



LUCY LANG  
Inspector General

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March 24, 2023

James V. McDonald, M.D., M.P.H.  
Acting Commissioner  
New York State Department of Health  
Corning Tower  
Empire State Plaza  
Albany, New York 12237

Re: NYS IG 3396-012-2022

Dear Acting Commissioner McDonald:

On November 4, 2022, the New York State Department of Health (DOH) alleged to the Offices of the New York State Inspector General that while upgrading a State cellular telephone issued to [REDACTED] the [REDACTED] [REDACTED] at DOH's [REDACTED] [REDACTED] it discovered inappropriate images and evidence of other personal use.

The Inspector General's investigation of this allegation found that [REDACTED] violated DOH's Wireless Communication Devices policy<sup>1</sup>, which states in pertinent part, "Employees to whom the devices have been issued are to use them for official state business only, when the employee's health or safety is in jeopardy, or an emergency has taken place."

A review of a forensic image acquired by DOH of [REDACTED] DOH-issued cellular telephone revealed two images of an individual's intimate parts taken with the telephone's camera, pornographic website search histories, several "selfies," photographs of hunting activity and rifles, as well as evidence of calls, texts, and files that demonstrates that [REDACTED] consistently used his work telephone for personal reasons. [REDACTED] testified to the Inspector General, admitting to his aforementioned personal use of the DOH-issued cellular telephone but stated he did not recall taking the two intimate images. He advised that he had used the DOH-issued cellular telephone for personal reasons as he has never owned a cellular telephone. Lastly, [REDACTED] admitted that his conduct was inappropriate, troubling, and a violation of DOH policy. No evidence of criminal activity was found during the Inspector General's review of the cell phone.

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<sup>1</sup> See, DOH Wireless Communication Devices policy APPM 31.2. Note, DOH Policy HRMG-055, entitled "Use of Wireless Communication Devices at Work," states that "limited use of [a wireless communication device] is permitted for incidental and necessary personal calls that are of limited number and duration and do not conflict with the proper exercise of the duties of the employee. This policy, which pertains to both DOH-issued and employee-owned cellular telephones, does not address the use of a DOH-issued cellular telephone's camera or internet access for personal purposes outside of the workplace.

Given the above findings, I am referring this matter to DOH for any action it deems appropriate. I recommend that DOH remind employees during its periodic trainings that State-issued cellular telephones may only be used for personal calls in limited circumstances and clarify its position on personal use of the photo and internet functions of State-issued cellular telephones.

Please advise me of any action taken by DOH in response to this referral within 45 days of the date of this letter. If you require further information, please contact Deputy Inspector General James R. Davis at [REDACTED].

[REDACTED]



Lucy Lang  
Inspector General

cc: Kathy S. Marks, Esq.  
General Counsel