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September 17, 2013

Barbara J. Fiala
Commissioner
New York State Department of Motor Vehicles
6 Empire State Plaza
Albany, New York 12228

Re: NYS IG 0493-014-2012

Dear Commissioner Fiala:

On May 10, 2012, this office received an anonymous complaint alleging that [REDACTED], a Department of Motor Vehicles Supervising Motor Vehicle Investigator, possessed his state-issued firearm off duty at a party and was observed operating a state vehicle while intoxicated. [REDACTED]

Pursuant to the DMV Fleet Use Policy, "State agency vehicles must be used only for official business, and their use for any personal business is strictly forbidden." The policy further states, "Driving under the influence of drugs/alcohol is prohibited." DMV Firearms Policy section VI (1) reads, "At no time is it permitted to carry a Department issued firearm while off duty, unless the investigator is engaged in pre-approved practice. Pre-approved practice must take place at an authorized small arms range or shooting club as defined by Section 5-22 914 of the NYC Pistol Permit Rules and Regulations."

During a sworn interview with our office, [REDACTED] acknowledged that he was aware of these policies. He nevertheless attended a social function with his firearm and the state vehicle. [REDACTED] admitted he was in possession of his firearm at a party honoring a DMV colleague on April 27, 2013. He also admitted that he drank two beers at the party and drove home in a DMV vehicle. [REDACTED] stated that he worked later than

he anticipated that day and did not have time to drive home to secure his firearm or switch vehicles prior to attending the party.

[REDACTED]

Based on the findings of our investigation, DMV interrogated [REDACTED] and served him with a Notice of Discipline. A settlement reached on April 30, 2013, required [REDACTED] to forfeit three days of annual leave and surrender his firearm for 12 weeks. Under the settlement, an additional penalty of two weeks of suspension without pay was held in abeyance for one year, dependent on [REDACTED] not engaging in the same or similar behavior as cited in the Notice of Discipline.

This office recommends that DMV re-disseminate its firearms and vehicle policies to appropriate employees and require that the employees acknowledge they have received and read the policies. Within 45 days of the date of this letter, please advise us of any actions or decisions taken in response to this recommendation. If you have any questions, you can contact Deputy Inspector General Audrey Maiello Cunningham at (518) 474-1010.

Sincerely,

[REDACTED]

Catherine Leahy Scott
Inspector General