



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
October 21, 2009

Inspector General Finds Parking Abuses at Empire State Plaza

SUMMARY OF FINDINGS/RECOMMENDATIONS

The Inspector General found several abuses of parking privileges at Office of General Services (OGS) parking structures: (1) OGS employees William Liston and Scott Kullman abused the parking access afforded them while operating OGS vehicles by parking their personal vehicles in the Empire State Plaza garage at prohibited times; (2) the Division of Human Rights (DHR) improperly assigned a Special Use Parking Permit issued by OGS for limited purposes by allowing an employee to use the permit for regular parking free of charge; and (3) users of the Empire State Plaza garage visitor lot could avoid payment of required parking fees by re-using free tickets as a result of a dating flaw on the tickets. The Inspector General recommended that OGS review Liston's and Kullman's conduct for disciplinary action. The Inspector General further recommended that OGS advise agencies issued special-use permits on their appropriate use and strengthen the procedures for granting and monitoring these parking passes.

ALLEGATIONS

On October 1, 2008, the Inspector General received an allegation there existed widespread abuse of parking services over the years at two OGS parking lots, P2 and P3 South, located at the Empire State Plaza in Albany. It was also alleged that many vehicles parked at the parking lots did not display required hang tags indicating authority to park there. On October 20, 2008, OGS referred to the Inspector General a related complaint that people were using free parking passes to park in the OGS Visitors Parking lot, also at the Empire State Plaza, on days when there were no "free" promotions.

SUMMARY OF INVESTIGATION

OGS Employee Abuse of Swipe Card Access to the Empire State Plaza Garage

OGS's Bureau of Parking and Mail Services operates several paid parking facilities for State employees in Albany including the Empire State Plaza garage denoted

P1 North and South, P2 North and South, and P3 South. Given its proximity to Empire State Plaza which contains the majority of downtown Albany state offices, the plaza garage is a much-sought parking location, and state employees may wait years for a permit for one of the garage's approximately 2,800 parking spaces at a cost of \$19.94 per pay period. Permit holders may park their personal vehicles in the garage at any time by using an electronic swipe feature on their State identification card; however, a state-issued sticker and hang tag must be displayed in their vehicles when parked.

OGS also provides limited swipe card access to the Empire State Plaza garage to certain OGS employees operating OGS vehicles while assigned to duties in or near the plaza in order to facilitate administration of their duties. These employees may, while driving an OGS vehicle, use their swipe card access at any time. OGS does allow these employees, however, to use their swipe card access to park their personal vehicles in the garage, but only during "off parking" hours — 2 p.m. to 6 a.m. Monday through Friday and any time Saturday and Sunday.

The Inspector General found that OGS employees William Liston and Scott Kullman violated OGS parking rules by using their swipe card access to park their personal vehicles in the Empire State Plaza during prohibited times. Liston, a Chief Janitor 1, has been employed by OGS for 14 years and has held his current position for the past seven years. Liston has a parking permit for his personal vehicle in the East Garage, a peripheral parking structure located several blocks from Empire State Plaza. Liston admitted to the Inspector General that, contrary to OGS policy, he regularly parked his personal vehicle in the P3 South garage area during prohibited times for at least the past seven years. When questioned regarding how he was able to park his personal vehicle in the garage without the required sticker and hang tag, Liston responded: "All the parking attendants know me and know my car, and they just let me come in and park."

Kullman, an OGS Emergency Conservation Technical Specialist, has been a State employee for 10 years and currently directs OGS's energy conservation projects. Because Kullman's duties include managing energy use in OGS buildings, he is permitted to park his personal vehicle at the OGS steam plant facility on Sheridan Avenue in Albany, another peripheral lot located even further from Empire State Plaza than the East Garage. That privilege notwithstanding, Kullman, when interviewed by the Inspector General, admitted that he parked his personal vehicle in the P2 South garage area for at least eight months in violation of OGS rules. Like Liston, Kullman stated, "the parking attendant understood my situation," and allowed him to park during prohibited times. Kullman also admitted that, even though he once was issued a citation by OGS's parking enforcement unit for unauthorized parking, he continued the practice. Kullman said of the citation, "I read it and in reality, how I should have reacted would be not park there, but I took a gamble."

Dennis Moffre, the now retired OGS Director of Parking Management, informed the Inspector General that the agency's enforcement unit conducted regular spot checks of the garage and issued citations to violators. Nevertheless, as indicated by Liston's and

Kullman's statements to the Inspector General, OGS parking attendants knowingly permitted unauthorized parking by apparently overlooking certain habitual violators employed by OGS.

Improper Use of Special Use Parking Permits Issued by OGS

OGS issues Special Use Parking Permits to state agencies upon request. The permits, as their title denotes, are designed exclusively for occasional use or exigent circumstances and are not permitted to be used to circumvent the statewide waiting list for choice parking. Agencies interested in obtaining a special-use permit must submit to OGS's parking management unit a written or email request which includes the exigency or special occasion justifying the issuance of the permit. The free permits are issued to the agencies upon approval by the unit's director.

The Inspector General found that the New York State Division of Human Rights misused Special Use Parking Permits issued to it by OGS in 2007 and 2008 for use in the Empire State Plaza P3 South garage. Specifically, since December 2007, DHR allowed an agency employee to use the free permit for regular work-day parking in the P3 South garage. The employee informed the Inspector General that he had been promised the Special Use Permit by the former Commissioner of DHR as a perquisite to induce him to return to employment with DHR. In fact, based upon his seniority with the state, the employee had legitimately been issued a permit for the East Garage, but surrendered it once he was improperly granted the special-use permit.

In order to assess the accuracy of DHR's justification to OGS for the special use permit it improperly issued to the employee, the Inspector General requested OGS documentation related to its issuance, but was advised by OGS officials that no records of this request could be located. Therefore, the Inspector General could not evaluate the propriety of the request. On a more fundamental level, the Inspector General further found that OGS's internal guidelines concerning the processing procedures for Special Use Parking Permits are informal and do not include adequate approval criteria. Moreover, once the permits are issued, OGS does not adequately inform the agencies what constitutes proper and restricted use. Indeed, Moffre acknowledged to the Inspector General that OGS maintains "very weak" control over the use of the permits and is dependent on the OGS parking enforcement unit which purportedly lacks the resources necessary to monitor all areas of the garage on even a weekly basis. These weaknesses, however, do not excuse DHR's misuse of the permit.

Problems with Visitor Parking Lot Tickets

OGS also operates a 500-space parking facility for visitors in the Empire State Plaza P3 North garage area, charging a fee of \$2 per hour up to \$20 per day. To park in this area, visitors obtain a time-stamped ticket from a machine located at the garage entry. When exiting, drivers insert the ticket into one of three pay machines that calculates the charge. Upon payment, the machine returns the ticket to the driver, and the ticket is then used to open the exit gate. A different fee and payment system, however, is used on "Pay

on Entry Days,” which are typically days when special events are held on the plaza. On these days, visitors pay a flat fee of \$5 for the entire day directly to the parking attendant upon entering the lot. The attendant gives the driver one part of a two-part, blank ticket. When leaving the lot, the driver inserts the ticket into a machine at the exit booth that raises the gate.

The Inspector General identified flawed parking procedures that resulted in drivers using the visitor parking area without paying the required fee. Specifically, in December 2008, OGS informed the Inspector General of an allegation that a parking attendant had given “Pay on Entry Day” parking tickets to an individual without charging the required fee in exchange for free food. Using information provided by OGS, the Inspector General identified the individual as Tina Mayotte, an employee of Sodexo Inc., a private firm that provides food services on the plaza. On December 15, 2008, the Inspector General observed Ms. Mayotte attempt to insert a “Pay on Entry Day” ticket into the machine to exit the lot on a day when such ticket could not be used. When confronted with this improper usage, Mayotte informed the Inspector General that she had paid \$5 on a legitimate day for a “Pay on Entry Day” ticket but, because the gate was open when she left the lot on that date, she had not been required to surrender her ticket. She admitted that she retained the ticket to use at a later date when she would be required to pay. Mayotte also admitted to engaging in this same misconduct on a different date. Mayotte acknowledged knowing that a “Pay on Entry Day” ticket was to be used only on its issue date and that her actions were wrong. However, she denied ever having exchanged food for tickets with a parking attendant or anyone else and, subsequent investigation by the Inspector General failed to uncover evidence to substantiate this claim.

The Inspector General also found that Michele Stager, a Public Health Specialist at the New York State Department of Health, retained and re-used a “Pay on Entry Day” ticket in the same manner. In an interview with the Inspector General, Stager stated that, for a number of years she had parked in P3 South, using a parking permit she said she had obtained “as a special favor” from the then-health commissioner for whom she worked. Stager said she surrendered the permit when a new commissioner was appointed and then began to park in the visitor lot. Stager admitted that she knew it was improper to save and re-use “Pay on Entry Day” tickets.

Moffre advised the Inspector General that, on days when “Pay on Entry Day” tickets are accepted, the visitor lot exit gates are left open during the 4 p.m. to 6 p.m. peak-exit period to prevent traffic backups. To prevent the re-use of “Pay on Entry Day” tickets, Moffre explained, the tickets bear an expiration date that should cause the machine to reject the tickets if they are inserted on a later date. Moffre acknowledged, however, that there had been errors with the ticket dating that allowed their re-use, but that the problems have been corrected. Additionally, Moffre acknowledged a weakness in the safeguarding of “Pay on Entry Day” tickets. According to Moffre, four to six OGS employees have access to the tickets, which he characterized as “not as limited as it should be . . . It would be nice if there were fewer.”

FINDINGS AND RECOMMENDATIONS

The Inspector General found that OGS employees William Liston and Scott Kullman abused their swipe-card access privileges and parked their personal vehicles in the Empire State Plaza garage at prohibited times. The Inspector General recommended that OGS review the employees' conduct and take appropriate disciplinary action.

The Inspector General further found that the Division of Human Rights improperly assigned an OGS-issued Special Use Parking Permit to an employee for regular parking use. It is recommended that the permit be revoked. It is further recommended that OGS school agencies that are issued special-use permits on their limited appropriate use and enhance the procedures for granting and monitoring these parking passes. Additionally, OGS should take appropriate action with regard to the failure of parking attendants and the parking enforcement unit to prevent misuse of Special Use Parking Permits.

The Inspector General also found that visitor lot users were able to avoid payment of required parking fees by re-using "Pay on Entry Day" tickets as a result of a dating flaw on the tickets. OGS has corrected the problem. However, it was also found that OGS has not adequately safeguarded the tickets prior to their use. OGS should take steps to address this situation as well.

Response of the Office of General Services

The Office of General Services advised the Inspector General that it has commenced disciplinary proceedings against Liston and Kullman. OGS also advised that, based on its own investigation, it identified 12 employees suspected of using or sharing "free" parking tickets in the visitor lot; of the 12, one employee was terminated, one retired, six were counseled in writing or verbally, and four were not found to have engaged in misconduct. OGS also advised it has ceased the practice of raising the visitor lot exit gate during periods of high volume, requiring instead that a properly paid-for exit ticket be inserted in the machine before the gate will rise.

OGS further advised that the Special Use Parking Permit that the Division of Human Rights improperly allowed a division employee to use on a regular basis would be returned to OGS. OGS advised it is unaware of other misuse of such special permits by other employees, but that to prevent misuse it is contacting the heads of agencies issued the permits to confirm the need for the permits and ensure their proper use. OGS stated it also is adopting formal policy regarding the special permits that will be issued to all current and future permit holders.