



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL

Final Report
September 11, 2007

Investigation Found DMV Worker Accessed Data Without Approval

SUMMARY OF FINDINGS/RECOMMENDATIONS

This investigation established that New York State Department of Motor Vehicles (DMV) employee Elizabeth Nestle misused her state computer to improperly access DMV records. DMV has counseled Nestle regarding her misconduct.

ALLEGATION

On March 28, 2007, the Office of the State Inspector General received a complaint alleging that Nestle had accessed DMV records without a legitimate business purpose or authorization.

SUMMARY OF INVESTIGATION

The Federal Driver's Privacy Protection Act, codified at United States Code, Title 18, Sections 2721-2725 ("the Act"), prohibits the knowing disclosure of personal information about an individual maintained by any state department of motor vehicles, unless the disclosure is for one of the official uses set out in the statute. In addition, the DMV Employee Handbook establishes rules governing the use of agency information. Section 10.6 of the DMV Employee Handbook (Disclosure of Information) states:

Any misuse of file information by an employee (that is, the use of information for any purpose other than the processing of official Department business) could lead to legal action against the Department. Therefore, an employee may not obtain, ask any other employee to obtain, or use customer file information for any purpose other than carrying out his or her assigned duties in the Department. Any violation of this policy is subject to disciplinary action.

Nestle was hired by DMV as a Motor Vehicle Representative on April 20, 2006. Asked whether she had ever used a DMV terminal to access personal information for purposes not related to her DMV work assignments, Nestle admitted that she had accessed DMV records relating to four individuals for non-business purposes.

Nestle told investigators that during her initial four-day training period with DMV from May 2, 2006 – May 5, 2006, she had been approached by two individuals known to her who asked if she would review their driving records. Nestle agreed. During her training sessions, in addition to classroom instructions, Nestle also received hands-on training at DMV terminals, which allowed her to access the DMV records of the two individuals. Nestle said that after she accessed the DMV records, she informed them of their DMV driving history records. Nestle admitted that she had also accessed the driving record of another individual, again without an official reason for doing so, and in this instance without that individual's knowledge or permission.

Nestle also told investigators that in or about May 2007 a family member asked if she would check his DMV record to see when the insurance coverage on his vehicle expired. Nestle told investigators that she had asked her supervisor for permission to access the record and District Manager Christopher Lynch had approved her request. This Office later confirmed this information with Lynch, who stated that he had given his approval for the access.

Nestle told investigators that the three accesses described above that she conducted without supervisory approval were all before she was informed of the Driver's Privacy Protection Act. Nestle said that since she was advised of the Act's prohibitions by DMV officials, she has not accessed the DMV records of any person without proper authorization.

DMV advised this Office that Nestle has been counseled regarding her actions.

FINDINGS AND RECOMMENDATIONS

This investigation substantiated that Nestle used her State computer to access DMV information for purposes unrelated to her DMV employment. DMV has counseled Nestle regarding her misconduct.