

Ralph Campbell, Jr.
State Auditor

STATE OF NORTH CAROLINA
Office of the State Auditor

2 S. Salisbury Street
20601 Mail Service Center
Raleigh, NC 27699-0601
Telephone: (919) 807-7500
Fax: (919) 807-7647
Internet <http://www.osa.state.nc.us>

April 18, 2003

Mr. Bryan E. Beatty, Secretary
North Carolina Department of Crime Control and Public Safety
512 North Salisbury Street
Raleigh, North Carolina 27699-4701

Dear Secretary Beatty:

We received an anonymous complaint through the State Auditor's Hotline that employees in the Law Enforcement Support Services (LESS) within the Department of Crime Control and Public Safety (CCPS) were filling up their personal vehicles with gasoline from state pumps. We investigated the complaint by interviewing current and former LESS employees and reviewing applicable agency and state policies and regulations. Our investigation did not substantiate the allegation. However, interviews revealed that LESS employees are commuting in undercover vehicles as well as identifiable state owned vehicles without proper authorization, payment of commuter fees or maintenance of mileage logs.

LESS is composed of the Excess Property, Equipment Loan, Law Enforcement Procurement and the Police Corps programs. The main function of LESS is to obtain equipment (including riot gear, computers, vehicles, etc.) from the U.S. Department of Defense and to distribute this equipment to requesting law enforcement agencies throughout the state. In addition to providing equipment to law enforcement agencies, LESS maintains a fleet of loaner vehicles for emergency services or undercover operations. Some of these vehicles are outfitted with surveillance equipment and undercover North Carolina license plates. When the vehicles are not on loan to law enforcement agencies they are maintained at the LESS office.

All five of the current and former LESS employees interviewed stated they frequently drive state owned vehicles to and from their homes during the workweek. In addition, the vehicles are also driven to lunch on the days the employees commute. All the employees in question are required to travel routinely for job duties. In some cases, the travel destination is closer to the employee's home than to the LESS office in Raleigh. In those circumstances it is understandable for the employee to drive the state owned vehicle home the night before travel is to occur. However, all employees interviewed stated they also commuted in the vehicles on days when they were working in the office.

According to the Director and LESS employees, this use of the state owned vehicles for commuting is to ensure the fleet is in acceptable driving condition and to keep the vehicles "road worthy" for loan to the various law enforcement agencies. We asked the Vehicle Fleet Manager what type of reporting system exists for employees to identify when vehicle maintenance or repair is needed. The Fleet Manager explained no formal reporting system exists. If an employee identifies a problem with one of the vehicles, they tell either the Fleet Manager or the Director of LESS. The Fleet Manager and the Director confer to determine if repair costs exceed vehicle value and make necessary arrangements based on their decision.

In addition, the Director of LESS commutes in a Ford Excursion that was purchased under a contract with the Office for Domestic Preparedness in the U.S. Department of Homeland Security. This vehicle is specially equipped to provide support in emergency situations. The Director said he is on-call 24 hours a day and therefore drives the vehicle home at night.

No daily mileage logs are maintained for the Director's vehicle or the fleet of loaner vehicles. The Fleet Manager stated they only record the odometer reading when a fleet vehicle is loaned to a law enforcement agency and when it is returned. None of the employees, including the Director, is paying a commuter fee to the state for use of the state owned vehicles.

Under *G.S. 14-247, Private Use of Publicly Owned Vehicle*,

It shall be unlawful for any officer, agent or employee of the State of North Carolina, or of any county or of any institution or agency of the State, to use for any private purpose whatsoever any motor vehicle of any type or description whatsoever belonging the State, or to any county, or to any institution or agency of the State. It is not a private purpose to drive a permanently assigned state-owned motor vehicle between one's official work station and one's home as provided in G.S. 143-341(8)i7a.

The Department of Administration's Motor Fleet Management Regulations Manual states commuting privileges are not considered a private purpose only when the following conditions exist:

- 1. By virtue of his/her position, the employee is entitled to use the vehicle and is so approved by the Secretary of the Department of Administration.*
- 2. Employee's duties are routinely related to public safety or are likely to expose him/her to life-threatening situations.*

3. *Employee's home is his/her official work station and the vehicle is parked at the home when not being used for official business.*
4. *State-owned vehicle is required for a trip the following workday and the employee's home is closer to the destination than the regular work station and the employee does not have to report to his/her regular work station before beginning the trip. Frequent occurrences of this situation would require MFM approval.*
5. *Temporary and agency-assigned vehicles may not be driven to an employee's home unless one of the above four conditions applies.*

MFM regulations also state,

Employees who routinely drive any state-owned vehicles between their home and work station shall reimburse the state for mileage. Reimbursement shall be made by payroll deduction. The amount of reimbursement shall approximate the benefit derived from the use of the vehicle as prescribed by federal law and at the rate established by Motor Fleet Management (MFM) and shall be for 20 days per month. Commuting privileges requires prior approval of MFM.

The Department of Administration has not authorized the use of these vehicles for commuting and the required commuting fees have not been assessed.

We recommend LESS employees cease commuting in state owned vehicles unless such use has been appropriately authorized by the Department of Administration. In addition, if employees are approved to commute in state vehicles monthly reimbursement should be made by payroll deduction.

Due to the lack of records, we are unable to accurately quantify the value of the benefits derived from the use of the vehicles by the employees.

General Statute §147-64.6(c)(12) requires the State Auditor to provide the Governor, the Attorney General, and other appropriate officials with written notice of apparent instances of violations of penal statutes or apparent instances of malfeasance, misfeasance or nonfeasance by an officer or employee. In accordance with this mandate, and our standard operating practice, we will provide copies of this management letter to the Governor, the Attorney General, the Director of the State Bureau of Investigation, and other appropriate officials.

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We are presenting these findings for your review and written response. The purpose of the response is to allow you the opportunity to outline any corrective actions taken or planned. We request the delivery of your written response by May 5, 2003. If you have any questions or wish to discuss this matter further, please contact us. We appreciate the cooperation of your staff during this review.

Sincerely,

A handwritten signature in cursive script that reads "Ralph Campbell, Jr.".

Ralph Campbell, Jr., CFE
State Auditor

Management letters and responses receive the same distribution as audit reports.



North Carolina Department of Crime Control and Public Safety

Michael F. Easley, Governor

Bryan E. Beatty, Secretary

May 5, 2003

The Honorable Ralph Campbell, Jr.
State Auditor
20601 Mail Service Center
Raleigh, NC 27699-0601

Dear Mr. Campbell:

The purpose of this correspondence is to respond to your letter dated April 18, 2003, in which you made findings and recommendations with respect to the Department of Crime Control and Public Safety, Division of Law Enforcement Support Services (LESS). We, as a department, appreciate your recommendations and trust that implementing them will enhance our management of LESS's fleet of loaner vehicles.

You conclude from your review that the procedure implemented by LESS for road testing and maintaining the loaner vehicles amounted to an unauthorized use of state-owned vehicles in violation of G.S. § 14-247, G.S. § 143-341(8)i7a, and the Motor Fleet Management (MFM) Regulations. Specifically, you found that LESS employees have been commuting to and from the workplace "in undercover vehicles as well as identifiable state owned vehicles without proper authorization, payment of commuter fees or maintenance of mileage logs." You recommend that LESS employees cease commuting in the vehicles unless properly authorized by the Department of Administration and that, if so authorized, such employees make monthly reimbursement by payroll deduction.

We maintain that no LESS employee has willfully committed any violation of G.S. § 14-247, G.S. § 143-341(8)i7a or the MFM Regulations. Although LESS employees have occasionally used the vehicles as described in the report, they did so at the direction of their supervisor, the Director of LESS, and only for the purpose of ensuring the vehicles' road-worthiness. The vehicles in question were provided to LESS by the federal government for the express purpose of loaning them to local law enforcement agencies. The vehicles were not purchased with state funds and the Department of Administration has not been involved in acquiring, insuring, maintaining or housing the vehicles. The Department was not aware that the vehicles were subject to the statutes and regulations governing management of the State Motor Fleet.

MAILING ADDRESS:
4701 Mail Service Center
Raleigh, NC 27699-4701
Telephone: (919) 733-2126



www.NCCrimeControl.org

OFFICE LOCATION:
512 N. Salisbury Street
Raleigh, NC 27604-1159
Fax: (919) 715-8477

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The Honorable Ralph Campbell, Jr.
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Nonetheless, to avoid the appearance of impropriety, the Department has instructed all LESS employees to cease commuting in the vehicles. The Department has further instructed LESS to maintain mileage logs and to keep detailed records of vehicle usage.

Your review also noted that the Director of LESS, Neil Woodcock, commutes in a "Ford Excursion that was purchased under a contract with the Office of Domestic Preparedness in the U.S. Department of Homeland Security" and that the "vehicle is specially equipped to provide support in emergency situations." You conclude that Mr. Woodcock has been using this vehicle without proper authorization by the Department of Administration and without payment of commuter fees.

Like the loaner fleet, this vehicle was also thought to be outside the State Motor Fleet. Moreover, pursuant to the Department's agreement with the Office of Domestic Preparedness, Mr. Woodcock is required to be on twenty-four hour standby to respond to emergency situations, which necessitates his having access to the vehicle at all times. However, in light of your report, the Department has begun discussions with the Department of Administration to resolve any issues as to Mr. Woodcock's compliance with G.S. § 14-247, G.S. § 143-341(8)i7a and the MFM Regulations.

Sincerely,


Bryan E. Beatty
Secretary

BEB:cs