



**CUYAHOGA COUNTY  
AGENCY OF INSPECTOR GENERAL**

**REPORT OF INVESTIGATION**

**CASE NUMBER(S):** 14-0041-I

**SUBJECT(S) INFO:**  
**Name:** Edward O. FitzGerald  
**Position:** Cuyahoga County Executive  
**Department:** Cuyahoga County Office of the Executive

**SOURCE OF REFERRAL:** N/A

**METHOD OF REFERRAL:** Agency of Inspector General Initiated and Media

**INITIATED:** August 5, 2014

**DATE OF REPORT:** October 28, 2014

**ALLEGATION**

Cuyahoga County ("County") Executive Edward O. FitzGerald ("FitzGerald") violated County policies when he operated a vehicle, personal or County owned, in the course of County business without a valid driver's license.

**AUTHORITY**

Cuyahoga County Code of Ordinances Section 204.01 (B)(3):

*The Inspector General is hereby appointed to conduct examinations under Section 2.05 of the County Charter and shall, therefore, have all such rights and duties to investigate fraud, corruption, waste, abuse, misfeasance, malfeasance, and nonfeasance without interference or pressure from any other Public Official or Employee.*

Cuyahoga County Code of Ordinances Section 409.01:

*The Office of the Inspector General shall be the ethics investigative officer for the County and shall conduct all investigations pertaining to Title 4 of the County Code.*

## **ISSUE SUMMARY**

On August 5, 2014, the County Agency of Inspector General ("AIG") learned FitzGerald did not possess a valid Ohio driver's license upon taking office as the County Executive; rather, he initially possessed an Ohio Temporary Instruction Permit ("TIP").<sup>1</sup> FitzGerald allegedly drove a vehicle, in the course of County business, during the time he did not have a valid driver's license in violation of one (1) or more of the following County policies: the County Vehicle Use Policy ("VUP"), the County Department of Human Resources ("HR") Personnel Policies and Procedures Manual ("HRPPPM"), and/or the County Travel Policy ("TP").

## **BACKGROUND**

### **Vehicle Use Policy**

The VUP states a County Employee who operates a County owned vehicle must have a valid driver's license and shall report in writing any change in driver's license status to his or her supervisor as well as to the AIG. Pursuant to the VUP, a County Employee forfeits his or her ability to drive County vehicles and may be subject to discipline up to and including termination if convicted of any six (6) point violation listed below:

- Vehicular homicide, manslaughter or assault;
- Operating a motor vehicle while under the influence of alcohol and/or any drug;
- Failure to stop at the scene of an accident (hit and run);
- Fleeing or eluding a law enforcement officer;
- Drag racing;
- Operating a motor vehicle without the consent of the owner;
- Operating a motor vehicle with a license under suspension or revocation; or
- Using a motor vehicle in the commission of a felony or committing any crime punishable as a felony under law.

### **County HR Personnel Policy and Procedure Manual**

In addition, Section 16.03 of the HRPPPM states every employee who drives or operates a County fleet vehicle at any time, or who operates any motor vehicle (e.g., employee's personal vehicle, rental vehicle), on or in the course of County business, must strictly adhere to the following requirements:

- The employee must have and maintain at all times, without interruption, a valid driver's license and the minimum automobile insurance coverage required by Ohio law.

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<sup>1</sup> On October 13, 2012, while responding to a report of a suspicious vehicle parked in a parking lot, Westlake Police Department discovered FitzGerald was operating his vehicle with a TIP. See Cleveland.com article; attached as Exhibit A.

Employees are solely responsible to make sure his or her license and automobile insurance are properly renewed/maintained.

- Employees are responsible to make sure that the Ohio Bureau of Motor Vehicles ("BMV") has the employee's correct mailing address. Employees can notify the BMV of an address change by visiting the BMV's website (<http://www.ohiobmw.com/>). If the BMV sends notification of a license suspension or other mailing to the address in its records, the employee is deemed to be properly notified and held responsible for having knowledge of the suspension or other matter.
- If the employee's driver's license and/or insurance is expired, suspended, revoked, or otherwise invalid, the employee shall immediately report this fact to their immediate supervisor, and immediately stop driving on, or in the course of County business. The employee's Department Director, with the concurrence of the HR Director, may allow the employee to resume driving on or in the course of County business upon the employee providing acceptable proof of insurance coverage and driver's license (or appropriate occupational driving privileges granted by a court of competent jurisdiction). Other conditions may be imposed as appropriate in light of the circumstances of each individual case.
- Every employee who submits a Travel Expense Report for operating a personal vehicle on or in the course of County business, certifies that he or she has a valid driver's license, vehicle registration, financial responsibility (insurance), and personally operated the vehicle for which the travel expense is claimed.

#### Travel Policy

Pursuant to Ohio Revised Code ("O.R.C.") Section 325.20<sup>2</sup>, the TP<sup>3</sup> was developed to ensure that "those who travel on County business suffer no financial loss and realize no financial gain from their travel".<sup>4</sup> The TP "set[s] forth guidelines to ensure smooth, orderly and cost effective purchasing of travel services for County Employees, as well as to provide a process for the smooth, orderly and efficient reimbursement of authorized travel expenses".<sup>5</sup>

Generally, under the TP the use of a County vehicle is preferred. An employee, however, may use a personal vehicle when a County vehicle is not available or when the cost of using a County vehicle exceeds the cost of the travel mileage.<sup>6</sup> Section III (E)(1) of the TP delineates the procedures for use of personal vehicles on or in the course of County business. County Employees are required to meet the following pertinent standards:

- Possess a valid Ohio Driver's License;
- Operate the vehicle in accordance with O.R.C. 307.43 and 124.71 in a safe and courteous manner, obeying all traffic laws and parking regulations;

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<sup>2</sup> O.R.C. 325.20 provides that elected County Officials, a Deputy or Employee of the County may travel at County expense.

<sup>3</sup> Note – TP has not been updated since February 2007, three (3) years prior to the new County government.

<sup>4</sup> Cuyahoga County Travel Policy Introduction, (2007).

<sup>5</sup> Cuyahoga County Travel Policy Introduction, (2007).

<sup>6</sup> Cuyahoga County Travel Policy 19, (2007).

- Carry personal automobile liability insurance coverage, in at least the State of Ohio minimum standard;
- Be eligible for coverage under the County's insurance program;
- Report any changes that may affect ability to meet the standards of TP to supervisor, including but not limited to, license suspension, revocation or failure to renew;
- If using personal vehicle as a condition of employment or for approved travel, are subject to County's Fitness for Duty Program;
- If using personal vehicle as a condition of employment or for approved travel, maintain the vehicle in good and safe operating condition;
- The approved mileage reimbursement allowance is provided to compensate employees for the cost of gasoline, oil, depreciation and insurance. Employees may be reimbursed for parking costs and tolls actually incurred.<sup>7</sup>
- Pursuant to Section III (E)(2) and (3)(b) of the TP, County Employees using County vehicles, on or in the course of County business, are also required to abide by the first five (5) pertinent standards above.<sup>8</sup>

#### *Temporary Instruction Permit*

A TIP is issued by the local Deputy Registrar's Office upon completion of the vision and written tests for First Time License Applicants.<sup>9</sup> Upon successful completion of both exams, and if the applicant presents documentary proof of full legal name, date of birth, Social Security number, (if one has ever been assigned), proof of legal presence (U.S. Birth Certificate, valid U.S. Passport/Passport Card, Naturalization Papers, USCIS documents), and proof of residency, the applicant will receive a Temporary Instruction Permit Identification Card ("TIPIC").

Once the TIPIC is issued, a TIPIC holder ("holder") who is at least sixteen years old, will be able to practice driving but only under the following circumstances:

1. The permit and identification card are in the holder's immediate possession;
2. The holder is accompanied by a licensed operator<sup>10</sup> who is at least 21 years of age, is occupying a seat beside the driver, and does not have a prohibited concentration of alcohol in their system;
3. The total number of occupants in the vehicle does not exceed the total number of occupant restraining devices originally installed in the vehicle.

Once the holder is ready to take the driving license examination, the holder must contact an

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<sup>7</sup> Cuyahoga County Travel Policy 17-18, (2007)

<sup>8</sup> Cuyahoga County Travel Policy 18, 20-21, (2007)

<sup>9</sup> If converting a Valid out of state Driver's License, after completing the vision and written examinations, the applicant is asked medical status questions. Then, the applicant is given a form BMV 2015 which allows driving privileges within Ohio for 60 days.

<sup>10</sup> O.R.C. 4501.01 (X) defines "operator" as "any person who drives or operates a motor vehicle upon the public highways."

Ohio Driver License Examination Station to schedule a road test.<sup>11</sup> After the holder passes the Driving License Examination, he or she must proceed to the local Deputy Registrar's Office to receive a driver's license.<sup>12</sup> The holder is required to surrender the TIPIC at the time of the driver's license issuance.

A TIPIC will expire one (1) year from the date of issuance. If the TIPIC expires before taking the Driving License Examination, the holder must return to an Ohio Driver License Examination Station to retake and pass the vision and written exams.

#### Edward O. FitzGerald

FitzGerald was elected County Executive on November 2, 2010 (\$175,000.00 annually<sup>13</sup>). FitzGerald officially took office on January 1, 2011 and will serve as County Executive until December 31, 2014.<sup>14</sup> Pursuant to the County Charter ("Charter"), FitzGerald's duties and responsibilities include the following:

1. To appoint, suspend, discipline and remove all County personnel;
2. To appoint, subject to the confirmation by the County Council, and remove County directors and officers and members of boards, agencies, commissions and authorities;
3. To advocate for the interests of the County with other levels of government and to advocate for and promote cooperation and collaboration with other political subdivisions;
4. To approve or veto any ordinance or resolution;
5. To serve, in person or by his or her delegate, as a member of the County Budget Commission and of the County Board of Revision;
6. To execute contracts, conveyances and evidences of indebtedness on behalf of the County;
7. To attend meetings of the County Council and take part in the discussion of all matters before the County Council;
8. To introduce ordinances and resolutions for consideration by the County Council and otherwise to make recommendations for actions to be taken by the County;
9. To submit to the County Council prior to the beginning of each biennium, a proposed operating budget for the upcoming biennium;
10. To submit to the County Council prior to the beginning of each biennium a capital improvements program;
11. To submit a written message to the County Council accompanying the proposed operating budget and capital improvements program explaining the budget both in fiscal terms and in terms of work to be done, outlining the proposed financial policies of the County for the current biennium and describing the important features of the budget;
12. To conduct collective bargaining with any recognized employee bargaining unit, administer uniform personnel procedures for all County Employees, and to provide quarterly reports to the Personnel Review Commission regarding the County's collective bargaining strategies and approved contracts;

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<sup>11</sup> The road test has two (2) parts: driving test and maneuverability test. The holder must present his/her TIPIC and furnish his/her car in good condition.

<sup>12</sup> Pursuant to O.R.C. 4507.01 (A), a driver's license means "a class D license issued to any person to operate a motor vehicle or motor-driven cycle, other than a commercial motor vehicle, and includes "probationary license", "restricted license", and any operator's or chauffeur's license issued before January 1, 1990.

<sup>13</sup> See County Charter, Article II, Section 2.02.

<sup>14</sup> See County Charter, Article II, Section 2.01.

13. To submit to the County Council annually a five-year financial forecast for the general operating funds of the County;
14. To employ and supervise such number of deputies, assistants and employees as shall be reasonably necessary to assist the County Executive in carrying out the duties of the office.<sup>15</sup>

The Charter does not, however, specifically require FitzGerald to drive a County vehicle or his personal vehicle in the course of County business.

As County Executive, FitzGerald appoints and manages the following individuals:

Fiscal Officer<sup>16</sup>; Medical Examiner<sup>17</sup>; Clerk of Courts<sup>18</sup>; Director of Public Works<sup>19</sup>; Director of Law<sup>20</sup>; County Treasurer<sup>21</sup>; Sheriff<sup>22</sup>; Director of Regional Collaboration; Director of Public Safety & Justice Services; Executive Staff; Director of Information Services Center; Director of Development<sup>23</sup>; Director of Health and Human Services<sup>24</sup>; and Director of Human Resources<sup>25</sup>.

A review of FitzGerald's personnel file reveals four (4) documents - a signed copy of the County Executive Oath of Office, a signed Nepotism Statement & Conflict of Interest Form, a signed Personnel Action Form, and a signed Employee Certification Drug-Free Workplace Act Form. FitzGerald's personnel file does not contain disciplinary or corrective actions or performance evaluations.

The AIG subsequently learned the following information from HR senior staff: (1) generally the personnel file does not include personal health information; (2) the Personnel Review Commission, Payroll, Benefits and Compliance may maintain separate files with information not found in the personnel file; and (3) I-9 Forms are maintained in a separate central location as they contain sensitive and protected information. AIG Staff reviewed all additional files consisting of W-2's, Gross to Net Register, a signed Personnel Action Form, and a W-4 Form. A review of FitzGerald's I-9 Forms reveals, although the document was signed and dated by FitzGerald, the bottom portion was not completed by HR personnel and there are no attached verification documents.

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<sup>15</sup> See County Charter, Article II, Section 2.03.

<sup>16</sup> See County Charter, Article V, Section 5.02.

<sup>17</sup> See County Charter, Article V, Section 5.03.

<sup>18</sup> See County Charter, Article V, Section 5.04.

<sup>19</sup> See County Charter, Article V, Section 5.05.

<sup>20</sup> See County Charter, Article V, Section 5.06.

<sup>21</sup> See County Charter, Article V, Section 5.07.

<sup>22</sup> See County Charter, Article V, Section 5.08.

<sup>23</sup> See County Charter, Article VII, Section 7.03.

<sup>24</sup> See County Charter, Article VIII, Section 8.02.

<sup>25</sup> See County Charter, Article IX, Section 9.06.

## **SUMMARY OF REVIEW**

### **Interviews**

#### ***Claudia Merritt – September 2, 2014***

Claudia Merritt ("Merritt") was hired by the former Board of County Commissioners ("BOCC") as an HR Secretary on May 15, 2006. She was promoted to the position of HR Administrative Assistant 2 on May 20, 2007 and was subsequently reassigned to the position of HR Program Officer 2 on April 28, 2008. Merritt was promoted from HR Program Officer 2 to Personnel Administrator 1 on January 17, 2010. Her job title was changed from Personnel Administrator I to HR Analyst on January 16, 2012 when HR was restructured as part of the transition to the new form of County government. She resigned from her County employment on June 2, 2013 and is currently the HR Manager for the County Board of Elections.

Merritt states she and her assistant Janine Babik ("Babik") were responsible for the HR "onboarding" process for County employees during the transition period from the BOCC form of government to the new County form of government. According to Merritt, the "onboarding" process included assisting Department Directors with the hiring process, distributing hiring documents to new employees, and ensuring documents were properly completed and returned to HR.

Merritt says during the "onboarding" process she did not meet with FitzGerald in person or speak with him by telephone. Merritt explains the new hire materials for FitzGerald were sent to Chief of Staff Matthew Carroll ("Carroll"). Merritt adds she provided the new hire paperwork to Carroll with written instructions on how to complete the forms. Merritt says she recalls having to frequently remind Carroll to return FitzGerald's forms; but, she is not certain if all of the forms were ever submitted.

Merritt adds she recalls Babik mentioned FitzGerald provided a social security card and an expired driver's license during the "onboarding" process. Merritt says Babik asked how to handle the expired driver's license issue and Merritt asserts she advised Babik to request another form of identification. Merritt does not know if FitzGerald provided Babik with another form of identification.

#### ***Janine Babik – September 12, 2014***

Babik was hired by the former BOCC as an HR Personnel Officer 1 on June 28, 1983. She was promoted to the position of Senior Personnel Officer on July 11, 2004 but was laid off on February 10, 2012, and subsequently reinstated as an Administrative Assistant II on February 27, 2012 where she remained employed until her retirement on June 29, 2013.

Babik states she reported to Merritt in late 2010 during the transition period from the old BOCC form of government to the new County government. According to Babik, Merritt was responsible for most of the "onboarding" for new County government employees, elected officials, and newly formed County Departments.

Babik says she believes elected officials follow the same "onboarding" process as all new hires (i.e. new hire paperwork packet). She reports the only difference may be elected officials may not have to submit a job application. Babik reports she does not recall meeting with any of the elected officials in person or speaking with them by telephone regarding their hiring documents. She assumes Merritt handled the hiring process for the elected officials and asserts she did very

little with the process. When asked if she recalls seeing a driver's license for FitzGerald, Babik said "no" and reiterated she did not see any of his hiring documents.

***Lori Margenin - September 3, 2014***

Lori Margenin ("Margenin") was hired by the former County Department of Central Services<sup>26</sup> ("DCS") on September 10, 2001 as an Administrative Assistant. Margenin was subsequently transferred to DCS Risk Management on October 4, 2004. On January 22, 2006, Margenin was promoted to Program Officer 1 and continued to serve in that capacity with the County Department of Public Works ("DPW") Risk Management until it was absorbed into the Law Department in 2012. On April 3, 2013, Margenin was reassigned to DPW's Facilities Maintenance Administration where she is currently employed.

Margenin describes her pertinent duties as a Program Officer 1 with DCS Risk Management to include: (1) researching, monitoring, and following up on all vehicle violations to ensure timely compliance with local municipalities and (2) requesting driver abstracts and providing related reports as needed to various County Departments. Although DCS Risk Management is no longer in existence, Margenin continues to monitor vehicle violations to ensure timely compliance with local municipalities.<sup>27</sup>

Margenin states she remembers typing up parts of the VUP when Cathy Chancellor ("Chancellor"), then Manager of DPW Risk Management, drafted the document. Margenin states she also remembers Chancellor expressed feeling like the VUP was sent out to employees before it was finished. She does not recall if she received an email from the County Executive announcing implementation of the VUP.

Margenin states she does not believe DCS maintained hard or electronic copies of vehicle logs for other County Departments. Instead she represents DCS maintained vehicle logs for its designated car. Margenin reports she believes Ann Marie Deane ("Deane"), Senior Risk Adjuster, may maintain the vehicle logs for all County Departments because she is the insurance adjuster.

***Alexis Holmes Jones - September 3, 2014***

Alexis Holmes Jones ("Jones") was hired by the County on January 2, 2013 as a Senior Risk Adjuster in the Law Department Risk Management Division ("Risk Management"). Before joining the County, Jones was the Claims Examiner for the City of Cleveland for ten (10) years.

Jones states Risk Management was formerly housed in DCS. Jones explains Risk Management was formed in November 2012 when the Law Department absorbed certain functions of DPW Risk Management and Darlene White ("White") was hired as Deputy Director of Risk Management.<sup>28</sup> Jones states White hired Deane and Jones as Senior Risk Adjusters.

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<sup>26</sup> In 2011, DPW was established and the duties of DCS were incorporated into DPW, unless otherwise provided for in a separate Ordinance. See County Ordinance No. O2011-0010.

<sup>27</sup> During the interview, Margenin provided a printed spreadsheet with all vehicle violation information since she assumed responsibility for the task. Margenin also provided a copy of documents requested by Channel 3 media regarding "Operation Safe Streets" tickets. See spreadsheets; attached as **Exhibit B**.

<sup>28</sup> The AIG was unable speak with White, as she was on extended leave during the time the investigation was conducted.



Jones states she believes Margenin is responsible for all vehicle violation information, including camera, parking, and other moving violations.

***Anne Marie Deane - September 4, 2014***

Deane was hired by the County on February 6, 2006 as a Senior Risk Adjuster in DPW and currently serves in this position in Risk Management. As a Senior Risk Adjuster, Deane manages and processes all County insurance claims for slip and falls, trip and falls, sewer back ups, and other safety issues.

Deane states portions of the VUP look familiar and she remembers Chancellor working on the document but says she does not remember receiving other County Department's vehicle logs before or after her transition to Risk Management. Deane also states she does not currently receive vehicle logs and is doubtful White or Jones receive vehicle logs either.

Deane adds not all of DPW Risk Management duties transitioned to Risk Management. For instance, Deane reports Margenin continues to monitor vehicle violations.

***C. Ellen Connally – September 4, 2014***

C. Ellen Connally ("Connally") was elected to serve as the District 9 County Council representative on November 2, 2010. Connally officially took office on January 1, 2011 and has served as County Council President since County Council was created.

Connally states the Charter gives the County Executive sole and exclusive control over County Employees. Connally states she believes the County Executive's control would encompass salary, hours and decisions to hire and terminate County employees.

According to Connally, the County Executive has the right to create and enforce Executive Orders and Policies governing County Employees without obtaining County Council's approval. Connally does not believe administrative policies require County Council's approval to be enforceable; however, she indicated the County Law Director could provide more clarity on the issue.

***Majeed Makhlof - September 5, 2014***

Majeed G. Makhlof ("Makhlof") was appointed as the County's Law Director on April 7, 2011 and continues to serve in this capacity. Before working for the County, Makhlof was a Partner at Taft Stettinius & Hollister LLP, a law firm in Cleveland, Ohio.

During the interview, Makhlof admits he has never seen the VUP. According to Makhlof, the VUP should regulate any use of County vehicles because the County owns the vehicles and as such has the right to regulate its property. He adds he does not believe the VUP must be approved by County Council as it is an administrative policy and further explains County Council could pass an ordinance, but customarily policies are handled by the County Executive.

Makhlof states Risk Management was formed in 2012. He explains DPW Risk Management owned and managed County property, whereas Risk Management manages legal risks impacting insurance and claims. Makhlof further explains Risk Management does not conduct driver's license reviews or maintain vehicle logs. He notes the VUP was written and disseminated in 2011 before Risk Management was formed and while DPW Risk Management still existed.

When asked whether the County Executive or County Council members could be considered employees of the County, Makhlouf states he researched the issue in 2011 following issues with Board of Revision Hearing Officers. Makhlouf notes at the time he did not draft a memorandum or report regarding this issue but opines the County Executive and County Council members are public officials and not employees. Makhlouf explains the County Executive and County Council members do not accrue vacation or sick time, do not clock in or clock out, and are not required to work a forty (40) hour week. He also states the County Prosecutor and County Commission/Board Members are not employees and any component of the HRPPPM that specifically relates to employees does not in his opinion apply to the County Executive.

According to Makhlouf, it is more difficult for the County to regulate public official's personal vehicle use, on or in the course of County business, as the County has no jurisdiction over these individuals as employees. Makhlouf says he believes many of the policies regarding travel or driving only refer to employees because it was contemplated that most public officials would be "staffed" or driven by a County Employee. Makhlouf further states he believes the County Executive is usually "staffed" and remembers that he once "staffed" the County Executive during a meeting.

***Bonnie Teeuwen - September 10, 2014***

Bonnie Teeuwen ("Teeuwen") was appointed as the Director of DPW on January 18, 2011 and continues to serve in this capacity. Before becoming Director of DPW, Teeuwen was the Deputy Director of District 12 at the Ohio Department of Transportation ("ODOT") for four (4) years.

Teeuwen explains before DPW was established, DCS was the property management, fleet services, and operations arm of the County and its Risk Management Division was located in DCS. Teeuwen states Chancellor was the manager, Deane was the Program Officer, Margenin was the Administrative Assistant and Mike Gallagher was the Safety Inspector in DCS. Teeuwen states when the new County government was implemented, DCS merged into DPW.

According to Teeuwen, certain functions of DPW Risk Management transitioned to the Law Department following a property insurance Request for Proposal ("RFP") process initiated during the end of 2011. Teeuwen explains during the RFP process it became difficult to determine the role and responsibilities of DPW Risk Management with regards to insurance. She explains Makhlouf had some knowledge of Risk Management, and therefore she and Makhlouf agreed to move certain responsibilities from DPW Risk Management to the Law Department. Teeuwen states health and safety matters and vehicle violation matters remained with DPW while insurance matters were transferred to the Law Department.

Teeuwen explains the Law Department only hires unclassified employees whereas the former DPW employees were all classified employees. She states all new positions in Risk Management were posted and the former DPW employees were required to interview for positions. Teeuwen says Chancellor, Deane and Margenin applied for positions in Risk Management; however, only Deane was hired. Teeuwen adds she believes Deane had some training above and beyond the job requirement of risk adjuster within Risk Management. Teeuwen states Margenin was transferred to another County Department since DPW Risk Management was absorbed into Risk Management.

Teeuwen notes she is familiar with the VUP.<sup>29</sup> She explains in July 2011 the County Executive directed her to draft the VUP because a Public Defender drove a County vehicle to Florida where he got drunk, was involved in an accident, and was found with a woman in the County vehicle. Teeuwen adds there was also an issue with tracking speeding tickets and parking violations. She states her understanding of the purpose for drafting the VUP was to ensure that anyone, **including elected and public officials**, driving a County vehicle is subject to and follows the policy. Teeuwen says Chancellor wrote the first draft and Teeuwen, Inspector General Nailah Byrd, and HR Director Elise Hara reviewed the draft before it was presented to the County Executive. Teeuwen adds the VUP provision regarding vehicle use logs was implemented as a result of her ODOT background. She opines use of the vehicle logs is useful to track traffic and parking violations because employees are required to sign vehicles in and out.

Teeuwen states DPW and DCS did not collect vehicle logs before the VUP was issued. According to Teeuwen, the VUP intended County Departments would collect their respective vehicle logs after the policy was issued. Teeuwen states she is unsure if DPW Risk Management ever began collecting vehicle logs. Teeuwen further explains she and Makhlouf did not discuss which Department would manage vehicle use log collection after transition from DPW Risk Management to Risk Management. Teeuwen opines the vehicle use logs collection responsibility should have been kept with the vehicle violation duties in DPW as it would be helpful in tracking employees who incur violations.

***Judith Cetina – September 15, 2014/September 24, 2014***

Judith Cetina ("Cetina") was hired as Curator of County Manuscripts for the County Archives Department on September 6, 1977. Cetina's position was subsequently reclassified as a Records Management Officer 2 on March 15, 1983. She was promoted to the position of Records Management Supervisor on May 22, 1988 and was subsequently promoted to the position of Library Administrator 1 on August 31, 1992. Finally, on January 28, 2001, Cetina was promoted to her current position of Senior Records Management Administrator. As the Senior Records Management Administrator, Cetina oversees the County Archives Department and functions as the County Archivist. The County Archives Department was organized in 1975 and serves as a repository for the historical records of the County and current records requiring temporary maintenance.

Cetina states County Departments submit draft Records Retention Schedules for her review and recommendations. She works with County Departments to ensure the draft schedules are in an acceptable format. After the draft is completed, it is submitted to the County Records Commission for approval. Cetina explains once the County Records Commission approves the retention schedule, it is sent to the Ohio Historical Society for review and approval. According to Cetina, no County Departmental records should be destroyed without consulting Records Retention Schedule guidelines approved by the Ohio Historical Society.

Cetina stresses each County Department must have an approved Records Retention Schedule in place prior to destroying any record. According to Cetina, if a County Department has changed names or reporting structure, it is able to destroy records based on the former County Department's Records Retention Schedule as long as both Departments' basic functions and records remain the same. However, the Department must update its Records Retention

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<sup>29</sup> During her interview with AIG Staff, Teeuwen disclosed she also has seen a revised version of the VUP.

Schedule and cannot destroy documents not specifically covered in the former Department's existing Records Retention Schedule.

Cetina confirms the County does not have a County-wide Records Retention Schedule; however, the County does have a County-wide Correspondence Records Retention Schedule that was approved in 2012.<sup>30</sup> She further adds she does not believe there is an approved Records Retention Schedule for the Executive's Office. Cetina explains the former BOCC's Records Retention Schedule is not applicable to the County Executive's Office because the Executive's Office substantially differs from the former BOCC's Office. Cetina also states the Records Retention Schedule for the former BOCC was brief and most likely does not address many of the documents maintained by the newly formed Executive's Office such as vehicle use logs. Therefore, she would recommend the Executive's Office create its own Records Retention Schedule prior to destroying any Departmental documents.

**Matthew Carroll - September 21, 2014**

Carroll is Chief of Staff to the County Executive. He was hired by the Executive on November 18, 2010 during the transition to the new form of County government. On January 7, 2011 Carroll was appointed Chief of Staff to the Executive and currently serves in this role. Before becoming Chief of Staff, Carroll was the City of Cleveland Director of Public Health for nine (9) years.

Carroll states the Executive's Office does not have vehicles assigned to individuals; rather there are two (2) "pool vehicles" assigned to the Executive's Office for staff use. Carroll explains in 2011, the County became aware of a large number of unpaid tickets associated with County vehicles. In many cases, the employee responsible for the vehicle at the time of the violation could not be identified which resulted in the County paying a large bill for tickets. He says, at the direction of the Executive's Office, DPW created the VUP to regulate the use of County vehicles and increase accountability.<sup>31</sup> Carroll notes this goal was partially achieved through a provision regarding vehicle use logs, and states he believes the VUP contemplated each County Department would collect vehicle logs but he does not think that process ever began.

Carroll says the Executive's Office began using vehicle use logs in late 2011 shortly after the VUP was implemented. According to Carroll, the Executive's Office maintained its vehicle logs in a black binder, along with keys to assigned pool cars, on Executive's Office Administrative Assistant Tanya Hairston's ("Hairston") desk. Carroll adds all Executive's Office Staff knew to sign the assigned vehicles in and out.

Carroll states he is not sure what happened to the 2012 Executive's Office vehicle logs, however, he heard a rumor Hairston may have destroyed the 2012 vehicle logs during the move to the current County Administrative Headquarters ("CAH"). Carroll also states he is not sure if the documents were destroyed accidentally or purposefully; but, he believes they may have been destroyed to avoid moving them to the new building. Carroll notes County Department of Communications ("Communications") Director Emily Lundgard ("Lundgard") would have handled document retention and destruction issues or answered any questions staff had regarding the handling of public records.

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<sup>30</sup> This is a County-wide policy regarding Electronic Mail (Email) and attachments, sent or received within the County electronic mail system. See County-wide Electronic Mail (E-Mail) Policy; attached as **Exhibit C**.

<sup>31</sup> During the interview, Carroll mentioned there was a press release announcing the VUP. He forwarded the press release the next day. See press release; attached as **Exhibit D**.

Carroll states he does not believe the Executive's Office has its own Records Retention Schedule and referred AIG staff members to an email from Makhlouf regarding the Executive's Office Records Retention Schedule.<sup>32</sup>

***Tanya Hairston – September 23, 2014***

Hairston was hired by the County as an Administrative Assistant with the Executive's Office on January 24, 2011 and currently serves in this capacity. Hairston's duties include drafting correspondence, ordering supplies, maintaining copiers, maintaining vehicle logs, and scheduling vehicle maintenance.

Hairston states when the Executive's Office started using vehicle logs, she was assigned to maintain the logs and the keys to the vehicles. She does not know where the vehicle keys or logs were kept before she received them. Hairston explains she kept the vehicle logs on her desk and kept the keys in her desk drawer. She notes employees of the Executive's Office were required to sign the vehicle log before she gave them the keys.

Hairston states the vehicle logs are maintained in the binder until the end of a calendar year. She says at the start of each calendar year she removes the sign out sheets from the prior year and files them in a filing cabinet near her desk. She adds she then places blank forms in the binder for the upcoming year.

Hairston says she does not recall the County Executive ever signing out a County vehicle or taking the keys for the County vehicle without signing the log. She states FitzGerald usually traveled with another staff member and that staff member would sign out the County vehicle.

Hairston reports she recalls looking for the logs after receiving an inquiry from Deputy Law Director Nora Hurley in conjunction with a public records request. She says at that time she realized the 2012 logs had been destroyed. Hairston states in late 2012 or early 2013, she removed the yearly vehicle logs and placed blank forms in the book for the upcoming year. Hairston says she believes the 2012 logs were inadvertently destroyed at that time.

Hairston thinks there is a Records Retention Schedule for the Executive's Office; however, she does not recall seeing it. Hairston reports prior to the Executive's Office moving into the CAH, she received guidelines from Special Assistant for Regional Collaboration Daniel Humphrey ("Humphrey") describing the types of documents that could be destroyed prior to the move and what needed to be transported to the new location. Hairston says she is not sure if Humphrey gave her verbal or written guidelines, but she does not believe any records were destroyed at that time.

***Daniel Humphrey – October 22, 2014***

Humphrey was assigned to Deputy Chief of Development Nathan Kelly ("Kelly") as a County Public Policy Fellow during the summer of 2012. At the completion of the fellowship, Humphrey remained as an unpaid extern working predominately for Kelly. On December 24, 2012, Humphrey was hired as Program Officer 1 in Communications. Finally, on June 14, 2014, Humphrey became Special Assistant for Regional Collaboration. Humphrey currently serves in this capacity and reports to Director of Regional Collaboration Jennifer Scofield ("Scofield"). Humphrey states as Special Assistant for Regional Collaboration his responsibilities include encouraging cities to share services or participate in County provided services. Humphrey

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<sup>32</sup> See email; attached as **Exhibit E**.

further states, the purview of Regional Collaboration includes CountyStat (internal performance management initiative), LakeStat (regional initiative regarding the status of Lake Erie), Health Alliance (collaboration with cities to promote public health); and the Merger Study (a study regarding the possibility of merging or sharing services between the cities of Woodmere, Pepper Pike, Moreland Hills, and Orange Village).

Humphrey states as Program Officer 1 his duties included: (1) researching media events; (2) completing graphic design work; (3) coordinating items on the County's webpage; (4) procurement of items such as newspaper subscriptions and software; (5) assembling daily news clips and disseminating the same to Executive's Office Staff and Directors; (6) serving as the Records Manager for Communications; (7) assisting the County Deputy Public Records Manager; (8) training others on the use of the public records internal website used to log public records requests; and (9) planning and coordinating events. Humphrey further explains he responded to public records requests, assembled records for public records requests, assisted in the design of the internal website used to log public records requests, and coordinated public records requests among multiple County Departments.

Humphrey reports he drafted a Records Retention Schedule for Communications and began drafting a Records Retention Schedule template for other Departments. He says he completed a first draft of the template, sent it to the Law Department for comment, and received notes back. Humphrey notes when he became Special Assistant to Regional Collaboration, Communications' new Program Officer 1 assumed responsibility for completing the drafting process. Humphrey adds he does not know if Communications has an approved Records Retention Schedule.

Humphrey also states he does not know if the Executive's Office has a Records Retention Schedule. However, he notes the County Archivist has a full list of all Departments with approved Records Retention Schedules and adds Communications has some of the schedules.<sup>33</sup> Humphrey states he believes the Executive's Office follows the former County Administrator and BOCC's Records Retention Schedules. Humphrey says he does not know if the County Administrator or BOCC's Records Retention Schedules address vehicle logs and adds he believes that is a legal question. Humphrey opines the Executive's Office Records Manager, Lundgard, would be the best person to speak with regarding the Executive's Office's Records Retention Schedules.

Humphrey states he was the move captain for Communications during both the move from the Old Administration Building ("AB") in October 2013 and the move from Courthouse Square ("CtSq") in July 2014. He says as move captain he worked closely with Melinda Burt ("Burt"), Special Assistant to Regional Collaboration and the Executive's Office Staff. Humphrey explains, he told the Executive's Office Employees they may dispose of duplicate records only if a paper or electronic copy exists; they consult the County Administrator or BOCC's Records Retention Schedules if there are outstanding questions; they refrain from destroying financial records; and they follow the procedure outlined in the Records Retention Schedule if they intended to dispose of any documents. Humphrey notes the coordinated disposal took place

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<sup>33</sup> Cetina provided AIG Staff with the Records Retention Schedules for all County Departments currently on file with her office. The Executive's Office does not have an approved Records Retention Schedule filed with the County Archives. However, the Executive's Office is included in the Correspondence Records Retention Schedule RC-2. See **Exhibit F**.

prior to the move to the CAH and there was no coordinated disposal prior to the Executive's Office move to CtSq.

Humphrey states Hairston asked him about a box of old financial records of a former employee. He explains he told Hairston it was unlikely she could dispose of these documents. Humphrey states Hairston did not ask him about disposal of vehicle logs and he did not give her any directives regarding vehicle log disposal. Humphrey says no other Executive's Office Staff asked him about other record disposal. He adds he was not told after the move that anyone destroyed anything other than duplicative documents. Humphrey further adds he assisted Burt with disposing of records for Regional Collaboration and Communications including Board of Control and Contract and Purchasing Board agendas and minutes. Humphrey states he scanned copies and disposed of paper versions of those documents.

Humphrey states Regional Collaboration and Communications' Staff also used County vehicles assigned to the Executive's Office. Humphrey reports he signed out a vehicle in the past. According to Humphrey, the keys were kept in Hairston's desk drawer and the sign out sheets were kept on or near her desk. Humphrey further explains at the CAH the sign out sheets and the keys are maintained in a closet in the Executive's Office's suite lobby near Hairston's desk. Humphrey states he does not know who was responsible for maintaining the vehicle logs.

***Melinda Burt – October 22, 2014***

Burt was hired as Special Assistant for Regional Collaboration and the Executive's Office on June 17, 2013 and currently serves in this capacity. Prior to her current employment, Burt served as a Grant Writer and Grant Administrator for the City of Lakewood from 2003 to 2013 and as a County Planner with the County Planning Commission from 2000 to 2003. Burt states as a Special Assistant she spends thirty (30) to forty (40) percent of her time as the Clerk of the Board of Control and the Contracts and Purchasing Board and sixty (60) to seventy (70) percent of her time supporting Scofield.

Burt states during the move from both AB and CtSq, she held the title of move captain for the Executive's Office. Burt states as move captain she (1) attended meetings held by DPW; (2) served as the main liaison to the move consultant for the County; (3) provided information to the Executive's Office's Staff regarding the move; and (4) held a move meeting for the Executive's Office's Staff. Burt further states she personally spoke with the Executive's Office's Staff at least once and she sent email communications regarding move updates. Burt notes Humphrey assisted her with the Executive's Office and was essentially a move co-captain.

Burt states during the first move there was no emphasis on document disposal – everyone boxed up their documents and moved. Burt says there was some communication about moving documents to the County Archives, but because the Executive's Office was new, this did not occur. Burt states, however, for the second move she advised the Executive's Office's Staff to dispose of duplicative documents as long as they maintained an electronic or paper copy. Burt notes there may have been information regarding retaining copies of documents in emails she sent to the Executive's Office's Staff.<sup>34</sup>

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<sup>34</sup> AIG Staff requested Burt forward any emails she sent during the two (2) moves. Upon review of the emails, AIG Staff found on April 10, 2014 Burt sent an email including the following task "Toward that goal, please review the preliminary instructions below, and undertake the required tasks: "CLEAN OUT! You must retain one paper or digital copy of every document in your possession. Recycle or shred additional, unwanted copies. File space in the new office is sufficient to meet our needs, but has limitations." Email attached as **Exhibit G**.

Burt states she does not believe the Executive's Office has a Records Retention Schedule and she thinks the Executive's Office is still abiding by the former County Administrator and BOCC's Records Retention Schedules. Burt adds the Executive's Office's Staff was directed to Humphrey if they had questions regarding disposal, but the emphasis was on retaining records.

Burt states she did not destroy any documents unless there was an electronic or paper copy. She adds Hairston did ask her about a file drawer of what appeared to be invoices from the previous administration. Burt states she advised Hairston to look through the documents to see if they should be retained. She denies discussing vehicle log disposal with Hairston.

Burt states she has never driven a County vehicle and does not know who maintains the vehicle logs. She believes it may be the Executive's Office's Administrative Assistant Laura Roche ("Roche") or Hairston.

***Emily Lundgard – October 14, 2014***

Lundgard was hired on September 6, 2011 as Special Assistant to Regional Collaboration. Lundgard was promoted to Director of Communications on April 8, 2013 and currently serves in this role.

According to Lundgard, after she was promoted to Director of Communications, she learned her new position came with the title and responsibility of the Executive's Office's Public Records Manager and Deputy Records Manager for the County. Lundgard states as the County's Deputy Records Manager she is responsible for maintaining a County-wide log of every public records request with the exception of "day to day" or "government operations requests". Lundgard also states as the Executive's Office's Public Records Manager she assists the Executive's Office's Staff manage their individual records request process. According to Lundgard, she is responsible for filling every request and managing other staff's records. Lundgard adds she is not responsible for destroying records, no one in her Department has destroyed records, and she is not aware if anyone in the Executive's Office has destroyed records.

Lundgard states she believes the Executive's Office has a Records Retention Schedule or they could be working off of an old Records Retention Schedule from the BOCC. She adds Communications has its own Records Retention Schedule that is currently being updated; for now, Communications is working off of the previous Records Retention Schedule.

Although her office is located in the Executive's Office's suite, Lundgard states she is not a member of the Executive's Office as Communications is its own County Department.

***David Merriman – October 8, 2014***

David Merriman ("Merriman") was hired as a Social Services Worker 3 by the County Department of Children and Family Services ("DCFS") on January 25, 1999. He served in DCFS as a Social Services Worker 3 until he resigned on August 11, 2001. Merriman then worked at the Cleveland Department of Public Health for eight (8) years until he was hired by the Executive's Office as an Assistant to the Executive on December 2, 2010. On January 7, 2011 he was promoted to the position of Special Assistant to the Executive and was subsequently promoted to Deputy Chief of Health and Human Services ("HHS") on February 18, 2013. Merriman assumed the role of Department of Jobs and Family Services ("CJFS") Interim Administrator in the summer of 2014 and he currently serves as both the Deputy Chief of HHS and the Interim Administrator of CJFS.



Merriman states he is familiar with the "concept of the VUP" but is not familiar with the actual policy. He denies involvement in developing the policy and is not aware of who drafted the policy or the intent of the policy.

Merriman states he is familiar with the TP as he consulted and applied the policy for mileage and other travel related requirements for staff. Merriman states he also read the HRPPM in preparation for a business trip to Washington, D.C. in October 2011.

Merriman states he recalls the Executive's Office's vehicle log was kept on Hairston's desk and he used the vehicle log in the past. Merriman explains the process to obtain a County vehicle was to ask Hairston if a vehicle was available, sign out the vehicle, and take the keys from Hairston. According to Merriman, Hairston kept the keys in her desk drawer. He adds staff could reserve cars ahead of time.

Merriman states he has driven FitzGerald to events<sup>35</sup> and has been driven by FitzGerald in a County vehicle to an event on at least one (1) occasion. Merriman describes this process as a component of staffing FitzGerald. According to Merriman, "staffing" means a staff member would attend events/meetings with FitzGerald in case there were follow up action items or FitzGerald wanted to discuss items in detail. Merriman notes he also on occasion may have dropped FitzGerald off at an event and then went to park the car. Merriman states "staffing" does not necessarily always include driving FitzGerald to an event as some staff may meet FitzGerald at an event/meeting where he was dropped off by another staff member.

Merriman states if he met FitzGerald at an event, he would generally be inside setting up or waiting for FitzGerald to arrive, thus he did not always know how FitzGerald arrived. Merriman notes County Sheriff's Deputies or Ohio State Highway Patrol ("OSHP") may also have dropped off FitzGerald. Merriman adds he always offered to drive if he was staffing FitzGerald and there was some "jockeying" for time to staff FitzGerald because it was "golden time" to talk to FitzGerald about other work projects.

Merriman states, at least once, FitzGerald drove a County vehicle; however, he says he does not remember the date. Merriman also states he has picked up FitzGerald from his home in Lakewood, Ohio for early morning events. Merriman states he generally tries to obtain a County vehicle for meetings/events but sometimes uses his personal vehicle. Merriman denies riding as a passenger in FitzGerald's personal vehicle while FitzGerald was driving. Merriman also states he has never requested driving related reimbursement.

Merriman states he is not sure if the Executive's Office has a Records Retention Policy. He says he knows about the County-wide Correspondence Records Retention Policy and thought there was an overall County-wide Records Retention Policy.

During the interview, AIG Staff presented events from FitzGerald's calendar where the comments note Merriman "staffed" FitzGerald and asked Merriman to confirm whether he drove himself and FitzGerald to the event. AIG Staff also asked whether he drove a personal vehicle or a County vehicle to the event. The pertinent calendared events and Merriman's comments are charted below:

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<sup>35</sup> The AIG confirmed Merriman's driver's license is valid as of the date of this report and he states he possessed a valid Ohio driver's license throughout his County employment.

Event	Location	Date	Calendar Comments	Merriman's Responses
Cleveland Pub. Lib.	Cleveland Pub. Lib.	Thursday, June 30, 2011		Merriman drove himself in his personal vehicle. FitzGerald walked.
Cleve. Pub. Lib. - Auditorium	Cleve. Pub. Lib. - Auditorium	Wednesday, August 24, 2011		Merriman drove himself in his personal vehicle. FitzGerald walked.
Cleveland Pub. Lib. Auditorium	Cleveland Pub. Lib. Auditorium	Wednesday, November 16, 2011		Merriman drove himself in his personal vehicle. FitzGerald walked.
1909 E 101st St, Cleveland	1909 E 101st St, Cleveland	Wednesday, June 20, 2012	Staffing-Dave or Jim Boyle	Jim Boyle staffed FitzGerald.
East 83rd & Carnegie Ave. (Old Cleveland Playhouse Parking Lot)	East 83rd & Carnegie Ave. (Old Cleveland Playhouse Parking Lot)	Saturday, July 21, 2012	Staffing-Jim, David & Melvin. You can park on E. 90th. You will walk with Councilwoman Mamie Mitchell & Mayor Jackson.	Merriman drove himself and is not sure how FitzGerald arrived at the event.
Juvenile 9300 Quincy, Judge O'Malley's Chambers	Juvenile 9300 Quincy, Judge O'Malley's Chambers	Wednesday, August 29, 2012		Merriman drove FitzGerald. Merriman thinks he drove a County vehicle.
8111 Quincy Place, Cleveland OH 44104	8111 Quincy Place, Cleveland OH 44104	Wednesday, September 26, 2012	Staff: David	Merriman is not sure who drove to the Quincy event but there were at least two (2) other meetings after the Quincy event that Merriman drove FitzGerald.
Union Club	Union Club	Thursday, September 27, 2012	Staffing & Talking Points: David-?	Merriman drove FitzGerald in a County vehicle.
Educational Services Center	Educational Services	Friday, November 16,	David will be staffing you.	Merriman drove FitzGerald in a

	Center	2012		County vehicle.
Holiday Inn-Rockside, 6001 Rockside Rd., Independence, OH. 44131	Holiday Inn-Rockside, 6001 Rockside Rd., Independence, OH. 44131	Friday, November 30, 2012	Staffing: David	Merriman drove himself and does not know how FitzGerald arrived at the event.

**James Boyle – October 16, 2014**

James Boyle ("Boyle") was hired by the Executive's Office as Special Assistant to the Executive on January 1, 2011 and currently serves in this position. Previously Boyle served as Assistant County Prosecutor from 1992 to 1997. Boyle worked in private practice from 1998 to 2007 and just prior to returning to the County, Boyle served as Assistant Ohio Attorney General from 2007 to 2011. As Special Assistant to FitzGerald, Boyle's major responsibility is to manage boards and commissions by vetting candidates, reviewing candidates, prepping candidates for FitzGerald, and shepherding the candidate's nomination through County Council. Boyle also performs other duties as assigned, including representing the County on external committees, staffing internal committees and boards, reviewing all County contracts to ensure compliance with pertinent statutes, and reviewing all AIG opinions to follow up on recommendations.

Boyle states his review of the TP revealed there are three (3) separate pertinent documents – VUP, HRPPPM, and the TP. Boyle notes although the documents are generally consistent, they are not one hundred percent (100 %) identical. He states after the AIG's Paul Waller report in 2013, he drafted an updated VUP to include policies regarding personal use of County vehicles.<sup>36</sup> Boyle states he is not sure how the County deals with adopting policies but is aware the Law Department is currently working on the issue. He states he had no role in drafting or disseminating the current VUP.

Boyle states he believes **anyone** who drives a County vehicle is subject to the VUP. He says he assumes all policies apply to FitzGerald and County Council because they are employed by and receive a paycheck from the County. He adds the County dealt with the issue of who is an employee during a Board of Revision Hearing Officer situation in 2011.

Boyle states there were two (2) vehicles assigned to the Executive's Office when he began working as a Special Assistant in early 2011. He says, in the AB, the vehicle sign out sheets were kept in a black binder on Hairston's desk. Boyle notes there were a lot of sheets in the binder and he is not sure who maintained the sheets. According to Boyle, to take a vehicle, staff would sign their name in the log and note the mileage on the vehicle. He says the vehicle keys were kept by Hairston or Roche. Boyle notes he has not used a County vehicle lately and is not sure where the cars are now.

<sup>36</sup> As of the date of this report Boyle's revised/updated version of the VUP has not been formally adopted.

Boyle states in the past he used County vehicles and drove FitzGerald in County vehicles. Boyle also states he rode as a passenger in a car while FitzGerald drove.<sup>37</sup> Boyle tells of one specific instance when he and former Director of Communications Nicole Dailey Jones ("Jones") picked up FitzGerald on Euclid Avenue, Cleveland, Ohio at Ideastream to drive him to a subsequent event/meeting. Boyle states FitzGerald did not like the music on the radio and thus told Jones, who was then operating the vehicle, to get out so he could drive and be in charge of the radio. Boyle also states he recalls being a passenger in FitzGerald's personal vehicle and recalls times when he would drive FitzGerald's personal vehicle to give FitzGerald the opportunity to read his speech, return phone calls, etc.

Boyle states he drives his personal vehicle on County business. Boyle advises, however, he staffs/drives FitzGerald less frequently than he did in 2011, 2012, and 2013. According to Boyle, traditionally "staffing" meant serving as a "body person" by taking notes, getting the politician in and out of the event, taking down constituent complaints and questions, keeping schedules, reviewing speeches, and fielding calls. Boyle states "staffing" really depends on the event and could also mean exclusively driving. Boyle adds FitzGerald would generally request a staff person with an understanding of the event/meeting topic of discussion; however, some "staffings" were not planned and FitzGerald would take any available staff member.

During the interview AIG Staff presented events from FitzGerald's calendar where the comments note Boyle "staffed" FitzGerald. AIG Staff also asked Boyle to confirm whether he drove himself and FitzGerald to the event and whether he drove a personal vehicle or a County vehicle. The pertinent calendared events and Boyle's comments are charted below:

Event	Location	Date	Calendar Comments	Boyle's Responses
50th Anniversary Celebration of Rev. Dr. E.T. Caviness, Pastor	Greater Abyssinia Baptist Church, 1161 105th St @ Tacome Ave., Cleve. 44108 795-1842	Sunday, October 16, 2011	Jim Boyle will staff you. Will update travel details.	Boyle "staffed" FitzGerald but is not sure if he drove FitzGerald.
12:00 21st Annual Fair Lending Conference	Trinity Cathedral 2230 Euclid Ave., Cleve., OH.	Friday, October 28, 2011	Jim Boyle will staff you.	Boyle drove FitzGerald. Boyle is not sure if he drove a County vehicle.
5:15 ARRIVAL Cleve. Mediation Ctr., "Building The Future" Award	1911 W. 30th Breen Ctr. At St. Ignatius 651-0222	Thursday, November 10, 2011	Jim Boyle will staff you.	Boyle drove FitzGerald in a County vehicle.
FYI-5:00 Cuy. County Democratic Party Judicial Fund	Law Offices of Spangenberg, Shibley, 1001	Monday, November 21, 2011	Jim Boyle will staff you.	Boyle and FitzGerald walked.

<sup>37</sup> The AIG confirmed Boyle's driver's license is valid as of the date of this report and he states he possessed a valid Ohio driver's license throughout his County employment.

	Lakeside Ave., E., Ste. 1700 Cleve., 44114			
1:45-3:00 Press Event, "County Health Alliance" - HUD Dep. Secretary Ron Sims, Discuss How Local Planners, Developers, Pub. Hth, etc. Can Work Together	The City Club, 850 Euclid Ave., 2nd Fl.	Tuesday, November 29, 2011	Jim Boyle will drive you & Nicole will meet you there.	Boyle was not in attendance.
Arrive @ 7:00 pm Speaking Request @ Park Synagogue East	Park Synagogue East, 27500 Shaker Blvd., Pepper Pike, OH. 44124	Wednesday, December 14, 2011	Jim will meet you there. Matt Cain will meet you here @ 6:30 (CAH) & drive you.	Boyle drove FitzGerald in either a personal vehicle or a County vehicle.
Arrive Between 11:45-12, Invitation To Join President Obama	North Gymnasium, Shaker Hts. H.S., 15911 Aldersyde Drive, Shaker Hts., OH. 44120	Wednesday, January 04, 2012	Jim Boyle will staff you... Please bring this invitation and a photo ID with you for when you check-in.	Boyle drove FitzGerald in either a personal vehicle or a County vehicle.
*Please Arrive by 6:50* Event Begins at 7:00 CWA Local 4340, Perform the Oath of Office	1400 E. Schaaf Rd., Brooklyn Hts., Oh. 44131	Tuesday, January 31, 2012	Jim Boyle will staff you.	Boyle drove FitzGerald in a County vehicle.
11:00 Meeting with Art Falco	Playhouse Square, 1501 Euclid Ave, 2nd Floor	Thursday, February 16, 2012	Jim Boyle will staff you.	?
6:00 2012 Cleveland Auto Show (Ribbon Cutting Ceremony @ 6:35)	I-X Center	Friday, February 24, 2012	Jim Boyle will drop off/pick you up.	Boyle drove FitzGerald in either a personal vehicle or a County vehicle.
9:00 Inclusion and Diversity Summit, Ed to do opening	Tri-C Corp. College, 4400 Richmond Rd., Warrensville Hts., 44128 987-2800	Tuesday, May 15, 2012	Jim Boyle will staff you.	Boyle drove FitzGerald in a County vehicle.
6:00 Silver & Gold Awards Ceremony	1857 South Green Rd., South Euclid,	Tuesday, May 15, 2012	Staff-Jim Boyle	Boyle was not in attendance.

	OH. 44121 (Between Cedar & Mayfield Roads)			
Croatian Cultural Garden in Rockefeller Park, Cleveland	Rockefeller Park, MLK Drive (Between the Hungarian & Hebrew Parks) Look For Signage	Sunday, June 03, 2012	Staffing-Jim will staff you & create talking points. Arrive by 12:45.	Boyle drove FitzGerald but is not sure in what vehicle.
Keynote Speaker, 2012 NOACA Summit	Wolstein Ctr. at CSU, 2000 Prospect Ave., 4th Fl. Annex	Friday, June 08, 2012	Jim will drive you. Ed Jerse will arrive at the event ahead of time. Parking Wolstein Annex Parking Garage.	Boyle was not in attendance.
Cleveland Sight Center Ribbon Cutting	1909 E 101st St, Cleveland	Wednesday, June 20, 2012	Staffing-Dave or Jim Boyle	Boyle was not in attendance.
Art Works tour with Deborah and Ron Ratner	Tri-C Metro, Enter From Woodland Ave., Parking Lot 5	Tuesday, July 17, 2012	Staff: Jim Boyle	Boyle drove FitzGerald in a County vehicle.
Bainbridge Ribbon cutting	Bainbridge Near City Hall, Intersection of Bainbridge Road & SOM Ctr. Rd.	Wednesday, July 18, 2012	Jim will staff you.	Boyle drove FitzGerald in a County vehicle.
10:30 Grand Marshall-Annual Fairfax Arts & Heritage Celebration	East 83rd & Carnegie Ave. (Old Cleveland Playhouse Parking Lot)	Saturday, July 21, 2012	Staffing-Jim, David & Melvin. You can park on E. 90th. You will walk with Councilwoman Mamie Mitchell & Mayor Jackson.	Boyle met FitzGerald at this event and does not know how FitzGerald arrived.
Towpath Trail Groundbreaking	Scranton Peninsula	Monday, July 30, 2012	Staffing: John O'Brien? Jim Boyle - Talking Points	Boyle was not in attendance.
Old Mill Road Ribbon Cutting (Gates Mills)		Tuesday, August 28,	Staffing: Jim Boyle, Jim will	Boyle drove FitzGerald in a

		2012	meet you in back parking lot at 9:15	County vehicle.
Defending Childhood Event, mtg with US Attorney General Eric Holder, Steve Dettelbach, & Community Partners	Martin Luther King Jr High School, (Cleveland)	Friday, September 28, 2012	Staffing: Jim	Boyle drove FitzGerald in a County vehicle.
Closing remarks at the Consumer Fraud Summit	Montifiore 1 David Myers Parkway, off Cedar Rd, Beachwood OH	Thursday, October 11, 2012	Staffing: Jim Boyle	Boyle drove FitzGerald in either a personal vehicle or a County vehicle.

***Nathan Kelly – October 8, 2014***

Kelly was hired by the Executive's Office as the Deputy Chief of Development on January 14, 2011 and currently serves in this position. Before becoming the Deputy Chief of Development, Kelly led economic development for the City of Lakewood, Ohio. As the Deputy Chief of Development, Kelly works with the Department of Development and Regional Collaboration to ensure both Departments implement the County Executive's policies. Kelly also interacts with external agencies such as the County Land Bank and the County Planning Commission when necessary.

Kelly recalls discussions about the VUP and has read it; however, he states he is not intimately familiar with it and did not have a role in drafting or distributing the policy. Similarly, Kelly is familiar with the HRPPPM and TP because he has read the policies in the course of his County employment.

According to Kelly, the Executive's Office had County vehicles available for employee use since he began working at the County in early 2011. Kelly states the vehicle log was kept on Hairston's desk and she kept the keys in her desk drawer. Before taking a County vehicle, Kelly states he would check with Hairston to ensure one was available. If a vehicle was available Kelly would sign the vehicle log and get the keys from Hairston. He reports when he was done using the vehicle he returned the vehicle's keys to Hairston and logged his start and end mileage in the vehicle log.

Kelly states he uses his personal vehicle to drive in the course of County business most of the time and he rarely uses a County vehicle. Kelly is familiar with the term "staffing" and its use in relation to Executive's Office's Employees accompanying the Executive to meetings and/or events. According to Kelly, this could include driving the Executive to an event and/or providing talking points or any other required assistance. Kelly reports FitzGerald generally asked Kelly to "staff" him at events relating to Development or other similar areas to which he was assigned.

Kelly states FitzGerald does not usually drive himself to events. Kelly says he has used his personal vehicle to drive FitzGerald and has driven FitzGerald in County vehicles during his employment with the County. Additionally, Kelly states he has ridden as a passenger in FitzGerald's personal vehicle on at least one (1) occasion. In that instance, Kelly states the

weather was cold outside and the Executive's Office's Staff was still housed in the AB.<sup>38</sup> Kelly also states he has picked FitzGerald up from home before work and/or dropped him off at home after work on several occasions because they live very close to one another. He says only one (1) or two (2) of those instances were "staffing" related. Kelly says he is not familiar with the Executive's Office's Records Retention Schedule; he believes Humphrey may be able to answer specific questions regarding records retention.

During the interview AIG Staff presented events from FitzGerald's calendar where the comments note Kelly "staffed" FitzGerald. AIG Staff also asked him to confirm whether he drove himself and FitzGerald to the event, and whether he drove a personal vehicle or a County vehicle. The pertinent calendared events and Kelly's comments are charted below:

<u>Subject:</u>	<u>Locations:</u>	<u>Calendar Comments</u>	<u>Date:</u>	<u>Kelly's Comments</u>
Mobile Boat Hoist Dedication Luncheon	Great Lakes Shipyard - 4500 Division Avenue	Nate will also be attending.	Friday, July 29, 2011	FitzGerald didn't attend.
4:45 Bellweather Real Estate Capital's Annual Mtg. (Nate)	Art Museum	Nate will meet you there.	Thursday, October 27, 2011	Kelly drove FitzGerald in his personal vehicle or County vehicle.
11:30 Cleve. Restoration Soc. 38th Community Luncheon	Wyndham Cleve. Hotel @ Playhouse, 1260 Euclid 615-7500	Nate will staff you, providing talking points & drive.	Tuesday, November 22, 2011	Kelly doesn't remember.
(Nate Will Pick You UP At 12:15) Speaking @ 1:00 Mayors & Managers Assn. (1st Suburbs Annual Lunch)	Double Tree, Lakeside Ave. E. 12th & Lakeside	Nate will staff you, providing talking points & drive.	Thursday, December 01, 2011	Kelly doesn't remember.
11:45 CSU, Exec. MBA Distinguished Speaker Series	Monte Ahuja Coll. of Business, 1860 E. 18th, BU308	Nate will be staffing you.	Friday, February 03, 2012	Kelly didn't attend.
3:00 Tour of the STERIS facility & discuss economic development priorities for county government.	STERIS Corp., 5960 Heisley Rd., Mentor, OH. 44060	Nate will staff you.	Monday, February 13, 2012	Kelly drove FitzGerald in his personal vehicle or County vehicle.

<sup>38</sup> The AIG confirmed Kelly's driver's license is valid as of the date of this report and he states he possessed a valid Ohio driver's license throughout his County employment.



*UPDATE* You Have The Option To Call In-See Notes Below * OR *LEAVE OFFICE BY 4:30 8 5:00 Pre-Departure Mtg.-Trip to Israel	Jewish Federation Of Cleveland, Mandel Bldg., 25701 Science Park Dr., Beachwood, OH.	Nate will staff you.	Monday, March 12, 2012	FitzGerald didn't attend.
4:00 Leadership Cle., (Speak to the Class) via Councilman Marty Keane	The Plain Dealer	Nate will staff you.	Thursday, March 15, 2012	Kelly drove FitzGerald in his personal vehicle or County vehicle.
8:00-Speaker, 2012 Portland Ambassador's Best Practice (Regionalism) *Michelle Adams Will Provide Further Info*	TBD	**Per Nate, you have the option to call the Jewish Community Federation today at 5pm.** Nate will staff you.	Friday, April 27, 2012	Kelly doesn't remember.
2:00 Update on St. Vincent Charity.	St Vincent Charity, 2351 E. 22nd St. (Mtg. Dr. Perse Office)	Nate will staff you.	Friday, April 27, 2012	FitzGerald didn't attend.
8:00-Speaker, 2012 Portland Ambassador's Best Practice (Regionalism)	Renaissance Cleveland Hotel, 24 Pub. Sq., Superior Rm.	Nate will staff you.	Friday, April 27, 2012	Kelly and FitzGerald walked.
5:00 Pre-Screening of The Avengers Movie	Capitol Theater, 1390 W. 65th Cleveland, OH. 44102 (651-7295)	Nate will staff you.	Tuesday, May 01, 2012	Kelly drove FitzGerald in his personal vehicle or County vehicle.
8-9:30 Public Officials Breakfast, Jewish Federation	Mandel Building 25701 Science Park Drive	Nate will staff you & supply talking points.	Monday, May 14, 2012	Kelly didn't go with FitzGerald.
11:00 Adopt a City/MIP Media Buzz (Launch) Michelle Adams Will Provide Addtl. Info)	1768 e. 25th Street, Cleveland, OH. 44114		Wednesday, May 23, 2012	Kelly doesn't remember.

Adopt a City/MIP Media Blitz (Launch) Michelle Adams Will Provide Addtl. Info)	MAGNET, INC. 1768 E. 25th Street, Cleveland, OH. 44114	Nate will staff you & supply talking points.	Wednesday, May 23, 2012	Kelly doesn't remember.
11:45 BOMA (Commercial Bldg. Owners & Mngrs. Of Greater Cleve.)	1111 Doubletree Hotel Cleveland Downtown	Nate will staff you & supply talking points.	Thursday, May 24, 2012	Kelly doesn't remember.
9:30 Visit to NASA Glenn Ctr. w/Director Lugo, Host	NASA Glenn Ctr., 21000 Brookpark Rd., Cleveland, OH. 44135	Nate will staff you.	Thursday, May 24, 2012	Kelly drove FitzGerald in his personal vehicle or County vehicle.
Flats East Bank Event (This Is An Eco. Dev. Event) Per Nicole	theNorthwest corner of W. 9th and Main-Bldg. is under construction, has no address yet.	Nate is attending as well, so he will staff you.	Wednesday, June 06, 2012	Kelly doesn't remember.
Press Announcement-Foreclosure Event	Home of Kimberly Ford, 1014 E. 169th, Cleveland, OH. 4410	Nate Kelly will staff you.	Wednesday, June 06, 2012	Kelly drove FitzGerald in his personal vehicle or County vehicle.
6:00 Jonathan Medved, Thomas Lockshin	Shaker LaunchHouse (Will Get Exact Address Form Mr. Lockshin)	Nate Kelly will staff you.	Monday, June 11, 2012	Kelly doesn't remember.
"Israel Bonds Presents Jonathan Medved" Give Opening Remarks/Announce Mr. Medved	3558 Lee Rd., Shaker Hts., OH. 44120 (Intersection of Lee & Chagrin) Shaker LaunchHouse	Nate Kelly will staff you.	Monday, June 11, 2012	Kelly doesn't remember.
Celebration & Ribbon Cutting	Hummingbird Pointe Apts., New Amenity Ctr., 6871 Ames Rd., Parma, OH.	Nate Kelly will staff you.	Thursday, June 21, 2012	Kelly drove himself and is not sure about FitzGerald.
Press Event-NACA Foreclosure (Per Michlle Adams)	Cleveland Public Auditorium	Nate will staff you.	Wednesday, June 27, 2012	Kelly didn't attend.
Midwestern Legislative Conference of The Council of State	Cleveland Renaissance Hotel, 24 Pub. Sq.,	Nate will staff you.	Monday, July 16, 2012	Kelly didn't attend.

Governments	Ballroom A 696-5600			
Cleveland Foundation Micro Loan Announcement, Press Event, Per Michelle Adams	Jump Start Office, 6701 Carnegie Ave., Cleve., OH. 44103 NOTE* Bldg. Sits Back Off Street*	Nate will staff you.	Tuesday, July 17, 2012	Kelly drove himself but is not sure about FitzGerald.
Municipal Energy Program Announcement	Berea at Front St. 7 Lou Grosa Blvd-Near the Brown's Training Facility	Nate will staff you.	Monday, July 23, 2012	Kelly drove FitzGerald in his personal vehicle or County vehicle.
Tour of Swift Filters & Check Presentation (Per Michelle)	7805 First Place, Oakwood Village, will update w/ complete address	Nate will staff you.	Wednesday, August 15, 2012	Kelly drove himself but is not sure about FitzGerald.
Speaking at Park Synagogue, A prelude Celebration for Rosh Hashanah	Park Synagogue 27500 Shaker Blvd, Pepper Pike OH 44124	Nate & John will staff you.	Saturday, September 08, 2012	Kelly drove himself but is not sure about FitzGerald.
Edna Kenny City Club Event (Luncheon)	Intercontinental Hotel	Staffing- Nate	Friday, October 12, 2012	Kelly drove FitzGerald in his personal vehicle or County vehicle.
AIA Keynote Speaker (Cleveland Principal's Breakfast)	Union Club (Cleveland Principal's Breakfast)	Nate will staff you.	Tuesday, October 16, 2012	FitzGerald didn't attend.
AJC Richard Adler Awards honoring Paul Clark	Ideastream 1375 Euclid Ave	Nate will staff you.	Wednesday, October 17, 2012	Kelly doesn't remember.
Hyland Software Tour with Jeff Mowry	28500 Clemons Road, Westlake	Nate will staff you.	Friday, November 02, 2012	Kelly drove himself but is not sure about FitzGerald.

**Edward FitzGerald – October 14, 2014**

FitzGerald was elected as County Executive on November 2, 2010. FitzGerald officially took office on January 1, 2011 and will serve as County Executive until December 31, 2014.

FitzGerald states he moved to Illinois in 1995 to accept an FBI assignment and transferred his Ohio driver's license to an Illinois driver's license. FitzGerald states in 1998 he moved back to

Ohio and at that time attempted to transfer his Illinois driver's license back to an Ohio driver's license. FitzGerald explains the BMV would not allow him to transfer his Illinois driver's license and required he start the licensing process from the beginning, which included the written and driving test. FitzGerald states he completed the written test and was granted a TIP<sup>39</sup> but the BMV would not allow him to take the driving test on the same day as the written test. He therefore was required to schedule the driving test for a future date. FitzGerald states he is not sure why the BMV required he start the licensing process from the beginning and does not recall if his Illinois driver's license was expired at the time he was attempting to transfer it back to Ohio; but he knows there was no legal prohibition to him receiving a license. He says he did not have any driving infractions with the exception of the "garden variety" speeding or "turn right on red" tickets.

FitzGerald states there was never a time when he did not have a driver's license. Instead, according to him, he merely allowed his driver's license to expire. FitzGerald adds there were also times when his TIPs expired but he is not sure of the dates or duration as he was not paying attention.

FitzGerald states he is not sure how many TIPs he was granted or what his driving status was throughout his term as County Executive. He says he remembers obtaining the first TIP and not being able to take the driving test because of scheduling conflicts with work which led him to obtain a second TIP. FitzGerald adds he finally obtained an Ohio driver's license sometime in 2012.

FitzGerald states he has read all of the County policies related to travel and driving at different points during his tenure as County Executive. One of his goals upon entering office as County Executive was to hold employees accountable for misuse of County vehicles. He explains, this initiative stems from his previous experiences as Lakewood, Ohio Mayor where he dealt with fleet management and his FBI experiences where he observed FBI fleet procedures. FitzGerald further explains, the decision to hold employees accountable was not initiated due to a specific incident.<sup>40</sup> He says he directed DPW to write the VUP to decrease the number of vehicles assigned to employees with no work related purpose and to decrease the use of County vehicles by employees to commute to work.

FitzGerald adds he also intended to increase employee accountability for incursion of parking and/or traffic infractions in County vehicles. He reports, in the past the County has paid a large sum of money to the City of Cleveland because there was no record of who drove County vehicles when tickets were issued. FitzGerald notes Carroll worked on the County vehicle accountability issue and would have assigned the project to the appropriate director to address the issue.

FitzGerald reports Sharon Cole, then Deputy Chief of Staff for Operations, was assigned to update the TP and there were some adjustments made to the TP, but he is not sure the updated TP has been adopted.

FitzGerald states he has never driven a vehicle without insurance and he has been insured by USAA since he was employed by the FBI. FitzGerald says he believes he is the policyholder

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<sup>39</sup> According to FitzGerald the BMV will not allow you to take the driving test on the same day as the written exam. You must schedule a driving test for some date after the written test.

<sup>40</sup> FitzGerald states he does not recall an incident relayed to AIG Staff by Bonnie Teeuwen regarding a County Public Defender employee and County vehicle in Florida but admits the incident may have occurred.

and may be able to provide proof of insurance from the date he became County Executive.<sup>41</sup> FitzGerald says he initially did not want to have an entourage or security detail as he did not want any barriers between him and the public nor did he want to place someone on his payroll with the sole responsibility of being his driver. FitzGerald later adds he has changed his mind about security detail due to death threats.

FitzGerald notes generally, if he was attending an event, staff would drive him and attend the event or meeting. FitzGerald states he would usually bring the staff person with expertise in the topic addressed during the event or meeting. He adds sometimes the staff person's name would be placed on his calendar in advance and other times he would just "grab" anyone who was nearby to "staff" him for a meeting or event.

FitzGerald states, unlike prior County Commissioners, he does not use County vehicles to commute to work. During his first year in office, he says he drove himself to and from work and staff would drive him in a County vehicle during the day at least every other day. He also states, early in his tenure as County Executive, if he had an event downtown he would usually walk. He is not sure if a staff person ever drove him in his personal vehicle.

FitzGerald explains to be "staffed" means the staff person attends a meeting or event in their official capacity to take notes, documents action items and follows up after meetings or events. FitzGerald further explains, as a practical matter, "staffing" almost always meant the staff person would drive FitzGerald; however, once or twice, he drove a staff person when they were in a hurry and he knew how to get to the location. FitzGerald states there are exceptions to being "staffed" such as the occasions when he drives his personal vehicle to meet staff at a morning event. He says for weekend events, he was sometimes picked up from his home by staff.

FitzGerald states generally if he was attending a formal County related meeting or event, staff would drive him in a County vehicle. He admits there were also times when he drove his personal vehicle to an event/meeting located on the west side of the County. FitzGerald further admits it is possible he drove his personal vehicle by himself during the time his license was expired and adds he is not sure if he drove a County vehicle while his license was expired. He reports, although he has driven a County vehicle, he does not remember any instances of driving a County vehicle alone because he rarely attends an event without a staff person.

FitzGerald adds since taking office he rarely used a County vehicle and he did not use vehicle logs because he was not the one checking out the County vehicle. He explains if he picked up keys, he would immediately hand them to the staff person who was going to drive.

FitzGerald reports he was always "staffed" for monthly town hall meetings and County Sheriff's Deputies generally drove him to these events as a security measure. However, FitzGerald says he may have driven his personal vehicle to the town hall meeting in Lakewood, Ohio. FitzGerald states he specifically remembers at least one (1) instance after a town hall meeting County Sheriff's Deputies asked if he would like to be followed home and he said "no".

FitzGerald states in the AB building, the Executive's Office had two (2) vehicles available for people on the floor which were parked adjacent to the building. He says he does not know where the vehicle log or the vehicles are located at the CAH Building. According to FitzGerald, in 2012 he stopped driving himself altogether as he had a political car and driver for

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<sup>41</sup> See proof of insurance attached as Exhibit H.

gubernatorial campaign purposes. He says lately he has been driven to events by OSHP or County Sheriff's Deputies as a security measure.

FitzGerald states he is not aware of how vehicle logs are maintained or whether the Executive's Office has a Records Retention Schedule. He says he does not get into details about record retention, does not maintain his own records, does not destroy records, and is not made aware when records are destroyed. FitzGerald notes Roche maintains his documents. FitzGerald adds Carroll would be the best person to speak to about record retention as Roche and Hairston report to and are evaluated by Carroll.

FitzGerald states he has not received a traffic citation during his tenure as County Executive and does not recall receiving any parking citations while operating County vehicles. He also says he is unsure if staff members received traffic or parking citations while "staffing" him.

FitzGerald states he believes he only asked for mileage reimbursement once, if at all. However, FitzGerald says he does recall occasions when he did not drive but paid for parking or gas because the staff person driving did not have cash. FitzGerald acknowledges he may have submitted reimbursement forms on these occasions. FitzGerald adds, out of an abundance of caution, he paid back all reimbursements he initially sought from the County.

During the interview AIG Staff presented FitzGerald with a list of pertinent calendared events and asked him to identify the event, whether he drove to the event, and whether he drove his personal vehicle or a County vehicle. The calendared events and FitzGerald's comments are charted below:

Event	Location	Date	Calendar Comments	FitzGerald's Responses
Speaker, Cleveland Bridge Builders "Building Relationships & Trust, Creating Collaborations, Making an Impact"	Urban Community School, 4904 Lorain Avenue	Thursday, January 20, 2011	Ed should plan on arriving @ 12:50 pm.	Does not remember.
Leadership Cleveland "Government Day"	Federal Reserve Bank - Superior Entrance	Thursday, March 10, 2011	Ed will be on his own - to discuss the new county government and take questions.	Does not remember.
9:00 WCPN Radio Interview, host <sup>2</sup> - Mike McIntyre - Topic, "Ohio Budget Unveiled"	Playhouse Sq., 1375 Euclid Ave., Idea Ctr.	Wednesday, March 16, 2011	Nicole will meet you there.	Does not remember.
Washington, D.C. Trip 4/12-4/13/11	Washington, D.C.	Tuesday, April 12, 2011		Traveled by airplane.
Testifying before Ohio State Senate	Columbus, Ohio	Wednesday, May 18,		Never traveled to Columbus on his

		2011		own – always "staffed".
1:00 Mtg. w/Cuy. County Police Chief Assc.	Tri-C, Eastern Campus - 4250 Richmond Road, Highland Hills, OH. 44122-6195 Liberal Arts Bldg., Rm. ELA-122 987-6000	Monday, May 23, 2011		Does not remember.
4:00 - Cleve. Foundation's Annual Mtg.	Severance Hall	Wednesday, June 15, 2011		Does not remember.
4:45 Bellweather Real Estate Capital's Annual Mtg. (Nate)	Art Museum	Thursday, October 27, 2011	Nate will meet you there.	Does not remember.
Helen Moss Announcement re: CWRU Integrated Oncology Chair	Intercontinenta l Hote, 9801 Carnegie Ave.	Thursday, November 10, 2011	John Moss will meet Ed at the entry of the Intercontinental Hotel....	Does not remember.
5:00 Cleve. Chapter of the OH. Contractors Assc. - Forecast Night Mtg.	Embassy Suites, 5800 Rockside Woods Blvd., Independence, OH	Thursday, February 16, 2012	Bonnie will meet you there. She's arriving by 5:30.	Does not remember.
11:00 Glenn Renwick-Mtg, Lunch (Jan Pollack Will Contact Me w/ Confirmation)	Progressive Insurance Agency, 6300 Wilson Mills, Mayfield Vill. 44143	Friday, March 16, 2012	No Staffing Needed Per Your Request.	Does not remember.
The League of Women Voters, Cuyahoga Area	Baker Hall- West Shore Unitarian Universalist Church, 20401 Hilliard Blvd, Rocky River	Saturday, 5/19/2012	Staffing - Not needed per your request.	Does not remember.
11:30 DCFS Hotline Observation	Jane Edna Hunter 3955 Euclid Ave.	Tuesday, May 22, 2012	Have Ed park in the back lot, NW corner of Euclid and E 40th; entrance to the lot is on 40th.	Does not remember.

10:30 Grand Marshall-Annual Fairfax Arts & Heritage Celebration	East 83rd & Carnegie Ave. (Old Cleveland Playhouse Parking Lot)	Saturday, July 21, 2012	Staffing-Jim, David & Melvin. You can park on E. 90th. You will walk with Councilwoman Mamie Mitchell & Mayor Jackson.	Does not remember.
County Stat Chat (Employment and Family Services)	8111 Quincy Place, Cleveland OH 44104	Wednesday, September 26, 2012	Staff: David	Does not remember.
ODOT Conference	Columbus, Ohio	Tuesday, October 30, 2012	Staffing: Ed Jerse	Not sure he <sup>42</sup> attended this event.
"A New Approach to Government and Regionalism in Cuyahoga County" Presentation	Ohio Transportation Conference in Columbus	Wednesday, October 31, 2012	Staffing & Talking Points- Ed Jerse	Not sure he attended this event.

Document Review

***Driver's License/ Temporary Instruction Permit***

The AIG requested copies of two (2) traffic citations issued to FitzGerald in 1999 from Lakewood, Ohio Municipal Court. The first citation was issued to FitzGerald on January 3, 1999 for "Expired Plates". The citation lists FitzGerald's Illinois driver's license [REDACTED] which was issued in August of 1998 and expired on July 10, 2003.<sup>43</sup> The second citation was issued to FitzGerald on October 18, 1999 for "Expired Plates". The citation lists FitzGerald's Ohio driver's license [REDACTED] which was issued in June of 1999 and expired on July 10, 2002.<sup>44</sup>

The AIG obtained FitzGerald's driver's license history from the BMV. The records<sup>45</sup> reveal the following information:

- On or about October 22, 1998 the state of Illinois reported an out of state license issuance to the BMV.
- On June 5, 1999 FitzGerald obtained an Ohio driver's license by an out of state Conversion which expired on July 10, 2002.
- On December 6, 2003 FitzGerald was issued a Temporary Permit which expired on December 6, 2004.

<sup>42</sup> Although FitzGerald states he is not sure he attended this conference, AIG Staff reviewed an Employee Reimbursement Voucher, receipt, Travel Expense Report, and Request for Travel Approval for hotel accommodations on October 30 – 31, 2012 in Columbus, Ohio for an Ohio Department of Transportation conference.

<sup>43</sup> Attached as **Exhibit I.**

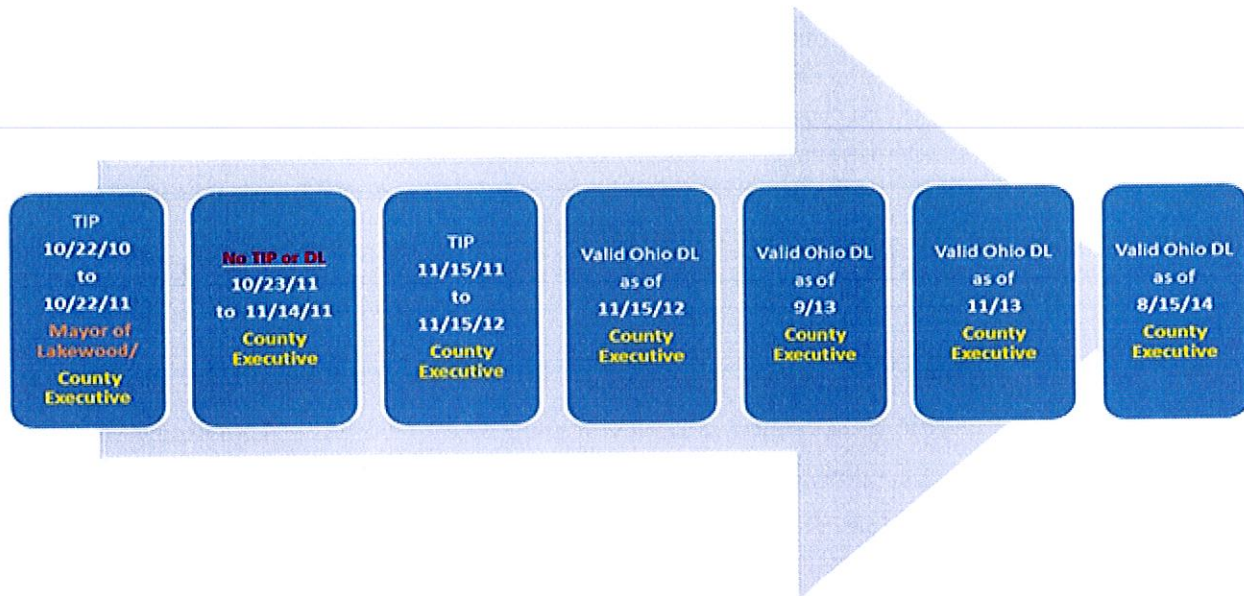
<sup>44</sup> Attached as **Exhibit J.**

<sup>45</sup> Attached as **Exhibit K.**



- On March 20, 2008 FitzGerald completed an Application for Temporary Permit. The TIP was valid from March 20, 2008 through March 20, 2009. The application contains the words "I do have a current driver license or I.D. card from Ohio ID [REDACTED] Exp 01/10/2002".
- On October 22, 2010 FitzGerald completed a second Application for Temporary Permit. The TIP was valid from October 22, 2010 through October 22, 2011. The application contains the words "I do have a current driver license or I.D. card from Ohio ID [REDACTED] Exp 01/10/2002".
- On November 15, 2011 FitzGerald completed a third Application for Temporary Permit. The TIP was valid from November 15, 2011 through November 15, 2012. The application contains the words "I do have a current driver license or I.D. card from Ohio ID [REDACTED]".
- On November 15, 2012 FitzGerald was issued an Ohio operator's license.

## Ohio TIP and DL Timeline (County Executive Time Period Only)



### **Reimbursement Requests and Checks**

The AIG obtained copies of FitzGerald's reimbursement requests, reimbursement checks and repayments including:

- A request dated May 18, 2011 for one hundred eighty eight dollars and eight cents (\$188.08) for hotel accommodations for Senate testimony in Columbus, Ohio. FitzGerald was reimbursed on July 14, 2011 and cashed the check on August 13, 2011.<sup>46</sup>

<sup>46</sup> Attached as Exhibit L.

- A request dated May 23, 2011 for seven dollars and thirty four cents (\$7.34) in gasoline from GetGo in Lakewood, Ohio (in County Vehicle). FitzGerald was reimbursed on June 2, 2011 and cashed the check on July 5, 2011.<sup>47</sup>
- A request dated June 13, 2011 for one hundred ninety eight dollars and forty four cents (\$198.44) for hotel accommodations for a meeting with a Senate Representative in Washington, D.C. FitzGerald was reimbursed on June 23, 2011 and cashed the check on July 5, 2011.<sup>48</sup>
- A request dated June 15, 2011 for ten dollars (\$10.00) in parking at Standard Parking Lot 29 in Cleveland, Ohio. FitzGerald was reimbursed on July 28, 2011 and cashed the check on August 13, 2011.<sup>49</sup>
- A jury duty fee of forty dollars (\$40.00) was issued from the County to FitzGerald for jury service on June 27, 2011. FitzGerald was reimbursed on July 5, 2011 and cashed the check on August 13, 2011.<sup>50</sup> On September 15, 2014, FitzGerald repaid the County for the Jury Duty reimbursement.<sup>51</sup>
- A request dated November 10, 2011 for twelve dollars (\$12.00) for parking at the Inter-Continental Conference Hotel in Cleveland, Ohio (in County Vehicle).<sup>52</sup> According to Director of Special Projects Kathleen Goepfert, FitzGerald was reimbursed for this expense but the check was cancelled as it was never cashed and became too old.<sup>53</sup>
- A request dated November 16 through 18, 2011 for four hundred forty two dollars and eight cents (\$442.08) for hotel accommodations and transportation for a meeting with members of United States Congress and a conference in Washington, D.C. FitzGerald was reimbursed on February 16, 2012 and cashed the check on March 12, 2012.<sup>54</sup>
- A request dated October 30, 2012 for one hundred fifty dollars and sixty one cents (\$150.61) for hotel accommodations for an Ohio Department of Transportation Conference in Columbus, Ohio. FitzGerald was reimbursed on December 3, 2012 and cashed the check on May 16, 2013.<sup>55</sup> On September 29, 2014, FitzGerald repaid the County for the parking and gasoline reimbursements.<sup>56</sup>

#### ***Emails/Correspondence from Makhlouf to AIG Staff***

In an email dated September 7, 2014, Makhlouf clarified certain responses he provided during his September 5, 2014 interview with AIG Staff.<sup>57</sup> Makhlouf explained his belief that the HRPPPM superseded the VUP and is the governing policy regarding the County's fleet vehicles. Makhlouf noted the Law Department is attempting to introduce a uniform process for the adoption of administrative regulations and policies to be published in a County

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<sup>47</sup> Attached as **Exhibit M**.

<sup>48</sup> Attached as **Exhibit N**.

<sup>49</sup> Attached as **Exhibit O**.

<sup>50</sup> Pursuant to Section 9.07 of the HRPPPM, any compensation or reimbursement of jury duty or for court attendance compelled by subpoena, when such duty is performed during an employee's normal working hours, shall be remitted by the employee to their Department Director or Supervisor for transmittal to the County Treasurer. In the instant matter, FitzGerald did not transmit his judicial services fee to the County Treasurer. Rather, FitzGerald initially received, accepted, and cashed his reimbursement check from the County in contravention of Section 9.07 of the HRPPPM. Attached as **Exhibit P**.

<sup>51</sup> Attached as **Exhibit Q**.

<sup>52</sup> Attached as **Exhibit R**.

<sup>53</sup> Attached as **Exhibit S**.

<sup>54</sup> Attached as **Exhibit T**.

<sup>55</sup> Attached as **Exhibit U**.

<sup>56</sup> Attached as **Exhibit V**.

<sup>57</sup> Attached as **Exhibit W**.

Administrative Code in the same way the County codified ordinances in the County Code. Finally, Makhlouf suggests DPW should be responsible for tracking vehicle logs as it has control of the County fleet vehicles and drivers.

In an email dated September 15, 2014, Makhlouf offered an explanation of the Executive's Office's Public Records Retention Schedule/Policy.<sup>58</sup> Makhlouf forwarded several documents including: (1) RS 1996-1978 - the former Department of Central Services Schedule of Records Retention and Disposition, (2) Public Works Fleet Management Records Retention Schedule RC-2, and (3) Executive's Office's Correspondence Records Retention Schedule RC-2.<sup>59</sup> In the email Makhlouf explained a provision of the RS 1996-1978 (schedule number 96-33) provides that vehicle use forms are retained for one (1) year, and then destroyed. In the email Makhlouf further stated the RS 1996-1978 document was updated by Public Works Fleet Management Records Retention Schedule RC-2<sup>60</sup> after the new County government began operating, and the updated version did not affect the provision of RS 1996-1978 pertaining to vehicle use forms, which he asserts is still in effect. Makhlouf further detailed the Executive's Office inherited Records Retention Schedules from the BOCC and the County Administrator<sup>61</sup>, and the Executive's Office's Correspondence Records Retention Schedule RC-2 was adjusted for all Departments under the County Executive.

***Email Correspondence from John Pinter to AIG Staff***

In an email dated August 19, 2014, Fleet Manager in DPW John Pinter ("Pinter") provided the AIG with a list of vehicles assigned to the Executive's Office from January of 2011 to present.<sup>62</sup> In his email Pinter explained during the first few months of 2011 the vehicles were still referenced as "Commissioner-Pool" vehicles on Fleet Management reports. The reports included the license plate number, VIN number, model, and miles each vehicle was driven monthly. Pinter further explained all vehicles were assigned to the Executive's Office. He stated Fleet Management does maintain the sign out logs and they should be kept by the assigned Department. The Fleet Management report listed the following vehicles for the Executive's Office:

<b>Time Period</b>	<b>Vehicle</b>	<b>License Plate Number</b>
<b>January and February 2011</b>	1997 Dodge Intrepid	OD 5827
<b>March 2011 through November 2011</b>	2000 Ford Crown Victoria	CGQ 1545
	2008 Chevy Impala	OF 7654
<b>December 2011</b>	2000 Ford Crown Victoria	CGQ 1545
	2008 Chevy Impala	OF 7654

<sup>58</sup> See RS 1996-1978 - the former Department of Central Services Schedule of Records Retention and Disposition, DPW -Fleet Services Records Retention Schedule RC-2, and Executive Office Correspondence Records Retention Schedule RC-2; See **Exhibit E**.

<sup>59</sup> See **Exhibit E**.

<sup>60</sup> The approved DPW – Fleet Services Retention Schedule makes no mention of vehicle use documents or logs. See **Exhibit E**.

<sup>61</sup> See BOCC's and County Administrator's Records Retention Schedules; attached as **Exhibit X**.

<sup>62</sup> Attached as **Exhibit Y**.

	2010 Ford Taurus	FJD 7274
<b>January 2012 through June 2014</b>	2008 Chevy Impala	OF 7654
	2010 Ford Taurus	FJD 7274

### ***Calendars***

The AIG requested FitzGerald's, Hairston's, and Roche's electronic calendar information for the periods between January 1, 2011 and November 30, 2012 from the County Department of Information Technology ("IT").<sup>63</sup> The calendar information was reviewed and offsite events that may have required FitzGerald to drive or be driven to the event in a personal vehicle or a County vehicle were charted.

### ***Executive's Office Vehicle Logs***

On September 18, 2014, Carroll provided a copy of the Executive's Office's vehicle logs and calendars for the following time period: (1) October, November, December 2011; (2) January through December 2013; and (3) January through August 2014.<sup>64</sup> A review of the vehicle logs reveals FitzGerald did not sign out a County vehicle during the above-referenced months. The vehicle logs provided, however, did not include any months from 2012 as AIG Staff subsequently discovered the documents were destroyed.

### ***Copy of documents requested by Channel 3 media regarding "Operation Safe Streets" vehicle violations maintained by Lori Margenin***

On September 3, 2014, Margenin provided a copy of a spreadsheet, several Notices of Liability from the City of Cleveland, Ohio, and a Delinquency Notice from the City of Cleveland, Ohio.<sup>65</sup> A review of the documents reveals none of the Executive's Office's vehicles were listed on the spreadsheet, Notices of Liability, or Delinquency Notices.

### ***Copy of County-wide vehicle violation spreadsheet maintained by Lori Margenin***

On September 3, 2014, Margenin provided a copy of a spreadsheet with all County vehicle violations.<sup>66</sup> The spreadsheet has columns for the state, license plate number, Agency, description of violation, amount of ticket, status of the ticket, comments, ticket number, date of violation, time of violation, and location of violation. A review of the spreadsheet reveals an Executive's Office's vehicle, license plate OF7654, received a \$95.00 ticket for speeding in the City of East Cleveland, Ohio on January 16, 2014 at 2:41 p.m. The ticket was contested and ultimately dismissed.<sup>67</sup>

### ***County Personnel Policies and Procedures***

An email from County Information Systems Administrator Jeffrey Shook reveals FitzGerald electronically acknowledged receiving and reviewing the HRPPM on February 24, 2011, November 18, 2011, June 12, 2012 and December 23, 2013. FitzGerald also electronically

<sup>63</sup> Due to the length of this Exhibit, it is not attached. However, it is available digitally upon request.

<sup>64</sup> Attached as **Exhibit Z**.

<sup>65</sup> See **Exhibit B**.

<sup>66</sup> See **Exhibit B**.

<sup>67</sup> In the vehicle violation spreadsheet provided by Margenin, attached as Exhibit B, the 2000 Ford Crown Victoria, license plate 858YGN is cited for a violation. However, on the date the violation occurred, that vehicle was not assigned to the Executive's Office. Further the operator of the vehicle at the time the citation was issued did not work in or for the Executive's Office. See **Exhibit B**.

reviewed the County's online ethics training video on December 11, 2012 and December 23, 2013.<sup>68</sup> HR was unable to locate a signed ethics acknowledgement form indicating FitzGerald attended a live ethics training session in 2011. However, there is an entry on FitzGerald's calendar reflecting his attendance at the 2011 live ethics training.<sup>69</sup> Further, a Media Advisory also reflects FitzGerald presented at the 2011 live ethics training.<sup>70</sup>

## **LAW / POLICY**

### **Ohio Revised Code**

#### **4507.05 [Effective Until 1/1/2017] Temporary instruction permit - temporary instruction permit identification card**

*Permit holders over 16 years old must comply with the following permit guidelines:*

- *The permit and identification card are in the holder's immediate possession;*
- *The holder is accompanied by a licensed operator who is at least twenty-one years of age, is actually occupying a seat beside the driver, and is not intoxicated;*
- *The number of occupants does not exceed the number of restraining devices in the motor vehicle and each occupant of the vehicle is wearing all available occupant restraining devices.*

*Whoever violates this section is guilty of a **minor misdemeanor**.*

#### **4510.12 Operating a motor vehicle without a valid license**

*No person shall operate any motor vehicle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this state unless the person has a valid driver's license issued under Chapter 4507 of the Revised Code or a commercial driver's license issued under Chapter 4506 of the Revised Code.*

*Whoever violates this section is guilty of operating a motor vehicle or motorcycle without a valid license and shall be punished as follows:*

- *If the offender's driver's license or permit was **expired**, the offense is a **minor misdemeanor**.*
- *The court shall not impose a license suspension for a first violation of this section*
- *If the offender **never held a valid driver's license** the offense is an **unclassified misdemeanor***

#### **County Code Section 106.04(G)**

- *Records Retention Schedules*  
*Each public office shall have a Records Retention Schedule in place, which shall specify, consistent with state law, the methods by which and the length of time that records shall be kept. Such schedule shall be kept on file by each public office as a public record. For any office that has a Records Retention Schedule in place at the time that Chapter 106 of the Cuyahoga County Code becomes*

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<sup>68</sup> Attached as Exhibit AA.

<sup>69</sup> Attached as Exhibit BB.

<sup>70</sup> Attached as Exhibit CC.

effective, that Records Retention Schedule shall remain in effect until it is amended according to the procedure set forth in Section 149.38 of the Ohio Revised Code. Each public office that does not have a Records Retention Schedule in place at the time that Chapter 106 of the Cuyahoga County Code becomes effective shall contact the Cuyahoga County Archives to create a Records Retention Schedule, in accordance with the procedure set forth in Section 149.38 of the Ohio Revised Code, not later than September 30, 2013.

#### **County Code Section 106.04(I)**

- *Publication of Public Records Policy*  
Each public office having public office space shall prepare a poster which shall describe the public records policy of that office, explain how to obtain public records, and name the public records manager for that office. The poster shall be displayed in a conspicuous place at the office and at any branch office where the office conducts business. Each office shall post the same information and its public Records Retention Schedule on its web-page on the county's website.<sup>71</sup>

#### **County Policies and Procedures Manual Section 16.03**

Every employee who drives or operates a County fleet vehicle at any time, or who operates any motor vehicle (i.e., employee's personal vehicle, rental vehicle) on, or in the course of County business must strictly adhere to the following requirements:

- *The employee must have and maintain at all times, without interruption, a **valid driver's license** and the minimum **automobile insurance coverage** required by Ohio law. Employees are solely responsible to make sure that their licenses and automobile insurance are properly renewed/maintained.*
- *If the employee's **driver's license and/or insurance are expired, suspended, revoked, or otherwise invalid**, the employee shall **immediately report** this fact to their immediate supervisor, and **immediately stop driving** on, or in the course of County business. The employee's Department Director, with the concurrence of the Director of Human Resources, may allow the employee to resume driving on, or in the course of County business upon the employee providing acceptable proof of insurance coverage and driver's license (or appropriate occupational driving privileges granted by a court of competent jurisdiction). Other conditions may be imposed as appropriate in light of the circumstances of each individual case.*

#### Use of Personal Vehicle

A County Employee who is required to drive or operate their personal vehicle on, or in the course of County business must adhere to the following additional requirements:

- *Every employee who submits a **Travel Expense Report** for operating a personal vehicle on, or in the course of County business, certifies that he or she has a valid driver's license, vehicle registration, financial responsibility (insurance), and personally operated the vehicle for which the travel expense is claimed.*

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<sup>71</sup> As of the date of this report, the Executive's Office had not posted a Records Retention Schedule on its website.

- *The employee must maintain the vehicle in a **good and safe operating condition**.*
- *Smoking is strictly prohibited within an employee's personal vehicle when transporting other employees and/or the public throughout the course of county business.*
- *Employees who are required to drive their personal vehicle on, or in the course of County business should refer to the policies and procedures set forth in the Cuyahoga County Travel Policy for information regarding mileage and parking reimbursement. A copy of the Cuyahoga County Travel Policy is available on the County intranet. A copy may also be obtained by contacting Human Resources. **Any failure to conform to the requirement set forth in this Section constitutes an infraction of the County Discipline Policy (Section 13), which may result in disciplinary action, up to and including removal from County employment.***

#### **County Policies and Procedures Manual Section 18.05(G)**

- *Records Retention Schedules*  
*Each public office shall have a Records Retention Schedule in place, which shall specify, consistent with state law, the methods by which and the length of time that records shall be kept. Such schedule shall be kept on file by each public office as a public record. For any office that has a Records Retention Schedule in place at the time that Chapter 106 of the Cuyahoga County Code becomes effective, that Records Retention Schedule shall remain in effect until it is amended according to the procedure set forth in Section 149.38 of the Ohio Revised Code. Each public office that does not have a Records Retention Schedule in place at the time that Chapter 106 of the Cuyahoga County Code becomes effective shall contact the Cuyahoga County Archives to create a Records Retention Schedule, in accordance with the procedure set forth in Section 149.38 of the Ohio Revised Code, not later than September 30, 2013.*

#### **County Policies and Procedures Manual Section 18.05(I)**

- *Publication of Public Records Policy*  
*Each public office having public office space shall prepare a poster which shall describe the public records policy of that office, explain how to obtain public records, and name the public records manager for that office. The poster shall be displayed in a conspicuous place at the office and at any branch office where the office conducts business. Each office shall post the same information and its public Records Retention Schedule on its web-page on the county's website.*

#### **Cuyahoga County Travel Policy Section III (E)(1)**

*Whenever a County Employee is required to drive for business as a condition of employment or for authorized travel, the employee must be able to meet the standards as set forth in this policy at all times. Failure to maintain these standards may result in disciplinary action or removal.*

1. *An employee must hold a valid State of Ohio driver's license...*
- c) *An employee must carry personal automobile insurance coverage, in at least the State of Ohio minimum standard...*

- d) *Employees must report any changes that may affect their ability to meet the standards of this policy immediately to their Supervisor, including but not limited to license suspension, revocation or failure to renew.*
- g) *The approved mileage reimbursement allowance is provided to compensate employees to the cost of gasoline, oil, depreciation and insurance. Employees may be reimbursed to parking costs and tolls actually incurred; receipts are required.*

**Cuyahoga County Travel Policy Section III (E)(2)**

*Employees shall follow the procedure established by the Department Head for the use of County Owned Vehicles assigned to that Department.*

*All other rules, as defined in Section III (E)(3) a-d of this policy will apply.*

**Cuyahoga County Travel Policy Section III (E)(3)**

*Employees must abide by the following rules whenever operating a County fleet/pool vehicle:*

- 8. *All employees driving a fleet/pool vehicle must hold a valid State of Ohio driver's license.*
- 9. *An employee must carry the State of Ohio's minimum standard of personal automobile liability insurance and be eligible for coverage under the County's insurance.*

**Cuyahoga County Vehicle Use Policy**

*An employee who operates a County owned vehicle must have a valid driver's license and shall report in writing any change in driver's license status to his or her supervisor as well as to the County Agency of Inspector General.*

**Analysis**

Having carefully reviewed the evidence in this investigation, it is our opinion there is **sufficient** evidence to substantiate the allegation FitzGerald drove his personal vehicle and/or County vehicle, on or in the course of County business, without a valid driver's license or State of Ohio driver's license.

Whereas the County Code and Charter are silent on the requirement of County personnel driving personal vehicles or County vehicles, on or in the course of County business, there are three (3) separate administrative policies that specifically address this issue – the HRPPPM, the TP, and the VUP. Section 16.03 of the HRPPPM states every employee who drives or operates a County fleet vehicle at any time, or who operates any motor vehicle on or in the course of County business, must have and maintain at all times, without interruption, a valid driver's license. Employees are also solely responsible to make sure that their licenses are properly renewed and maintained. Upon expiration of his or her license, the employee must immediately report to his or her immediate supervisor, and immediately stop driving on or in the course of County business. Furthermore, HRPPPM Section 16.03 states employees submitting Travel Expense Reports for operating a personal vehicle, on or in the course of County business, must certify, among other things, he or she has a valid driver's license and personally operated the vehicle for which the travel expense is claimed.

Similarly, TP Section III (E)(1)(2) and (3) state every employee required to drive for County business as a condition of employment or for authorized travel in their personal vehicle or a



County vehicle, must hold a valid State of Ohio driver's license and report any changes that may affect their ability to meet the standards of this policy immediately to their supervisor.

Lastly, the VUP states employees who operate a County owned vehicle must have a valid driver's license and must report in writing any change in driver's license status to his or her supervisor as well as to the AIG.<sup>72</sup>

In the instant matter, FitzGerald made the following statements regarding driving, on or in the course of County business, during his term as County Executive:

- He has read all of the policies related to travel and driving at different points during his tenure as County Executive;
- It is possible he drove his personal vehicle by himself during the time his license was expired;
- There were times when he drove his personal vehicle to a County-related event during the day;
- There were times when he drove his personal vehicle to County-related evening event on the west side;
- On one (1) or two (2) occasions he drove his staff person when they were in a hurry and he knew how to get to the County-related event location;
- He drove a County vehicle but does not remember if he drove by himself;
- He may have driven his personal vehicle to monthly town hall meetings;
- There were times when his TIP expired but he is not sure of the dates or duration because he was not paying attention;
- Even though he was not driving, there are several occasions on which he paid for gas or parking because his staff person did not have cash<sup>73</sup> and he may have requested reimbursement for these out of pocket expenses.

There are several dates upon which FitzGerald requested travel-related reimbursement including: (1) May 23, 2011 for seven dollars and thirty four cents (\$7.34) in gasoline from GetGo in Lakewood, Ohio (in a County vehicle); June 15, 2011 for ten dollars (\$10.00) in parking at Standard Parking Lot 29 in Cleveland, Ohio (in a County vehicle); and, (3) November 10, 2011 for twelve dollars (\$12.00) in parking at the Inter-Continental Conference Hotel in Cleveland, Ohio.<sup>74</sup>

FitzGerald stated he cannot remember dates when he drove his personal vehicle or a County vehicle by himself, nor can he remember staff persons who were present or dates when he drove his personal vehicle or a County vehicle with staff present. FitzGerald declared in 2012 he stopped driving himself altogether as he had a political vehicle and driver for gubernatorial campaign purposes; and recently he has been driven to events by the OSHP or County Sheriff's Deputies as a security measure.

While they also do not remember dates, Merriman, Boyle, and Kelly all confirmed they witnessed FitzGerald driving his personal vehicle or a County vehicle on or in the course of

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<sup>72</sup> Note the HRPPPM, VUP, and TP do not make distinctions for TIPS – all require nothing short of a valid driver's license.

<sup>73</sup> FitzGerald is not sure of the dates or the staff persons present when these situations occurred.

<sup>74</sup> See Exhibits M, O, and R.

County business. For example, Merriman stated FitzGerald drove on at least one (1) occasion. Additionally, Boyle stated he remembers a specific instance when he and Jones used a County vehicle to pick up FitzGerald at Ideastream on Euclid Avenue, Cleveland, Ohio. Boyle stated FitzGerald did not like the music on the radio and thus told Jones, who was operating the vehicle, to get out so he could drive and be in charge of the radio. Boyle also specifically recalled riding as a passenger in FitzGerald's personal vehicle. Likewise, Kelly recalled riding as a passenger in FitzGerald's personal vehicle on at least one (1) occasion. Kelly pointed out it was cold outside and the Executive's Office was housed in the AB when he was FitzGerald's passenger.

FitzGerald emphatically stated there was never a time when he did not possess a driver's license; rather, according to him, he merely allowed his driver's license to expire. Upon review of FitzGerald's Ohio Driver's License abstract and record from the BMV, however, it is clear there are over twenty one (21) months during his tenure as County Executive when he did not hold a valid driver's license. In fact, from January 1, 2011 to October 22, 2011 FitzGerald held a TIP; October 23, 2011 through November 14, 2011, FitzGerald held no TIP or driver's license; and November 15, 2011 through November 15, 2012, FitzGerald held a TIP.<sup>75</sup> Finally, on November 15, 2012, FitzGerald obtained a valid Ohio Driver's license.<sup>76</sup> It appears FitzGerald entered office as County Executive with no driver's license and failed to become properly licensed until November 15, 2012.

FitzGerald obtained a valid driver's license almost two (2) years into his four (4) year term and reported he ceased driving himself sometime during his second year as County Executive. Accordingly, in light of this narrow window of time, the above-referenced statements, and the first-hand accounts of his staff, it is more likely than not the instances of FitzGerald driving his personal vehicle or a County vehicle, on or in the course of County business, occurred during the period when he did not hold a valid driver's license.

It is probable FitzGerald operated his personal vehicle and a County vehicle, on or in the course of county business, without a valid driver's license, in contravention of HRPPPM, Section 16.03. Although FitzGerald states he always had a driver's license, his BMV abstract and record indicates between January 1, 2011 and November 14, 2012, he did not have a valid driver's license from Ohio or Illinois and was not issued an Ohio driver's license until November 15, 2012. Moreover, as noted above, FitzGerald submitted Travel Expense Reports, receipts, and Employee Reimbursement Vouchers for parking expenses on November 10, 2011 and June 15, 2011.<sup>77</sup> FitzGerald also stated there are times when he would pay for gas or parking when he was not operating the vehicle if his staff person did not have cash, and he may have requested reimbursement for these expenses. There is a notation on the November 11, 2011 Employee

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<sup>75</sup> As noted above, the AIG obtained FitzGerald's Ohio driving history from the BMV. Other pertinent driver's license transactions include: (1) On 10/22/1998 the state of Illinois reported an Out of State license issuance to the BMV; (2) On 6/5/1999, FitzGerald obtained an Ohio driver's license by an Out of State Conversion which expired on 7/10/2002; (3) On 12/6/2003, FitzGerald was issued a temporary permit class D which expired on 12/6/2004; and (4) On 3/20/2008 FitzGerald was issued a TIP Class D which expired on 03/09/2009. See email from BMV dated 10/20/2014; See **Exhibit DD**. The AIG also requested FitzGerald's driving history from the State of Illinois and received a response stating there was no record for Edward FitzGerald. See Illinois driver's license abstract inquiry response; See **Exhibit EE**. The AIG subsequently learned the State of Illinois purges driving history one (1) year after expiration which likely accounts for them not having a record of FitzGerald's license.

<sup>76</sup> See BMV abstract and record; See **Exhibit K**.

<sup>77</sup> See **Exhibits O and R**.

Reimbursement Voucher that the reimbursement was for parking in a County vehicle.<sup>78</sup> There is no such notation on the Employee Reimbursement Voucher for the June 15, 2011 expense.<sup>79</sup> As FitzGerald appeared to note on his Employee Reimbursement Vouchers when the expense was incurred in a County vehicle, it is likely the June 15, 2011 parking expense was incurred in his personal vehicle. Thus, at the very least FitzGerald falsely certified he held a valid driver's license when he submitted the June 15, 2011 Travel Expense Report and, if he was not driving his personal vehicle, he falsely certified he personally operated the vehicle in which the expense was incurred. More importantly it cannot be refuted FitzGerald did not have a valid driver's license for over twenty one (21) months of his tenure as County Executive and he therefore should not have operated any vehicle, on or in the course of business, between January 1, 2011 and November 14, 2012.

It appears FitzGerald also failed to follow the mandates of TP Section III (E)(1)(2) and (3) when he drove his personal vehicle and a County vehicle, on or in the course of County business, without a valid State of Ohio driver's license. As stated above, FitzGerald did not obtain his driver's license until November 15, 2012. Thus, anytime he operated his personal vehicle or a County vehicle, on or in the course of County business, between January 1, 2011 and November 14, 2012 he was in violation of the TP.

Finally, it appears FitzGerald violated the VUP when he operated a County vehicle without a valid driver's license and failed to report to the AIG, in writing, each time there was a change in his ability to drive. The AIG searched its case management system and found there is no record of FitzGerald reporting any change in his driving status. Similar to the HRPPM and the TP, anytime FitzGerald operated a County vehicle, on or in the course of County business, between January 1, 2011 and November 14, 2012 he was in violation of the VUP.

#### **CONCLUSION(S) & RECOMMENDATIONS**

In spite of multiple attempts to obtain the 2012 vehicle logs for the Executive's Office, the AIG was unable to do so for this investigation. AIG Staff subsequently learned the logs were improperly destroyed by Hairston. Consequently, AIG Staff was unable to compare the logs to FitzGerald's calendar to determine if there were instances where he may have driven a County vehicle to a County event or meeting. Contrary to what Makhoul stated about destroying the vehicle logs, Cetina, the Senior Records Management Administrator for the County, conclusively stated to AIG Staff no Departmental records should be destroyed without consulting Records Retention Schedules approved by the Ohio Historical Society. Cetina also specifically stated the former BOCC's Records Retention Schedule is not applicable to the County Executive's Office because the Executive's Office substantially differs from the former BOCC. Furthermore, even if the former BOCC's Records Retention Schedule did apply, it does not address vehicle use logs. Considering this information, it appears the Executive's Office's vehicle logs should not have been destroyed until an approved Records Retention Schedule policy addressing the logs had been approved by the Ohio Historical Society. Moreover, O.R.C. Section 149.351(A) prohibits the destruction or damage of records except as provided by law or under the rules adopted by the records commissions. This section of the O.R.C. also provides that any person aggrieved by the removal or destruction of a record may file a civil action to recover a forfeiture in the amount of one thousand dollars (\$1,000.00) for each violation, but not to exceed a cumulative total of ten thousand dollars (\$10,000.00) and to obtain an award of the reasonable attorney's fees incurred by the person in the civil action not to exceed the forfeiture

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<sup>78</sup> See Exhibit R.

<sup>79</sup> See Exhibit O.

amount recovered. The AIG therefore recommends a representative of the Executive's Office work with the County Archivist to create an approved Records Retention Schedule. Additionally, they must ensure any additional documents are destroyed in compliance with the Department's Records Retention Schedule once it is approved. Failure to act accordingly may subject the Executive's Office to becoming a defendant in a civil lawsuit pursuant to the Ohio Public Records Statute.<sup>80</sup>

The Immigration Reform and Control Act of 1986 requires employers to verify the identity and employment eligibility of all individuals hired in the United States after November 6, 1986 and designates the I-9 Form as the means of documenting this verification. When technical or procedural violations are found an employer is given ten (10) business days to make corrections. An employer may receive a monetary fine for all substantive and uncorrected technical violations. After identifying FitzGerald's incomplete I-9 Form, the AIG discovered HR is in the process of auditing all I-9s for current employees to ensure each employee has a properly completed I-9 Form in their file. The AIG recommends HR continue their review of current County Employees' I-9 Forms. It is critical HR takes all steps to make certain newly hired County Employees as well as current County Employees provide proper documentation and fully complete the I-9 Forms. The County must be compliant with the Immigration Reform and Control Act of 1986.

Many of the employees interviewed during this investigation were not familiar with the VUP. It appears the County VUP is not being effectively transmitted to all County Employees. Therefore, it is our recommendation the Executive's Staff work with the appropriate County Departments to redistribute the policy to all County Employees and ensure the policy is being reviewed and distributed to newly hired County Employees.

During our review, several issues were identified with the three (3) policies regulating the use of a vehicle in the course of County business. The VUP only addresses use of County vehicles, while the HRPPPM and TP address the use of County vehicles as well as the use of personal vehicles used in the course of County business. Because the language in the three (3) policies varies in content, it creates confusion when trying to identify the rules regarding the use of County vehicles in the course of County business. It is clear the VUP, TP and HRPPPM Section 16.03 need to be revised to accomplish uniformity in addressing vehicle use policies for County Employees. Although Boyle drafted an updated VUP, it is our recommendation the Executive's Office coordinate a review and amend the three (3) policies so they speak to each other to increase clarity and consistency with the overall policy application.

The VUP instructs individual County Departments to maintain a vehicle use log and to forward those logs to the Department of Risk Management monthly. It is evident neither the former DPW Risk Management nor current Risk Management ever complied with this part of the VUP. Since the DPW Risk Management is no longer in existence, it is our recommendation Risk Management begin collecting the Departmental vehicle use logs on a monthly basis as required by the VUP.

It should be noted that in the past, FitzGerald has disciplined County Employees for similar offenses involving lapses in their driver's licenses. Based on this alone, it would be disingenuous and an apparent double standard if no discipline is pursued in this instance. Moreover, FitzGerald's disregard of County policies regarding operating personal or County

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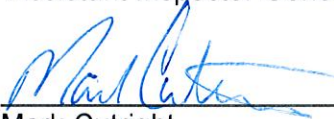
<sup>80</sup> See O.R.C. 149.351(A).

vehicles on or in the course of County business, without a valid driver's license, is a breach of the public trust that sends the wrong message to County employees and taxpayers. Normally, the AIG would refer this matter to the County Executive and HR Director for disciplinary actions commensurate with the offense. However, in this case, because the subject of this investigation is the County Executive, the AIG does not have an appointing authority it can refer this matter to for consideration of appropriate discipline. The AIG is not the entity responsible for imposing disciplinary action(s) on any County Employee or Public Official found to have violated a County Code or County Policy. That is the responsibility of the HR Director and County Executive.



Valissa Turner Howard  
Assistant Inspector General, Investigation and Compliance

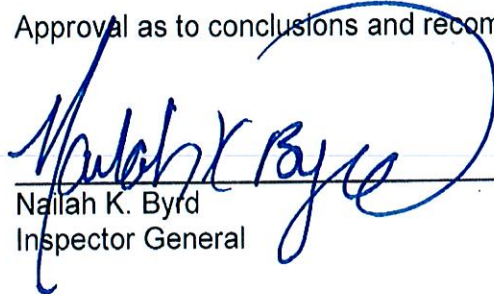
10/20/14  
Date



Mark Cutright  
Assistant Inspector General, Investigation

10/28/14  
Date

Approval as to conclusions and recommendations:



Nallah K. Byrd  
Inspector General

10/28/14  
Date