

State of New Jersey

Schools Development Authority Office of the Inspector General

Employee Use of State-owned E-Z pass

January 15, 2008

**Mary Jane Cooper
Inspector General**



State of New Jersey

OFFICE OF THE INSPECTOR GENERAL

PO Box 208

TRENTON NJ 08625-0208

JON S. CORZINE
Governor

MARY JANE COOPER
Inspector General

January 15, 2008

Honorable Jon S. Corzine
Governor, State of New Jersey
State House
P.O. Box 001
Trenton, NJ 08625

Re: Investigation of improper use of state-owned E-Z pass for the
New Jersey Schools Development Authority

Dear Governor Corzine:

Enclosed is a copy of the report the Schools Development Authority Office of the Inspector General (SDA OIG) has prepared in response to a request for investigation from the New Jersey Schools Development Authority (SDA).

As required by OIG statute, a copy of this report has been sent to Senate President Richard J. Codey, Assembly Speaker Joseph J. Roberts and SDA CEO Scott Weiner. As this report involves possible criminal conduct by the SDA employee who is the subject of this report, the identity of that employee has been excluded from the report and will instead be revealed to the Division of Criminal Justice in a separate and confidential letter. The SDA is already aware of the employee's identity.

The SDA OIG's investigation of this matter is now complete. I am available to discuss this report with you at any time.

Respectfully,

A handwritten signature in black ink, appearing to read "Mary Jane Cooper".

Mary Jane Cooper
Inspector General of New Jersey

cc Richard J. Codey, President, New Jersey Senate
Joseph J. Roberts, Speaker, New Jersey State Assembly
James Carey, Acting Director of Governor's Authorities Unit
Scott Weiner, CEO, New Jersey Schools Development Authority
Gregory Paw, Director, Division of Criminal Justice

**State of New Jersey Office of the Inspector General
New Jersey Schools Development Authority
Employee use of state-owned E-Z pass**

I. INTRODUCTION

On April 4, 2007, the New Jersey Schools Development Authority (SDA) reported to the SDA Office of the Inspector General (OIG) that an SDA-owned E-Z pass that had been missing for some time was returned by an SDA employee.¹ The SDA asked the SDA OIG to determine how the employee obtained the E-Z pass and whether the employee had acted improperly, including whether the employee had used the SDA-owned E-Z pass for personal use.

In investigating the matter, the SDA OIG reviewed relevant documents and interviewed several SDA employees.

¹ Because this matter may result in personnel action, throughout this report, the SDA employee whose conduct is under review will be referred to as “the employee”. His identity will be revealed to the appropriate SDA management in a separate confidential letter.

II. STANDARDS

The facts gathered during the SDA OIG's investigation implicate certain SDA policies and procedures. For instance, use of an SDA E-Z pass for personal commuting expenses violates the policy titled "Use of SCC Vehicles" section 4(c)(6) that states: "Drivers are not to use SCC vehicles, state issued gas cards, and EZ Pass for attending non-business events or personal use."² The policy defines "personal use" to include commuting between home and the employee's SDA office. See section 4(a)³.

Consistent with this policy is SCC "Employee and Travel Expense Policy" section III(h)(3)(c)(v) that states: "Toll charges incurred by an employee while traveling to his/her normal work location are not reimbursable under this policy" and section III(h)(4)(c): "The following types of expenditures are not reimbursable under this policy: Commutation expenses (mileage, gasoline, tolls, public transportation, etc. for expenses related to travel to your "normal" work location)."

² The Policy was written by the SDA's predecessor entity, the New Jersey Schools Construction Corporation (the "SCC") and thus uses the abbreviation SCC instead of SDA. The Policy applies to the SDA as well and presumably will be revised to replace the references to SCC.

³ Although these two sections, read together, would seem to prohibit use of the assigned vehicle for commuting, another section in the Policy expressly authorizes the use of the assigned vehicle for commuting purposes. See section 4(b)(3), discussed *infra*. This section does not authorize the use of the E-Z pass for commuting, however.

SDA OIG's review also uncovered evidence suggesting that the employee used his SDA-assigned vehicle for personal travel on weekends and holidays, implicating other SDA policies and procedures. Those policies and procedures include the Policy on the Use of SCC Vehicles, section 4(b)(3): "An employee assigned an SCC vehicle must use the vehicle for business and commuting purposes"; section 4(c)(5): "Personal use [of an SDA vehicle] is prohibited, except for normal lunch and breaks during working hours"; and section 4(c)(6): "Drivers are not to use SCC vehicles, state issued gas cards, and EZ Pass for attending non-business events or personal use" as well as [SDA] Employee Travel and Expense Policy, section III(h)(3)(c)(iv): "[SDA] vehicles may only be used for conducting [SDA] business."

Other findings from this investigation implicate the policy on the Use of [SDA] Vehicles, section 4(i)(10): "Vehicles must be returned to the assigned parking place"; section 4(c)(4): "Drivers must report all ticket violations received while operating a SCC vehicle within 72 hours to the Vehicle Coordinator. Drivers shall be responsible for resolving with the appropriate Court, within 30 days, all violations issued against vehicles";

section 4(l)(1) Tax Treatment for Personal Mileage: “Mileage driven in a SCC vehicle for personal (commuting) and business must be must be tracked separately for income tax purposes,” and section 4(j)(1) [SDA] E-Z Pass Accounts: “The [SDA] EZ Pass account is for State business only and those individuals operating vehicles assigned EZ Pass devices are responsible for safeguarding the devices.”

III. SUMMARY OF CONCLUSIONS

The employee whose conduct is under scrutiny said that he was unaware that there was an SDA E-Z pass in the SDA mail car that he borrowed while his own SDA-assigned vehicle was being serviced. He also denied that while using the borrowed mail car, he intentionally used the SDA E-Z pass to pay his personal commuting expenses.

The employee admitted that he had the SDA mail car E-Z pass in his personally assigned SDA car from the time he picked up his personally assigned SDA vehicle after servicing until he was questioned about it by SDA representatives, but denied that he knowingly took the SDA E-Z pass

from the SDA mail car and knowingly used it to pay his personal commuting expenses while it was in his personally assigned SDA vehicle.

The evidence indicates that when questioned about his possession and use of the SDA E-Z pass, the employee made false exculpatory statements to SDA management and to the SDA OIG in an attempt to escape the consequences of his improper conduct. Several of the employee's statements were inconsistent, self-contradictory, contradicted by other more reliable evidence, or otherwise not credible.

More particularly, the evidence gathered during the SDA OIG's investigation indicates that:

- the employee was aware that there was an SDA E-Z pass in the SDA mail car that he borrowed to use while his personally assigned SDA vehicle was being serviced;
- the employee knowingly used the SDA mail car E-Z pass to pay his personal commuting expenses while he borrowed the SDA mail car;

- the employee intentionally removed the SDA E-Z pass from the SDA-owned mail car and placed it in his personally assigned SDA car;
- the employee thereafter used the SDA E-Z pass to pay his personal commuting tolls incurring expenses on the SDA E-Z pass account of \$126;
- the employee parked the SDA mail car at a metered space and then failed to ensure that either there was sufficient time on the meter or that the SDA mail car was moved before the vehicle was given a parking ticket;
- the employee failed to report the parking ticket to the appropriate SDA managers;
- the employee used his SDA-assigned car and the SDA mail car E-Z pass to pay for personal travel on one or more weekends;
- the employee, upon realizing that SDA managers were alerted to his possible misuse of the SDA E-Z pass, crafted a false exculpatory explanation for his conduct and made false exculpatory statements to SDA managers and to the SDA OIG.

IV. ANALYSIS OF THE EVIDENCE

A. MISUSE OF E-Z PASS

1. Background

The SDA uses two vehicles assigned to the mailroom for deliveries and each has an E-Z pass that is billed directly to the SDA. One of the vehicles is a van used for deliveries between the main SDA office in Trenton and the regional SDA offices in Newark, Jersey City, and West Paterson. The other SDA delivery vehicle with an E-Z pass is a car used mostly for local deliveries (the mail car) in the Trenton vicinity. According to the mail room supervisor, the SDA E-Z pass for each vehicle is mounted inside the vehicle on the windshield by the rear-view mirror. The SDA E-Z passes are bright blue and are distinguishable from personal E-Z passes, which are cream-colored. While the van frequently incurs E-Z pass charges, the SDA mail car is used for local deliveries and thus rarely incurs E-Z pass charges.

The SDA assigns SDA owned vehicles for SDA business use to employees who are permitted to use the cars to commute to and from work.

Employees who are assigned SDA cars are generally not provided SDA E-Z passes, but can submit for re-imbursement of toll charges incurred while on SDA business with proof of those charges (either toll receipts or a personal E-Z pass record).

The SDA permits an employee to borrow the mail car if the employee's SDA-assigned car is in the motor pool for service. Apparently the practice has been to leave the SDA E-Z pass in the mail car when it is loaned out.

The employee who is the subject of this investigation began his employment by SDA in 2002. In June or July 2006, he was assigned an SDA vehicle for business use, but neither he nor his SDA assigned car was provided with an SDA E-Z pass. The employee told the SDA OIG that he had his own personal E-Z pass mounted to the front license plate of his SDA-owned car, and he had other E-Z passes for use by his family members in their cars. The employee claimed that typically, he did not seek reimbursement for any toll charges he incurred while using the SDA assigned car on SDA business because the charges were minimal. The employee provided his personal E-Z pass records and those records

demonstrated that the employee incurred toll charges on the New Jersey Turnpike commuting to and from the Jersey City SDA office.⁴

For the first time since being assigned the SDA owned car, the employee scheduled it for service in January 2007. Following the SDA practice, the employee e-mailed the mail room supervisor to arrange for the mail room staff to take the employee's SDA-assigned car to the motor pool for service and to borrow the SDA mail car while his assigned car was serviced. He was told to park his assigned car in the Trenton Marriott Hotel parking garage and go to the mail room to arrange to pick up the loaner vehicle.

On Friday, January 26, 2007, the employee drove his SDA assigned car to Trenton and parked it in the hotel parking garage. He spoke to the mail room supervisor to find out where the mail car was parked, he obtained a key for the mail car, and he told the mail room supervisor where he had parked his own SDA assigned car.⁵ Neither the employee nor the mailroom

⁴ Both the employee's E-Z pass and the SDA E-Z pass showed that the employee often commuted to work at early hours, sometimes arriving before 6:00 a.m.

⁵ He did not have to give his key for his assigned car to the mail room staff because the mail room has duplicate keys for all SDA-owned cars.

supervisor told the SDA OIG that the SDA E-Z pass in the loaner was discussed.

The employee picked up the mail car from the hotel parking garage and transferred his possessions, including his hard hat, laptop computer and case, and his appointment book, from his assigned car to the mail car. The mail room staff took the employee's car to the motor pool in Trenton that same day.

According to the employee, he used the mail car on Friday, January 26, 2007, took it home on over the weekend, and used it to drive to work in Jersey City on Monday morning, January 29, 2007. The mail room supervisor notified the employee that the motor pool had finished servicing the employee's car that day, and the employee said he would come to Trenton the following morning and change cars.

The mail room supervisor picked up the employee's assigned car on Tuesday morning, January 30, 2007, and parked it in a loading area behind the SDA building where the mail room staff parked cars on a short-term basis. According to the mail room supervisor, it was about 11:00 a.m. or

11:30 a.m., on Tuesday morning, January 30, 2007, when the employee returned the key to the mail car and was told where to find his car. The employee told the mail room supervisor that he had already taken his possessions from the mail car and that he had parked it at a meter on the street in front of the Trenton SDA building.⁶ The mail room supervisor said he moved the mail car and parked it near the employee's assigned car behind the SDA office at about 11:45 am. He said that he did not transfer any items from the mail car to the employee's car, and specifically denied that he moved the E-Z pass from the mail car to the employee's car. In fact, he did not notice if the E-Z pass was on the windshield of the mail car when he re-took possession of it.

The employee told the SDA OIG that later that day, he picked up his SDA-assigned car and resumed using it -- with his personal E-Z Pass attached to the license plate -- to commute to and from work and to travel on SDA business.

⁶ The mail room supervisor said that the employee did not warn him that the car should be moved soon because the meter was about to expire. The supervisor went to move the mail car at around 11:45 a.m. and found a parking ticket on the windshield that had been issued at 11:40 a.m. He moved the mail car to the area behind the SDA building and parked it near the employee's car. The mail room supervisor then went into the building and gave the employee the ticket. The employee told the mail room supervisor that he would pay the fine himself. The employee told the SDA OIG that he did not recall if he put money in the meter, and he had agreed to pay the overtime parking fine because it was his responsibility. The Trenton Violations Bureau confirmed that the \$49 fine was paid.

On March 2, 2007, the mail room staff used the mail car instead of the van for deliveries to the regional offices. Upon arriving at the entrance to the turnpike, the mail room staff person discovered that the E-Z pass was missing from the mail car. The mail room supervisor recalled that the employee had borrowed the mail car and telephoned the employee that same day to leave a voice mail message asking him to call if he had the SDA E-Z pass that was missing from the mail car. The employee did not return the call and the mail room supervisor interpreted this to mean the employee did not have it. The mail room supervisor and the vehicle coordinator e-mailed everyone else they could recall having used the mail car, but all denied having the E-Z pass.

The SDA Director of Human Resources (HR) was told that the SDA E-Z pass had been missing, and she obtained the E-Z pass charges for the three SDA E-Z passes⁷, specifically reviewing the charges for the SDA mail car. The mail car E-Z pass did not often incur charges, and according to the mail room supervisor, the mail car E-Z Pass had not been used for mailroom expenses since the employee borrowed it. Although the employee had returned the mail car on January 30, 2007, the SDA E-Z Pass record

⁷ The SDA owned three E-Z passes: one for the mail car, one for the regional delivery van and one assigned to the SDA Chief Operating Officer.

revealed that SDA mail car E-Z pass had inexplicably continued to record charges for travel on the turnpike.

When discussing the missing SDA E-Z Pass, the SDA vehicle coordinator learned that the employee had not returned the mail room supervisor's March 2, 2007 voice mail message about the mail car E-Z pass. Realizing that the employee's lack of response did not necessarily mean that he did not have the SDA mail car E-Z pass, the vehicle coordinator e-mailed the employee on March 14, 2007. The employee responded within minutes: "A blue E-Z pass was left in my car when they took it for service. I'll send it via inter-office to you tomorrow."⁸ The employee returned the SDA mail car E-Z pass to the mail room through inter-office mail the next day as promised.

The SDA HR Director asked the employee to her office on March 22, 2007 to discuss his possession and use of the SDA E-Z Pass. The employee apologized for "the E-Z pass thing" and told the HR Director that "it was no big deal." The HR Director disagreed. The employee told the HR Director

⁸ The e-mail to the employee was sent at 3:57 p.m. Curiously, the employee's response contains a notation that the response was sent at 3:19 p.m. This seeming incongruity in the times of the e-mails is explained by the failure of the employee to adjust his computer's clock to daylight savings time. In actuality, the response was sent at 4:19 p.m., twenty-two minutes after the e-mail was sent to the employee.

that he used his own E-Z pass on his SDA-assigned car. The HR Director asked the employee to provide copies of the transactions for that personal E-Z pass, and the employee agreed to provide the documentation.

When the copies did not arrive, the HR Director e-mailed a reminder to the employee at 7:42 a.m. on March 27, 2007. The employee responded at 7:54 a.m., saying that he had the information but was in Paterson that morning and would send it as soon as possible.

However, that same morning, the employee saw the SDA Chief Operating Officer (COO) at a Regional Directors meeting. Because the COO would be going back to Trenton, the employee gave him a pink inter-office envelope saying that it contained “the E-Z pass stuff”, and asked him to give the envelope to the HR Director.⁹ The employee told the SDA OIG that he assumed the COO was aware of the issue because the COO had been copied on the e-mail from the HR Director. The COO told the SDA OIG that at the time, he was vaguely aware of the issue, and he looked at the contents of the envelope in the presence of the employee. The COO told the SDA OIG that the envelope contained:

⁹ Regional Directors meetings are held on Tuesday mornings, and the e-mail response from the employee to the HR Director was on Tuesday morning, March 27, 2007. The COO told the SDA OIG he thought that the employee turned over the pink envelope at a Regional Directors meeting in Paterson.

- A color photocopy of a New Jersey license plate for the employee's SDA-assigned vehicle with an E-Z pass mounted to the license plate;
- A copy of a receipt dated 03-23-07 time 10:39 from E-Z Pass Customer Service for the employee's personal E-Z pass, listing the reason for the return as damaged;
- A photocopy of the E-Z pass sticker from the employee's personal E-Z pass;
- A copy of the transactions on the employee's personal E-Z pass for the time period 12/26/2006-1/26/2007; and
- A check #3206 dated 3/23/07 from the employee in the amount of \$100 payable to the NJSCC (the predecessor to the SDA) with a notation "E-Z Pass Charges."

The COO asked about the check. The employee said, "It should take care of it." The COO understood that the employee meant the E-Z pass issue and did not ask further.

2. Use of the SDA E-Z Pass in the Loaner Car

The employee told the SDA OIG that he never noticed the blue SDA E-Z pass on the mail car windshield while he used the borrowed mail car and that he was unaware that it was in the mail car. Other evidence tends to indicate that the mail car E-Z pass was in its usual spot on the mail car windshield when the employee borrowed the mail car and that the employee was not truthful when he told the SDA OIG that he was unaware of the SDA E-Z pass in the vehicle. Moreover, the evidence tends to indicate that the employee intentionally used the SDA E-Z pass to pay his personal commuting expenses while using the borrowed mail car.

No one from the mail room acknowledged moving the E-Z pass from its usual location on the mail car windshield before the employee took possession of the mail car on Friday, January 26, 2007. The SDA E-Z pass toll records confirm the statement of the mailroom supervisor that the SDA mail car E-Z pass was in the mail car when the employee first borrowed the mail car on Friday, January 26, 2007. The toll records confirm that the mail car E-Z pass was used by the employee to pay his tolls as he commuted in

the mail car.¹⁰ The SDA E-Z pass assigned to the loaner recorded New Jersey Turnpike tolls incurred during the employee's commute to and from the office on Monday, January 29, 2007. The tolls were consistent with those incurred by the employee when using his personal E-Z pass (as confirmed by personal E-Z pass records he provided) both in terms of the turnpike entrances and exits, as well as the times of the commutes.

The employee acknowledged to SDA OIG that when commuting in the loaner, he used the E-Z pass only lanes entering and exiting the Turnpike and that he did not stop to pay a toll. He said that he did so without thinking about using an E-Z pass or, in the alternative, the necessity to pay a toll because it was his habit to use the E-Z pass only lanes. While the employee might not have noticed that the toll payment failed to register as he passed through the E-Z pass toll booth once or twice, the employee's statement that he did not think about the necessity to pay a toll for his commutes in the

¹⁰ It did not register for the day he received the loaner because the employee's home is only a few miles from Trenton and thus he did not travel on the turnpike to drive home from Trenton on Friday, January 26. It did register tolls for the turnpike entrance and exit generally used by the employee for his commute to work at the SDA regional office as well as his commute home on Monday, January 29. It likewise did not register for the day he returned the loaner because he drove directly from his home (a few miles from Trenton) and did not use the turnpike when he returned the loaner to Trenton on Tuesday, January 30.

loaner -- to and from work on Monday, a total of four trips through toll barriers entering and exiting the Turnpike -- is not convincing.¹¹

3. Removal and Use of the SDA E-Z Pass to Pay Personal Commuting Expenses

The evidence indicates that the employee was aware that there was an SDA E-Z pass within the loaner vehicle when he borrowed the car, and further indicates that the employee intentionally moved it from the loaner car to his personally assigned SDA car when he returned the loaner. The evidence reveals that the employee continued to use the SDA E-Z pass taken from the mail car to pay for his personal toll expenses, including his tolls incurred while commuting to and from work.

The SDA E-Z pass toll records showed tolls for trips to and from work (consistent with the employee's customary commute, both in terms of the turnpike entrances and exits, as well as the times of his usual commutes)

¹¹ SDA OIG's investigation revealed that it was possible that the E-Z pass was somewhere in the loaner other than on the windshield but in a location where its signal would be recorded as the vehicle passed through the toll booth with the E-Z pass reader. SDA OIG was told that depending on several factors, including the strength of the signal in the E-Z pass and the location of the E-Z pass within the vehicle, it was possible that the E-Z pass could be read at the toll station while not on the windshield. However, if the E-Z pass was out of sight, the employee's explanation that he inadvertently grabbed the E-Z pass with his other possessions, described *infra*, is then incredible.

on January 31, 2007, the day after the employee returned the borrowed mail car and picked up his SDA assigned car.¹² Thus, the SDA E-Z pass records indicate that the SDA E-Z pass was removed from the SDA mail car on January 30, 2007, and placed in the employee's personally assigned car that same day.

Tolls consistent with the employee's usual commute continued to be incurred on the SDA mail car E-Z pass from the day after the transfer until the afternoon of March 14, 2007. That was the day the SDA vehicle coordinator e-mailed the employee about the missing mail car E-Z pass and the employee admitted that he in fact had it.

After the employee acknowledged that he had the SDA E-Z pass and that it had been used to record his commuting expenses, he provided several inconsistent explanations for how he "inadvertently" came to have the SDA mail car E-Z pass in his possession and "unintentionally" continued to use the SDA E-Z pass to pay his personal tolls between January 31, 2007 and March 14, 2007.

¹² It did not register tolls for January 30, the day he returned the loaner and picked up his personally assigned SDA vehicle because he did not use the turnpike that day.

The first explanation was in his e-mail acknowledgement to the vehicle coordinator when the employee wrote that he would return the blue E-Z pass “left in [his] car when they took it for service.” Somewhat consistent with the e-mail was his statement when first interviewed by the SDA OIG that some time after he regained possession of his own SDA assigned car, he noticed the blue SDA E-Z pass on his windshield.

The employee’s e-mail statement indicates that the employee was aware that he was in possession of the SDA E-Z pass from the day he picked-up his own SDA assigned vehicle after servicing, January 30, 2007. Moreover, his statement to the SDA OIG that the E-Z pass was on his windshield indicates that the employee saw it on the windshield and did not question how it got there and that he was aware of at least the possibility that the SDA was paying his commuting tolls for some period of time. Not having been assigned the blue SDA E-Z pass, the employee’s silence indicates intentional improper use of the E-Z pass.

As to the employee’s indication that someone else put the SDA E-Z pass in his personally assigned SDA car (it was “left it in my car”), only the mail room supervisor had access to both cars and could have moved the

SDA E-Z pass from the mail car to the employee's personally assigned SDA vehicle on January 30, 2007. The mailroom supervisor denied that he transferred the blue SDA E-Z pass or any other item from the mail car to the employee's car, and the mail room supervisor had no readily apparent motive to intentionally put the E-Z pass in the employee's car. The same facts discussed later in this report that weigh against the employee inadvertently making the transfer of the SDA E-Z pass from the mail car to the employee's assigned car, also weigh against the mailroom supervisor having caused the transfer inadvertently. In any event, the employee then abandoned the explanation that someone else put the SDA E-Z pass in his personally assigned car and that he was aware of it from almost the outset.

In a slight variation of the statement in the e-mail, during the first SDA OIG interview, the employee told the SDA OIG that he did not recall moving the blue, SDA-owned E-Z pass from the mail car to his assigned vehicle, but he admitted that it was a possibility that he had done so. During this interview, he also stated that at some point before being notified by SDA managers that they were looking for the SDA E-Z pass, he observed the blue E-Z pass on his windshield. He did not explain why he did not then immediately return it to the SDA.

As part of this version, the employee claimed that his personal E-Z pass remained attached to the front license plate of his assigned car. Therefore, he assumed that his commuting tolls were accumulating on his personal account rather than on the SDA E-Z pass on his windshield.

During a second interview, the employee took the position that he was unaware that the E-Z pass was in his personally assigned vehicle until approximately six weeks later. In the second interview, he told the SDA OIG that he first learned of the missing E-Z pass and that he was in possession of it when he received the March 14, 2007 e-mail from the SDA vehicle coordinator.¹³

The employee provided still other somewhat inconsistent explanations for how the E-Z pass came to be in his personally assigned SDA vehicle. He told the SDA OIG that when he picked up his own vehicle, on January 30, 2007, he took his possessions from the mail car, and could have unwittingly grabbed the E-Z pass and transferred it to his personally assigned SDA car.

¹³ He said that he did not receive the March 2, 2007 voice message from the mail room supervisor because it was left on his other, seldom-used cell phone number.

The employee told the SDA OIG that he could not recall whether his possessions had been in the trunk or the passenger compartment.

It would have been unlikely that the employee could inadvertently pick-up the SDA E-Z pass if, as the evidence indicates, it was attached to the windshield. The E-Z pass would have to have been forcefully removed from the windshield Velcro strips, and the E-Z pass would not have been near the employee's possessions.

The employee stated that he transferred his hard hat, his laptop with carrying case and his appointment book between the cars. It seems unlikely that he would not have observed the bright blue E-Z pass among these few items if the E-Z pass were on the seat and he had inadvertently taken the E-Z pass when the transfer occurred.

During the second interview, the one in which the employee told the SDA OIG that he was unaware that the SDA E-Z pass was in his vehicle, he also told the SDA OIG that when alerted by the e-mail from the SDA vehicle coordinator that he might have the SDA E-Z pass, he found the E-Z pass in the glove compartment of his SDA-assigned car (rather than in plain

sight on his windshield). Thus, according to this version, the SDA E-Z pass was not mixed-in with the items he had transferred between cars: his hard hat, his laptop computer and case, or his appointment book since none of these items were placed in the glove compartment. The employee could not explain how the blue E-Z pass got into his glove compartment.

As stated a above, SDA records for the “missing” mail car E-Z pass showed that it had continued to record tolls for the employee’s commute until he was contacted by the vehicle coordinator. The employee was unable to demonstrate that he had been paying the tolls associated with his commute with his personal E-Z pass that had been attached to the license plate of his SDA assigned car. The employee’s personal E-Z pass records do not indicate that his personal E-Z pass was recording tolls for the period of time that the SDA E-Z pass was. The employee did not assert that he had paid cash for the commute or that there had been another method by which he paid for his commute.

The employee told the SDA OIG that shortly after the HR Director asked him for his personal E-Z pass transactions, he discovered that his personal E-Z pass was not registering tolls and he turned it in to the E-Z pass

office and was told that it was damaged. He surrendered his personal E-Z pass to the E-Z pass office on March 23, 2007 and obtained a receipt stating the pass was turned in because it was reportedly damaged. The employee stated that his own personal E-Z pass malfunctioned and that is why he failed to discover that the SDA E-Z pass was in his car.

However, the evidence tends to indicate that the employee's personal E-Z pass was not damaged and that he turned it in claiming it was damaged as part of his false exculpatory statement intended to cover-up of his intentional improper use of the SDA E-Z pass. SDA OIG obtained the records of the employee's personal E-Z pass use. Those records demonstrate that the employee's personal E-Z pass recorded tolls for the employee's personal commute on the turnpike and was working properly on each of the two days (March 20 and March 21) preceding his turning it in as allegedly damaged (March 23, 2007).

The employee used the SDA E-Z pass to pay his commuting tolls, first in the mail car (for one day) and later in his assigned car (for approximately six weeks after he had removed the SDA E-Z pass from the mail car). The employee incurred a total of \$126.20 in commuting expenses

on the SDA E-Z pass. After the employee was confronted with evidence that the improper conduct was about to be discovered, he sent a \$100 check to the SDA to pay for his use of the SDA E-Z pass.

b. Employee's personal use of the SDA-assigned vehicle

The SDA E-Z pass showed that the employee used the SDA-assigned car on Saturday, February 10, on Saturday, March 10 and on Sunday, March 11, 2007. In his first interview, the employee could not recall the purpose of travel on those dates.

The employee e-mailed the SDA OIG on April 18, 2007 to state that he traveled on those dates to the SDA office in Jersey City for work related matters. But the card access records for the SDA office in Jersey City show no entrances or exits of the building on either March 10, 2007 or March 11, 2007. (The card access records for the SDA offices in Newark and West Patterson likewise show no activity over that weekend; no records were available for February 10 because the SDA had already purged its records for that date.)

In his second interview, the employee stated that he traveled the weekend of March 10 and 11 to the SDA office in Jersey City and to school construction sites in Jersey City, Hoboken, New Brunswick and/or Perth Amboy.

Regarding the February 10 travel, the SDA E-Z pass records show travel on the turnpike and the parkway, but further show that he arrived at his destination no earlier than 5:00 p.m. and entered the turnpike for his trip home at 9:08 p.m. This would mean that he traveled to a jobsite after sunset. He may have traveled to Jersey City, but if so, he took a very indirect route by using the Parkway.

His travel on Saturday, March 10, 2007 was on the turnpike, but he exited at New Brunswick, not Jersey City, at 1:49 p.m. He entered the turnpike in Woodbridge at 7:05 p.m. to return home. His travel on Sunday, March 11, 2007 was on the turnpike, but he exited at Metuchen, not Jersey City, at 12:18 p.m. He entered the turnpike at 1:45 p.m. in Woodbridge to return home.

This evidence tends to suggest that the employee was using the SDA-assigned car and SDA E-Z pass for personal purposes, not SDA business. Additional evidence that might shed light on the employee's whereabouts would be attendance logs at the school construction sites for that weekend, if such documents exist. Moreover, it would not be unreasonable to conclude that if the employee improperly used his SDA assigned vehicle while he was using the SDA E-Z pass to pay for his tolls, he also improperly used the SDA assigned vehicle for personal trips when he did not have the SDA E-Z pass or when he was not traveling on toll roads.

c. Parking ticket

The employee received a ticket on the mail car at 11:40 a.m. on January 30, 2007. The SDA vehicle coordinator only learned of this during the SDA OIG investigation.

By failing to return the mail car to the Marriott Hotel parking garage as required, the employee violated the Policy on the Use of SCC Vehicles, section 4(i)(10): "Vehicles must be returned to the assigned parking place."

By failing to report the parking ticket to the vehicle coordinator and by failing to forward proof of payment of the ticket, he violated the Policy on the Use of SCC Vehicles, section 4(c)(4): “Drivers must report all ticket violations received while operating a SCC vehicle within 72 hours to the vehicle coordinator. Drivers shall be responsible for resolving with the appropriate Court, within 30 days, all violations issued against vehicles assigned to them and forward proof of payment to the Vehicle Coordinator.”

d. Miscellaneous

The employee may have violated the Policy on the Use of SCC Vehicles, section 4(l)(1) Tax Treatment for Personal Mileage: “Mileage driven in a SCC vehicle for personal (commuting) and business must be tracked separately for income tax purposes,” and section 4(j)(1) SCC E-Z Pass Accounts: “The SCC E-Z Pass account is for State business only and those individuals operating vehicles assigned E-Z Pass devices are responsible for safeguarding the devices.”

IV. RECOMMENDATIONS

a. Referral for Review by the Division of Criminal Justice

The SDA OIG will refer this matter to the Division of Criminal Justice to determine whether the conduct described herein amounts to criminal conduct warranting prosecution.

b. SDA Personnel Policies and Response

The SDA should decide the appropriate disciplinary response in this matter. The SDA OIG is aware that the SDA has a system of discipline for infractions that it communicates to employees in the employee handbook. The SDA is currently updating the discipline system.

The SDA OIG is satisfied that the SDA has policies and procedures in place for acting upon the conduct of the employee in this matter.

c. Loss Prevention Methods

The SDA OIG learned during this investigation that the mail room staff now removes the E-Z pass from the mail car before other SDA

employees use it. Moreover, extensive paperwork now documents the use of the mail car by others. The SDA OIG agrees with these improvements and makes no recommendations regarding additional methods to avoid a repeat of this incident.