Inefficiencies and Irregularities in the District’s Parking Ticket Adjudication Process

January 13, 1999
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EXECUTIVE SUMMARY

PURPOSE

The purpose of this audit was to evaluate the Department of Public Works’ (DPW) policies and procedures for adjudicating and voiding parking tickets.

CONCLUSION

The Department of Public Works failed to process mail adjudication requests within the specified 4 to 6 week period. Further, DPW did not provide adequate staff and related resources to enable the mail adjudication process to function effectively, efficiently, and economically. As a result, most mail adjudication requests were not addressed for periods ranging from 3 months to over 3 years. At the time of the audit, DPW’s failure to timely process mail adjudication requests resulted in a backlog of 30,931 tickets in the mail adjudication process.

The Transportation Systems Administration (TSA) administrator established an unauthorized, procedurally flawed practice of dismissing parking tickets off the public record in circumvention of established traffic adjudication policies and procedures. The TSA administrator dismissed tickets issued to vehicles registered to private citizens, vehicles leased or owned by the District and Federal governments, and vehicles owned by some District officials. Contrary to regulation, which requires that a hearing examiner or the chief hearing examiner adjudicate a traffic infraction or dismiss a notice of infraction, the TSA administrator, who is not a designated hearing examiner or the chief hearing examiner, personally decided certain parking tickets.

The TSA administrator did not properly separate administrative responsibilities for the day-to-day management of the Transportation Systems Administration from the quasi-judicial function of adjudicating parking tickets. The TSA administrator’s direct involvement in the disposition of parking tickets appeared to have been in conflict with provisions of the District Personnel Manual (DPM) in that preferential treatment was accorded to a select few individuals, the actions affected the administrator’s impartiality, and government decisions were made outside official channels. These actions may have deprived the District of parking fine and penalty revenue and also may have adversely affected the public’s confidence in the integrity of the District government’s parking adjudication process. At minimum, the TSA administrator’s parking ticket dispositions created the appearance of a conflict of interest.
Dispositions for 38,650 parking tickets adjudicated during calendar years 1996 and 1997 were entered into the Ticket Information Management System (TIMS) by improperly using a hearing officer code assigned to the former chief hearing examiner of the Bureau of Traffic Adjudication (BTA). This individual left BTA on October 20, 1995. An effective system of internal control should have resulted in this individual’s hearing officer code being canceled and deleted from TIMS immediately upon her departure thereby preventing the improper attribution of parking ticket dispositions to this individual. The Auditor notes that the improper use of the former chief hearing examiner’s hearing officer code for the disposition of 38,650 tickets prevented the accurate reporting of dispositions for hearing examiners’ adjudicatory activity. Improper use of this hearing officer code also may have impeded TSA officials’ ability to accurately track, control, and measure the adjudicatory performance and activity of each BTA hearing examiner, and may have impacted TSA’s ability to detect and trace possible adjudication irregularities committed by hearing examiners or other TSA employees.

Finally, the Bureau of Parking Services failed to determine the reasons for voided tickets and to implement appropriate corrective actions. Approximately $214,882 in avoidable costs were incurred by the District to process 86,484 voided tickets during calendar years 1996 and 1997. Determining the reasons for voided tickets would have alerted management to performance deficiencies, weaknesses in its operating structure, the need for additional training to improve the performance of Parking Control Aides (PCA), and other issues affecting the efficient and effective performance of this function.

MAJOR FINDINGS

1. DPW failed to adjudicate parking tickets through the mail adjudication process within the specified response time of 4 to 6 weeks.

2. Mail adjudication requests were not timely entered into the Ticket Information Management System.

3. The mail adjudication process developed a backlog of 30,931 unadjudicated parking tickets as a result of inadequate staffing and ineffective management.

4. Mail adjudication respondents were not required to show good cause for not scheduling and attending a hearing personally or through a representative.
5. Regulations governing mail adjudication may be defective.

6. The TSA administrator established an unauthorized, procedurally flawed practice of disposing of parking tickets off the public record in circumvention of established adjudication policies and procedures.

7. The TSA administrator improperly dismissed fines and penalties for approximately 391 parking tickets reviewed by the Auditor.

8. The TSA administrator’s dismissal of certain parking tickets violated Mayor’s Memorandum 91-42.

9. The TSA administrator’s dismissal of parking tickets for some elected officials was not authorized by law.

10. The TSA administrator’s disposition of parking tickets created the appearance of a conflict of interest.

11. Ticket dispositions were improperly attributed to a former chief hearing examiner’s hearing officer code.

12. The Bureau of Parking Services failed to determine the reasons for voided parking tickets and implement appropriate corrective actions.


RECOMMENDATIONS

1. TSA adhere to the regulations in Title 18 DCMR Chapter 30 by requiring respondents to show good cause for not scheduling a hearing in-person or through a representative as a prerequisite for permitting mail adjudication. If the regulation improperly requires a respondent to show good cause and is in conflict with the Traffic Adjudication Act, DPW should immediately correct the deficiency.

2. DPW, or its successor, properly staff and equip the mail adjudication process to ensure that
it functions efficiently and effectively and decisions are timely rendered to prevent the loss of ticket revenue.

3. DPW, or its successor, immediately eliminate the backlog in the mail adjudication process.

4. DPW, or its successor, establish a policy and the appropriate procedure to preclude the acceptance of tickets submitted for mail adjudication more than 15 calendar days after a ticket is issued. Further, regulations pertaining to mail adjudication should clearly indicate that tickets must be submitted for mail adjudication within 15 calendar days of the ticket’s issue date.

5. The TSA administrator immediately discontinue the unauthorized practice of disposing of parking tickets off the public record and in violation of traffic adjudication policies and procedures. All future requests for dismissal of parking tickets should be referred to the chief hearing examiner in the Bureau of Traffic Adjudication for appropriate adjudicatory activity.

6. District government officials and employees comply with the provisions of Mayor’s Memorandum 91-42 and Mayor’s Order 94-38. Each agency must enforce employee accountability for violations of Mayor’s Memorandum 91-42.

7. The TSA administrator adhere to the ethical conduct provisions of the District Personnel Manual (DPM) in order to enhance and protect the integrity of the District of Columbia Government.

8. DPW immediately cease using hearing officer codes assigned to former employees, update its hearing officer codes, and implement appropriate guidelines governing the assignment, use, and cancellation of hearing officer codes.

9. DPW, or its successor, initiate the appropriate personnel action against any employee who improperly uses a TIMS hearing officer or access code not assigned to them.

10. The Bureau of Parking Services provide additional appropriate training to PCAs in an effort to reduce the number of voided tickets.

11. Bureau of Parking Services supervisors and PCAs adhere to established parking control
branch policies and procedures for voiding parking tickets.

12. Bureau of Parking Services supervisors and PCAs provide adequate written justification for voiding a ticket on the back of every ticket that is voided.

13. TSA modify the back of its parking ticket to include an identifier, such as the ticket number, to link the front of the ticket to the back of the ticket.

14. DPW, in future ticket processing contracts, negotiate a reduced fee for processing voided tickets.
PURPOSE

The purpose of this audit was to evaluate the Department of Public Works’ (DPW) policies and procedures for adjudicating and voiding parking tickets.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of the audit were to evaluate DPW’s policies and procedures for:

1. adjudicating parking tickets to determine compliance with applicable standards, rules, regulations, and laws; and

2. voiding parking tickets.

The scope of the audit included the activities noted above for the period January 1, 1996 through December 31, 1997. During the period reviewed, the duties and responsibilities for adjudicating and voiding parking tickets were administered by the Department of Public Works’ Transportation Systems Administration (TSA).

In conducting this audit, the Auditor reviewed D.C. Code, Sections 40-601 through 40-726; District of Columbia Municipal Regulations (DCMR) Title 18 Chapters 10, 30, and 99; Department of Public Works policies, procedures, and supporting documentation relative to adjudicated and voided parking tickets; and reports prepared by Lockheed Martin Information Management Systems Corporation (Lockheed) concerning adjudicated and voided parking tickets. Additionally, the Auditor interviewed and held discussions with DPW officials and employees.

The Auditor conducted tests of mail adjudication data, dismissed ticket data, and voided ticket data obtained from the Ticket Information Management System (TIMS), which is operated by Lockheed, to determine TSA’s compliance with applicable laws and regulations.

Our work was performed in accordance with generally accepted governmental auditing standards and included such tests of the records as deemed necessary under the circumstances.

BACKGROUND

The Traffic Adjudication Act of 1978 decriminalized parking and minor moving violations, provided for the administrative adjudication of parking and certain moving violations, and the civilian enforcement of parking laws and regulations in the District of Columbia. District of Columbia Code, Section 40-601 states, in relevant part, the following:
"It is the intent of the Council of the District of Columbia (hereinafter referred to as the "Council") in the adoption of this chapter to decriminalize and to provide for the administrative adjudication of certain violations... and certain offenses..., and to provide for the civilian enforcement of parking infractions, and thereby to establish a uniform and more expeditious system and continue to assure an equitable system for the disposition of traffic offenses."

At the time of this audit, DPW’s Transportation Systems Administration (TSA) was responsible for parking enforcement, vehicle registration, operator licensing, adjudication of parking tickets, and promulgating regulations for the fair and proper administration of these functions. An administrator was appointed to manage the day-to-day operations of the Transportation Systems Administration. As reflected in the organization chart presented in Table I, TSA consisted of the Bureau of Parking Services, Bureau of Traffic Adjudication, and Bureau of Motor Vehicle Services.

### TABLE 1

**Organization Chart**

**Transportation Systems Administration**

- Transportation Systems Administration
  - Office of the Administrator
  - Bureau of Parking Services
    - Parking Enforcement Division
    - Parking Management Division
    - Abandoned & Junk Vehicle Division
  - Bureau of Traffic Adjudication
    - Hearings Division
    - Processing Division
  - Bureau of Motor Vehicle Services
    - Vehicle Control Division
    - Permit Control Division

*Source: DPW’s Transportation Systems Administration*

**Bureau of Parking Services**

The Bureau of Parking Services (BPS) was primarily responsible for establishing, revising, and enforcing parking regulations. Under the direct supervision of the administrator of the

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1On June 23, 1998, D.C. Act 12-399 was enacted by the Council of the District of Columbia to establish the Department of Motor Vehicles (DMV). The Act, which became effective on October 1, 1998, transferred the Bureau of Traffic Adjudication and Bureau of Motor Vehicle Services to this new department.
Transportation Systems Administration, a bureau chief managed the day-to-day operations of the BPS.

According to DPW, approximately 80 percent of all District parking tickets were issued by Parking Control Aides employed by the Bureau of Parking Services. The remaining 20 percent of tickets were issued by organizations such as, but not limited to, the Metropolitan Police Department, United States Federal Protective Service, and the University of the District of Columbia within their respective jurisdictions.

According to Title 18 DCMR 3002.1, the following organizations may issue notices of infraction (parking tickets) for parking violations within their respective jurisdictions:

(a) District of Columbia Department of Public Works;
(b) District of Columbia Department of Human Services at D.C. General Hospital;
(c) District of Columbia Department of General Service Guards;
(d) Library of Congress;
(e) Saint Elizabeth's Hospital Security Force;
(f) United States Bureau of Engraving and Printing;
(g) United States Federal Protective Service;
(h) United States Government Printing Office;
(i) United States Park Police Visitor Aides;
(j) University of the District of Columbia Security Police;
(k) Walter Reed Army Medical Center;
(l) Commandant, Naval District, Washington, D.C.;
(m) Fort Lesley J. McNair;
(n) District of Columbia Public Library;
(o) United States Department of Commerce Special Agents; and
(p) United States Defense Intelligence Agency.

In addition to the above listed entities, tickets for certain moving and parking violations may also be issued by the following organizations within their respective jurisdictions:

(a) District of Columbia Metropolitan Police;
(b) Metro Transit Police;
(c) National Zoological Park Police;
(d) United States Capitol Police;
(e) United States Park Police;
(f) United States Secret Services, Uniformed Division; and
(g) Walter Reed Army Medical Center.
A number of other entities, such as colleges and universities, located within the District of Columbia may also issue tickets for parking violations within their respective jurisdictions.

**Bureau of Traffic Adjudication**

The Bureau of Traffic Adjudication is responsible for scheduling and conducting in-person adjudication hearings and administering a process to adjudicate parking tickets by mail. Additionally, the Bureau of Traffic Adjudication receives some, but not all, ticket payments, and answers in-person, phone, and mail inquiries. The day-to-day operation of the Bureau of Traffic Adjudication is managed by a chief hearing examiner. According to the TSA administrator, the mission of the Bureau of Traffic Adjudication is "...to help improve the District’s quality of life and economic competitiveness by providing fair and equitable hearings in accordance with District of Columbia law and municipal regulations."

**Adjudication Procedures**

District of Columbia Code, Section 40-625 entitled, "Answer", states in relevant part the following:

"(a)(1) In answer to a notice of infraction, a person to whom it was issued may:

(a) admit, by payment of the civil fine, the commission of the infraction; or
(b) deny the commission of the infraction.

(2) A person charged with a parking violation may contest the charge through an adjudication by mail or at an administrative hearing...

(b) A person to whom a notice of infraction has been issued may answer by personal appearance or by mail. Answers by telephone may be permitted by regulation...

(d) A person to whom a notice of infraction has been issued shall answer within 15 calendar days of the date the notice was issued. Failure to answer within the prescribed period may result in imposition of monetary penalties established by § 40-605, in addition to the potential civil fine for the infraction..."

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2 Bureau of Traffic Adjudication is defined in Title 18 DCMR Chapter 99 as "an administrative tribunal in the D.C. Department of Public Works established to accept answers to, conduct hearings on, and determine the disposition of charges of parking and certain moving traffic infractions within the District of Columbia; and to levy monetary fines, penalties, and other sanctions for such infractions; and to enter and enforce judgments."
In-person Administrative Hearings

Most contested parking tickets were adjudicated through in-person administrative hearings conducted by hearing examiners or the chief hearing examiner within the Bureau of Traffic Adjudication. In accordance with Title 18 DCMR Chapter 30, in-person hearings must be held before a hearing examiner or the chief hearing examiner within the Bureau of Traffic Adjudication. A hearing examiner is responsible for: (a) ensuring that hearings are conducted in an orderly manner; (b) administering an oath or affirmation before receiving testimony from witnesses or the person denying liability for a violation; and (c) creating an official public record in each case to support a decision. Based upon the evidence submitted during an administrative hearing, examiners are authorized to sustain, modify, or dismiss violations.

Mail Adjudication

As noted earlier in this report, D.C. Code, Section 40-625 authorized the Department of Public Works to adjudicate parking tickets by mail. According to mail adjudication regulations contained in 18 DCMR Chapter 30, Section 3006.4, tickets must be submitted to the Bureau of Traffic Adjudication along with any supporting documentation in order for a ticket to be adjudicated by mail. The regulation is silent as to whether tickets must be submitted for mail adjudication within 15 calendar days of the ticket’s issue date. However, D.C. Code, Section 40-625 requires a person to answer a notice of infraction by personal appearance or by mail within 15 calendar days of the ticket’s issue date. Based upon the evidence submitted, a hearing examiner is authorized to sustain, modify, or dismiss parking or certain moving violation tickets.

Bureau of Motor Vehicle Services

The Bureau of Motor Vehicle Services is responsible for the registration, titling, and inspection of all motor vehicles owned by District residents. Additionally, the Bureau of Motor Vehicle Services is responsible for licensing District of Columbia vehicle operators.

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3Title 18 DCMR Chapter 99 defines the term "hearing" as "a proceeding of relative formality with definite issues of fact or law to be tried in which parties proceeded against, or parties whose rights, duties or privileges are in issue in any manner, have a right to be heard, following which the trier of fact may make an initial or final decision concerning such rights, duties, or privileges."

4Title 18 DCMR Chapter 99 defines hearing examiner as "a person appointed by the [DPW] Director to adjudicate cases arising from the issuance of tickets for parking and certain moving violations in accordance with chapter 30 of this title."

5Title 18 DCMR Chapter 99 defines Chief Hearing Examiner as "a person appointed by the [DPW] Director to adjudicate cases and to supervise the routine scheduling, procedures, and duties of Hearing Examiners and Hearing Clerks."
FINDINGS

DPW FAILED TO ADJUDICATE PARKING TICKETS THROUGH THE MAIL ADJUDICATION PROCESS WITHIN THE SPECIFIED RESPONSE TIME OF 4 TO 6 WEEKS

According to information provided by TSA, a total of 207,678 tickets were submitted for mail adjudication and entered into the Ticket Information Management System during calendar years 1996 and 1997. Based on an analysis of the 207,678 tickets submitted by motorists for mail adjudication during calendar years 1996 and 1997, the Auditor found that parking tickets contested through the mail adjudication process were not adjudicated within the 4 to 6 week period established by DPW. In a public information document disseminated to the general public, DPW asserted that tickets submitted for adjudication by mail would be decided within 4 to 6 weeks after receipt. To the contrary, the Auditor found that only 5 percent of the 207,678 tickets were adjudicated within the 4 to 6 week period. Additionally, the Auditor's analysis of the 207,678 tickets revealed the following:

- 9,667 tickets, or approximately 5 percent, were adjudicated within the specified 4 to 6 week period;
- 25,235 tickets, or approximately 12 percent, were adjudicated between 7 weeks and 3 months;
- 82,833 tickets, or approximately 40 percent, were adjudicated between 3 and 6 months;
- 45,923 tickets, or approximately 22 percent, were adjudicated between 6 months and one year;
- 5,427 tickets, or approximately 2 percent, were adjudicated within a 2 to 3 year period; and
- 30,931 tickets, or approximately 15 percent, had not been adjudicated as of March 1, 1998.

Errors in entering ticket disposition dates, suspension dates, or both, precluded the Auditor from determining the status of 7,662 tickets, or approximately 4 percent, of the 207,678 tickets reviewed during the audit.

Table II below summarizes DPW's response time in rendering decisions on parking tickets submitted for mail adjudication.
TABLE II

DPW’s Response Time for Rendering Decisions on Mail Adjudication Requests Submitted During Calendar Years 1996 and 1997

<table>
<thead>
<tr>
<th>Response Time</th>
<th>Number of Tickets</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>4 to 6 Weeks</td>
<td>9,667</td>
<td>5%</td>
</tr>
<tr>
<td>7 weeks to 1 year</td>
<td>153,991</td>
<td>74%</td>
</tr>
<tr>
<td>2 to 3 Years</td>
<td>5,427</td>
<td>2%</td>
</tr>
<tr>
<td>Invalid data</td>
<td>7,662</td>
<td>4%</td>
</tr>
<tr>
<td>Backlog of Tickets Not Adjudicated as of March 1, 1998</td>
<td>30,931</td>
<td>15%</td>
</tr>
<tr>
<td>Total</td>
<td>207,678</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: Office of the D.C. Auditor based on information provided by TSA

As reflected in Table II, the mail adjudication response time for 153,991, or 74 percent, of the 207,678 tickets ranged from 7 weeks to 1 year. Within this category, 52 percent, or 108,068, of the tickets were adjudicated between 7 weeks and 6 months, and 22 percent, or 45,923, of the tickets were adjudicated between 6 months and 1 year. Over the two year period under review, the mail adjudication process developed a backlog of approximately 30,931 tickets that remained unadjudicated as of March 1, 1998. The 30,931 tickets represented unrealized potential revenue that the District may have been entitled to receive if the tickets were timely adjudicated.

DPW noted that it took an average of 210 days to adjudicate a single parking ticket through the mail adjudication process. The Auditor notes that two hundred ten (210) days is a performance measure that can be significantly improved through appropriate management initiatives and performance accountability standards.

The Auditor determined that it took the Bureau of Traffic Adjudication approximately 5½ months longer than the 4 to 6 weeks that DPW indicated it would take to adjudicate a ticket through the mail adjudication process. Under D.C. Code, Section 40-625, a motorist must appear in-person within 15 calendar days of a ticket’s issue date for an administrative hearing, or the motorist must pay the ticket in full within the same time period to avoid incurring additional penalties. By

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6Based on a minimum fine of $15 per ticket (for example the fine for expired red meter) the Auditor estimated that the backlog of 30,931 tickets represented unrealized potential revenue of approximately $463,965 for the District government.
comparison, it appears that by using the mail adjudication process, with its underlying performance deficiencies, a motorist may indefinitely delay the payment of a parking ticket without incurring additional penalties.

**Mail Adjudication Requests Were Not Timely Entered Into the Ticket Information Management System**

In addition to delays in rendering decisions through the mail adjudication process, the Auditor found that DPW experienced significant delays in entering mail adjudication requests into TIMS. The Auditor also found that DPW improperly accepted delinquent parking tickets for adjudication through the mail adjudication process. Table III summarizes the time-frame within which DPW entered mail adjudication requests into TIMS.

**TABLE III**

DPW's Entry of Tickets in TIMS During Calendar Years 1996 and 1997

<table>
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<tr>
<th>Time of Entry in TIMS from Issue Date (Mail Adjudication Tickets)</th>
<th>Number of Tickets</th>
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</thead>
<tbody>
<tr>
<td>Tickets Entered Within Six Months of Issuance</td>
<td>168,337</td>
</tr>
<tr>
<td>Tickets Entered Within 1 Year of Issue Date</td>
<td>18,041</td>
</tr>
<tr>
<td>Tickets Entered Within 2 Years of Issue Date</td>
<td>14,609</td>
</tr>
<tr>
<td>Tickets Entered Within 3 Years of Issue Date</td>
<td>2,898</td>
</tr>
<tr>
<td>Tickets Entered Within 4 Years of Issue Date</td>
<td>1,490</td>
</tr>
<tr>
<td>Tickets Entered 4 Years and Over of Issue Date</td>
<td>459</td>
</tr>
<tr>
<td>Tickets Entered Without An Issue Date</td>
<td>1,847</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>207,678</strong></td>
</tr>
</tbody>
</table>

Source: Office of the D.C. Auditor from information provided by TSA

As reflected in Table III, it took DPW up to four or more years after receiving some tickets to enter them into TIMS. The Auditor’s analysis further indicated that 37,497 mail adjudication ticket requests were not entered into TIMS for more than 6 months after they were received by DPW. This lapse in performance created the risk that the collection of revenue associated with these tickets

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*Tickets without an issue date could not be properly analyzed.*

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would be unnecessarily delayed or completely denied. Further, delays in entering mail adjudication requests into TIMS may have distorted the number of valid mail adjudication requests received during a given period of time.

Delays in entering mail adjudication requests, and corresponding delays in suspending such tickets from delinquent collection activity until adjudicated, may have resulted in a mistaken determination that these tickets were eligible for delinquent collection activity by Lockheed, the District’s delinquent parking ticket collection contractor. This mistaken determination may have resulted in the issuance of delinquent collection notices by Lockheed and its subsequent collection of a fee from payments made on these particular tickets.

The Auditor’s analysis of the 207,678 mail adjudication requests further revealed the presence of tickets containing issue dates as far back as 1980. Approximately 7,789\(^8\) of the 207,678 ticket records reviewed by the Auditor contained issue dates between January 1980 and December 1994. These tickets appeared to have been submitted for mail adjudication during calendar years 1996 and 1997. Tickets such as these raise the following two concerns, among others: (1) whether the ticket information database contains only current valid data; and (2) whether the mail adjudication process was misused by some motorists to further delay payment on delinquent tickets or obtain a favorable adjudication on a delinquent ticket that was not eligible for adjudication through the in-person administrative hearing process.

Additionally within the 207,678 tickets, the Auditor found approximately 2,560 tickets submitted for mail adjudication that were also classified as delinquent and assigned to Lockheed for delinquent collection activity. Lockheed collected a fee from each payment made on these tickets. The Auditor’s analysis indicated that resources from both the mail adjudication process and the delinquent ticket collection process were unnecessarily devoted to these tickets. The duplication of effort invested in these tickets represented an inefficient and uneconomical use of District government resources.

**Mail Adjudication Process Developed A Backlog of 30,931 Unadjudicated Parking Tickets As A Result of Inadequate Staffing and Ineffective Management**

As of March 1, 1998, the mail adjudication process had developed a backlog of approximately 30,931 contested parking tickets submitted during calendar years 1996 and 1997. According to information provided by TSA, the backlog was primarily due to insufficient resources.

\(^8\)This pool of tickets included a portion of the tickets entered within 2 years of the ticket’s issue date and all of the tickets entered within 3 or more years of the ticket’s issue date.
TSA further noted that a secondary cause of the backlog was an increase in the volume of contested tickets.

According to information reviewed by the Auditor, DPW assigned only one employee to perform mail adjudications during 1996 and 1997 after an employee quit and another employee was promoted to hearing examiner. DPW officials asserted that they recognized the need to provide additional resources to the mail adjudication process but were unable to do so because of budget constraints and the elimination of positions. DPW stated that: "Within limited resources, priority has been placed on scheduled hearings which impact on public safety, including moving infractions, permit related infractions, and vehicle insurance infractions." Further, DPW noted that "it would not be acceptable from a customer service standpoint to make walk-in customers wait longer in order to reduce a mail adjudication backlog." Notwithstanding, the Auditor notes that mail adjudication requests also may have impacted public safety and the District’s revenue collection opportunities. Therefore, mail adjudication should also have been a priority for DPW officials. If adequate resources could not be allocated to the mail adjudication process to ensure its timely, effective, and efficient operation, management should have considered limiting mail adjudication to individuals who showed good cause for not being able to schedule and attend a hearing personally or through a representative, or management should have eliminated the mail adjudication process entirely until a more efficient and effective process could be developed and implemented.

For the two-year period between January 1996 and December 1997, and prior years, the Department of Public Works operated an aggressive parking enforcement program under which all parking control aides were required to issue a pre-established number of 90 parking violation tickets per day. The 90 ticket per day performance measure, or quota, resulted in a barrage of contested parking violation tickets that were appealed to the Bureau of Traffic Adjudication. However, the Bureau of Traffic Adjudication appeared to have been inadequately staffed to effectively and efficiently handle the volume of contested parking tickets for which individuals requested administrative hearings on a daily basis. Individuals who came to the Bureau of Traffic Adjudication to schedule and attend an administrative hearing, more often than not, endured long lines and long waits before their cases were heard by a hearing examiner or the chief hearing examiner. The mail adjudication process was implemented by DPW, in part, to provide motorists a more convenient alternative to in-person administrative hearings. However, inadequate staffing of the mail adjudication process led to a backlog of unadjudicated parking tickets.

The Auditor’s examination further revealed that the District’s parking enforcement and ticket adjudication systems failed to operate in tandem from a logistical perspective. In other words, human resources were not allocated effectively or efficiently to ensure that the impact of the Bureau of Parking Services’ 90 ticket per day quota would not adversely impact the ability of Bureau of Traffic Adjudication (BTA) hearing examiners to effectively and efficiently handle, on a daily basis,
parking tickets presented for administrative hearings and mail adjudication. For example, it appears that TSA did not conduct periodic studies or analyses of the number of tickets issued by parking control aides and the number or percentage of those tickets appealed to the BTA. Periodic evaluation of such data should have enabled TSA to determine whether sufficient human and related resources were allocated to the Bureau of Traffic Adjudication in order to effectively and efficiently handle the flow of cases through the administrative hearing and mail adjudication processes. In response, TSA could have reallocated resources to successfully meet work demands placed on the adjudication process. The effect of insufficient human resources coupled with the ineffective allocation of resources resulted in an inefficient traffic adjudication service delivery system and widespread customer dissatisfaction.

**Mail Adjudication Respondents Were Not Required to Show Good Cause for Not Scheduling and Attending a Hearing Personally or Through a Representative**

It appears that DPW’s acceptance of all tickets submitted for mail adjudication violated Title 18 DCMR Chapter 30, in that respondents were not required to show good cause for not scheduling and attending a hearing (personally or through a representative) as required by Title 18 DCMR 3021, which states:

"In cases where a respondent shows good cause for not scheduling and attending a hearing (personally or through a representative), the Director or his designee may permit the matter to be adjudicated by mail."

According to the Auditor’s analysis, DPW failed to limit mail adjudication to only those cases in which a respondent showed "good cause for not scheduling and attending a hearing (personally or through a representative)" as required by Title18 DCMR 3021. In other words, by not limiting the kinds of cases that were eligible for mail adjudication and establishing criteria necessary for a motorist to show good cause, DPW made the mail adjudication process available to all individuals contesting a parking ticket.

**Regulations Governing Mail Adjudication May be Defective**

In comments submitted to the Auditor, DPW rejected the position that the mail adjudication regulation required a respondent to show good cause, and indicated that "there may be a conflict with 18 DCMR 3021" and the Traffic Adjudication Act because only the regulation required a respondent to show "good cause." The Auditor noted that DPW promulgated the regulation in question. If the regulation is inconsistent or in conflict with other regulations and the Traffic Adjudication Act, then DPW should immediately correct the deficiency.
The Auditor further noted that the mail adjudication regulations were silent as to:

1. the criteria that qualifies a ticket for mail adjudication; and

2. the policy and procedure applicable to tickets submitted for adjudication more than 15 calendar days after the ticket’s issue date.

Additionally, the regulations are silent as to the specific types of violations that may be submitted for mail adjudication, e.g. red meter, no parking/standing anytime. In other words, there is presently no limitation on the type of infractions that may be submitted for mail adjudication.

Finally, the regulations do not address the time period within which respondents must submit tickets for mail adjudication. In reviewing the regulations regarding mail adjudication, the Auditor was unable to find any calendar day period within which an individual must respond to a ticket as prescribed by the Traffic Adjudication Act.

RECOMMENDATIONS

1. TSA adhere to the regulations in Title 18 DCMR Chapter 30 by requiring respondents to show good cause for not scheduling a hearing in-person or through a representative as a prerequisite for permitting mail adjudication. If the regulation improperly requires a respondent to show good cause and is in conflict with the Traffic Adjudication Act, DPW should immediately correct the deficiency.

2. DPW, or its successor, properly staff and equip the mail adjudication process to ensure that it functions efficiently and effectively and decisions are timely rendered to prevent the loss of ticket revenue.

3. DPW, or its successor, immediately eliminate the backlog in the mail adjudication process.

4. DPW, or its successor, establish a policy and the appropriate procedure to preclude the acceptance of tickets submitted for mail adjudication more than 15 calendar days after a ticket is issued. Further, regulations pertaining to mail adjudication should clearly indicate that tickets must be submitted for mail adjudication within 15 calendar days of the ticket’s issue date.
THE TSA ADMINISTRATOR ESTABLISHED AN UNAUTHORIZED, PROCEDURALLY FLAWED PRACTICE OF DISPOSING OF PARKING TICKETS OFF THE PUBLIC RECORD IN CIRCUMVENTION OF ESTABLISHED ADJUDICATION POLICIES AND PROCEDURES

The Auditor’s review of adjudicatory activity within the Bureau of Traffic Adjudication revealed that the TSA administrator, who is responsible for managing the day-to-day operations of bureaus under TSA’s organizational umbrella, had established an unauthorized, procedurally flawed practice of deciding parking tickets off the public record. Most of the tickets disposed of through this practice were not supported by evidence. Further, the TSA administrator’s decisions failed to comply with the requirements of the District’s Administrative Procedures Act. The District’s Administrative Procedures Act requires, among other things, that decisions be supported by a public record and rendered consistent with established policies and procedures. A legal opinion issued by the Office of the Corporation Counsel, dated July 27, 1998, states in relevant part the following:

"The TSA Administrator is required to follow all procedures governing administrative decision making set forth in Chapters 10 and 30 of DCMR Title 18 and the contested case provision of the District of Columbia Administrative Procedures Act, codified at D.C. Code Section 1509 [sic] (1992 Repl.). In addition, the United States Supreme Court and the District of Columbia Court of Appeals have issued numerous decisions that discuss the standard for administrative decisions. Generally speaking, an administrative adjudication will be sustained on appeal so long as it is not arbitrary or capricious, contrary to the Constitution, in excess of the agency’s jurisdiction, made contrary to statutory or regulatory procedures, or unsupported by substantial evidence on the record. See DCAPA Section 162(a)(3), D.C. Code Section 1-1510 (a)(3)."

Further, the Auditor found that the administrator’s decisions failed to comply with DCMR Title 18, Section 3011.1 entitled, "Hearing Procedures," which states that:

"Each hearing will be held before a hearing examiner or the Chief Hearing Officer. No other person has the authority to adjudicate a traffic infraction or to dismiss a notice that has been returned to the Bureau."

In initial comments to this report, the former director of the Department of Public Works contended that the TSA administrator was delegated authority to adjudicate parking violation tickets through oral and written directives. In a sample of 391 tickets decided by the TSA administrator, the Auditor found only one instance in which the DPW director provided a written directive on correspondence requesting the dismissal of a parking ticket. (See Attachment I for the only example of the director’s written directive encountered during this audit.) From a management control perspective, a single written directive to the TSA administrator should not have been construed as a broad delegation of adjudicatory authority.

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DPW's comments also indicated that the director orally delegated adjudicatory authority to the TSA administrator. The Auditor notes, however, that oral delegations are not a desirable way in which to delegate adjudicatory authority. Oral directives, by their very nature, may give rise to misunderstanding, disagreement, and error. Further, oral directives cannot be properly substantiated, and often undermine essential internal management, accounting, and administrative control objectives.

Finally, the director contended that the TSA administrator was delegated authority to adjudicate parking tickets in a position description which stated, in relevant part, that the TSA administrator is responsible for "...collection of traffic fines and adjudication of disputes regarding traffic movements and parking in the public right-of-way..." (See Attachment II for a full copy of the position description.) In a July 27, 1998 legal opinion, the Office of the Corporation Counsel stated, in relevant part, the following:

"Assuming that a Director of the Department of Public Works executed this document or authorized its issuance, the attached document delegates the Director's authority to adjudicate motor vehicle offenses. The delegation is found in that portion of the first paragraph which indicates that the Administrator's responsibilities "include... implementation of regulations governing...adjudication of disputes regarding traffic movement and parking in the public right of way. ...Although "implementation of regulations" is a broad phrase, it appears to include the responsibility to adjudicate minor traffic offenses."

It does not appear that the intent of the position description was to require or authorize the administrator to personally collect traffic fines and personally adjudicate disputes regarding traffic movement. Rather, the intent of the position description was to confer the responsibility and authority to manage these functions. Further, the position description provided for the Auditor's review did not contain any documentation indicating that a director of the Department of Public Works had executed or authorized the issuance of the position description. Therefore, it is uncertain whether the document is a valid position description which contains a valid delegation of adjudicatory authority. The language in the position description is vague and, from a management control perspective, is not a desirable way in which to delegate authority to adjudicate parking and certain moving violation tickets. By comparison, the Mayor of the District of Columbia delegates authority by Mayor's Order. These orders identify the source of authority delegated, specifically identifies the official to whom the delegation is made, clearly articulates the limits of authority delegated, and the duration, if appropriate, of the delegation. Nevertheless, if the position description submitted for the Auditor's review is conclusively determined to be a valid delegation of adjudicatory authority, it did not authorize the TSA administrator to establish a separate, procedurally flawed practice of disposing of only particular contested parking violation cases off the public record.
The TSA Administrator Improperly Dismissed Fines and Penalties for Approximately 391 Parking Tickets Reviewed by the Auditor

For calendar years 1996 and 1997, the Auditor reviewed approximately 391 dismissals of parking ticket fines and penalties that were authorized by the TSA administrator. The 391 dismissals were based upon written requests sent directly to the TSA administrator or forwarded through the Office of the DPW director involving vehicles registered to private citizens, vehicles owned or leased by the District and Federal governments, and vehicles owned by some District officials. The TSA administrator disposed of these tickets outside of the administrative and mail adjudication processes. In disposing of these tickets, the TSA administrator failed to comply with traffic adjudication policies and procedures or prepare a public record to support the ordered actions, and permitted the dispositions to be improperly attributed to a former employee.

According to traffic adjudication regulations, requests for parking ticket dismissals should have been forwarded to the Bureau of Traffic Adjudication for review and adjudication by a hearing examiner, the chief hearing examiner, or the mail adjudicator in the manner established by law and regulation. This did not occur with tickets, in the Auditor’s sample, that were handled by the TSA administrator.

The Auditor found that records related to the TSA administrator’s dismissals were kept in several different locations within TSA. Therefore, the Auditor could not determine the precise magnitude of the TSA administrator’s adjudicatory activity. The Auditor found that a majority of the tickets decided by the TSA administrator were maintained by the supervisor of the Ticket Processing Unit within the Bureau of Traffic Adjudication. The Ticket Processing Unit provided information to the public on parking tickets and booted and towed vehicles, and its staff reviewed hearing documents for payment only. It had no official responsibilities related to the adjudication of parking tickets.

The Auditor also identified additional records related to ticket dismissal requests sent directly to the TSA administrator in a correspondence log that was maintained in the administrator’s office. Again, because these records were maintained in various locations, there was no assurance that all records related to the administrator’s dismissal of parking tickets were made available for the audit.

In dismissing parking ticket fines and penalties, the TSA administrator noted her decision directly on the dismissal request letter and forwarded the correspondence to the supervisor of the Ticket Processing Unit for entry of the decision into TIMS. Table IV summarizes the 391 tickets in the Auditor’s sample that were improperly dismissed by the TSA administrator during 1996 and 1997.
TABLE IV

Tickets Dismissed by TSA Administrator:
Calendar Years 1996 and 1997

<table>
<thead>
<tr>
<th>Type of Request</th>
<th>Calendar Year 1996</th>
<th>Calendar Year 1997</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private Citizens</td>
<td>138</td>
<td>119</td>
<td>257</td>
</tr>
<tr>
<td>District Government Registered Vehicles</td>
<td>32</td>
<td>27</td>
<td>59</td>
</tr>
<tr>
<td>Elected Officials</td>
<td>15</td>
<td>19</td>
<td>34</td>
</tr>
<tr>
<td>Federal Government(^9)</td>
<td>24</td>
<td>17</td>
<td>41</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>209</strong></td>
<td><strong>182</strong></td>
<td><strong>391</strong></td>
</tr>
</tbody>
</table>

Source: Office of the District of Columbia Auditor

The 391 tickets dismissed by the TSA administrator were issued for a variety of violations including: (1) no parking anytime, (2) no standing anytime, (3) red (expired) meter, (4) no stopping/standing AM-PM rush hour, (5) no stopping standing bus stop/zone, (6) restricted space, (7) failure to display inspection sticker, (8) disobeying traffic sign, (9) parking on public/private property, and (10) vehicle tag and registration violations. (See Attachment III for samples of ticket dismissals approved by the TSA administrator.)

The TSA administrator's dismissals were improper for the following reasons:

(1) the dismissals circumvented established policies and procedures requiring a person to appear at the Bureau of Traffic Adjudication to schedule and attend a hearing personally or through a representative, or submit the ticket within the allotted 15-day period by mail to the Bureau of Traffic Adjudication for mail adjudication;

(2) the TSA administrator failed to consistently require sufficient, creditable evidence to support the denial of a violation;

(3) the dismissals permitted some individuals to benefit from a procedurally flawed and irregular method of disposing of parking violation tickets while the general public was required to follow established Bureau of Traffic Adjudication policies and procedures; and

\(^9\)This category includes Congressional and diplomatic requests for dismissals.

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(4) the dismissals created a lack of uniformity and inequity in the parking ticket adjudication process.

The TSA administrator, in discussions with the Auditor, indicated that her adjudication of parking tickets was, in some cases, to minimize embarrassing situations from developing which would reflect negatively on DPW. In other cases, the TSA administrator extended a courtesy to certain individuals. The Traffic Adjudication Act did not provide the TSA administrator with the discretion to minimize embarrassing situations or extend courtesies to certain individuals. In either case, the TSA administrator lacked the requisite legal authority to administer the Traffic Adjudication Act in a manner that created a lack of uniformity and inequity in the ticket adjudication process.

The TSA Administrator’s Dismissal of Certain Parking Tickets
Violated Mayor’s Memorandum 91-42

Some parking ticket dismissals authorized by the TSA administrator violated provisions of Mayor’s Memorandum 91-42 (Memorandum) entitled, "Adjudication of Parking Tickets Incurred During Government Service," dated October 25, 1991. Mayor’s Memorandum 91-42 provides guidelines concerning liability for tickets issued to District government registered vehicles operated by government officials and employees while performing official business. The Memorandum specifically states:

"Government Employees. District and Federal vehicles may be excused from parking infractions if committed during the course of urgent government business if no other legal spaces were available so long as the parking violation did not block traffic or cause a safety problem. However, the defense of being a government employee on urgent business will not excuse the following violations:

- no parking/standing anytime
- rush hour lane
- crosswalk
- bus stop or zone
- sidewalk
- blocking a driveway or an alley"

The TSA administrator’s parking ticket dismissals that violated Mayor’s Memorandum 91-42 are presented in Table V.
TABLE V

Dismissals That Violated Mayor’s Memorandum 91-42:
Calendar Years 1996 and 1997

<table>
<thead>
<tr>
<th>Violation Type</th>
<th>Fiscal Year 1996</th>
<th>Fiscal Year 1997</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>No parking/standing anytime</td>
<td>5</td>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>Rush Hour Lane</td>
<td>3</td>
<td>-</td>
<td>3</td>
</tr>
<tr>
<td>Bus Stop or Zone</td>
<td>2</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>10</strong></td>
<td><strong>2</strong></td>
<td><strong>12</strong></td>
</tr>
</tbody>
</table>

Source: Office of the District of Columbia Auditor

Within the sample of tickets reviewed for this audit, the Auditor found that the TSA administrator dismissed four (4) tickets issued to a government vehicle assigned to the Office of the Chief Financial Officer. Two of the four dismissals were for no parking anytime violations, a third was for a rush hour lane violation, and a fourth was for a bus stop/zone violation. In authorizing the dismissal of these tickets, the TSA administrator not only circumvented established adjudication policies and procedures, but also violated Mayor’s Memorandum 91-42. The defense of being a government employee on urgent business did not excuse the particular violations assessed against the vehicle assigned to the Office of the Chief Financial Officer. The government vehicle assigned to the Office of the Chief Financial Officer also had accumulated outstanding parking tickets totaling $560 and was designated boot eligible.

The Auditor also found that the TSA administrator dismissed parking tickets for no parking anytime violations issued to vehicles assigned to the District’s Fire Chief, a former interim director of the Department of Administrative Services, and a staff member in the Mayor’s Office of the Ombudsman. The TSA administrator approved two additional parking ticket dismissals for rush hour lane violations issued to an unidentified government vehicle, and to a District government vehicle assigned to a DPW administrator. Further, the TSA administrator dismissed a parking ticket for a bus stop/zone violation that was issued to a vehicle assigned to the District’s former city administrator, and a no standing anytime violation that was issued to a vehicle assigned to the Mayor’s former chief of staff.

Additionally, Mayor’s Order 94-38 entitled, "Vehicle Utilization Policy," dated February 18, 1994, Section VI(G) specified that agency heads are responsible for:

"Establishing agency procedures for handling parking tickets issued to agency employees. All employees must be made aware of their
responsibility to respond to parking tickets issued to government vehicles assigned to them."

In submitting tickets directly to the TSA administrator for dismissal, District officials did not comply with the policy presented in Mayor’s Order 94-38.

As noted in Table IV, the TSA administrator improperly dismissed a total of 59 tickets, in the Auditor’s sample, that were issued to vehicles leased or registered to the District government. The audit team noted that 16, or 27 percent, of the 59 improperly dismissed parking tickets involved vehicles assigned to former DPW directors. These dismissals included red meter violations\(^{10}\), disobeying official government signs, and vehicle inspection violations. Flagrant violation of District parking laws and regulations by District government officials and employees creates an unfavorable public perception of the District government and signals a lack of accountability and lack of integrity in complying with and administering District laws and regulations.

**The TSA Administrator’s Dismissal of Parking Tickets for Some Elected Officials Was Not Authorized by Law**

During calendar years 1996 and 1997, the TSA administrator approved the dismissal of 34 tickets issued to vehicles registered to some elected officials. According to the TSA administrator, District elected officials were extended the same parking privileges in the District of Columbia that were accorded members of Congress pursuant to D.C. Code, Section 40-703(c). District of Columbia Code, Section 40-703(c) states:

"Members of Congress may park their vehicles in any available curb space in the District of Columbia, when:

(1) The vehicle is used by the member of Congress on official business;

(2) The vehicle is displaying a Congressional registration tag issued by the jurisdiction represented by the member; and

(3) The vehicle is not parked in violation of a loading zone, rush hour, firehouse, or fire plug limitation."

\(^{10}\)Title 18 DCMR Chapter 24, Section 2404.11, states that "Whenever a vehicle identified by license plates as being owned, rented, or leased by the federal or District government is being used on official business and is parked in a parking meter zone, the operator of the vehicle is not required to deposit a coin in the parking meter." The Auditor found that the TSA administrator dismissed 18 tickets in this category. The Auditor does not presently take exception to this regulation, but does take exception to the procedurally flawed manner in which the TSA administrator dismissed the tickets off the public record. Further, the Auditor found that DPW failed to develop any policies and procedures governing parking ticket dismissals emanating from the administrator’s office.
Congressional parking privileges that were extended to District of Columbia elected officials by the TSA administrator were not authorized or supported by law.

The TSA administrator’s dismissal of parking tickets issued to private vehicles registered to elected officials included: (5) five no stopping/standing AM/PM rush hour violations; eight (8) disobeying official sign violations; three (3) bus stop/zone violations; seven (7) no parking/standing anytime violations; two (2) failure to display inspection sticker violations; eight (8) other violations11; and one (1) violation that could not be determined.

The Auditor interviewed parking administration officials in the cities of Boston, Baltimore and Philadelphia concerning policies related to the disposition of parking tickets issued to elected officials in their jurisdictions. The discussions revealed that elected officials in these cities were not provided special or preferential treatment with regard to parking enforcement and adjudication of parking tickets. Parking officials in these cities stated that elected officials in their respective jurisdictions must adhere to established parking laws and adjudication policies and procedures.

RECOMMENDATIONS

1. The TSA administrator immediately discontinue the unauthorized practice of disposing of parking tickets off the public record and in violation of traffic adjudication policies and procedures. All future requests for dismissal of parking tickets should be referred to the chief hearing examiner in the Bureau of Traffic Adjudication for appropriate adjudicatory activity.

2. District government officials and employees comply with the provisions of Mayor’s Memorandum 91-42 and Mayor’s Order 94-38. Each agency must enforce employee accountability for violations of Mayor’s Memorandum 91-42.

THE TSA ADMINISTRATOR’S DISPOSITION OF PARKING TICKETS CREATED THE APPEARANCE OF A CONFLICT OF INTEREST

In accordance with Sections 1800.1, 1800.2, and 1803.1 of the District Personnel Manual (DPM), District government employees must adhere to the following:

"1800.1 Employees of the District government shall at all times maintain a high level of ethical conduct in connection with the performance of official

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11 Other violations included parking in spaces reserved for government vehicles only, parking less than 40 feet from an intersection, parking in a leading zone, parking in a residential zone without a parking permit, parking in an entrance designated closed, parking in an official space, and parking abreast.
duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

1800.2 The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by employees is essential to assure the proper performance of government business and the maintenance of confidence by citizens in their government. The avoidance of misconduct and conflicts of interest on the part of employees is indispensable to the maintenance of these standards...

1803.1 An employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in, or create the appearance of, the following:

(a) Using public office for private gain;
(b) Giving preferential treatment to any person;
(c) Impeding government efficiency or economy;
(d) Losing complete independence or impartiality;
(e) Making a government decision outside official channels; or
(f) Affecting adversely the confidence of the public in the integrity of government."

The TSA administrator’s disposition of parking tickets off the public record, at a minimum, created the appearance of a conflict of interest. The Auditor further noted that the TSA administrator’s direct involvement in the disposition of parking tickets appeared to have been in conflict with 1800.1, 1800.2, and 1803.1 of the DPM in that: (1) preferential treatment was extended to certain individuals; (2) these actions affected the TSA administrator’s impartiality; (3) the TSA administrator’s decisions were made outside official channels; and (4) if these actions were publicized, they may have adversely affected the public’s confidence in the impartiality and integrity of the District government’s parking adjudication process.

The Auditor further noted that the TSA administrator did not properly separate the administrative responsibilities necessary to manage the Transportation Systems Administration’s day-to-day operations from the specific function of adjudicating parking tickets. The TSA administrator’s deliberate circumvention of internal controls established to govern and protect the adjudicatory function compromised the integrity and impartiality of the entire adjudicatory process. An internal control breach in the adjudication of parking tickets, whether limited or widespread, fosters the perception that some individuals with influence or access to District officials may receive favorable treatment on such matters.
RECOMMENDATION

The TSA administrator adhere to the ethical conduct provisions of the District Personnel Manual (DPM) in order to enhance and protect the integrity of the District of Columbia Government.

TICKET DISPOSITIONS WERE IMPROPERLY ATTRIBUTED TO A FORMER CHIEF HEARING EXAMINER’S HEARING OFFICER CODE

During calendar years 1996 and 1997, approximately 38,65012 parking tickets were adjudicated and a disposition was entered into the Ticket Information Management System (TIMS) using a hearing officer code assigned to the former chief hearing examiner of the Bureau of Traffic Adjudication (BTA). This individual left the BTA on October 20, 1995. Nevertheless, the supervisor of TSA’s Ticket Processing Unit, and at least nine (9) other TSA employees, improperly entered parking ticket dispositions into TIMS using the former chief hearing examiner’s hearing officer code over an approximate 26 month period subsequent to this former employee’s departure from BTA. Table VI summarizes the disposition categories for the 38,650 tickets that were entered into TIMS using the former chief hearing examiner’s hearing officer code.

12The 38,650 parking tickets adjudicated under the former chief hearing examiner’s hearing officer code are separate from the 30,931 backlog tickets that were identified during calendar years 1996 and 1997.
TABLE VI

Ticket Dispositions Improperly Attributed to the Former Chief Hearing Examiner of the Bureau of Traffic Adjudication: Calendar Years 1996 and 1997

<table>
<thead>
<tr>
<th>Disposition Category</th>
<th>No. of Occurrences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liable</td>
<td>13,459</td>
</tr>
<tr>
<td>Hearing Continuation</td>
<td>10,375</td>
</tr>
<tr>
<td>Completion of Traffic School</td>
<td>4,055</td>
</tr>
<tr>
<td>Dismissed for Merit</td>
<td>3,651</td>
</tr>
<tr>
<td>Enrolled Traffic School</td>
<td>3,605</td>
</tr>
<tr>
<td>Reduction of Fine</td>
<td>2,206</td>
</tr>
<tr>
<td>Reduction of Penalty</td>
<td>774</td>
</tr>
<tr>
<td>Failed Traffic School</td>
<td>390</td>
</tr>
<tr>
<td>Other13</td>
<td>135</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>38,650</strong></td>
</tr>
</tbody>
</table>


According to information provided by TSA, employees were assigned "unique user ID codes" that were protected by a password selected by the employee. This combination allowed access into TIMS. In addition to the unique user ID codes and password, hearing examiners were assigned two (2) hearing officer codes to enable them to enter dispositions for in-person hearings and mail adjudication hearings. In addition to the unique user ID codes, TSA officials indicated the following with regard to hearing officer codes:

"...hearing officer codes function as an identifier, so that staff can determine which hearing officer was responsible for the finding of liability or dismissal on a ticket. They do not carry any security or access privileges or restrictions."

The Auditor requested TSA’s policies, procedures, guidelines, or rules governing DPW’s assignment of TIMS access codes and hearing officer codes. TSA provided some documentation on TIMS access codes and hearing officer codes and further noted that:

13The disposition category entitled "Other" includes administrative reduction of penalties, administrative dismissals, voids, and warnings.
"The use of separate HO [Hearing Officer] codes for in-person and mail hearings facilitates reporting, such as the weekly Disposition Report, which lists all dispositions entered by hearing officer code. The hearing officer code is used solely as an identifier in TIMS."

As a result of TSA employees’ misuse of the former chief hearing examiner’s hearing officer code, the Auditor could not readily determine the identity of the hearing examiner or other TSA employees responsible for the 38,650 ticket dispositions. TSA officials indicated that 28,881 of the 38,650 tickets were associated with batch dispositions in connection with an "amnesty program" that was established to resolve a backlog of unpaid default tickets. Despite this assertion, the fact remains that these dispositions were improperly attributed to, but were not made by, the former chief hearing examiner for the Bureau of Traffic Adjudication. The remaining 9,769 tickets were direct on-line dispositions that could not be attributed to a specific hearing examiner because TSA employees entered dispositions by misusing the former chief hearing examiner’s hearing officer code.

The Auditor discussed the use of the former chief hearing examiner’s hearing officer code with the TSA administrator. The administrator indicated that she was unaware of the continued use of the former chief hearing examiner’s hearing officer code by employees under her supervision. Subsequently, the Auditor interviewed the Ticket Processing Unit supervisor who improperly used the former chief hearing examiner’s hearing officer code to enter ticket dispositions ordered by the TSA administrator. The Ticket Processing Unit supervisor indicated that she used the former chief hearing examiner’s hearing officer code to distinguish parking ticket dismissals ordered by the TSA administrator from dispositions authorized by hearing examiners through the formal adjudication process.

The Auditor noted that the TSA administrator was also assigned two hearing officer codes. However, the TSA administrator’s hearing officer codes were not used by the Ticket Processing Unit supervisor or any other TSA employee to identify ticket dispositions in the Auditor’s sample that were ordered by the TSA administrator. Instead, these dispositions were attributed to the former chief hearing examiner’s hearing officer code which created the false impression that the former chief hearing examiner, rather than the TSA administrator, had ordered certain ticket dispositions. The Auditor is concerned by the misuse of the former chief hearing examiner’s hearing officer code to enter the TSA administrator’s parking ticket dispositions into TIMS given the assertion that these dismissals were legitimate.

Improperly attributing parking ticket dispositions to the hearing officer code assigned to the former chief hearing examiner, long after the individual’s departure, prevented the accurate reporting of dispositions for each hearing examiner. It also impeded TSA officials’ ability to accurately track, control, and measure the adjudicatory performance and activity of each BTA hearing examiner.
Further, this internal control deficiency may have adversely impacted TSA’s ability to detect and trace possible adjudication irregularities committed by hearing examiners and other TSA employees.

**RECOMMENDATIONS**

1. DPW immediately cease using hearing officer codes assigned to former employees, update its hearing officer codes, and implement appropriate guidelines governing the assignment, use, and cancellation of hearing officer codes.

2. DPW, or its successor, initiate the appropriate personnel action against any employee who improperly uses a TIMS hearing officer or access code not assigned to them.

**BUREAU OF PARKING SERVICES FAILED TO DETERMINE THE REASONS FOR VOIDED PARKING TICKETS AND IMPLEMENT APPROPRIATE CORRECTIVE ACTIONS**

According to TSA’s Bureau of Parking Services, a voided ticket represented a ticket that was not issued in accordance with parking regulations set forth in Title 18 DCMR Chapter 30. During the examination of voided tickets, the audit team found that DPW’s Bureau of Parking Services failed to determine the reasons for voided tickets and implement appropriate corrective actions. Determining the reasons for voided tickets would have alerted management to performance deficiencies, weaknesses in its operating structure, the need for additional training to improve the performance of Parking Control Aides (PCA), and any other issues affecting the efficient and effective performance of this function.

The Auditor tested a sample of 272 voided tickets in the TIMS to determine: (1) the reasons that tickets were voided; and (2) if the tickets were voided consistent with TSA’s guidelines for voiding tickets. Table VII presents the reasons for the voided tickets in the Auditor’s sample.
TABLE VII

Reasons for Voided Tickets In the Auditor’s Sample: Calendar Years 1996 And 1997

<table>
<thead>
<tr>
<th>Reason for Voiding Ticket</th>
<th>Number of Tickets Voided</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wrong/No Violation</td>
<td>39</td>
<td>14%</td>
</tr>
<tr>
<td>Wrong Date</td>
<td>12</td>
<td>4%</td>
</tr>
<tr>
<td>Drove-off</td>
<td>24</td>
<td>9%</td>
</tr>
<tr>
<td>Wrong Time</td>
<td>19</td>
<td>7%</td>
</tr>
<tr>
<td>Wrong Location</td>
<td>21</td>
<td>8%</td>
</tr>
<tr>
<td>Wrong Tag Number</td>
<td>9</td>
<td>3%</td>
</tr>
<tr>
<td>Residential Parking Permit Errors</td>
<td>2</td>
<td>1%</td>
</tr>
<tr>
<td>Strike-out</td>
<td>28</td>
<td>10%</td>
</tr>
<tr>
<td>Wrong Collateral</td>
<td>8</td>
<td>3%</td>
</tr>
<tr>
<td>Wrong Make/Body of Vehicle</td>
<td>10</td>
<td>4%</td>
</tr>
<tr>
<td>In Lieu Of</td>
<td>4</td>
<td>2%</td>
</tr>
<tr>
<td>NOI Already on Vehicle</td>
<td>30</td>
<td>11%</td>
</tr>
<tr>
<td>Incomplete NOI</td>
<td>3</td>
<td>1%</td>
</tr>
<tr>
<td>Police vehicle</td>
<td>6</td>
<td>2%</td>
</tr>
<tr>
<td>Other</td>
<td>20</td>
<td>7%</td>
</tr>
<tr>
<td>Could not determine</td>
<td>37</td>
<td>14%</td>
</tr>
<tr>
<td>Total</td>
<td>272</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: Office of the D.C. Auditor

The Auditor’s analysis revealed the following reasons for voiding tickets:

- 39 tickets, or 14 percent, were attributable to PCAs checking the wrong or no violation;

- 30 tickets, or 11 percent, were voided due to PCAs issuing a notice of infraction (ticket) when one had already been issued to a vehicle owner on the same day for the same infraction;

- 28 tickets, or 10 percent, were due to strike-overs;
• 24 tickets, or 9 percent, were voided because individuals drove-off before receiving the ticket;

• 21 tickets, or 8 percent, were voided because the wrong location was recorded on the ticket;

• 19 tickets, or 7 percent, were voided because the wrong time was recorded on the ticket; and

• 37 tickets, or 14 percent, were voided for no apparent reason.

The Auditor found that approximately 37, or 14%, of the tickets in the sample, did not comply with TSA’s “Guidelines for Voiding Tickets” because the reason for the void was not stated in the note section on the front of the ticket or the word "void" was not written on the face of the ticket.

Effective November 1996, TSA modified the notice of infraction to include a void request and an explanation of void section on the back of the ticket. Previously, this information was recorded on a separate void request form rather than on the back of the ticket. The ticket processing contractor, Lockheed, was required to image both the front and back of each ticket into TIMS. According to Bureau of Parking Services officials, the back of the ticket is now used as a void request to explain the void and to record the requisite signatures.

In attempting to review the imaged back of the ticket, the Auditor found that there were no identifiers linking the back of the ticket to the front. This deficiency impacted the Auditor’s ability to fully analyze voided tickets, and failed to preclude the possible misuse of the voiding process as a means of improperly canceling valid parking tickets. Because the back of the ticket now functions as a control document for compliance and performance purposes, it is imperative that an identifier, such as the ticket number, link the back of the ticket to the front of the ticket. Additionally, because TSA did not maintain statistical data, the Auditor was unable to compare the results of the findings from the sample with data from previous years.

**DPW Incurred Avoidable Processing Costs Totaling $214,882 for Tickets Voided During Calendar Years 1996 and 1997**

According to ticket processing and delinquent collection status reports provided for the audit, approximately 39,221 parking tickets were voided in calendar year 1996 at a cost of $95,307 and 47,263 parking tickets were voided in calendar year 1997 at a cost of $119,575 for a total of $214,882. The failure of PCAs to correctly issue tickets resulted in a total of approximately 86,484 voided tickets which impacted the financial resources of the District government in that voided tickets were still entered in the Ticket Information Management System and incurred the same per ticket processing costs that were associated with valid parking tickets.
Table VIII presents the costs of processing 86,484 tickets that were voided during calendar years 1996 and 1997.

### TABLE VIII

**Costs of Voided Tickets: Calendar Years 1996 and 1997**

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>No. of Tickets Voided</th>
<th>Cost for Processing Each Ticket</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>39,221</td>
<td>$2.43</td>
<td>$95,307</td>
</tr>
<tr>
<td>1997</td>
<td>47,263</td>
<td>$2.53</td>
<td>$119,575</td>
</tr>
<tr>
<td>Totals</td>
<td>86,484</td>
<td></td>
<td>$214,882</td>
</tr>
</tbody>
</table>

Source: Office of the D.C. Auditor

In addition to processing costs associated with voided tickets, the Auditor’s examination revealed the absence of a policy and procedure for notifying a motorist that tickets issued to them had later been voided by the Bureau of Parking Services. Tickets that were voided after being issued may have been paid by motorists because of DPW’s failure to notify them that the ticket was voided. This deficiency may have contributed to the District’s parking ticket overpayment problem.

Additionally, the Auditor found that the ticket processing contractor’s responsibilities and costs related to voided tickets were limited to entering the voided tickets in TIMS. In future contracts, the District should seek to minimize contractor fees associated with processing voided tickets.

**RECOMMENDATIONS**

1. The Bureau of Parking Services provide additional appropriate training to PCAs in an effort to reduce the number of voided tickets.

2. Bureau of Parking Services supervisors and PCAs adhere to established parking control branch policies and procedures for voiding parking tickets.

3. Bureau of Parking Services supervisors and PCAs provide adequate written justification for voiding a ticket on the back of every ticket that is voided.

4. TSA modify the back of its parking ticket to include an identifier, such as the ticket number, to link the front of the ticket to the back of the ticket.
5. DPW, in future ticket processing contracts, negotiate a reduced fee for processing voided tickets.

CONCLUSION

The Department of Public Works failed to process mail adjudication requests within the specified 4 to 6 week period. Further, DPW did not provide adequate staff and related resources to enable the mail adjudication process to function effectively, efficiently, and economically. As a result, most mail adjudication requests were not addressed for periods ranging from 3 months to over 3 years. At the time of the audit, DPW's failure to timely process mail adjudication requests resulted in a backlog of 30,931 tickets in the mail adjudication process.

The Transportation Systems Administration (TSA) administrator established an unauthorized, procedurally flawed practice of dismissing parking tickets off the public record in circumvention of established traffic adjudication policies and procedures. The TSA administrator dismissed tickets issued to vehicles registered to private citizens, vehicles leased or owned by the District and Federal governments, and vehicles owned by some District officials. Contrary to regulation, which requires that a hearing examiner or the chief hearing examiner adjudicate a traffic infraction or dismiss a notice of infraction, the TSA administrator, who is not a designated hearing examiner or the chief hearing examiner, personally decided certain parking tickets.

The TSA administrator did not properly separate administrative responsibilities for the day-to-day management of the Transportation Systems Administration from the quasi-judicial function of adjudicating parking tickets. The TSA administrator's direct involvement in the disposition of parking tickets appeared to have been in conflict with provisions of the District Personnel Manual (DPM) in that preferential treatment was accorded to a select few individuals, the actions affected the administrator's impartiality, and government decisions were made outside official channels. These actions may have deprived the District of parking fine and penalty revenue and also may have adversely affected the public's confidence in the integrity of the District government's parking adjudication process. At minimum, the TSA administrator's parking ticket dispositions created the appearance of a conflict of interest.

Dispositions for 38,650 parking tickets adjudicated during calendar years 1996 and 1997 were entered into the Ticket Information Management System (TIMS) by improperly using a hearing officer code assigned to the former chief hearing examiner of the Bureau of Traffic Adjudication (BTA). This individual left BTA on October 20, 1995. An effective system of internal control should have resulted in this individual's hearing officer code being canceled and deleted from TIMS immediately upon her departure thereby preventing the improper attribution of parking ticket dispositions to this individual. The Auditor notes that the improper use of the former chief hearing
examiner’s hearing officer code for the disposition of 38,650 tickets prevented the accurate reporting of dispositions for hearing examiners’ adjudicatory activity. Improper use of this hearing officer code also may have impeded TSA officials’ ability to accurately track, control, and measure the adjudicatory performance and activity of each BTA hearing examiner, and may have impacted TSA’s ability to detect and trace possible adjudication irregularities committed by hearing examiners or other TSA employees.

Finally, the Bureau of Parking Services failed to determine the reasons for voided tickets and to implement appropriate corrective actions. Approximately $214,882 in avoidable costs were incurred by the District to process 86,484 voided tickets during calendar years 1996 and 1997. Determining the reasons for voided tickets would have alerted management to performance deficiencies, weaknesses in its operating structure, the need for additional training to improve the performance of Parking Control Aides (PCA), and other issues affecting the efficient and effective performance of this function.

Respectfully submitted,

Deborah K. Nichols
Interim District of Columbia Auditor
MEMORANDUM

TO: Cell Bernardino, Interim Director
    Department of Public Works

FROM: Betty Jo Gaines
      Director

SUBJECT: Request for Assistance

April 17, 1997

Please find attached three (3) parking citations, inadvertently placed upon my city-owned--government issued official vehicle, for which I am seeking your assistance and relief.

The citations were placed upon the vehicle citing government parking only. This is a government vehicle and therefore, subject to the utilization of those facilities appointed specifically for official business.

The citations are:

204645641  206453100  208613020

Your assistance in the resolution of this dilemma is appreciated. If you are in need of further information concerning this matter, please contact me at 673-7665. Your assistance in this matter, as in all others, is greatly appreciated.

Attachment
<table>
<thead>
<tr>
<th>Location of Violation</th>
<th>DD</th>
<th>MM</th>
<th>YYYY</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>28</td>
<td>FEB</td>
<td>97</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking Violation</td>
<td></td>
</tr>
<tr>
<td>Towing Requested</td>
<td></td>
</tr>
<tr>
<td>Red Meter</td>
<td>50</td>
</tr>
<tr>
<td>Less than 30' Stop Sign</td>
<td></td>
</tr>
<tr>
<td>Disobeying Official Sign</td>
<td>55</td>
</tr>
<tr>
<td>No Parking Anytime</td>
<td></td>
</tr>
<tr>
<td>Entrance Designated Bldg.</td>
<td>37</td>
</tr>
<tr>
<td>No Parking Specific Hours</td>
<td></td>
</tr>
<tr>
<td>Expired Red Inspt. Sticker</td>
<td></td>
</tr>
<tr>
<td>AM PM to AM PM</td>
<td></td>
</tr>
<tr>
<td>False to Display Current L.D. Tags</td>
<td></td>
</tr>
<tr>
<td>No Standing</td>
<td></td>
</tr>
<tr>
<td>Fail to Display Inspt. Sticker</td>
<td>139</td>
</tr>
<tr>
<td>No Stand, Bush Hours, AM</td>
<td></td>
</tr>
<tr>
<td>Fail to Report for Inspection</td>
<td>359</td>
</tr>
<tr>
<td>No Stand, Overnight</td>
<td></td>
</tr>
<tr>
<td>In Bus Zone</td>
<td>37</td>
</tr>
<tr>
<td>Overtime</td>
<td>AM PM</td>
</tr>
<tr>
<td>In Loading Zone</td>
<td>69</td>
</tr>
<tr>
<td>Parking Area</td>
<td></td>
</tr>
<tr>
<td>Less than 2' Driveway/Aley</td>
<td>41</td>
</tr>
<tr>
<td>Parking Area</td>
<td></td>
</tr>
<tr>
<td>Less than 2' Intersection</td>
<td>92</td>
</tr>
<tr>
<td>Intersection</td>
<td></td>
</tr>
<tr>
<td>Less than 2' Fire Hydrant</td>
<td>53</td>
</tr>
<tr>
<td>Residential Pkg., AM PM</td>
<td></td>
</tr>
</tbody>
</table>

**Official Copy**

<table>
<thead>
<tr>
<th>Scheduled Fine or Collateral</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$150 $320 $525 $125 $500 $10 5 $</td>
<td></td>
</tr>
</tbody>
</table>

Issuer's Signature

ASSAULTS ON PARKING ENFORCEMENT PERSONNEL ARE FULLY PROSECUTED

DPW Form 52 May '95

COPY B
Transportation Systems Administrator
OS-301-16

INTRODUCTION

The Administrator of the Transportation Systems Administration is responsible for the safe and efficient movement of people and goods through the District of Columbia. This responsibility includes: coordination and operation of the overall traffic system; development and implementation of regulations governing all traffic designs, (vehicular and pedestrian) procurement, installations, operations, adjustments, modifications, maintenance, and repairs of all street and traffic signs and markings, traffic signals and parking meters; operation and maintenance of fringe parking areas; design, installation and maintenance of street lights, collection of traffic fines and adjudication of disputes regarding traffic movements and parking in the public right-of-way; control of motor vehicles and operators through licensing, registration, inspection, permit issuance and enforcement of statutes, codes and regulations pertaining to development and oversight of all federally-funded programs relating to transportation.

The Transportation Systems Administration is composed of the following Offices and/or Bureaus: Office of the Administrator; Bureau of Motor Vehicle Services, Bureau of Traffic Services, Bureau of Adjudication, and Bureau of Parking Services. The functions includes processing and adjudicating traffic and parking tickets; designing and maintaining traffic systems including signalization, street lights, and street signs and markings; administering motor vehicle regulations related to registration and operator permits; and administering the District's parking management and enforcement program.

POSITION CONTROLS

Works under the general direction of the Director, Department of Public Works who provides policy guidance and makes assignments in terms of general objectives and priorities (in consultation with the incumbent) within the latitude of policies established by the District. The incumbent functions with independence in accomplishing broad assignments and special projects. Recommends action as determined appropriate based on the circumstance, experience, judgment, and awareness of the District's positions, desires and needs.

Advice and recommendations are generally accepted as sound and authoritative. Work performance is evaluated on the basis of overall effectiveness in assisting the Director and Deputy Director to achieve desired goals and objectives of the administration's mission.
Principal guides include established policies and procedures, regulations and statutes of the Federal and District of Columbia Government, departmental and Mayor’s Orders, and specific instructions from the Director/Deputy Director of the Department.

These guides are rarely adequate for solving complex and unique problems. Because the work is performed under time pressures and involves unique considerations, a high degree of originality and technical judgment is exercised to develop techniques and processes to direct timely completion of work efforts.

**DUTIES AND RESPONSIBILITIES**

Plans, directs, coordinates and controls long term, short term, and day-to-day operations of the Transportation Systems Administration to insure that the major programs are implemented efficiently and effectively. Regularly meets with departmental officials to assist them in solving mutual problems, making final decisions regarding program priorities and to effect the conformance of work or proposed work relative to Federal, District and Departmental policy, regulations and goals.

Develops, adapts and implements appropriate traffic management policies, procedures, directives, methods, practices, techniques, etc., to support the mission of the administration and the department.

Provides expert advisory services by analyzing and advising line managers as to course of action to take, along with other considerations, in making operating program decisions.

Reviews traffic studies and analyses of transportation characteristics, traffic patterns, safety requirements, rates and charges.

Oversees the development of the budget for the administration and appears as the representative for the administration before District budgetary committees explaining programs and justifying proposals. Upon finalization of the budget, monitors its effectiveness and recommends major reprogramming as required.

Works closely with officials of neighboring states and communities in the coordination of programs, services and facilities of the District of Columbia with those of other communities in the metropolitan areas.

Personally and through subordinate supervisors and managers, coordinates the activities of the administration with Federal agencies concerned with the administration's programs, and with other District Government departments and agencies, to assure effective implementation of the administration's responsibilities on a District-wide basis.
Represents the Director, and on occasion, the Mayor, as liaison and coordinator with Federal agencies, Council of Governments, Virginia and Maryland State Roads Commission(s), and others in matters of transportation relative to the District of Columbia. Advises the Director and/or recommends solutions and/or approaches regarding areas of major concern.
Dear Ms. Mitchell:

An employee and myself received parking tickets yesterday September 25, 1996 in an area that is reserved for us to park. The reserved area is due to the fact there is considerable construction taking place underneath the Whitehurst Freeway where our office is located.

The violation is for front end parking. However due to construction equipment the sign indicating front end parking was covered. We both front end parked like all the other cars in that area. My employees' ticket was for $15.00 and mine was for $20.00.

My parking ticket number is 79893206-3 and our employee number is 79893207-02. Also attached is the permit which goes in the window of the car.

Thank you for your time and consideration in this matter.

Sincerely,

Brig Owens
District of Columbia
Department of Public Works
Bureau of Adjudication
65 "K" Street, N.W.
Washington, D.C. 20002

TO WHOM IT MAY CONCERN:

This letter is written in response to ticket number 206765926, dated March 8, 1997. My son had my car and I was not aware of the ticket until May. I sent $20.00 to the Department of Public Works in May.

Here's thanking you in advance for any assistance that you may be able to afford me.

Sincerely,

[Signature]
Sylvia L. Owens

6-27-97
Mr. Palmer
Please reduce the penalty on ticket number 206765926.

Thanks,
[Signature]
January 22, 1996

Ms. Gwen Mitchell  
65 K Street, NE  
Room 210  
Washington, D.C. 20002

Dear Ms. Mitchell:

On Sunday, January 14, 1996 at about 8:05 am, I received a $100 ticket for having the front end of my car in a snow emergency route. It is my understanding that the no parking/snow emergency ban ended at 8:00 am that same day.

I am enclosing the ticket. Your prompt attention to this matter would be greatly appreciated.

Sincerely,

Francis Darryl Colbert  
1417 E Street, SE  
Washington, D.C. 20003  
202/546-8185 - home

Enclosure
MEMORANDUM

TO: Gwen Mitchell, Administrator
Transportation Systems Administration

FROM: Art Lawson
Administrator

SUBJECT: Irving Street, N.W. Parking Tickets

Back in April of 1995, I met with citizens residing along the Metrorail construction corridor in Columbia Heights who were concerned about the availability of parking spaces as a result of Metrorail construction. Curb side parking spaces had been reduced due to Metrorail construction and contractor curbside work and storage requirements.

With your cooperation, I was able to tell citizens that they would be able to park on both sides of Irving and that additional spaces were being created on several other streets along the corridor. Ms. Tamia Johnson who lived on Irving Street, N.W. was issued two parking tickets after we had informed citizens of our relaxed enforcement. One ticket was issued on April 6, 1995 and the other within a five day window on either side of April 6, 1995. They were issued to D.C. Tag 584-273. One ticket number is 77978978 D.

I believe the original tickets were forwarded to your office along with those from other citizens asking that they be forgiven.

If additional information is required in order for you to address this request, please do not hesitate to call me on 939-8012.
Memorandum

Government of the District of Columbia

TO: Gwen Mitchell
Administrator, Bureau of Traffic Adjudication

THRU: Linda Reese-Davidson
Chief, Hearing Examiner

FROM: Gary A. Burch, P.E.
Administrator, DECA

DATE: MAY 7 1996

SUBJECT: Dismissal of Parking Violation
Ticket Number 92702958 5
Space Number 0178

I am writing in reference to Ticket Number 92702958 5 that was written on April 30, 1996 and issued at the Frank D. Reeves Municipal Center, 2000 14th Street N.W. Ms. Cora S. Boykin is the payee of Parking Space Number 0178.

Ms. Boykin was using a rental car and her current parking permit was not displayed. She mistakenly left the permit in her private vehicle.

I request that this ticket be voided, due to the unforeseen situation. We apologize for any inconvenience this may have caused your office.

Enclosed is the pink copy of the Notice of Infraction and a copy of her April 1996 Parking Permit. Your concern and assistance in this matter is greatly appreciated.

cc: Enclosures as stated
April 1, 1997

MEMORANDUM

TO: Gwen Mitchell, Administrator
    Transportation Systems Administration

FROM: Leslie A. Hotaling
      Administrator

SUBJECT: Request for Dismissal of Parking Ticket #20739031-5

This is to request your assistance in the review and dismissal of the subject parking ticket. The parking ticket was issued to Ms. Jane Wadsworth, a consultant to the Solid Waste Management Administration, who at the time of ticket issuance was in a meeting with me discussing the DPWServes System with the new DPW Messengers groups.

The meeting was scheduled to last only one hour, which would have been sufficient within the time controls allowed for parking on 14th Street. However, due to the extensive questions asked by the DPW Messenger team, the training session exceeded the two hours provided for parking. It would have been completely unacceptable for Ms. Wadsworth to leave the session to move her car.

May I thank you in advance for your attention to this matter. Please give me a call if you have any questions, or if there are any problems with this request for dismissal.

Attachment: Original NOV # 20739031-5

H-3-97
Ms. Palmer, please sign and return.
An advance explanation.
[Signature]
Memorandum  
Government of the District of Columbia

TO: Gwen Mitchell
Administrator, TSA

FROM: Tanya Baggett
Assistant to the Director

SUBJECT: Dismissal of Infraction

Department, Public Works
Agency, Office:

Date: September 30, 1997

The Office of the Director requests dismissal of the attached infraction (93943863-6) issued to Virginia vehicle license number ZWP5104 on September 25, 1997 at 11:17 a.m.

The notice of infraction was issued for an alleged parking violation, on public property (parking space 318), in the Reeves Center garage. Parking space 318 is officially designated as a "guest" space for individuals visiting the Director of Public Works. The driver of the vehicle had received confirmation from this office to park in the aforementioned space, however, when the DAS parking monitor perused the garage and found an out-of-state license plate parked in the Director's guest space it was assumed that the vehicle was illegally parked.

We, therefore, respectfully request dismissal of this parking infraction and have taken measures to ensure that in the future this office will be contacted prior to notices of infractions being issued to space 318.

Thanking you in advance for your assistance in this matter.

Attachment

Thanks so much!!!

10.28.97
Ms. Palmer, could
please explain
on above
statement.

Emile
Agency Comments

On May 26, 1998, the Interim District of Columbia Auditor submitted the first draft of this report for review and comment to the Director of the Department of Public Works and the Chief Management Officer of the District of Columbia. Comments were received from the Director of the Department of Public Works on June 10, 1998.

The Auditor submitted the draft report to the Director of the Department of Public Works and the Chief Management Officer for further review and comment on September 11, 1998. Comments were received from the Director of the Department of Public Works on September 22, 1998, and revised comments were received on September 25, 1998.

The comments received from the Department of Public Works on June 10, 1998, September 22, 1998 and September 25, 1998 are appended in their entirety to this report. Attachments submitted by DPW with its comments were too voluminous to include with the final report, but may be reviewed upon request in the Office of the District of Columbia Auditor.
ATTACHMENTS
June 10, 1998

Ms. Deborah K. Nichols  
Interim District of Columbia Auditor  
415 12th Street, N.W., Room 210  
Washington, D.C. 20004

Dear Ms. Nichols:

Thank you for the opportunity to respond to the draft audit report entitled "Evaluation of the Department of Public Works' Policies and Procedures for Adjudicating and Voiding Parking Tickets." The responses of the Department of Public Works (DPW) are outlined in this letter. Please note that the Transportation Systems Administration (TSA) is now commonly referred to as the Division of Motor Vehicles. However, during this audit period of 1996-97, TSA was the appropriate name and thus, is used in this response.

The issues raised in the draft audit report focus on the need for consistency in adjudication processes and the need for updated policies, procedures, and guidelines. DPW concurs that policies, procedures, and guidelines should be systematically reviewed to ensure compliance with District laws, regulations, and current operations. Any audit recommendations which are undisputed will be considered in DPW's document review.

The draft audit report raises a concern that the TSA Administrator dismissed certain tickets without requisite authority. The audit report cited a number of tickets which were dismissed on the recommendation of the TSA Administrator. There is a variety of reasons why the cited tickets were dismissed, some of which are detailed in this letter. The Office of the Administrator has taken an active role in attempting to resolve complaints and concerns originating from a number of sources, including the U.S. Congress, the U.S. Department of State, the Council of the District of Columbia, community organizations, other governmental agencies, and
private citizens. As noted in the audit report, a majority of the tickets dismissed were on behalf of private citizens.

Title 18 DCMR 3011.1 is cited to support your contention that only a hearing examiner or chief hearing examiner has authority to adjudicate a traffic infraction. However, you should note the Director of Public Works has express legal authority to make initial and final decisions on traffic infractions. The Director is also expressly empowered to handle a full range of adjudicatory matters as set forth in 18 DCMR 1007.2. The two regulations should be interpreted to avoid a conflict. Furthermore, when the regulations are read in tandem, DPW ensures the necessary flexibility for providing the highest level of customer service.

The Director has delegated his authority to adjudicate traffic infractions to the TSA Administrator. This delegation has occurred through oral and written directives to respond to correspondence from the general public and various governmental entities requesting resolution of traffic adjudication complaints as well as complex and sensitive issues. In addition, the TSA Administrator's formal position description includes the following language: "...is responsible for the safe and efficient movement of people and goods throughout the District of Columbia. This responsibility includes...adjudication of disputes regarding traffic movements and parking in the public right-of-way...". (emphasis added).

To maintain acceptable customer service during a period of overburdened resources and backlogs, all available avenues of due process have been followed to assist customers. In instances where complaints were forwarded or directed to the TSA Administrator for resolution, ticket records were researched and the basis for the complaints were investigated. Based on our investigation, letters and oral explanations provided sufficient information to make a final determination that almost one-third of the tickets handled by the TSA Administrator were deficient and improperly issued.

To further clarify the TSA Administrator's authority, an administrative issuance will be disseminated. Pursuant to the "Fiscal Year 1999 Budget Emergency Act of 1998" (Bill 12-670) responsibility for ticket adjudication, however, will be transferred to the newly-created Department of Motor Vehicles. It is anticipated this transfer will occur on October 1, 1998. The manner in which ticket complaints will be handled in the new department will be addressed as part of the transition plan.

The Department of Public Works offers the following comments with respect to other specific findings and recommendations:
AUDIT RECOMMENDATION:

The Transportation Systems Administration should adhere to the regulations in Title 18 DCMR Chapter 30 by requiring respondents to show good cause for not scheduling a hearing in-person or through a representative before permitting mail adjudication.

DPW RESPONSE:

The Council of the District of Columbia, through its enactment of the traffic adjudications laws, has provided the unequivocal statutory right for respondents to answer parking and moving violations by mail. D.C. Code sec. 40-615(b) states: "...a person to whom a notice of infraction [for a moving violation] has been issued may answer by personal appearance or by mail. Answers by telephone may be permitted by regulation." The same statutory right is provided for parking infractions in D.C. Code sec. 40-625(b). In addition, I refer you to 18 DCMR 3006 which also expressly authorizes answers to notices of infraction to be made via the mail. Although I have noted that 18 DCMR 3021 requires a respondent to "show good cause for not scheduling and attending a hearing...", this regulation appears to be in conflict with other regulations and the law. It is unclear whether section 3021 refers to the appeals process (since it immediately follows regulations governing appeals) or to moving violations only. Given the time constraints to respond to your draft audit report, DPW was unable to conduct a thorough review of the legislative (and regulatory) history governing answers by mail. I will request a legal opinion from the Office of the Corporation Counsel to clarify this issue. Until this matter is clarified at law, DPW maintains that the respondent should be given the flexibility to answer an infraction by mail since the overwhelming statutory and regulatory authority provides such right.

Furthermore, in the interest of customer service, mail adjudication avoids the need for respondents to wait in-person for hearings. Unfortunately, several years ago, respondents waited 4-5 hours for hearings that are now adjudicated through the mail. Protracted waiting periods are not beneficial for the public nor the government.

AUDIT RECOMMENDATION:

TSA should immediately update and revise its mail adjudication procedures to reflect the current operating practices and publish these procedures in the District of Columbia Register.
DPW RESPONSE:

The publication of the Bureau of Adjudications' standard operating practices and procedures is inappropriate. Regulations governing mail adjudication may need to be published to ensure accurate public information on the mail adjudication process. As soon as DPW obtains the necessary guidance from the Office of the Corporation Counsel on a respondent's right to mail adjudication, the appropriate regulation will be promulgated.

Notwithstanding the ambiguity, public information materials related to the adjudication process are being updated, and it is anticipated that the revised materials will be available to the public shortly.

The audit report stated that mail adjudication procedures have not been revised since 1987. These procedures were revised in September, 1997 and more recently in May, 1998. The updated procedures include revisions to the mail adjudication process. The audit report also noted that mail adjudication procedures had not been updated to "reflect changes made by TSA over two years ago that required all mail adjudication cases to be forwarded to Lockheed for entry into TIMS." This statement is unfounded since the process does not work in this manner. Perhaps the statement refers to the automated workflow process, which is addressed in the revised Procedures Manual dated May 1998. The automated workflow process commenced two or three years ago, in which mail adjudicators can enter decisions on-line as opposed to mail adjudication logs.

AUDIT RECOMMENDATION:

The TSA administrator should immediately discontinue the practice of dismissing parking tickets outside the formal adjudication process. All requests for dismissal of parking tickets must be referred to the Bureau of Adjudication for appropriate adjudicatory action by a hearing officer (sic), the chief hearing officer (sic), or the mail adjudicator in accordance with Title 18 DCMR Chapter 30.

DPW RESPONSE:

As previously stated, the authority for the TSA Administrator to adjudicate tickets has been delegated by the DPW Director. It should be noted that the TSA Administrator is a trained hearing examiner who formerly served in that capacity. The TSA Administrator is charged with the responsibility to the traffic infractions are adjudicated in a fair and reasonable manner. The
TSA Administrator should be able to exercise flexibility and discretion as long as sound judgment is used and the public interest is served.

The TSA Administrator exercised sound judgment while serving the public interest by dismissing tickets which clearly merited dismissal. Examples include: (1) tickets which should have been voided initially due to incorrect information on the face of the ticket (D.C. Code 40-623); (2) tickets issued to residents for their failure to renew vehicle registrations when the Department failed to issue renewal notices; (3) tickets issued when street cleaning regulations should not have been enforced due to the Department's inability to clean streets during inclement weather conditions or after street cleaning crews had completed work in an area; (4) improperly written tickets or tickets not placed on vehicles by Parking Control Aides (PCAs) (Note: these PCAs have since been terminated); (5) tickets issued to vehicles parked at broken meters; and (6) improper ticketing of unmarked government vehicles that displayed government vehicle inspection stickers, including parking tickets issued to the Director of Public Works' vehicle.

Whenever a vehicle identified by license plates as being owned, rented, or leased by the federal or District government is being used on official business and is parked in a parking meter zone, the operator of the vehicle is not required to deposit a coin in the parking meter (18 DCMR 2404.11). Additionally in response to your inquiry, the ten red meter infractions specifically referenced in the audit report which were issued to government vehicles assigned to the current and former DPW Directors should have been dismissed.

The Ticket Processing Unit supervisor entered the decisions by the TSA Administrator for several reasons. The TSA Administrator did not maintain the technical capacity to input decisions and this process allowed for expedient tracking in the event the dismissal requests received and handled by the TSA Administrator required follow-up assistance.

Although the audit report asserts the Administrator's dismissal of parking tickets to be costly in terms of uncollected revenue, the audit fails to substantiate that finding, particularly since the dismissals included tickets that should have been voided (see comment above), against which no revenues would have been collected. The number of tickets dismissed by request of the TSA Administrator was a minuscule percentage (0.002%) of total tickets dismissed in 1996 and 1997. Further, there has been no finding that the tickets dismissed by the Administrator would not have been dismissed as a result of a formal hearing. Therefore, the
reference to the dismissals as being costly to the District should be deleted.

AUDIT RECOMMENDATION:

The Department of Public Works should adhere to the provisions of Mayor's Memorandum 91-42 with respect to the use of official parking permits.

DPW RESPONSE:

As part of the initial training of hearing examiners and mail adjudicators, a copy of Mayor's Memorandum 91-42 has been and continues to be provided to the hearing examiners and mail adjudicators. The Memorandum is also discussed with the hearing examiners and mail adjudicators in detail. Mayor’s Memorandum 91-42 includes the Department’s clarification of Title 18 DCMR Section 2420, a regulation also binding upon the Council of the District of Columbia.

The audit report notes that a government vehicle was designated as boot eligible. It has been a DPW policy not to boot government vehicles. This policy was implemented to avoid disruptions in public service and to ensure that government agencies are not impeded from implementing their public mandate.

The audit report also makes reference to an administrative hearing officers manual published by the Department of Consumer and Regulatory Affairs. This manual is not binding on the Department of Public Works and we do not operate in accordance with its contents. Therefore, reference to the manual should be deleted from the audit report.

AUDIT RECOMMENDATION:

DPW should immediately cease using hearing officer codes assigned to employees who no longer work for the Bureau of Adjudication.

DPW should immediately update its hearing officer codes and implement appropriate guidelines governing the assignment, use, and cancellation of hearing officer codes.

DPW RESPONSE:

DPW concurs that codes assigned to a departed hearing examiner should be canceled and discontinued for use immediately. Notwithstanding the improper use of this particular code, the dispositions were appropriately processed.
The former Bureau Chief of Adjudication’s code was used to process a backlog of default tickets. This process allowed for respondents to appear at a hearing to resolve their traffic infraction without having to first attend a show cause hearing to set aside default judgment. For those respondents who failed to appear within a designated time period after being contacted by letter, dispositions were posted by the ticket system. These dispositions were outcomes based on the failure of persons contacted by letter to appear for a continued hearing within a designated period of time. They did not result from individual hearing examiner decisions.

**AUDIT RECOMMENDATION:**

DPW should take steps to improve the training of Parking Control Aides to reduce the number of voided tickets, and supervisors and PCAs should adhere to established parking control branch procedures for voided tickets.

**DPW RESPONSE:**

The Bureau of Parking Services has been receiving for several years monthly reports from the ticket processing contractor which list the number and type of errors detected on tickets issued by PCAs, number of tickets with reduced penalties or dismissals, and the number of voided tickets. Supervisors and PCAs meet monthly to discuss common errors cited on these reports. The ticket processing contractor will be requested to provide more detailed management reports which identify the number of voids for each PCA and the reasons for the voids. Through use of this data, supervisors will be able to monitor void performance and provide additional training as necessary.

The Bureau of Parking Services will establish a performance measure to reduce the percentage of voided tickets to two percent of the total tickets issued. Currently, approximately three percent of tickets are voided prior to adjudication.

**AUDIT RECOMMENDATION:**

DPW, in future ticket processing contracts, should make provision for a reduced fee for the processing of voided tickets.

**DPW RESPONSE:**

DPW concurs with this recommendation and has already competitively solicited a five-year ticket processing contract which contains on
the price schedule a separate pricing for voided and warning tickets. Bid proposals are currently being evaluated.

AUDIT RECOMMENDATION:

TSA should modify the back of its parking ticket to include an identifier such as the ticket number to link the front to the back of the ticket.

DPW RESPONSE:

It is not necessary to modify the parking ticket to link the front and back sides of the ticket for the following reasons:

First, our current subcontractor for ticket printing, Toucan Business Forms, Inc., advises us that maintaining quality control when printing the same identification number on the front and back of the ticket is problematic. The probability of error dramatically increases with the addition of a ticket number on the back side of the ticket and will increase production cost and there will be a strong possibility that a ticket number on the front and back will not match, thereby resulting in a voidable ticket.

Second, numbers are currently printed on the tickets after the tickets are assembled into sets and prior to being assembled into books. If tickets are destroyed in this process, they do not affect the finished product since they are not numbered. If numbered tickets are destroyed in the numbering or booking process, it is a simple procedure to re-set the numbering machine and recreate the missing numbers. If the tickets were numbered on both sides, the number on the back would have to be applied before the tickets are assembled into sets. This would create challenges with regard to tickets which get destroyed later in the production cycle.

In Fall 1996, when DPW started recording the reasons for voiding tickets on the back of the tickets, DPW started imaging those voided tickets on a dual-sided scanner. The dual-sided scanning process links both sides of the ticket with a single document ID number and assures that both sides of voided tickets are imaged. Tickets appear as a two-page document on the screen accessed by users of the ticket system. However, if a ticket is voided after it has been imaged, it will not have been part of the dual-sided scanning process. Similarly, if a ticket was written prior to Fall 1996, it would not have been part of the dual-sided scanning process either. The numbers of these tickets have been small but the contractor has been advised of this issue and will review it.
AUDIT RECOMMENDATION:

Supervisors and PCAs should provide adequate justification for voiding a ticket on the back of every ticket that is voided.

DPW RESPONSE:

In the Fall of 1996, parking tickets were modified to include a space for void justification on the back of the government's ticket copy. All voided tickets contain the reason for voiding and are signed by the PCA and signed or initialed by the PCA supervisor and the signature of the shift coordinator. PCAs have been trained to complete the required information.

In conclusion, the Department of Public Works found the audit report to be useful in reviewing its current policies and procedures to ensure efficiency and effectiveness. Although many of the recommendations have already been implemented, the Department continually welcomes suggestions to control, evaluate and improve its quality of services. Again, thank you for the opportunity to comment.

Sincerely,

Cellerino C. Bernardino
Director

cc: Camille C. Barnett, Ph.D.
    Chief Management Officer

    Gwen Mitchell, Administrator
    Transportation Systems Administrator
    Department of Public Works
September 22, 1998

VIA MESSENGER
Ms. Deborah K. Nichols
Interim District of Columbia Auditor
415 12th Street, N.W., Room 210
Washington, D.C. 20004

Re: Evaluation of the Department of Public Works' Policies and Procedures for Adjudicating and Voiding Parking Tickets

Dear Ms. Nichols:

This letter responds to your draft audit report entitled "Evaluation of the Department of Public Works' Policies and Procedures for Adjudicating and Voiding Parking Tickets" received by the D.C. Department of Public Works ("DPW") on September 15, 1998. Since the draft audit report includes various assertions that were made in the May 26, 1998 report, DPW specifically incorporates and appends its two prior responses to this supplementary letter. See Appendix A.

Before I address specific assertions in your report, I would like to express my concern regarding your continued discourse concerning a senior official in the DPW Transportation Systems Administration ("TSA"). Your report continues to assert that the TSA Administrator lacked the legal authority to adjudicate parking tickets and that her adjudication of tickets creates the appearance of a conflict of interest. Your continued assertion is troubling especially in light of a legal opinion rendered (at your request) by the Office of the Corporation Counsel which unequivocally concludes that the TSA Administrator has the legal authority to adjudicate tickets. A copy of the OCC opinion dated July 27, 1998 is incorporated in this response and appended hereto. See Appendix B. Accordingly, since the TSA Administrator has the requisite legal authority there can be no conflict of interest in performing duties that she is legally empowered to perform. Since OCC is the agency empowered to render legal opinions for the District Government, your assertions are legally inaccurate and may be construed as defamatory. I urge you to delete legally unsubstantiated assertions in your final public report.
The section of the draft report that discusses TSA's alleged mismanagement of the mail adjudication process has several technical deficiencies which should be corrected prior to publication. First, DPW does not issue any moving violations as you state on page 3. Also, the list of federal and District entities is inaccurate. There are additional federal and District governmental entities empowered to issue parking and moving violations.¹

Beyond the technical deficiencies, the draft audit report fails to analyze how the volume of tickets issued by District and federal government entities has changed and fails to analyze how the quantity of tickets issued by non-DPW entities² unavoidably impacts the backlog of unadjudicated parking tickets. Although the audit mentions non-DPW entities' issuance of parking tickets, this fact is never connected with adjudications processing, which is the core objective of the audit report.

The audit report also states that parking enforcement and adjudication "failed to operate in tandem". Although parking enforcement and adjudication are currently in the same administration and department, it is of paramount importance that the two operate totally independently to avoid the appearance of a conflict of interest. Parking enforcement officials are required to focus on enforcing relevant District laws and regulations that ensure the safe and efficient movement of people and vehicles -- not how the adjudicatory bureau manages its caseload. Would you suggest that DPW should have advised the Metropolitan Police Department and federal law enforcement officials to issue fewer tickets to scofflaws because the Bureau of Adjudication lacked a full complement of hearing examiners and mail adjudicators? Clearly such a suggestion would be improper for DPW to make to any law enforcement official, including its own enforcement officials.

In addition, the draft audit ignores the severe and well-documented fiscal constraints that impacted DPW and District agencies during

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¹ A complete list of entities empowered to issue Notices of Infractions for parking violations is compiled in 18 DCMR §3002.1 and for moving violations in 18 DCMR §3003.1 (as amended).

² Please be advised that several non-DPW entities, like the Metropolitan Police Department, also issue certain moving violations that are adjudicated by the Bureau of Adjudication. The report inaccurately represents that these entities only issue parking tickets.
the mid-1990s.\(^3\) In fact, the fiscal constraints resulted in incentive buy-outs and reductions-in-force which further impacted DPW's ability to staff up and perform its work. These severe fiscal constraints were problematic in the hiring of additional hearing examiners and associated staff and the implementation of technological improvements. During the audit period, DPW managers clearly recognized the need to hire additional hearing examiners and mail adjudicators. This need, however, had to be accomplished within the confines of other priority DPW services funded from the appropriated budget. Before "mismanagement of the mail adjudication process" can be the discernible conclusion of an auditor, all factors must be considered and analyzed. Finally, on page 6, you make unsubstantiated remarks about a two-year period prior to the audit period. This reference should be deleted since the audit period was January 1, 1996 - December 31, 1997.

The report also remarks on DPW's "aggressive" parking control program. The DPW parking program has received substantial media attention recently. The draft audit's criticism, however, appears to be outside the stated objective of the audit (i.e., to evaluate the process for adjudicating and voiding parking tickets). Since these remarks are unsubstantiated within the audit report, they should be stricken. At a minimum, the draft audit report should analyze how the number of parking tickets issued by DPW parking control aides corresponds with the number of hearing requests at the Bureau of Adjudication. Notwithstanding, please note that the Chief Management Officer, DPW senior managers, supervisors, and parking control aides have met on various parking reform measures, including the 90 ticket per day performance measure. As you are aware, DPW has already publically announced several parking reform measures which have already been implemented.\(^4\) Should you desire a copy of the parking reform measures, I will gladly send this information to you.

Furthermore, the draft audit states that "DPW implemented the mail adjudication program...to alleviate customer dissatisfaction, inefficiencies, and inequities in the traffic adjudication system."

\(^3\) In April 1995, Congress declared, inter alia, "a combination of accumulated operating deficits, cash shortages, management inefficiencies, and deficit spending in the current fiscal year have created a fiscal emergency in the District of Columbia." See, Findings and Purpose in the "District of Columbia Financial Responsibility and Management Assistance Act of 1995". Public Law 104-8.

\(^4\) Please note that the 90 ticket per day performance measure was suspended this year. This performance measure was only one of the five measures that were used to evaluate a PCA's performance.
The report should provide substantiation for this assertion and reported rationale. In fact, the Council of the District of Columbia enacted the requisite legal authority for mail adjudication in 1978. The factual reason that DPW implemented mail adjudication was to comply with District law and regulations.

CONCLUSION

In conclusion, the Department of Public Works has serious concerns with the audit findings and recommendations that are legally inaccurate and unsubstantiated. For your convenience, I have enumerated the major deficiencies below:

♦ The Office of the Corporation Counsel has rendered a written opinion that the TSA Administrator has the legal authority to adjudicate tickets. Consequently, her performance of adjudicatory job functions should not be construed as unauthorized and as a conflict of interest. These assertions should be stricken from the final audit report. Furthermore, tickets handled by the TSA Administrator were researched and the basis for the complaints were investigated thereby enabling the TSA Administrator to properly dismiss the tickets. Notwithstanding, DPW will recommend to the new director of the Department of Motor Vehicles ("DMV") that all procedures be reviewed in DMV to ensure that the appropriate regulations are followed by adjudicatory officials.

♦ The assertions pertaining to TSA's mismanagement of the bureaus of parking services and adjudication are undocumented in the audit report. The recommendation that the two bureaus should have worked in tandem is not advisable for an agency that has enforcement and adjudicatory missions since such action would create an appearance of impropriety.

♦ The conclusion pertaining to the backlog in the mail adjudication process is unsubstantiated. The report ignores the District's fiscal crisis during the audit period and fails to analyze the volume of parking and moving tickets issued by non-DPW entities and DPW parking control aides.

♦ District laws and regulations indicate that respondents maintain the right to have parking and moving violations adjudicated by mail. See, D.C. Code §§ 40-615(b) and 40-625(b). In addition, 18 DCMR §3006.4 clearly states the criteria for respondent's to answer by mail. The requirement to establish "good cause" for mail adjudication is not included. Admittedly there may be a conflict with 18 DCMR §3021. However, DPW maintains that respondents should be
afforded the opportunity to respond to notices of infractions in whichever legally prescribed manner they choose. The audit report ignores the cited legislative and regulatory authority for the mail adjudication procedures that are followed by the Bureau of Adjudication. An audit report that continues to overlook relevant laws and regulations does a grave disservice to District Government.

The Department of Public Works continually welcomes suggestions to manage, evaluate, and improve its quality of services and operation. Should you desire to meet to discuss this matter further or any responses contained herein, please do not hesitate to contact me.

Sincerely,

[Signature]
Cellerino C. Bernardino
Director

cc: Camille C. Barnett, Ph.D.
Chief Management Officer
September 25, 1998

VIA MESSENGER
Ms. Deborah K. Nichols
Interim District of Columbia Auditor
415 12th Street, N.W., Room 210
Washington, D.C. 20004

Re: Evaluation of the Department of Public Works' Policies and Procedures for Adjudicating and Voiding Parking Tickets

Dear Ms. Nichols:

This letter responds to your draft audit report entitled "Evaluation of the Department of Public Works' Policies and Procedures for Adjudicating and Voiding Parking Tickets" received by the D.C. Department of Public Works ("DPW") on September 15, 1998. Since the draft audit report includes various assertions that were made in the May 26, 1998 report, DPW specifically incorporates and appends its two prior responses1 to this supplementary letter. See Appendix A.

Management Reform Improvements

Although DPW recognizes that the audit period covers January 1, 1996 - December 31, 1997, at the outset I would like to discuss the management reform improvements currently underway in the District Government related to the restructured Department of Motor Vehicles ("DMV") and its adjudicatory operations and procedures. As we previously noted, the DMV will become a separate department from DMV on October 1, 1998.

It is acknowledged that an organizational restructuring of services and management levels within DMV is needed to more appropriately align resources to critical services. The major services provided by the DMV are driver licensing, motor vehicle registration and inspection, parking and traffic ticket adjudication, and vehicle insurance enforcement. In order for DMV to carry out its mission there are a number of mandatory requirements. Some of these mandates are federally imposed, while others are requirements of

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the District Government. A careful review of the current regulatory environment is necessary to assure that the DMV is not itself restricting the efficient and effective provision of services. This review is included in the current management reform initiatives undertaken by a variety of representatives from the Chief Management Officer ("CMO"), Department of Public Works, and private consultants.

The revised structure will address reorganizing around core activities and proper management controls to assure quality services to those that interact with the DMV, particularly the motoring public within the District of Columbia. The delivery of services is fragmented geographically and functionally. Issues of identifying and acquiring adequate technology and staff development to support a reorganized DMV is of major concern. Admittedly some current DMV procedures are old and in need of restructuring. Many procedures have been in place for years and predate technological solutions that currently exist. The current hierarchical management structure focuses on functional alignment, control, manual processes and as opposed to the delivery of consistent and timely service to the customers of the DMV. At this time, much of DMV is still operating on inadequate personal computers and limited automated integration of information between the DMV bureaus.

The CMO and DPW fully recognize that a greater investment in technology and in staff development needs to occur. It is also recognized that some of the current systems and practices are inadequate, resulting in a continuing cycle of delays for the customers and lost revenues. By the close of Fiscal Year 1999, when DMV has been restructured, the acknowledged problems will be resolved concerning the adjudication and voiding of parking tickets by all DMV employees. In restructuring the DMV, the management reform team will consider any appropriate findings from the final audit report.

Specific Comments on the Draft Audit Report

Before I address specific assertions in your report, I would like to express my concern regarding your continued discourse concerning the DPW Transportation Systems Administration ("TSA") processing of tickets. Your report asserts that the TSA Administrator lacked the legal authority to adjudicate parking tickets and that her adjudication of tickets created the appearance of a conflict of interest. Your continued assertion is troubling especially in light of a legal opinion rendered (at your request) by the Office of the Corporation Counsel ("OCC") which unequivocally concludes that the TSA Administrator has the legal authority to adjudicate
tickets.  A copy of the OCC opinion dated July 27, 1998 is incorporated in this response and appended hereto. See Appendix B. Accordingly, since the TSA Administrator has the requisite legal authority there can be no conflict of interest in performing duties that she is legally empowered to perform. Since OCC is the agency empowered to render legal opinions for the District Government, your assertions are legally inaccurate. I urge you to delete legally inaccurate assertions in your final public report.

The draft audit correctly refers to D.C. Code §40-703(c) which provides express authority for Congressional members to park on public streets, without the imposition of parking tickets, except when the vehicle is not parked in violation of a loading zone, rush hour, firehouse, or fire plug limitation. Unfortunately, on occasion, issuing officers will still issue tickets to Congressional members. Instead of referring the Congressional member to the Bureau of Adjudication, the TSA Administrator would adjudicate these tickets. The audit report indicates that there or no other laws or regulations pertaining to parking privileges for public [government] officials. To the contrary, 18 DCR §2404.11 states that "whenever a vehicle identified by license plates as being owned, rented, or leased by the federal or District government is being used on official business and is parked in a parking meter zone, the operator of the vehicle is not required to deposit a coin in the parking meter." Unfortunately, on the occasion, issuing officers will still issue tickets to government vehicles parked adjacent to "red" parking meters. Instead of referring the government official to the Bureau of Adjudication, the TSA Administrator would adjudicate these tickets. In addition, instances arise in which vehicles are used for undercover law enforcement or surveillance work by government officials, and it is not apparent that the vehicle is being used by the federal or District government on official business. Unfortunately, on the occasion, issuing officers will issue tickets to the unmarked government vehicles parked adjacent to "red" parking meters. Instead of referring the government official to the Bureau of Adjudication, the TSA Administrator would adjudicate these tickets. A prior response to the draft audit report attached copies of government vehicle inspection stickers and private vehicle

OCC noted that the authority of the DPW Director (and his delegate) to adjudicate parking and minor traffic offenses can be traced back to June 30, 1972. The OCC opinion also cites 18 DCR §1007.2 and §1000.4, Reorganization Plan No. 4 of 1983, and Mayor's Order No. 84-55. OCC also found that the position description of the TSA Administrator (which includes "implementation of regulations ...adjudication of disputes regarding traffic movement and parking in the public right of way") represents a delegation of authority by the DPW Director to the TSA Administrator.
inspection stickers. The inspection sticker, along with data contained in the Motor Vehicle Information System, allow the TSA Administrator to ascertain whether the vehicle is a government vehicle and the ticket should be dismissed. The June 10, 1998 response lists at least five other examples of instances in which the TSA Administrator has adjudicated tickets for private citizens. These matters represent the very limited number of tickets which are adjudicated by the TSA Administrator. DPW will recommend that the new DMV specifically consider whether this adjudication procedure should continue in the future.

The section of the draft report that discusses TSA's alleged mismanagement of the mail adjudication process has several technical deficiencies which should be corrected prior to publication. First, DPW does not issue any moving violations as you state on page 3. Also, the list of federal and District entities is inaccurate. There are additional federal and District governmental entities empowered to issue parking and moving violations.

Beyond the technical deficiencies, the draft audit report fails to analyze how the volume of tickets issued by District and federal government entities has changed and fails to analyze how the quantity of tickets issued by non-DPW entities unavoidably impacts the backlog of un adjudicated parking tickets. Although the audit mentions non-DPW entities' issuance of parking tickets, this fact is never connected with adjudications processing, which is the core objective of the audit report.

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3 The examples include: (1) tickets which should have been voided initially due to incorrect information on the face of the ticket; (2) tickets issued to District residents for their failure to renew vehicle registrations when DPW failed to issue renewal notices; (3) tickets issued when street cleaning restrictions should not have been enforced due to inclement weather conditions; (4) improperly written tickets or tickets not placed on vehicles by PCAs; and (5) tickets issued to vehicles parked at broken meters.

4 A complete list of entities empowered to issue Notices of Infractions for parking violations is compiled in 18 DCMR §3002.1 and for moving violations in 18 DCMR §3003.1 (as amended).

5 Please be advised that several non-DPW entities, like the Metropolitan Police Department, also issue certain moving violations that are adjudicated by the Bureau of Adjudication. The report inaccurately represents that these entities only issue parking tickets.
The audit report also states that parking enforcement and adjudication "failed to operate in tandem." Although parking enforcement and adjudication are currently in the same administration and department, it is of paramount importance that the two operate totally independently to avoid the appearance of a conflict of interest. Parking enforcement officials are required to focus on enforcing relevant District laws and regulations that ensure the safe and efficient movement of people and vehicles -- not how the adjudicatory bureau manages its caseload. Would you suggest that DPW should have advised the Metropolitan Police Department and federal law enforcement officials to issue fewer tickets to scofflaws because the Bureau of Adjudication lacked a full complement of hearing examiners and mail adjudicators? Clearly such a suggestion would be improper for DPW to make to any law enforcement official, including its own enforcement officials.

In addition, the draft audit ignores the well-documented severe fiscal constraints that impacted DPW and District agencies during the mid-1990s. In fact, the fiscal constraints resulted in employee incentive buy-outs and reductions-in-force which further impacted DPW's ability to staff up and perform its work. These severe fiscal constraints were problematic in the hiring of additional hearing examiners and associated staff and the implementation of technological improvements. During the audit period, DPW managers clearly recognized the need to hire additional hearing examiners and mail adjudicators. This need, however, had to be accomplished within the confines of other priority DPW services funded from the appropriated budget. Before "mismanagement of the mail adjudication process" can be the discernible conclusion of an auditor, all factors should be considered and analyzed. Finally, on page 6, you make unsubstantiated remarks about a two-year period prior to the audit period. This reference should be

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6 Would you suggest that DPW should have advised the Metropolitan Police Department and federal law enforcement officials to issue fewer tickets to scofflaws because the Bureau of Adjudication lacked a full complement of hearing examiners and mail adjudicators? Clearly such a suggestion would be improper for DPW to make to any law enforcement official, including its own enforcement officials.

7 In April 1995, Congress declared, inter alia, "a combination of accumulated operating deficits, cash shortages, management inefficiencies, and deficit spending in the current fiscal year have created a fiscal emergency in the District of Columbia." See, Findings and Purpose in the "District of Columbia Financial Responsibility and Management Assistance Act of 1995". Public Law 104-8.
deleted since the audit period was January 1, 1996 - December 31, 1997.

The report also remarks on DPW's "aggressive" parking control program. The DPW parking program has received substantial media attention recently. The draft audit's criticism, however, appears to be outside the stated objective of the audit (i.e., to evaluate the process for adjudicating and voiding parking tickets). Since these remarks are unsubstantiated within the audit report, they should be stricken. At a minimum, the draft audit report should analyze how the number of parking tickets issued by DPW parking control aides corresponds with the number of hearing requests at the Bureau of Adjudication. Notwithstanding, please note that the Chief Management Officer, DPW senior managers, supervisors, and parking control aides have met on various parking reform measures, including the 90 ticket per day performance measure. As you are aware, DPW has already publicly announced several parking reform measures which have already been implemented.\(^8\) Should you desire a copy of the parking reform measures, I will gladly send this information to you.

Furthermore, the draft audit states that "DPW implemented the mail adjudication program...to alleviate customer dissatisfaction, inefficiencies, and inequities in the traffic adjudication system." The report should provide substantiation for this assertion and reported rationale. In fact, the Council of the District of Columbia enacted the requisite legal authority for mail adjudication in 1978. The factual reason that DPW implemented mail adjudication was to comply with District law and regulations.

**CONCLUSION**

In conclusion, the Department of Public Works has serious concerns with the audit findings and recommendations that are legally inaccurate and unsubstantiated. For your convenience, I have enumerated the major deficiencies below:

\[\text{The Office of the Corporation Counsel has rendered a written opinion that the TSA Administrator has the legal authority to adjudicate tickets. Consequently, her performance of adjudicatory job functions should not be construed as unauthorized and as a conflict of interest. These assertions should be stricken from the final audit report. Furthermore, tickets handled by the TSA Administrator were researched and}

\[^8\] Please note that the 90 ticket per day performance measure was suspended this year. This performance measure was only one of the five measures that were used to evaluate a PCA's performance.
the basis for the complaints were investigated thereby enabling the TSA Administrator to properly dismiss the tickets. Notwithstanding, DPW will recommend to the new director of the Department of Motor Vehicles ("DMV") that all procedures be reviewed in DMV to ensure that the appropriate regulations are followed by adjudicatory officials.

The assertions pertaining to TSA's mismanagement of the bureaus of parking services and adjudication are undocumented in the audit report. The recommendation that the two bureaus should have worked in tandem is not advisable for an agency that has enforcement and adjudicatory missions since such action would create an appearance of impropriety.

The conclusion pertaining to the backlog in the mail adjudication process is unsubstantiated. The report ignores the District's fiscal crisis during the audit period and fails to analyze the volume of parking and moving tickets issued by non-DPW entities and DPW parking control aides.

District laws and regulations indicate that respondents maintain the right to have parking and moving violations adjudicated by mail. See, D.C. Code §§ 40-615(b) and 40-625(b). In addition, 18 DCMR §3006.4 clearly states the criteria for respondent's to answer by mail. The requirement to establish "good cause" for mail adjudication is not included. Admittedly there may be a conflict with 18 DCMR §3021. However, DPW maintains that respondents should be afforded the opportunity to respond to notices of infractions in whichever legally prescribed manner they choose. Generally, the statutory provision prevails over a conflicting regulation. The audit report ignores the cited legislative and regulatory authority for the mail adjudication procedures that are followed by the Bureau of Adjudication. An audit report that overlooks relevant laws and regulations does a disservice to District Government.

The Department of Public Works continually welcomes suggestions to manage, evaluate, and improve its quality of services and operation. As previously mentioned, the management reform team
will give consideration to any appropriate findings in the final audit report. Should you desire to meet to discuss this matter further or any responses contained herein, please do not hesitate to contact me.

Sincerely,

[Signature]

Cellerino C. Bernardino
Director

cc: Camille C. Barnett, Ph.D.
Chief Management Officer