



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
October 20, 2009

DMV Driver Took Scenic Route to Pad Overtime

SUMMARY OF FINDINGS/RECOMMENDATIONS

The New York State Inspector General determined that a former Department of Motor Vehicles (DMV) motor vehicle operator, Joseph Penk, manufactured approximately 61 hours of undeserved overtime for himself totaling over \$1,500 in payments by purposefully driving a more circuitous route in fulfilling his delivery duties. Unrelated to these findings, Penk was officially separated from state service on February 20, 2009.

ALLEGATION

The Inspector General received a complaint alleging that from July 2007 through October 2007, DMV motor vehicle operator Joseph Penk overstated the overtime due him.

SUMMARY OF INVESTIGATION

Prior to the termination of his employment, Penk was employed as a motor vehicle operator by DMV for approximately 10 years. In that capacity, Penk was required to deliver furniture and other items in a DMV panel truck between various DMV offices across the state. In performing his duties, Penk routinely returned to his home base in Altamont the same day.

The Inspector General interviewed Betsy Gerighty, Penk's supervisor at the DMV warehouse located at the Northeast Industrial Park in Altamont where Penk was assigned. Gerighty advised that she began to question Penk's timecards because other motor vehicle operators with the same responsibilities claimed significantly less overtime than Penk. Specifically, records revealed that although Penk's regular work hours were 3 a.m. to 10:30 a.m., he typically returned well after 10:30 a.m., thereby incurring several hours of overtime each trip. According to Gerighty, on 21 bi-weekly timecards, Penk claimed a total of 61 hours of suspicious overtime.

Gerighty informed the Inspector General that she had instructed Penk to enter and exit the New York State Thruway via Exit 24, the most direct and quickest manner through which to access the DMV facility. Contrary to Gerighty's instructions, E-Z Pass records reveal that while Penk routinely entered the Thruway at Exit 24 at the commencement of his trip, at its conclusion, he frequently utilized Exit 21B, a much

longer and more circuitous route to the warehouse than the Exit 24 route. It is also noteworthy that Penk's residence in Berne is located between Exits 21B and 24.

Representative of Penk's questionable behavior, on August 7, 2007, Penk entered the Thruway via Exit 24 and traveled to New York City; however, upon returning to the Altamont warehouse, Penk exited at Thruway Exit 21B at 2:27 p.m. but did not return to the DMV warehouse until approximately 7:00 p.m. The drive between Exit 21B and the DMV warehouse in Altamont, assuming compliance with applicable speed limits, should take approximately one hour, yet it took Penk well over four hours to complete this journey resulting in at least three hours of unjustifiable overtime.

At the commencement of the Inspector General's investigation, Penk was on leave from his position and did not return to work prior to his termination, thus precluding surveillance of his activities. When interviewed by the Inspector General, Penk denied adding hours to his trips and attempted to attribute the excessive time to a defective E-Z Pass which he claimed provided the incorrect time of his exit at Exit 21B. Penk also maintained that traffic contributed to the excess time. In direct contradiction of Gerighty account, Penk denied that he was ever directed to use Exit 24 and claimed that Exit 21B "was a better route." Ultimately, however, Penk conceded that there were occasions when he utilized Exit 21B in order to take the "scenic" route to the warehouse. Penk further admitted to stopping for a leisurely lunch and sometimes detouring to his home purportedly to use the bathroom. Penk posited that he was "honest, in a roundabout way," claiming "I had no rules. I didn't do anything wrong intentionally." Penk's claims of a defective EZ-Pass, traffic, and using Exit 21B because it is a "better route" are simply incredible.

Accounting for reasonable travel time between locations documented in the relevant EZ-Pass records compared with Penk's timesheets reveals that Penk improperly claimed approximately 61 hours of unearned overtime at a cost to the state totaling over \$1,500.

FINDINGS AND RECOMMENDATIONS

The Inspector General determined that DMV employee Joseph Penk manufactured unwarranted overtime by purposefully driving a more time consuming route on the return trip to his workstation and most likely detouring to his residence. An analysis of Penk's timecards and E-Z Pass records for July 2007 through October 2007 reveals that Penk claimed excess overtime totaling 61 hours resulting in payments by the State of over \$1,500.

Penk was officially separated from DMV service on February 20, 2009. As Penk is no longer a state employee, DMV cannot impose any discipline. However, a copy of this report will be provided to the Albany County District Attorney for review and consideration of possible criminal charges.