235.05	Obscenity (3 <sup>rd</sup> )
235.06	Obscenity (2 <sup>nd</sup> )
235.07 *	Obscenity (1 <sup>st</sup> )
235.21	Disseminating Indecent Material to Minors (2 <sup>nd</sup> )
240.06	Riot (1 <sup>st</sup> )
245.00	Public Lewdness
260.10	Endangering the Welfare of a Child
260.20 sub (2)	Unlawfully Dealing with a Child (1 <sup>st</sup> )
260.25	Endangering the Welfare of an Incompetent or Physically Disabled Person
265.02	Criminal Possession of a Weapon (3 <sup>rd</sup> )
265.03	Criminal Possession of a Weapon (2 <sup>nd</sup> )
265.08	Criminal Use of a Firearm (2 <sup>nd</sup> )
265.09	Criminal Use of a Firearm (1 <sup>st</sup> )
265.10	Manufacture, Transport, Disposition and Defacement of Weapons and Dangerous Instruments and Appliances
265.12	Criminal Sale of a Firearm (2 <sup>nd</sup> )
265.35	Prohibited Use of Weapons

**NEED CERTIFICATE OF RELIEF FROM CIVIL DISABILITIES OR CERTIFICATE OF GOOD CONDUCT OR 5 YEARS HAVE ELAPSED FROM CONVICTION DATE TO BE REQUALIFIED.**

**OTHER DISQUALIFYING CONVICTIONS FOR BOTH SCHOOL AND NON-SCHOOL DRIVERS**

May be requalified with acceptable Certificate of Relief from Civil Disabilities or Certificate of Good Conduct, and appropriate restricted, conditional or full license endorsed for operation of buses.

Vehicle & Traffic Law Section	Description	Circumstances	Disqualification period without certificate of relief
511(3)	Aggravated unlicensed operation of motor vehicle (1 <sup>st</sup> )	CONVICTED IN NEW YORK	5 years from conviction date
600(2)	Leaving scene of personal injury or fatal accident	CONVICTED ANYWHERE	5 years from conviction date
1192	DWI, DWAI	License suspended or revoked as result - CONVICTED ANYWHERE	Period of license suspension or revocation, but not less than (at least) 6 months
1192	DWI, DWAI	While driving bus in employ of motor carrier - CONVICTED ANYWHERE	5 years from conviction date
1192	DWI, DWAI	Two convictions within any 10 year period on or after 9/15/85 - CONVICTED ANYWHERE	5 years from last conviction date

**OTHER 19-A DISQUALIFYING FACTORS FOR ALL BUS DRIVERS:**

Description	Waiting Period	Notes
9 points within 18 months	1 year	May take PIRP to reduce points if PIRP not already taken for Point benefit 18 months prior to second completion.
Fail road test required under 3 accident re-exam program for bus drivers (509-bb)	1 year	Waiting period waived if PIRP completed and then 2 <sup>nd</sup> re-exam road test passed.
Involved in two or more at-fault reportable accidents (as defined in 509-a(7)) within 18 months after a 3 accident re-exam.	1 year	
Other stop on license not listed above.	varies	Disqualified until license/privilege to operate bus is restored.



STATE OF NEW YORK | EXECUTIVE CHAMBER

ANDREW M. CUOMO | GOVERNOR

**For Immediate Release:** August 16, 2011

## **GOVERNOR CUOMO SIGNS LAW TO EXPAND LIST OF CRIMES THAT DISQUALIFY PERSONS FROM BECOMING SCHOOL BUS DRIVERS**

Governor Andrew M. Cuomo today signed a law to expand the list of convictions that disqualify a school bus driver from either permanently or temporarily operating a school bus.

"This law will protect our children by making sure those convicted of sexual offenses and other serious crimes are disqualified from becoming school bus drivers," Governor Cuomo said. "Keeping our children safe must always be a top priority and by signing this legislation we are putting in place additional precautions that will help protect our students. I thank Senator Bonacic and Assemblyman Pretlow for their work on this important legislation."

The law adds to the list of convictions that would either permanently disqualify an applicant from being a bus driver or disqualify the candidate for five years. Under the new law, crimes for which a conviction would ban a person from becoming a school bus driver include:

- aggravated manslaughter in the first or second degree
- aggravated sexual abuse in the second, third, and fourth degree
- sexual abuse in the first degree
- course of sexual conduct against a child in the first or second degree,
- facilitating a sex offense with a controlled substance
- predatory sexual assault
- sex trafficking
- disseminating indecent materials to minors in the first degree
- use of a child in a sexual performance
- promoting or possessing a sexual performance by a child
- aggravated assault upon a child less than 11 years old
- luring a child
- persistent sexual abuse
- aggravated criminally negligent homicide
- criminal sale of a controlled substance in or near school grounds

The law also changes from a temporary five-year prohibition to a permanent prohibition vehicular manslaughter in the first degree, aggravated vehicular homicide, and promoting prostitution in the first, second, or third degree. Additionally, added to the list of crimes which would result in a five-year prohibition are forcible touching and criminal sale of a prescription for a controlled substance. The law will take effect in 180 days.

Senator John Bonacic said, "This legislation is an important step in better protecting children. By making sure those who are convicted of a variety of sex crimes, including crimes against children, are unable to pass the required background check and become school bus drivers, we will make New York safer for all children. I appreciate Governor Cuomo's signing this legislation into law. I also want to single out and applaud the Onteora School District's Transportation Director, David Moraca, for bringing the need for this legislation to my attention."

Assemblyman J. Gary Pretlow said, "I commend Governor Cuomo for signing into law this common sense legislation that provides a much needed update to our penal code. School bus drivers spend many hours with our children, and we must make sure these drivers have not been convicted of serious crimes that would jeopardize the safety of students."

###

Additional news available at [www.governor.ny.gov](http://www.governor.ny.gov)  
New York State | Executive Chamber | [press.office@exec.ny.gov](mailto:press.office@exec.ny.gov) | 518.474.8418



NEW YORK STATE  
DEPARTMENT OF MOTOR VEHICLES  
6 EMPIRE STATE PLAZA  
ALBANY, NY 12228  
(518) 474-0846

BARBARA J. FIALA  
Commissioner

THOMAS P. HIGGINS  
Deputy Commissioner for Integrity

August 25, 2011

Honorable Ellen N. Biben  
Inspector General  
Office of the Inspector General  
Empire State Plaza  
Agency Building 2, 16<sup>th</sup> floor  
Albany, New York 12223

Dear Inspector General Biben:

The Department of Motor Vehicles would like to take this opportunity to thank you and the Office of the Inspector General for its thorough review and examination of how Ophadell Williams, Jr., obtained and retained a commercial driver license. Your well-reasoned recommendations propose meaningful changes which, combined with the Department's efforts, will improve traffic safety for all New Yorkers. In addition, we appreciate the opportunity to set forth publicly the substantive changes that are already underway that enhance public safety by ensuring that the men and women who operate tour buses and transport large numbers of people are qualified to do so and possess a valid, current license to operate a tour bus.

The Department of Motor Vehicles agrees with you that the oversight and regulation of those with commercial driver licenses needs to be strengthened. Following the March 2011 bus crash, the Department committed considerable resources to improve procedures to increase the dissemination and sharing of information among stakeholder agencies, including the Department of Transportation, the New York State Police, Division of Criminal Justice Services and federal authorities. In addition, we adjusted our internal procedures and work processes to minimize the creation of records not matched to a valid New York driver license, also known as "Header Records". Utilizing the records obtained with the Department's facial recognition technology, the Division of Field Investigation (DFI), working in concert with various District Attorneys, pursued criminal prosecutions of commercial driver license holders who fraudulently obtained multiple department issued documents in an effort to safeguard their primary license.

Your report has laid-out several recommendations that, as noted above, comprise meaningful enhancements to the oversight of commercial drivers, specifically tour bus drivers. With respect to each of those recommendations, provided below is a description of how the Department has already begun to implement the ideas/concepts articulated within the Inspector General's report.

**1. DMV should more aggressively review "Header Records" for matches.**

Each license or non-driver ID issued by DMV has a unique Client Identification (CID) number assigned to it. When a driver is issued a traffic ticket, the issuance of that ticket is usually posted to the driver's record based on the CID captured by the issuing officer and provided on the ticket. If a CID is not provided, DMV uses the other information provided such as name, date of birth, and address to identify a matching record in the system. If a matching record is not identified, a new record is created based upon the information provided on the traffic ticket. Due to incomplete or incorrect information arising from data entry errors on the part of DMV clerks, law enforcement, or the courts, or as the result of purposeful deceit by the motorist who provides a fraudulent name to police at the time of an incident, occasionally new "header" records are created for an individual who already has a DMV record, creating more than one DMV record for the same person. These circumstances result in the creation of a Header Record.

To address this issue DMV has formed an internal Guidance Team made up of senior executive staff to oversee three sub-work groups: 1) Header Record Reduction Team [to analyze how headers are created and suggest ways to reduce the number of headers created for individuals with a record already in existence]; 2) Record Merger Team [to map consistent procedures for merging records]; and 3) CDL Remediation [to enhance the ability of DMV to match valid CDLs with header records already in existence].

The Header Record Reduction Team is presently gathering a sample set of data that will be distributed among several outside vendors for the purpose of developing a proof of concept that the Department anticipates will establish an automated process for associating heretofore unclassified events with actual driver records. If successful, this program will significantly reduce the number of header records that are created. The Record Merger Team is mapping the Department's internal processes that are impacted by the merging of records when headers are linked to an actual driver. When this sub-group's work is complete the Department will be able to more efficiently post suspensions, revocations and points associated with records that have been identified as belonging to the same individual. The work of the CDL Remediation sub-group is discussed immediately below in Section "2."

**2. Work closer with the Division of Criminal Justice Services (DCJS) to link alias information with Header Records.**

Mr. Williams' use of aliases during his past contacts with law enforcement underscored the challenge faced by the Department when trying to link traffic violations reported in a name other than the known identity with the actual driver. To address this gap in information, the CDL Remediation sub-group is working with DCJS to develop an automated process that will allow aliases associated to a criminal history to be shared with the Department. This information will improve the Department's ability to associate documented drivers to their known aliases and then link any header records written to those aliases to the true driver history.

**3. Continue collaboration with law enforcement to better identify drivers who fail to present a driver license.**

Of the reasons listed above, the most significant factor contributing to the creation of Header Records is the difficulty experienced by local law enforcement in attempting to accurately convey to the Department the identity of the individual stopped for a traffic violation. These difficulties most often arise from two concerns: purposeful deceit on the part of the driver and illegibility of the hand-written tickets submitted to the department for processing. The more accurate the information received from law enforcement, the less likely it is that a Header Record will be created.

In an effort to establish the identity of an undocumented driver or to confirm the identity of a driver whose proffered identification is suspect, the Department and the State Police are developing a system to enable a driver's DMV photo to be transmitted to the police car under certain circumstances. In-car access to the DMV photo will enhance an officer's ability to confirm the driver's identity so that new traffic violations can be associated with the appropriate driver's record – reducing the potential for the creation of a duplicate Header Record.

To reduce the illegibility of hand-written tickets, the Department has been cooperating with law enforcement for the past several years to develop and implement an electronic ticket issuing system. The vast majority of police departments throughout the state submit their tickets electronically; however, a couple of the largest departments do not. When these departments complete the process to fully implement automated ticketing systems, the number of Header Records will be reduced significantly.

In addition, it is important to note that the Department has worked cooperatively with local, state and federal law enforcement since the March 2011 bus crash to leverage facial recognition technology to identify individuals who fraudulently possess multiple DMV documents and where one of the documents possessed is a commercial driver license. To date, the Department has assisted in the arrest of over 100 commercial driver license holders based on false statements made when the documents were obtained. This program has resulted in the removal of unsafe commercial drivers from the state's highways by merging header records and fraud-based records with the actual driver record to suspend and revoke driving privileges.

**4. Improve, supplement questions on DMV applications to better elicit information concerning driver history.**

The Department revised relevant sections of the MV-44 license transaction application in response to the Williams matter. Specifically, applicants are now required to affirmatively state whether they have ever had their driving privileges revoked or suspended, either in the name on the application or in any other name. In addition, the Department's pre-existing policy - requiring applicants to complete the entire license transaction application - has, post-March 2011, been reinforced among all staff performing DMV transactions across the state.

However, the report identifies other questions that may assist the Department in subsequently identifying false applications and/or matching records. Consequently, we will re-examine the license application with a view towards improving the clarity and quality of the questions asked so that we may be able to obtain a more accurate and complete history of the applicant.

One final point, the report references instances wherein Mr. Williams provided inaccurate information when asked if his license had ever been suspended, revoked or canceled. In accordance with current system and procedural protocols, the department's computer processing system (Windows Information System Enterprise, a/k/a "WISE) did not alert the Motor Vehicle Representatives (MVR) to the discrepancies. Significantly, however, had Mr. Williams answered this question truthfully or if WISE was able to alert the MVRs to the inaccuracies, his applications for a license would still have been approved (all prior suspensions on his record were cleared) and, perhaps more importantly, the department would still not have linked Mr. Williams with the Header Records associated to his alias "Eric Williams".

**5. Take steps to discourage false statements on applications.**

Making a false statement on an application for a license is a violation of §392 of the Vehicle and Traffic Law. Following a hearing, an individual who has been found to have made a false statement may have his/her license or privilege of obtaining a license suspended or revoked. If revoked, they may not reapply for a new license for at least one year. In the appropriate case, the license may be suspended pending that hearing, as was done in the case of Mr. Williams.

In addition, the Department has historically sought to prosecute individuals for making false statements on our applications. Most recently, facial recognition technology has enabled the Department to be more pro-active in uncovering instances of false filings.

**6. Enhance ability of carrier to obtain full employment and driver history.**

We agree that greater access to information, specifically employment and driver history, will allow prospective employers of bus drivers to make a better informed decision about a prospective employee. Currently there is a system in-place that allows carriers to inquire as to the past employment history with another carrier. Pursuant to VTL § 509-m, DMV has created a form for use by a carrier to inquire directly to another carrier about a driver's current and previous employment history. This form is distributed to all carriers with DMV's "19-A Information Packet-Special Requirements for Bus Drivers-Forms." This system relies on the applicant to truthfully divulge all past employers and the carrier to diligently follow through with contacting all past employers. A readily available centralized system would be ideal.

However, there are several impediments to making a centralized system a reality. Within the 19-A program, individual carriers are only able to access the 19-A registry to review their company's file. There are policy issues and system programming

challenges that need to be overcome before the system can allow carriers to see all other carriers' files/driver rosters. In addition, the Driver Privacy Protection Act (DPPA) prohibits DMV from divulging information about an individual driver absent a corresponding "permissible use." DPPA §2721 (b)(9) permits access to personal information "[f]or use by an employer or its agent or insurer to obtain or verify information related to a holder of a commercial driver's license." It would be permissible for DMV to permit a prospective employer to view 19-A registry information concerning the applicant driver only, but DPPA prohibits DMV from making information concerning all other CDL holders on a carriers' roster, currently viewable, available to other carriers.

With respect to the proposal that prospective employer carriers should be given access to the complete driver history, not just the driver abstract, VTL § 201 sets forth retention periods for DMV records— the Department keeps all records for a 4-year period, with some notable exceptions: open suspension and revocations orders remain on the record as long as they remain open, and most convictions are retained for a 4-year period also, although certain convictions are kept longer (e.g., DWI -- 10 years (non-CDL), CDL "major" offenses -- 55 years) pursuant to a provision that requires them to be kept for as long as they might affect subsequent administrative or criminal penalties.

Records maintained for longer than the retention period are not "public records" (VTL § 201(5)) and cannot, therefore, be released outside of DMV. The Department will only release the complete driver history upon receipt of a court ordered subpoena.

The report goes on to recommend submission of its findings to the Spending and Government Efficiency (SAGE) Commission for consideration of ways to improve information sharing among agencies. In addition, the report suggests several statutory changes, including fingerprinting, increased penalties for driving without a license, and permitting DMV to deny the application of a parolee in the same manner we are currently able to do so with probationers. DMV is receptive to all ideas that seek to improve oversight of licensed drivers and enhance traffic safety on our roadways. The department stands ready to review any SAGE Commission ideas and/or legislative proposals that address the issues noted to determine the impact and feasibility of any proposed changes.

Again, I wish to thank you and your staff for your tireless efforts in collecting the underlying facts surrounding this matter, developing an understanding of DMV license procedures and presenting meaningful recommendations that seek to improve traffic safety for all New Yorkers.

Sincerely yours,



Thomas P. Higgins  
Deputy Commissioner for Integrity