

David N. McClintock – Inspector General

Office of Inspector General  
640 City Hall

Synopsis of OIG Final Report #111412-110 (DOT)

Hon. President and Members of the City Council  
400 City Hall

03/26/2012

Attached please find the Office of the Inspector General's (OIG) Final Report of Investigation and Exhibits relating to the conduct of Department of Transportation (hereinafter "DOT") employees assigned to the Special Events Facility. Employees, with the tacit consent of the Division Chief, were found to have engaged in gambling, the consumption of alcohol and other conduct that reflected incompetent, inefficient, and/or negligence in the performance of their duties.

The OIG investigation began with information from a confidential source that was brought to DOT leadership, who immediately notified the OIG. The OIG's initial review and assessment reflected that some of the alleged conduct, the operation of City vehicles under the influence of alcohol, if true, endangered the public's safety. Unfortunately, much of the information provided was substantiated.

The most troubling aspect of this investigation was the openness of the misconduct within the Special Events Facility and the reprehensible conduct of some employees when they were contacted by OIG staff. Although conducting parallel investigations can be complex, often presenting conflicting priorities, the OIG believes the overall outcome represents the City's efforts to infuse enhanced accountability among our public servants.

The OIG appreciates the assistance provided by the DOT senior leadership and the written response to this report. The OIG remains committed to providing independent investigations and audits that provide for transparency of government, a solid foundation for meaningful policy review, and a platform for staff accountability.

Attachment

DNM/

cc: OIG Admin/Case file  
E:/mcclintock/public synopsis/IG 111412-110 mem-council

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## OFFICE OF THE INSPECTOR GENERAL BALTIMORE CITY

100 N. Holiday Street, Rm 640  
BALTIMORE, MD 21202



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### **Synopsis of the Office of Inspector General's Report #IG 111412-110** **DOT "Special Events Yard" Employee Misconduct "Gambling and Drinking"**

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#### **INTRODUCTION/SUMMARY**

On 03/24/2011, Department of Transportation Director Khalil Zaied, notified the Office of Inspector General (hereinafter "OIG") that a concerned individual (hereinafter "the whistleblower") had provided information regarding possible misconduct by employees at the DOT facility located at 3200 Madison Street, which is commonly referred to as the "Special Events Yard."

The whistleblower was directed to the OIG to provide further information concerning possible employee misconduct. In summary, the whistleblower reported that several DOT employees at the Special Events Yard were gambling (dice games) and consuming alcohol during work hours at the yard.<sup>1</sup> It was also noted that on occasion the employees had operated City vehicles after consuming alcohol.

The information developed indicated that after cashing their checks on paydays employees openly consumed alcohol and played dice games in the break room and on City time. The whistleblower indicated that he was concerned about employees consuming alcohol on the job while operating City vehicles and that the dice games sometimes became very contentious and could result in violent behavior. The whistleblower advised that employees engaged in these gambling and drinking activities in a break room that is located in the building in the rear of the yard.

Based on the whistleblower's information, the OIG initiated an investigation and planned to respond to the Special Events Yard on Friday, 03/25/2011, to further assess the conduct and ensure that the public was not endangered by City workers operating vehicles while under the influence of alcohol.

The investigation eventually addressed 24 individual employees in one capacity or another. Based on our standing policy the OIG does not release the names of employees who are not criminally charged; however, it may be useful to the reader to be able to follow the actions of certain employees throughout the event and the ensuing internal processes. As such, each of the 24 employees is referred to by an assigned number, (#1 through #24) to aide in following specific employees roles and eventual outcomes. The only employee identified by name is Mr. Flowers, who was charged and convicted of criminal violations. Lastly, an aerial photo is provided following this report that may help the reader in following the certain facility specific sections of the report. See Attachment "A".

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<sup>1</sup> DOT's Special Events is responsible for setting up and taking down equipment/supplies for Baltimore City events.

**Department of Transportation (hereinafter “DOT”) Special Events Employees**

***Employees Identified in the Break Room***

| <b>1. Name Redacted</b>    | <b>Employment Status: Terminated</b>  |
|----------------------------|---|
| DOH: XX/XX/2005            | Position: Motor Vehicle Driver II   |
| Civil Service Hearing:     | 01/2012   |
| Civil Service Results:     | Termination Upheld  |
| Administrative Violations: | Workplace Violence – AM 227-1, City of Baltimore Substance Abuse Control Policy, CSC/DHR Rule 56, Section (1), Section (2), Subsection (I), (H), (I), CSC/DHR Rule 40, Part L |
| Criminal Charges:          | Gambling  |
| Crim. Disposition:         | Nolle Prosequi (Charges not pursued)  |

| <b>2. Name Redacted</b>    | <b>Employment Status: Terminated</b>  |
|----------------------------|---|
| DOH: XX/XX/2009            | Position: Seasonal Maintenance Aid  |
| Civil Service Hearing:     | N/A – Seasonal Employees are not part of Civil Service  |
| Civil Service Results:     | N/A   |
| Administrative Violations: | Administrative Violations: City of Baltimore Substance Abuse Control Policy, CSC/DHR Rule 56, Section (1), Section (2), Subsection (I), (H), (I), CSC/DHR Rule 40, Part L |
| Criminal Charges:          | Gambling  |
| Crim. Disposition:         | Nolle Prosequi (Charges not pursued)  |

| <b>3. Name Redacted</b>    | <b>Employment Status: Resigned</b>   |
|----------------------------|--|
| DOH: XX/XX/2003            | Position: Laborer  |
| Civil Service Hearing:     | 01/2012  |
| Civil Service Results:     | Suspension Upheld <sup>2</sup>   |
| Administrative Violations: | City of Baltimore Substance Abuse Control Policy, CSC/DHR Rule 56, Section (1), Section (2), Subsection (I), (H), (I), CSC/DHR Rule 40, Part L |
| Criminal Charges:          | Gambling   |
| Crim. Disposition:         | Nolle Prosequi (Charges not pursued)   |

<sup>2</sup> The CSC Examiner ruled that employee #3 “failed to preserve his right to an investigation (of his suspension) in a timely fashion” (which is within 5 days of suspension) and therefore he recommended the Commission act upon his suspension and approve it. The CSC upheld the suspension.

| <b>4. <u>Name Redacted</u></b> |   | <b>Employment Status: Active<sup>3</sup></b> |
|--------------------------------|---|--|
| DOH: XX/XX/2008                | Position: Laborer   |  |
| Civil Service Hearing:         | N/A – Reinstated by the DOT   |  |
| Civil Service Results:         | N/A   |  |
| Administrative Violations:     | Administrative Violations: City of Baltimore Substance Abuse Control Policy, CSC/DHR Rule 56, Section (1), Section (2), Subsection (I), (H), (I), CSC/DHR Rule 40, Part L |  |
| Criminal Charges:              | Gambling  |  |
| Crim. Disposition:             | Nolle Prosequi (Charges not pursued)  |  |

| <b>5. <u>Michael Flowers</u></b> |  | <b>Employment Status: Terminated</b> |
|----------------------------------|--|--------------------------------------|
| DOH: XX/XX/1990                  | Position: Motor Vehicle Driver I   |                                      |
| Civil Service Hearing:           | 01/2012  |                                      |
| Civil Service Results:           | Termination Ruling Pending <sup>4</sup>  |                                      |
| Administrative Violations:       | Administrative Violations: Workplace Violence – AM 227-1, City of Baltimore Substance Abuse Control Policy, CSC/DHR Rule 56, Section (1), Section (2), Subsection (I), (H), (I), CSC/DHR Rule 40, Part L |                                      |
| Criminal Charges:                | Gambling, Second Degree Assault  |                                      |
| Crim. Disposition:               | Guilty   |                                      |

| <b>6. <u>Name Redacted</u></b> |   | <b>Employment Status: Terminated</b> |
|--------------------------------|---|--------------------------------------|
| DOH: XX/XX/2010                | Position: Seasonal Maintenance Aid  |                                      |
| Civil Service Hearing:         | N/A – Seasonal Employees are not part of Civil Service  |                                      |
| Civil Service Results:         | N/A   |                                      |
| Administrative Violations:     | Administrative Violations: City of Baltimore Substance Abuse Control Policy, CSC/DHR Rule 56, Section (1), Section (2), Subsection (I), (H), (I), CSC/DHR Rule 40, Part L |                                      |
| Criminal Charges:              | Gambling  |                                      |
| Crim. Disposition:             | Nolle Prosequi (Charges not pursued)  |                                      |

<sup>3</sup> DOT reinstated Employee #4's employment after previously unknown and undocumented information was learned from the BPD that conflicted with the OIG's information, calling into question the location of the individual at the time he was detained.

<sup>4</sup> The City has not received the CSC's final ruling regarding Mr. Flowers's termination. The CSC has a 03/30/2012 deadline to issue its ruling on the Mr. Flower's termination.

**7. Name Redacted Employment Status: Terminated**

DOH: XX/XX/2009 Position: Seasonal Maintenance Aid  
Civil Service Hearing: N/A – Seasonal Employees are not part of Civil Service  
Civil Service Results: N/A  
Administrative Violations: Administrative Violations: City of Baltimore Substance Abuse Control Policy, CSC/DHR Rule 56, Section (1), Section (2), Subsection (I), (H), (I), CSC/DHR Rule 40, Part L  
Criminal Charges: Gambling  
Crim. Disposition: Nolle Prosequi (Charges not pursued)

**8. Name Redacted Employment Status: Terminated**

DOH: XX/XX/2010 Position: Seasonal Maintenance Aid  
Civil Service Hearing: N/A – Seasonal Employees are not part of Civil Service  
Civil Service Results: N/A  
Administrative Violations: Administrative Violations: City of Baltimore Substance Abuse Control Policy, CSC/DHR Rule 56, Section (1), Section (2), Subsection (I), (H), (I), CSC/DHR Rule 40, Part L  
Criminal Charges: Gambling  
Crim. Disposition: Nolle Prosequi (Charges not pursued)

**9. Name Redacted Employment Status: Active**

DOH: XX/XX/2004 Position: Laborer  
Civil Service Hearing: 10/2011  
Civil Service Results: Civil Service Hearing Ruling: Reinstated after a 4 month suspension from 03/25/2011 through 07/13/2011  
Administrative Violations: City of Baltimore Substance Abuse Control Policy, CSC/DHR Rule 56, Section (1), Section (2), Subsection (I), (H), (I), CSC/DHR Rule 40, Part L  
Criminal Charges: Gambling  
Crim. Disposition: Nolle Prosequi (Charges not pursued)

**10. Name Redacted Employment Status: Active**

DOH: XX/XX/2004 Position: Laborer  
Civil Service Hearing: 10/2011  
Civil Service Results: Reinstated after a 4 month suspension - 03/28/2011 through 07/13/2011.  
Administrative Violations: City of Baltimore Substance Abuse Control Policy, CSC/DHR Rule 56, Section (1), Section (2), Subsection (I), (H), (I), CSC/DHR Rule 40, Part L  
Criminal Charges: Gambling  
Crim. Disposition: Nolle Prosequi (Charges not pursued)

| <b>11. Name Redacted</b>   | <b>Employment Status: Terminated</b>   |
|----------------------------|--|
| DOH: XX/XX/2009            | Position: Seasonal Maintenance Aid   |
| Civil Service Hearing:     | N/A – Seasonal Employees are not part of Civil Service   |
| Civil Service Results:     | N/A  |
| Administrative Violations: | City of Baltimore Substance Abuse Control Policy, CSC/DHR Rule 56, Section (1), Section (2), Subsection (I), (H), (I), CSC/DHR Rule 40, Part L |
| Criminal Charges:          | Gambling   |
| Crim. Disposition:         | Nolle Prosequi (Charges not pursued)   |

| <b>12. Name Redacted</b>   | <b>Employment Status: Terminated</b>   |
|----------------------------|--|
| DOH: XX/XX/2010            | Position: Motor Vehicle Driver I (Probationary)  |
| Civil Service Hearing:     | N/A – Seasonal Employees are not part of Civil Service   |
| Civil Service Results:     | N/A  |
| Administrative Violations: | City of Baltimore Substance Abuse Control Policy, CSC/DHR Rule 56, Section (1), Section (2), Subsection (I), (H), (I), CSC/DHR Rule 40, Part L |
| Criminal Charges:          | Gambling   |
| Crim. Disposition:         | Nolle Prosequi (Charges not pursued)   |

| <b>13. Name Redacted</b>   | <b>Employment Status: Active</b>  |
|----------------------------|---|
| DOH: XX/XX/2008            | Position: Laborer   |
| Civil Service Hearing:     | 10/2011   |
| Civil Service Results:     | 30-Day Suspension Upheld, 12.5 suspended days revoked. <sup>5</sup>   |
| Administrative Violations: | Administrative Violations: City of Baltimore Substance Abuse Control Policy, CSC/DHR Rule 56, Section (1), Section (2), Subsection (I), (H), (I), CSC/DHR Rule 40, Part L |
| Criminal Charges:          | N/A – (Taken into custody by the BPD; however, no charges were filed)   |
| Crim. Disposition:         | N/A   |

***Employees Identified in Administration Building***

| <b>14. Name Redacted</b>   | <b>Employment Status: Terminated</b>   |
|----------------------------|--|
| DOH: XX/XX/1975            | Position: Division Chief   |
| Civil Service Hearing:     | N/A – Appointed employee - not eligible for Civil Service  |
| Civil Service Results:     | N/A  |
| Administrative Violations: | City of Baltimore Substance Abuse Control Policy, CSC/DHR Rule 56, Section (1), Section (2), Subsection (I), (H), (I), CSC/DHR Rule 40, Part L |
| Criminal Charges:          | N/A (Taken into custody by the BPD; however, no charges were filed)  |
| Crim. Disposition:         | N/A  |

<sup>5</sup> Employee #13 was originally suspended for 42 days. The Civil Service Commission ruled that the 12.5 days over the 30-day suspension period violated Civil Service Rules. City was ordered to pay 12.5 days back pay.

*Employees Identified in the Yard*

|  |  |
|--|--|
| <b>15. <u>Name Redacted</u></b>                  | <b>Employment Status: Active</b>   |
| DOH: XX/XX/1974<br>Administrative<br>Violations: | Position: Laborer<br>N/A – Was administered drug/alcohol testing at Mercy Hospital under the direction of Baltimore City Substance Abuse Control Officers. Results: Negative                               |
| <b>16. <u>Name Redacted</u></b>                  | <b>Employment Status: Terminated</b>   |
| DOH: XX/XX/2009<br>Administrative<br>Violations: | Position: Seasonal Maintenance Aid<br>N/A – Was administered drug/alcohol testing at Mercy Hospital under the direction of Baltimore City Substance Abuse Control Officers. Results: Positive              |
| <b>17. <u>Name Redacted</u></b>                  | <b>Employment Status: Terminated<sup>6</sup></b>   |
| DOH: XX/XX/2009<br>Administrative<br>Violations: | Position: Seasonal Maintenance Aid<br>N/A – Was administered drug/alcohol testing at Mercy Hospital under the direction of Baltimore City Substance Abuse Control Officers. Results: Negative              |
| <b>18. <u>Name Redacted</u></b>                  | <b>Employment Status: Active</b>   |
| DOH: XX/XX/2010<br>Administrative<br>Violations: | Position: Seasonal Maintenance Aid<br>N/A – Was administered drug/alcohol testing at Mercy Hospital under the direction of Baltimore City Substance Abuse Control Officers. Results: Negative              |
| <b>19. <u>Name Redacted</u></b>                  | <b>Employment Status: Active</b>   |
| DOH: XX/XX/1998<br>Administrative<br>Violations: | Position: Laborer Crew Leader I<br>N/A – Was administered drug/alcohol testing at Mercy Hospital under the direction of Baltimore City Substance Abuse Control Officers. Results: Negative                 |
| <b>20. <u>Name Redacted</u></b>                  | <b>Employment Status: Terminated</b>   |
| DOH: XX/XX/2010<br>Administrative<br>Violations: | Position: Motor Vehicle Driver I (Probationary)<br>N/A – Was administered drug/alcohol testing at Mercy Hospital under the direction of Baltimore City Substance Abuse Control Officers. Results: Negative |
| <b>21. <u>Name Redacted</u></b>                  | <b>Employment Status: Terminated</b>   |
| DOH: XX/XX/2010<br>Administrative<br>Violations: | Position: Laborer (Probationary)<br>N/A – Was administered drug/alcohol testing at Mercy Hospital under the direction of Baltimore City Substance Abuse Control Officers. Results: Negative                |

<sup>6</sup> Mr. Coates's effective date of termination was 04/26/2011.



| <b>22. Name Redacted</b>                         | <b>Employment Status: Active</b>   |
|--|--|
| DOH: XX/XX/1993<br>Administrative<br>Violations: | Position: Laborer<br>N/A – Was administered drug/alcohol testing at Mercy Hospital under the direction of Baltimore City Substance Abuse Control Officers. Results: Negative |

| <b>23. Name Redacted</b>                      | <b>Employment Status: Terminated<sup>7</sup></b>  |
|---|---|
| DOH: XX/XX/2010<br>Administrative Violations: | Position: Seasonal Maintenance Aid<br>N/A – Was administered drug/alcohol testing at Mercy Hospital under the direction of Baltimore City Substance Abuse Control Officers. Results: Negative |

| <b>24. Name Redacted</b>                      | <b>Employment Status: Active</b>  |
|---|---|
| DOH: XX/XX/1978<br>Administrative Violations: | Position: Highway Maintenance Sup.<br>N/A – Was administered drug/alcohol testing at Mercy Hospital under the direction of Baltimore City Substance Abuse Control Officers. Results: Negative |

OIG Yard Observation and Review

On 03/25/2011, between 12:30 pm and 1:45 pm, OIG agents set up surveillance of the yard to identify any activity that would support or substantiate the whistleblower’s report. OIG Agents observed numerous employees walk in and out of the front office (where the whistleblower indicated that the Division Chief’s office was located), as well as back and forth from the rear area of the yard where the carpentry shop and break room are located. Further, a rotating group of 5 or 6 employees were observed to be moving in and out of the cab area of one of the parked heavy-duty crew cab vehicles where they would remain for various periods of up to one hour. Generally, employees were seen milling about the area eating, drinking, talking, and playing trashcan basketball on occasion. During the period of observation, one City vehicle entered the yard and parked, constituting the only work activity witnessed. It should also be noted that no City vehicles left the facility during that time.

At approximately 1:45 pm, OIG Agents entered the yard with the intention of identifying the employees and assessing their conduct. At this time the employees were located in three main areas generally identified as those in the Administrative Building where Division Chief’s office was located; those outdoors (generally located near the parked DOT vehicles and the storage shed); and those employees located in, or immediately outside of, the second building housing the employee break room and carpentry shop.

OIG agents identified themselves as they walked through the yard and into the front office and the break room. Observations from each of these areas are as follows:

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<sup>7</sup> This employee was terminated on 11/16/2011 for reasons unrelated to events on 03/25/2011.

### Break Room

An OIG Agent first entered the “foyer” of the building housing the break room.<sup>8</sup> While in the entry room outside the break room, the Agent heard a male voice say, “one, two, three” (spoken in Spanish) and the din of other loud voices in the room. When the Agent opened the break room door what was later determined to have been 13 employees were observed engaged in a dice game. The employees were in a semi-circle - some employees were kneeling around a pile of cash while others were standing/crouching over the employees on their knees. Some were observed holding cash in their hands. One employee (later identified as Mr. Michael Flowers) was in the process of throwing the dice. The Agent also observed containers of alcohol (wine, champagne, and beer) in the break room.

As the Agent stood in the doorway, and identified herself as an Agent with the OIG, she instructed the employees in the break room to step away from the pile of cash, sit down on the two couches and the cot in the room, and place whatever was in their hands at their feet. Initially, many of the employees attempted to grab cash from the pile on the floor. The Agent once again instructed the employees to sit down on the couches and cot. The Agent then moved toward the pile of cash, consolidated it with her feet, and placed a nearby bottle of champagne on top of the cash pile. While the Agent was moving toward the pile of cash, she observed Mr. Flowers, who was wearing an oversized orange one-piece jumpsuit, fidgeting and reaching around his legs and boots.

At that point, Agent became uneasy about Mr. Flower’s failure to follow her direction to remain still. The Agent then repositioned herself against the door and physically placed her hand on the door knob. Mr. Flowers continued to reach around his pants legs despite continued instructions to remain still and place his hands where she could see them.

Mr. Flowers then purposefully charged towards the Agent, wrapped his hands around her midsection, and attempted to physically force her out of the way of the door in an apparent effort to exit the break room. Another employee, later identified as Employee #1 above, along with an unidentified employee then pushed up against Mr. Flowers in a manner that increased the momentum and force being applied towards the Agent. At that point, the Inspector General entered the foyer with the Division Chief in tow and finding a chaotic scene called out the Agents name. The Agent responded identifying her location and advising that two individuals were assaulting her.

Finally, due to the force applied by Mr. Flowers and Employee #1, the break room door lock broke and the door gave way, splitting the wood door and jamb in the process. As Mr. Flowers was crossing the threshold, still forcefully pushing Agent Assad backwards through the now broken break room door, the Inspector General told the Division Chief to “Get control of your people!” and took hold of Mr. Flowers’ shoulder area to prevent further contact with the Agent who it had sustained injuries to her neck and shoulder as a result.

While these employees attempted to force their way through the only exit door from the break

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<sup>8</sup> The OIG Agent observed approximately 3 African American males who were sitting and eating by the barbeque located directly outside the building housing the break room.

room, 3 employees fled, later identified as Employee's #9, #10, and #12, by climbing up through an opening in the drop-style ceiling where several acoustical tiles were missing, allowing the employees to gain access to an area between the rooms ceiling and the building roof.

At this time Employees #9 and #10, who fled through the ceiling, managed to exit the building behind the Inspector General, who had just entered, but were observed fleeing from the entryway door. They were stopped and sent back to the facility within seconds by the OIG Agent containing the staff in the facilities yard.

As the Agent in the break room continued to manage the conduct and employees in that room, the Baltimore Police Department (hereinafter "BPD") were notified by Inspector General, via the 911 system, and were requested to respond for assistance based on the apparent criminal conduct that was observed. The BPD arrived shortly thereafter to assist the OIG in securing the scene and addressing the criminal conduct observed.

During the course of the investigation Employee #12 (who was one of the three employees who climbed through the ceiling tiles) was located hiding in a small closet where he had apparently fallen through the ceiling in his attempt to flee. This closet was not able to be accessed through its lone door due to a table that had been positioned in front of it. Two others, Employees #1 and #13, were located in the adjacent carpentry shop where they had secured the only door. All three employees had remained silent during the initial assessment and processing being conducted by BPD and remained undiscovered for over an hour.

The two employees in the carpentry shop had bolted the door from the inside and failed to acknowledge repeated efforts to force open the door from the outside, including loud verbal requests for a crowbar. The employees were eventually observed by a BPD Officer who had climbed onto an interior roof and was able to look over an interior wall separating the carpentry shop from the break room area. At the officer's first request to unlock the door, the two employees refused. However, after being presented with a pepper spray canister, they relented and opened the door.

The Agent who initially entered the break room identified all 13 employees she observed in the break room to the BPD. Notably, the Agent also identified Employees #1 and #13, who were found in the adjacent carpentry room as participants in the break room dice game. Specifically, the Agent identified Employee #1 as one of the two employees who assaulted her and Employee #13 as one of the two Caucasian males whom she observed in the break room participating in the dice game.

#### Administration Building

The Inspector General entered the main Administrative Building and directly into the Division Chief's Office. The Division Chief, Employee #14, was present and was standing in his office doorway as he was approached. The Inspector General immediately observed an empty BUD ICE can in the wastebasket next to the Division Chief's desk. Following up on the information previously received, the Division Chief was asked if we could look into the full-size refrigerator

located adjacent to his desk, to which he indicated, "Sure." One of the few items inside was a 12-pack container of BUD ICE. Upon the IG stating, "A 12-pack of BUD ICE?," the Division Chief volunteered, "Yeah! There's only three left."

The Division Chief was then asked to accompany the Inspector General to the back of the facility where it and Agent was simultaneously making contact with staff in the break room. See section entitled Break Room above. After securing the break room and returning to the Administration Building, the following was documented in the Administration Building:

1. 12-pack of BUD ICE with three beers remaining in the refrigerator in the Division Chief's office.
2. 1 discarded BUD ICE beer can on the top of the wastebasket located next to the Division Chief's desk.
3. A bottle of Grey Goose vodka along with a 2 liter bottle of Schweppes Ginger-Ale sitting openly on the stove in the lunch room located approximately 10 feet from the Division Chief's office.
4. An empty BUD ICE beer can on the table located in the same lunch room noted in #3 above.

#### Employees Contacted Outdoors

While the Inspector General made contact with staff in the Administration Building and the first OIG Agent made contact with staff in the break room a second OIG Agent was tasked with securing 10 other employees (identified as #15 through #24 above) in the yard.<sup>9</sup> These employees were not observed consuming alcoholic beverages, possessing empty alcoholic beverages, or engaging in gambling activities. Baltimore Substance Abuse Control Officers (hereinafter "SAC Officers") arrived on the scene and escorted the 10 employees found in the yard to Mercy Hospital to undergo alcohol and drug testing.

Subsequently, the OIG interviewed these employees, with the exception of Employee #15 regarding their observations of potential criminal and improper activity that had occurred at the yard on or prior to 03/25/2011. In summary, the majority of the employees claimed to have no knowledge of the gambling or alcohol consumption that occurred at the yard. While some employees interviewed acknowledged they were aware that employees engaged in gambling and drinking in the break room, specific they e but did not disclose specific employees' names. Lastly, a couple of employees did raise questions regarding other potential criminal and improper activities that were not able to be substantiated.

#### Summary of Criminal Activity and Administrative Violations Observed

##### *Criminal Component*

Based on the conduct and evidence observed upon entry into the facility on 03/25/2011, it became apparent that the potential criminal conduct merited the matter being handled predominately as a police matter; as a result, the OIG did not engage in the interviewing of staff involved at the scene,

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<sup>9</sup> Employee #24 was not present when OIG Agents entered the yard but arrived approximately an hour later

the gathering of evidence, or the completion of any associated documentation beyond providing requested information.

OIG Agents and the BPD personnel discovered the following items that indicated criminal activity and/or misconduct in the break room:<sup>10</sup>

1. Five dice on the floor.
2. A pile of money on the floor; a total of \$6339 was seized.<sup>11</sup>
3. The pile of money was circled around a bottle of champagne (Remy).
4. A bottle of low fortified wine (Wild Irish Rose).
5. A video playing on TV.

Additionally, the BPD recovered a loaded .22 caliber handgun magazine from one of the two prisoner transport vans. The BPD's Check/Fraud and Vice units handled the crime scene and collected the magazine into evidence (ECU #11014502). The BPD was unable to locate any corresponding handgun or link the handgun magazine to any of the employees who worked at the Special Events Yard.

The BPD arrested a total of 14 DOT employees (Employees #1 through #14) and transported them to the BPD's Eastern District station for processing and investigation (Complaint 113C12133). The BPD charged 12 individuals (Employees #1 through #12). The employees listed as #13 and #14 were not charged. The BPD prepared and filed the Statement of Charges for the gambling activities and the assault on the Agent. Agents provided the BPD Vice Unit with their observations of the activities and events that transpired at the Special Events Yard on 03/25/2011.

There were some discrepancies between BPD's Statement of Charges and the OIG's Investigative Memos issued on 04/01/2011 and 04/21/2011. The BPD's Statement of Charges reflected some inaccurate information, such as inverting the role and placement of an Agent and the Inspector General. Of the individuals charged, only Michael Flowers (Employee #5) was convicted criminally for assault and gambling. The remaining individuals who were charged were not prosecuted.

#### *Administrative Component*

Recognizing that the matter was of both criminal and administrative import, the OIG prepared memorandums (dated 04/01/2011 & 04/21/2011) to the DOT outlining our observations and providing a synopsis of the events and current status of other relevant actions to provide the DOT

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<sup>10</sup> These items were observed by the OIG and BPD on Friday, 03/25/2011, and an OIG follow-up inspection of the yard on 03/28/2011.

<sup>11</sup> This amount includes all the cash found in the break room and in the arrested employees' possession.

with sufficient information upon which to initiate administrative measures, if desired.

Initially, the 24 employees who were identified on site while the gambling and alcohol consumption occurred were initially suspended without pay. The suspended employees and the list cited above does not include four employees who were assigned to the yard but were off work the afternoon of 03/25/2011. After the initial reporting and interviews with the staff that were not placed under arrest, the DOT elected to lift some of the employees' suspensions based upon their involvement and conduct with respect to the investigation.<sup>12</sup>

Over the months following the event, criminal charges were addressed and the administrative investigation proceeded; the DOT took significant administrative actions. In summation, they included 14 personnel actions as follows: 11 terminations (including 7 seasonal positions, 1 non-union manager, and 3 full time employees) and 3 significant suspensions. There was also 1 resignation received from a full time employee.

### **FINDINGS, VIOLATIONS AND RECOMMENDATIONS**

After reviewing the activity observed at the Special Events yard on 03/25/2011, various documentation, considering applicable policy and interviewing key staff during the course of this investigation, the OIG has made a series of findings concerning the administrative component of this investigation. The OIG has identified several violations of Civil Service Commission/Department of Human Resources rules ("CSC/DHR") and Baltimore City Administrative Manual Policy ("AM") that merit consideration.

#### **Findings**

1. Workplace Violence - The OIG filed a workplace violence report on 03/30/2011 which identified Mr. Michael Flowers (Employee #5) and Employee #1 as assaulting the OIG initially entering the break room.<sup>13</sup> The report reflects that after the Agent had entered the break room and instructed the 13 employees to remain still and be seated, she was charged by Mr. Flowers as she was securing the break room door. Further, that Employee #1 then added his efforts to those of Mr. Flowers.
  - a. Mr. Flowers was reported to smell of alcohol by both OIG Agents and BPD Detectives.
  - b. Mr. Flowers was convicted of gaming and second degree assault on 12/08/2011 and sentenced to a 7-year suspended sentence and 5 years of supervised probation.
2. Gambling - The OIG's observations; the evidence collected, the criminal conviction of Mr. Flowers; and the findings of the Civil Service Hearing indicate that gambling activity was occurring in the break room of the DOT Special Events facility on 03/25/2011.

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<sup>12</sup> This included employee's #15, #17, #18, #19, #22, #23, and #24. The remaining employees were suspended for various periods of time while DOT determined their employment status and decided to reinstate employees on a case-by-case basis.

<sup>13</sup> The State's Attorney's Office charged Mr. Flowers with second degree assault but did not charge employee #1. Mr. Flowers pleaded guilty to second degree assault (Code 1-1415).

3. The employees listed above as #1 through #13 were identified by the OIG as being present in the break room while gambling was occurring.
  - a. Employee #10, Employee #9 and Employee #12 were observed climbing up into the drop ceiling in an apparent effort to elude detection. Employee's #9 and #10 were stopped within seconds of exiting the break room foyer. Employee #12 was found in the break room closet that was blocked from outside entry by a table. It is believed he fell into the closet from on top of the drop ceiling.
  - b. Previously unknown and undocumented information from the BPD conflicts with the OIG's report concerning Employee #4.
4. The OIG discovered and the BPD recovered from the break room:
  - a. A total of \$6,339 from the floor and the employees in the break room.
  - b. Five (5) dice.
5. The OIG observed and documented the following from the break room:
  - a. A bottle of Remy champagne and a bottle of Wild Irish Rose (fortified wine).
  - b. A video playing on the television.
6. The BPD discovered and the OIG observed the removal of Employee #1 and Employee #13 from the adjacent woodshop where they had remained silent and hidden for nearly two hours as the BPD and OIG processed the scene just a few feet away. It is believed the two managed to enter the shop from the foyer during the initial confusion where they then secured the door from the inside.
7. The OIG located Employees #15 through #24 outside of the break room and requested the presence of SAC Officers to monitor drug and alcohol testing based observations of alcohol use.
8. The OIG made the following observations from within Division Chief's office in the Administration Building:
  - a. The Division Chief, Employee #14, was present in his office.
  - b. Located in a lockable, but unlocked, refrigerator was a 12-pack of Bud Ice with 3 remaining cans.
  - c. 1 empty Bud Ice can was observed in the wastebasket immediately adjacent to the Division Chief's desk.
9. The OIG made the following observations from within the common spaces of the Administration Building:
  - a. 1 partially full bottle of Grey Goose vodka along with a 2 liter bottle of Schweppes Ginger Ale sitting openly on the stove of the lunch room. This area is approximately 10 feet from the Division Chief's Office.
  - b. 1 empty Bud Ice can on the table of the same lunch room noted immediately above.

## Violations

### **Workplace Violence Policy – AM 227-1**

*“Consistent with this policy, acts or threats of damage to property or physical violence, including intimidation, harassment, and/or coercion, which involve or affect Baltimore City Government, its officials, employees, agents, and volunteers, will not be tolerated. At the same time it should be clearly stated that retaliation of any kind against an employee who reports an incident of workplace violence is strictly prohibited.”*

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AM 227-1 strictly prohibits any “acts or threats of damage to property or physical violence” involving City officials, employees, agents, and volunteers. Mr. Flowers’ physical assault on the OIG Agent (which included physically forcefully attempting to move her away from the door) and Employee #1’s assistance to Mr. Flowers, which included providing additional force behind Mr. Flowers that was applied to the Agent, constituted Workplace Violence and was a violation of the City’s policy.

### **City of Baltimore Substance Abuse Control Policy**

*“The City of Baltimore also has a legitimate interest in assuring the public that none of the City’s employees are under the influence of drugs or alcohol while on duty, or on call for duty, where applicable, and that they are fully capable of performing their duties.”*

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This policy clearly outlines the City’s prohibition against City employees being under the influence of drugs or alcohol while at work or on call. Employee #1’s intoxication violated this policy. Employee #1 acknowledged being intoxicated on the 03/25/2012 during his 01/13/2012 Civil Service Commission hearing. Although Employee #1 was not administered drug testing by SAC Officers, the policy states the following: “While substance abuse testing is not always required to establish that an employee is abusing drugs or alcohol, it is especially important when there is a disagreement between the employee and the supervisor about the employee’s actions.” Employee #1 admitted to consuming alcohol while on the job the day of 03/25/2011.

Mr. Flowers, the Division Chief, and the remaining 11 employees found in the break room violated this policy as well. Signs of Mr. Flowers’ intoxication (e.g. his breath, slurred speech) were observed by the OIG Agents and BPD officers. Additionally, the Division Chief’s office refrigerator contained alcoholic beverages, and there were alcoholic beverages that were found on the floor and table near the employees in the break room. The policy states that a supervisor can determine an alcohol or drug abuse with “reasonable suspicion” of alcohol consumption, which includes “mental confusion, slurred speech, and the smell of alcohol or marijuana” (in Mr. Flowers’ case) or “through physical evidence” (in the case of the Division Chief and the remaining 11 employees).



**CSC/DHR Rule 56, Section (1)**

*Discharge, demotion, or suspension of an employee in the Civil Service shall be for any just cause. Discharge shall be only for (a) unsatisfactory conduct which cannot be corrected through training, rehabilitation, or lesser forms of disciplinary action; (b) conduct which causes irreparable harm to the health or safety to any person; or (c) conduct which causes an irreparable breach of trust.*

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The 13 employees identified in the break room and the Division Chief violated this policy. These employees exhibited unsatisfactory conduct which caused an irreparable breach of trust by being involved in a gambling game and alcohol consumption. Furthermore, Mr. Flowers and Employee #1 caused irreparable harm to the health and safety of an OIG Agent when they assaulted her. Lastly, the employees who were consuming alcohol (it is not clear which employees did) also put other employees' and the public's health and safety at risk in the event they operated City vehicles/equipment after consuming alcoholic beverages.

**CSC/DHR Rule 56, Section (2), Subsection (c)**

*“That the employee has been wantonly offensive in conduct toward clients, customers, other City employees, representatives of other governments, or the public.”*

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Mr. Flowers' and Employee #1's assault on an OIG Agent was a wantonly offensive act toward a City employee. Furthermore, Employee #13 and Employee #1's attempt to hide from the OIG and BPD and their refusal to open the carpentry shop door, after BPD instructing them to open it, was a wantonly offensive act toward BPD officers.

**CSC/DHR Rule 56, Section (2), Subsection (h):**

*“That the employee has committed acts while on or off duty which amount to conduct unbecoming to an employee of the City.”*

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The 13 employees identified in the break room and the Division Chief violated this policy. The reasonable suspicion that several, if not all, of the 13 employees had consumed alcohol and engaged in gambling while on the job is conduct that is unbecoming a City employee. These employees also potentially endangered the public at large and other City employees by being under the influence of alcohol and potentially operating City vehicles and/or moving/transporting large equipment/items (as the Special Events yard employees generally do). Additionally, the Division Chief's lack of supervision and/or allowing for gambling and alcohol consumption to occur at the yard is conduct unbecoming of a City employee as well.

**CSC/DHR Rule 56, Section (2), Subsection (I):**

*“That the employee has engaged in fraud, theft, misrepresentation of work performance, misappropriation of funds, unauthorized use of City property, obstruction of an official investigation, or any other act of dishonesty.”*

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Some of 13 employees identified in the break room violated this policy (it is not clear which employees were consuming alcohol and/or gambling). These employees engaged in unauthorized use of the break room to consume alcoholic beverages and engage in gambling activities. Furthermore, these employees misrepresented their work performance in that they engaged in these activities while representing they were carrying out their job duties for the City.

**CSC/DHR Rule 40, Part L:**

*“Employees shall conduct themselves at all times in a manner becoming a City employee and shall not bring scandal, expense, or annoyance upon the City through crime, conflict of interest, failure to pay, or other improper or notorious behavior.”*

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The 13 employees identified in the break room and the Division Chief violated this policy. The employees who were in the break room associated and/or involved with the alcohol consumption and gambling activities brought scandal to the City with their “improper” behavior. The Division Chief’s failure to properly supervise these employees also brought scandal to the City.

**RECOMMENDATIONS**

*The OIG recommends that DOT Division Chiefs conduct more frequent and unannounced visits to facilities within their area of operations specifically to evaluate the operating efficiency, employee conduct, and compliance with City and DOT policy and procedure.*

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Since the OIG’s inspection of the 3200 Madison St. Special Events Yard, DOT Director Khalil Zaied has visited several DOT locations to provide more presence and oversight following the OIG’s discoveries. The OIG recommends that DOT’s Division Chiefs and other appropriate level management be specifically tasked with conducting site visits and evaluations quarterly of facilities under their area of operations. Purposeful evaluations, especially those that are not announced, provide a significant tool for senior management in determining leadership and accountability gaps within any largely dispersed organization. By providing consistency in field oversight and monitoring, the DOT will be able to more quickly recognize and address systemic conduct and policy deficiencies.

**Attachment "A"**

**BREAK ROOM**



**ADMINISTRATIVE BUILDING**