

 NEW YORK STATE Corrections and Community Supervision DIRECTIVE	TITLE Use of State Owned Vehicles		NO. 2932
			DATE 10/27/2016
SUPERSEDES DIR# 2932 Dtd. 06/28/2016	DISTRIBUTION A	PAGES PAGE 1 OF 11	DATE LAST REVISED
REFERENCES (Include but are not limited to) NYS Vehicle & Traffic Law, OSC Payroll Bulletin "Reporting the Taxable Value of Personal Use of Employer Provided Vehicles...", Directive #4004, 3111	APPROVING AUTHORITY 		

- I. **PURPOSE:** To set forth a uniform State-wide policy that outlines the general rules, guidelines, and restrictions or limitations with respect to the use of State vehicles within the Department.
- II. **ELIGIBILITY FOR USE OF STATE VEHICLES**
 - A. Unless specifically authorized otherwise by the Commissioner, any person driving a State vehicle must be an employee of New York State or other person expressly authorized by the Commissioner, who is doing so in the performance of their duties or for the sole purpose of providing services to the State. A State vehicle is defined as any vehicle owned by the State or Department, or any vehicle leased or rented by the State, Department, or employee acting as an agent of the Department for official State business.
 - B. Any person driving a State vehicle must have a valid driver's license of the class required for the vehicle being operated.
 - C. Any employee scheduled or directed to operate a State vehicle is required to report any restrictions to their driver's license imposed as a result of physical impairment, or driving violations, or the suspension or revocation of their driver's license, to their immediate supervisor prior to operating any State vehicle.
 - D. The Department will participate in the License Event Notification Service (LENS) Program administered by the Department of Motor Vehicles in order to receive reports of driver license revocations, suspensions, or restrictions.
 - E. No person shall be allowed to operate a State vehicle if there has been a change in licensure that restricts driving privileges, unless the operation of the State vehicle complies with such restrictions. Furthermore, the Department retains the right to require any person using a State vehicle to participate in a safe driving program.
- III. **USE OF STATE VEHICLES**
 - A. State vehicles may only be used in the conduct of official State business, and their use for any personal business is strictly forbidden except under very limited circumstances where personal use, such as commuting has been approved by the Commissioner and subsequently submitted and expressly authorized by the Director of State Operations, or where the personal use is authorized or is incidental to official business. Even in cases where personal use is authorized or is incidental to official business, each person operating a State vehicle is expected to exercise good judgment to avoid the appearance of impropriety. The use of a State vehicle to attend a social event, such as a retirement party, is prohibited. The following are examples of such use:

1. Scenario 1: *An employee who is required to stay overnight for an out of town meeting drives the State vehicle to a restaurant in close proximity to the overnight lodging in order to have dinner.*

All vehicle use in this scenario is consistent with this policy because the State vehicle is used for official business and the personal use (driving to and from the restaurant) is incidental to official business.

2. Scenario 2: *An employee has an all-day meeting in a different part of the State. Because it would not be practical to pick up or drop off the vehicle from the official work location on the day of the meeting, the employee takes a State vehicle home the evening prior to the meeting, drives to the meeting early the next morning, drives home that evening, and returns the vehicle the following morning.*

All vehicle use in this scenario is consistent with this policy because driving from the official work location to home and from home back to the official work location is personal use incidental to official business.

3. Scenario 3: *Same facts as Scenario 2, except that on the trip back to home the employee stops to pick up a loaf of bread and a gallon of milk at a supermarket that is on the route home.*

All vehicle use in this example is consistent with this policy because the brief stop at the supermarket, while clearly personal, is a minor deviation from official State business and is considered incidental to official State business.

4. Scenario 4: *Same facts as Scenario 3, except that instead of stopping briefly at a supermarket on the route home, the employee stops at an outlet mall just off the highway to shop for one hour.*

Even assuming that the employee stops at the outlet mall outside of their regular work hours, using the State vehicle for outlet shopping is in violation of this policy. Unlike the stop in Scenario 3, the purpose of this detour is not to obtain necessary items of sustenance, such as bread or milk, nor is the detour brief. For these reasons, the personal use of the vehicle is clearly not incidental to official business.

5. Scenario 5: *An employee takes a vehicle home overnight prior to an all-day meeting in another part of the State and leaves his vehicle at his official work location. He has tickets to a ball game the evening before this trip, and because the only vehicle he has available is the State vehicle, he drives himself and three friends to the ball game.*

Using the State vehicle to take friends to the ball game is in violation of this policy. First, travel to and from the ball game is clearly personal and not connected in any way to official State business. Second, carrying persons who are not State employees and who are not engaged in official State business violates this policy and creates a potential liability for the Department.

- B. In the very limited circumstances where personal use, such as commuting, has been approved by the Commissioner and subsequently submitted and expressly authorized by the Director of State Operations, it must be reported on [Form #1665](#), "Daily Vehicle Log," as outlined in Section VI of this directive unless the personal use is incidental to official business. For any personal use that is not incidental, the user of the State vehicle must reimburse the Department the value of such use or the value must be treated as imputed personal income for tax purposes. For requirements, see Comptroller Payroll Bulletin, "Reporting the Taxable Value of Personal Use of Employer Provided Vehicles and Chauffeur Services," and Form AC 3173. All expenses incurred during the commuting portion of the travel (e.g., tolls) shall be the responsibility of the employee and the use of State credit cards and/or E-Z PASS tags is not authorized.
- C. State vehicles should not be used to transport passengers unless they are:
1. State employees engaged in official business;
 2. Non-State employees engaged in official business with State employees; or
 3. Inmates, parolees, or absconders in the control or custody of the Department.
- Picking up or dropping off friends or family members at their place of employment or school in a State vehicle, regardless of their status as a State employee, is strictly prohibited.
- D. A State vehicle may be operated by an employee on correctional facility land/grounds provided the employee is properly trained to operate the vehicle and will not be traveling on a public highway. A public highway is a way over which the public has general right of passage, not a place or area of restricted passage.
- E. Due to the public nature of the work being performed when operating a State vehicle, persons using a State vehicle have a limited expectation of privacy in connection with such use. The Department expressly reserves the right to monitor and record the use of any equipment issued or assigned for a legitimate work-related purpose, including the use of State vehicles. Accordingly, the use of a State vehicle may be monitored and recorded at any time by visual, documentary, or electronic means.

IV. GENERAL REQUIREMENTS AND RESTRICTIONS

- A. State vehicles must at all times be operated in full compliance with all applicable Federal, State, and local laws and regulations.
- B. Smoking and/or driving under the influence of drugs or alcohol in State vehicles is prohibited. The possession and/or use of alcohol, illegal drugs, or other intoxicating substances in a State vehicle are strictly forbidden.
- C. Use of seat belts by drivers and all passengers, regardless of seating locations, in State vehicles is mandatory.
- D. No person driving a State vehicle may use a mobile telephone or other electronic communications device (e.g., cellular telephones, blackberry) to engage in a telephone call while driving unless the mobile telephone or other electronic communication device is used in hands-free mode. Even hands-free calling should be conducted only if it does not interfere with the safe operation of the vehicle.

Use of State owned cellular phones while driving is prohibited unless allowed by law. Vehicle and Traffic Law §1225-c-g-3 allows the use of a cellular phone while driving if:

1. The use of a mobile telephone for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital, physicians office, or health clinic; an ambulance company or corps; a fire department, district, or company; or a police department;
2. Any of the following persons while in the performance of their official duties: a police officer or peace officer; a member of a fire department, district, or company; or the operator of an authorized emergency vehicle; or
3. The use of a hands-free mobile telephone.

No person driving a State vehicle may send or view e-mails or text messages while driving.

- E. The use or possession of radar detectors in State vehicles is strictly prohibited.
- F. All persons are prohibited from carrying, possessing, or transporting firearms, other weapons, or explosive devices in a State vehicle unless expressly authorized to do so in connection with carrying out their official duties.
- G. Prior to operating a State vehicle each employee is responsible for:
1. Becoming familiar with and adhering to the procedures relating to the operation of the State vehicle.
 2. Conducting a complete vehicle inspection as noted in Section X.
If the repair or replacement of any equipment is necessary, arrange to have it done immediately. Do not use the vehicle until such repair or replacement is made.
 3. If assigned to correctional facilities, complying with any other related facility procedures.
- H. The driver is responsible for securing and locking the vehicle when left unattended. Under no circumstances should an unattended vehicle be left running or left with the keys in the ignition.
- I. Parking tickets, permits, or placards that grant special parking privileges for State vehicles may be used only for official State business.
- J. If the vehicle is involved in an accident, it is the operator's responsibility to:
1. If physically able, seek immediate medical attention for any person(s) injured.
 2. Immediately notify State Police or local sheriff/police if there are any injuries, or any damage to any vehicle or other property for which the owner is not present at the scene, or any other circumstances which indicate that police presence would be beneficial. Obtain a copy of the Police Report and forward to Support Operations.
 3. Obtain all pertinent data from other vehicle operators, passengers, witnesses, etc. for completion of required accident report.

4. Complete and process an Accident Report Form (MV-104) in accordance with Section 605 of the NYS Vehicle and Traffic Law. After filling in the name on this form, the employee may, in his or her discretion, leave blank those other portions of the form which seek personal identifying information such as driver's license. Also, the facility address can be filled in for the address information. A copy of the MV-104 report must be submitted to the employee's immediate supervisor who in turn must submit a copy to the facility Business Office (facility vehicles) and the Division of Support Operations (for Central Office and Community Supervision vehicles). The facility Business Office must send a copy of each MV-104 report to the Division of Support Operations. This report should be completed and distributed as soon as possible, but no later than ten days after the accident.
5. Complete and process an Unusual Incident Report where applicable (see Directive #4004, "Unusual Incident Reports").
- K. If it is necessary to obtain fuel at a commercial service station for a State vehicle, the fuel should be obtained by the most economical manner possible (i.e., use self-service gas pump in lieu of full service, regular unleaded only).
- L. Except as required by traffic, weather, or road conditions, travel should be by the most direct route possible, taking into consideration cost effectiveness, actual distance traveled, and the time to travel such distance.
- M. Unless expressly authorized, no banners, advertising, placards, decals, or stickers may be placed on a State vehicle.

V. EMERGENCY OPERATION – USE OF EMERGENCY LIGHTS AND SIREN

- A. DOCCS Peace Officers are defined by New York Criminal Procedure Law § 2.10(25). Peace Officers have the power to issue a simplified traffic information where acting pursuant to their "special duties," CPL § 2.30 (1)(e). A Peace Officer acts pursuant to his or her "special duties" when he or she "performs the duties of his office, pursuant to the specialized nature of his particular employment..." CPL § 2.30(2). Enforcement of the Vehicle and Traffic Law on a public roadway does not fall within the "special duties" of a Peace Officer employed by DOCCS, inclusive of staff assigned to Community Supervision (CS), Bureau of Special Services (BSS) and the Office of Special Investigations (OSI). Therefore, DOCCS Peace Officers shall not operate the emergency lights and siren or other audible emergency device of a State-owned vehicle for the sole purpose of enforcing the Vehicle and Traffic Law; the emergency lights and siren may only be used as discussed below.
- B. DOCCS staff operating State-owned vehicles equipped with emergency lights and/or a siren must abide by Vehicle and Traffic Law § 1104, entitled "Authorized Emergency Vehicles." DOCCS staff members who operate an authorized emergency vehicle, when involved in an emergency operation, may exercise the privileges set forth in Vehicle and Traffic Law § 1104, but subject to the conditions below. DOCCS staff members driving a State-owned authorized emergency vehicle and who are involved in an "emergency operation" may:
 1. Stop, stand, or park irrespective of the provisions of the Vehicle and Traffic Law;

2. Proceed past a steady red signal, a flashing signal, or a stop sign, but only after slowing down as may be necessary for safe operation;
 3. Exceed the maximum speed limits so long as he or she does not endanger life or property;
 4. Disregard regulations governing directions of movement or turning in specified directions;
 5. That these actions may only occur when the emergency vehicle's red emergency lights and bell, horn, siren, electronic device, or exhaust whistle are activated; and
 6. The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his or her reckless disregard for the safety of others.
- C. An "emergency operation" of an authorized emergency vehicle for the purposes of this policy and procedure consist of the following situations:
1. Effectuating a lawful arrest for an offense pursuant to an OSI, BSS, or CS case;
 2. Stopping another motor vehicle in order to conduct a lawful search or seizure pursuant to an OSI, BSS, or CS case;
 3. Responding to an escape, riot, or other emergency at a DOCCS correctional facility;
 4. Responding to an emergency incident involving a DOCCS employee, inmate, parolee, person under community supervision in New York State, or other person associated with DOCCS;
 5. Pursuing another motor vehicle or person pursuant to an OSI, BSS, or CS incident or investigation in accordance with DOCCS policies and procedures on vehicle pursuits and foot pursuits; and
 6. Acting in order to reasonably protect persons from an immediate threat of physical injury, serious physical injury, or death.
- D. Law Enforcement Contact: Whenever a DOCCS employee encounters another member of law enforcement or a citizen in the course of operating a State-owned or leased vehicle, the DOCCS employee shall identify himself or herself by name, title, office, and agency (DOCCS). DOCCS Peace Officers who are armed with a firearm shall also advise another law enforcement member encountered on the roadway that he or she is so armed.

VI. ASSIGNED FACILITY/OPERATOR RESPONSIBILITIES

- A. Employees who are assigned vehicles on a permanent basis are responsible for maintaining the vehicle in accordance with the manufacturer's recommended schedule contained in the owner's manual provided with the vehicle.
- B. Even though State-plated vehicles are permanently registered, there is an annual requirement for Department of Motor Vehicle inspection. The assignee should be aware of the inspection expiration and make arrangements to have the vehicle inspected.

- C. Each State-owned vehicle owned by the Department shall be inspected by the operator prior to its use. Refer to Section X of this directive for more information.
- D. Vehicles are to be cleaned both inside and outside as required.

VII. DAILY VEHICLE LOG

- A. A "Daily Vehicle Log," [Form #1665](#), will be maintained for each State vehicle. Except for personal use that is incidental to official State business as provided for in the scenarios outlined in Section III of this directive, all personal use must be clearly identified as such in the Daily Vehicle Log under the column Purpose of Travel, and any miles associated with commuting totaled in the Commuter Miles column.
- B. It shall be the operator's responsibility to complete the prescribed [Form #1665](#), "Daily Vehicle Log," for each day the vehicle is in use. Each leg of a trip should be separately recorded in the Daily Vehicle Log. This information is essential to comply with reporting requirements of the Comptroller's Payroll Bulletin, "Reporting the Taxable Value of Personal Use of Employer Provided Vehicles and Chauffeur Services," and Form AC 3173.
- C. Daily Vehicle Logs shall be collected, reviewed, and approved as to completeness and accuracy by a designated supervisor on a regular basis. Each facility must implement a procedure to account for the monthly submission of a completed form for every vehicle. For Central Office and Community Supervision staff, a completed form must be submitted to Support Operations each month with all fuel and repair receipts attached. Daily Vehicle Logs must be submitted to Support Operations by the 15th of the following month.
- D. The Daily Vehicle Logs for each vehicle must be retained for three years.

VIII. CREDIT CARDS

- A. The driver of a State vehicle is responsible for the use and safe-keeping of the credit card(s).
- B. The credit cards are to be used only for fuel purchases directly related to the operation of the vehicle (e.g., gas, oil, etc.) within the restrictions established by OGS.
- C. A unique Personal Identification Number (PIN) will be issued to individual employees as needed. A PIN is unique to the employee issued the PIN and are not to be assigned to a vehicle or to a credit card. The employee is responsible for the use and safe-keeping of their assigned PIN.
- D. Credit cards other than the OGS issued credit card will be administered by each facility Business Office. Support Operations will administer credit cards for all Central Office and Community Supervision vehicles. The only commercial credit card to be used will be the card approved through the OGS contract process.

- E. Lost, damaged, or stolen OGS credit cards should be reported to an employee's supervisor and Support Operations immediately. Requests for replacement OGS credit cards should be submitted, in writing, to the Division of Support Operations with a full explanation stating date of loss and indication that a diligent search was made. If replacement of a damaged or worn credit card is requested, the old card must be included with the request. Requests for replacement OGS credit cards cannot be submitted directly to OGS.
- F. Requests for replacement commercial fuel credit cards should be submitted, in writing, to the Division of Support Operations (for Central Office and Community Supervision vehicles) or the facility Business Office (for facility vehicles) with a full explanation stating date of loss and indication that a diligent search was made. If replacement of a damaged or worn credit card is requested, the old card must be included with the request.
- G. Receipts obtained when using credit cards should be turned in as follows:
 - 1. Vehicles Assigned to Locations Other Than Facilities: Receipts must be attached to the corresponding travel voucher before submission of the voucher to the employee's supervisor. If a travel voucher is not required, receipts must be submitted with the Daily Vehicle Log.
 - 2. Vehicles Assigned to a Facility: To the facility's Business Office on a weekly basis.

IX. E-Z PASS TAGS

- A. State-provided E-Z PASS tags are numbered and assigned to a particular vehicle license plate. Tags should not be removed from their assigned vehicle or transferred from vehicle to vehicle.
- B. E-Z PASS tags are to be used for State vehicles only, while conducting official State business. Use of State-provided tags in personal vehicles will result in disciplinary action. Supervisors should review monthly E-Z PASS account statements to ensure that E-Z PASS charges correspond to vehicle trips.
- C. Special care should be exercised in safeguarding the E-Z PASS tags as well as all contents of a vehicle in accordance with Section IV-H of this directive. Lost or stolen E-Z PASS tags should be reported immediately to the employee's supervisor (facility vehicles) or Support Operations (Central Office and Community Supervision vehicles).
- D. New or replacement tags can be requested from the facility Business Office (facility vehicles) or from Support Operations (Central Office and Community Supervision vehicles).
- E. E-Z PASS tags assigned to vehicles that are to be surplused may not be transferred to another vehicle. They are to be turned in to Support Operations (Central Office and Community Supervision vehicles) or the facility Business Office (facility vehicles) for reassignment.

- X. **ACCOMMODATIONS FOR PHYSICALLY DISABLED EMPLOYEES:** Employees with physical disabilities who own specially equipped personal vehicles are authorized to use their personal vehicles when automobile transportation is required to perform official State functions.

XI. OPERATOR'S VEHICLE INSPECTION: Each State-owned vehicle owned by the Department shall be inspected by the operator prior to its use. This inspection is for the operator's safety and provides a type of "work-order" for correction of any defects noted.

- A. Procedure: The following steps shall be performed by the operator prior to taking the vehicle:
1. Obtain [Form #1590](#), "Operator's Vehicle Inspection," when keys to vehicle are obtained.
 2. Enter as follows:
 - a. Vehicle type and make in item 1;
 - b. Vehicle license number in item 2;
 - c. Starting odometer reading in item 3;
 - d. Date in item 5; and
 - e. Enter general condition of vehicle body in item 8, such as dents and broken or cracked glass.
 3. Inspect vehicle for each item listed in item 9 checking either "S" for satisfactory or "U" for unsatisfactory.

NOTE: When inspecting the locking system, vehicle keys may consist of a FOB for ignition operation and remote keyless entry that may conceal a removable manually operated door key. If unsatisfactory for safe operation, enter suitable remarks in item 6, sign in item 7, and return vehicle. Vehicle keys and [Form #1590](#) are to be returned to the Arsenal.*

- B. The following steps shall be performed by the operator after using the vehicle.
1. Upon return of vehicle, make any "Remarks" necessary in item 6;
 2. Enter ending odometer reading in item 4;
 3. Sign in item 7; and
 4. Turn in form with vehicle keys to the facility Arsenal.*

*NOTE: The Superintendent may designate an alternate location (outside the Arsenal) as the depository for vehicle keys and inspection forms. Inspection forms and keys are to be returned to Support Operations for Central Office pool vehicles.

- C. Facilities Vehicles: The following steps shall be performed by the Maintenance Supervisor after the vehicle is turned in:
1. Examine [Form #1590](#) and determine if any immediate work is needed on the vehicle;
 - a. See Directive #3111, "Scheduled Maintenance/Reports," if immediate work or servicing is required.
 - b. If no immediate work is necessary, file copy in vehicle folder.
 2. File original form for 12 months retention. (Throw away first three months of records at end of 15 months, thereby maintaining a minimum of 12 months); and
 3. Use file of originals to spot check efficiency of maintenance operation.

- D. Community Supervision Vehicles: The Vehicle Control Officer (VCO) will:
1. Work with the Regional Director or designee to advise of availability of daily vehicles, and will coordinate utilization of the vehicles;
 2. Oversee the maintenance of required records for each vehicle within the Region;
 3. Notify the Regional Director and Finance Officer if expenses are incurred for street parking;
 4. Arrange for required maintenance and repairs through ARI; ensure that all safety repairs are made immediately and that no car is used again until the necessary repairs are made;
 5. Ensure that each vehicle is equipped with an ARI Fleet packet. This contains information needed for vehicle maintenance, repairs, and/or towing;
 6. Advise drivers of all rules and regulations for vehicle operation;
 7. Ensure that all State vehicles used for prisoner transport are equipped with authorized restraining and safety equipment, and the following safety equipment:
 - a. first aid kit;
 - b. fire extinguisher; and
 - c. safety reflective triangle
 8. Ensure that each vehicle is inspected annually by a New York State Vehicle Inspection Station/Shop; and
 9. Request approval from Support Operations for any vehicle reassignments. Vehicles shall not be reassigned prior to obtaining approval.

XII. TICKETS: Payment and/or resolution of any tickets (e.g., parking, speeding, E-Z PASS violations, etc.) that are issued against any State vehicle or staff member operating the State vehicle are solely the responsibility of the driver who was operating the vehicle at the time the ticket was issued. The Department will not reimburse any staff member for such ticket fines or fees incurred.

XIII. MONTHLY REPORTS AND AUDITS PERTAINING TO STATE VEHICLES

- A. Monthly invoices for E-Z PASS and commercial credit cards are submitted to the facility Business Office and Support Operations for review and payment processing. Invoices will be audited as follows:
1. Central Office and Community Supervision: A quarterly random audit will be conducted by Support Operations. A detailed billing will be sent to the Division Head/Regional Director for review to determine that charges are within Department guidelines. Review must be signed and returned to Support Operations within five business days. A log shall be maintained of all audits conducted.
 2. Facility: A quarterly random audit will be conducted by the Superintendent (or designee). A detailed billing will be sent by the Superintendent (or designee) to the respective facility Department Head for review. The Superintendent (or designee) must sign and return to Support Operations within two weeks of review. A log shall be maintained of all audits conducted.

-
- B. The Maintenance Supervisor or equivalent will compile, monthly, the mileage, monthly repair cost, and fuel usage (total gallons) for each vehicle assigned to the facility. The information for each vehicle must also be entered in the MP2 system, to assist with the preventive maintenance of the vehicle. Once compiled, the information is to be submitted to the Deputy Superintendent for Administration for review and submission to Support Operations using [Form #2932B](#), "State Vehicle Maintenance/Mileage Log." Logs must be submitted to Support Operations by the 15th of the following month.
- C. Daily Vehicle Log audits will be conducted to ensure compliance with existing Department guidelines.
1. Central Office and Community Supervision: Quarterly random audits will be conducted by Support Operations.
 2. Facility: Quarterly random audits will be conducted by the Superintendent (or designee).
 3. A log shall be maintained of all audits conducted.
- D. The Central Office Internal Audit Unit will conduct random audits of the vehicle usage, E-Z PASS, commercial gas card usage, and of any prior audits performed by Support Operations or the facility.