

David N. McClintock – Inspector General

Office of Inspector General
640 City Hall

Synopsis of OIG Final Report #101409-106 (DHCD)

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

04/05/2011

Attached please find the Office of the Inspector General's (OIG) Final Report of Investigation relating to Department of Housing and Community Development (hereinafter "DHCD") personnel management practices regarding employees in the Code Enforcement Section who failed to meet mandatory requirements of their classification. The report further considers the rules, regulations, and Civil Service requirements in place that are designed to prevent these occurrences and the extent to which DHCD staff adhered to these regulations.

The OIG investigation began with information received from a confidential source indicating that Mr. Algie C. Epps, Assistant Superintendent of the Housing Inspection Division of the Baltimore DHCD was not qualified for the position he was originally appointed to or that he currently held.

The investigation involved considerable document review, and numerous interviews revealed a pattern of conduct by DHCD personnel and management that was inconsistent with the City personnel policy and procedure. Additionally, the OIG considered potential policy violations and also has made recommendations designed to improve the efficiency and effectiveness of personnel management and supervision.

The OIG appreciates the assistance provided by the DHCD during the course of the investigation.

During the early phases of the investigation memorandums were provided to DHCD on 10/29/2010 and 12/07/2010 containing information the OIG believed should be brought to the attention of the agency prior to the completion of the full report. The Department of Human Resources Management provided comment on 11/18/2011 to the memorandum of 10-29/2010.

A draft report was issued to DHCD on 02/01/2011 for review and comment. DHCD did not respond to the draft report, and a final report was issued on 03/18/2011. On 03/31/2011, the OIG received a response dated 03/28/2011 from DHCD. Both the DHRM and DHCD responses accompany this report and will be posted with necessary redactions on the OIG website.

IG 101409-106 Public Synopsis

I believe nothing is more vital to the fair, equitable, and lawful management of the City's workforce than ensuring the tenets of the Civil Service System and associated regulations are vigilantly adhered to. Since the establishment of the Civil Service in 1919, it has served as the underpinning of Baltimore's promise to its employees and the public that our workforce is built upon merit and administered in accordance with established rules and regulations. It is not within the authority of any department to set upon a course of action that is inconsistent with our established system.

Notwithstanding actions that are taken in good faith and/or with lack of knowledge or understanding, the City must not permit any department or agency to place our system into abeyance at their choosing. To do so would permit the exercise of authority without legitimate foundation. The existing system contains an effective mechanism to permit purposeful adjustment to both class requirements and the policy and processes that bear on all aspects of employee recruitment, retention, and management.

DHCD has reminded us of former Supreme Court Justice Oliver Wendell Holmes' thoughts on the revolting nature of laws laid down in times past and for reasons long vanished. Clearly Mr. Holmes espouses great wisdom, but the application falls short here. DHCD itself initiated the process in 2002 to include Special Police Certification as a mandatory requirement for certain Housing Inspector classifications. As such, it is DHCD's responsibility to seek modifications to add or remove classification requirements or seek adjustments to other personnel processes through established protocol.

If Baltimore's Civil Service system and personnel regulations are to remain relevant and effective, adherence to them must remain compulsory and deviations, once exposed, addressed with vigor and timeliness.

The OIG remains committed to providing independent investigations that help provide increased transparency of government, a solid foundation for meaningful policy review, and a platform for staff accountability.

Attachment

DNM/

cc: OIG Admin/Case file

I:/mcclintock/public synopsis/IG 101409-106 mem-council

- This report is available to the public in print or electronic format.
- To obtain a printed copy, please call or write:

Office of Inspector General
100 N. Holliday Street
Suite 640, City Hall
Baltimore, MD 21202

- Baltimore City employees, citizens, and vendors, or contractors doing business with the City should report fraud, waste, and abuse to the **Fraud Hotline. Call 1-800-417-0430 24 hours a day, 7 days a week.**
- **Notifications of new reports are now available via Twitter by following OIG_BALTIMORE**
 - **Details on how to follow us on Twitter may be found on the OIG web page <http://baltimorecity.gov/Default.aspx?tabid=111> by clicking on the “Follow Us on Twitter” link located in the sidebar.**
- Failure to Meet Qualifications Required by Civil Service Classification
- Making False Statements on City Documents



**OFFICE OF THE INSPECTOR GENERAL
BALTIMORE CITY**

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



Public Synopsis

**Synopsis of OIG Report #IG 101409-106: Department of Housing and Community
Development Employee's Failure to Meet Qualifications and False Statements**

On 10/20/2010 the Office of Inspector General (hereinafter "OIG") received information indicating that Mr. Algie C. Epps, Assistant Superintendent of the Housing Inspection Division of the Baltimore Department of Housing and Community Development (hereinafter "DHCD") was not qualified for the position for which he was originally appointed or that he currently held.

As Mr. Epps held a position of trust within the Baltimore City DHCD and the City must ensure that it retain only those applicants who provide accurate and truthful statements and meet all the required elements of their classification, the OIG initiated a review to verify his qualifications.

The OIG quickly discovered certain information regarding Mr. Epps that serves as the foundation for the following report. Central to the information developed was that Mr. Epps had been convicted on 13 counts of theft and one count of conspiracy involving his former employer (the charges were levied prior to employment by Baltimore City and adjudicated after his retention); inconsistent entries on internal documents, and inclusion of false and misleading information on an application for a required special police certification. Further, and equally as relevant, is how the existing rules, regulations and Civil Service requirements were applied by DHCD during Mr. Epp's tenure.

During the review a variety of issues were identified. These include Mr. Epps' fitness for his position, prior criminal history, the fitness of other Housing Inspection staff, and the application of personnel policies and procedures by DHCD. The following report will address Mr. Epps' situation first, followed by consideration of other Housing Inspection staff, and the OIG's findings and recommendations.

INVESTIGATIVE MEMORANDUM

During his tenure with DHCD, Mr. Epps held the following three positions:

Housing Inspector	10/17/2005 – 07/15/2006
Senior Housing Inspector	07/15/2006 – 10/22/2007
Assistant Superintendent of Housing Inspections	10/22/2007 - Current

IG 101409-106 Public Synopsis

Each of those positions requires certain criteria be met for eligibility. Each of these criteria bears directly on an individual's eligibility to hold each of the positions. The four eligibility criteria are:

1. Education/Experience Offset
2. Position of Trust/Criminal History Investigation
3. Special Enforcement Officer Certification
4. International Code Council (hereinafter "ICC") Certification

Education/Experience Offset

The education/experience criteria elevate, as one would expect, with each promotional level. Each level held by Mr. Epps is considered below as it pertains to the process used by DHCD to assess the respective criteria.

Housing Inspector: 10/17/2005 – 07/15/2006

When Mr. Epps applied for the Housing Inspector position on 07/13/2005, the minimum education/experience was:

- Two years at an accredited college or university or graduation from an accredited high school or GED certificate; and
- Two years of experience in housing inspection work . . .

The OIG considered only the process used to evaluate prior candidate experience in the area of housing inspection. A key question is what does "housing inspection experience" reasonably mean? DHCD instituted new protocols during 2007 that bound many of the City's codes concerning housing and other areas to the International Code Council or the ICC. As a result of this process, the classifications for Senior Housing Inspector and Assistant Superintendent of Housing Inspections were amended to require ICC certification as a Residential Housing Inspector as a baseline. The OIG recognizes that this move was an extremely positive development that brought the Baltimore City Housing Code into compliance with a majority of the country.

However, as the correlation to the ICC process had not been initiated prior to 2007 the OIG consulted the Code of Maryland Regulations (hereinafter "COMAR"). The COMAR does address "Home Inspectors" generally under Title 09 Department of Labor, Licensing and Regulation, Subtitle 36 Commission of Real Estate Appraisers and Home Inspectors.

The position of a "Home Inspector" in Maryland requires licensure. According to COMAR, an applicant for a licensed Home Inspector shall demonstrate experience in the inspection of homes, including:

1. structural systems;
2. exterior wall covering;
3. roof covering;
4. interior water supply and distribution systems;
5. service drop, service entrance, conductors;

IG 101409-106 Public Synopsis

6. installed heating equipment, vent systems;
7. installed central cooling equipment;
8. interior walls, ceilings, floors, etc.;
9. countertops and cabinets;
10. a representative number of doors and windows;
11. garage doors; and
12. insulation.

Although the OIG recognizes that the assessment of what prior experience meets the “housing inspection” requirement is properly the province of the DHCD, it should be able to demonstrate a clear correlation between an established criteria and prior experience. The OIG was not able to locate any indication that COMAR served as a foundation for the evaluation of prospective housing inspectors prior to the adoption of the ICC regulations.

Although much of the review considered protected confidential personnel information the OIG was not able to identify evidence of any purposeful assessment of prior work history against an established criteria for housing inspections under COMAR, the ICC or other similarly structured processes. This internal assessment process should have been conducted by DHCD’s Human Resources Division along with management overseeing the relevant sections. As such, it was unclear to the OIG whether DHCD’s process involved a purposeful and meaningful evaluation of Housing Inspector applicants prior work history against relevant criteria.

Housing Inspector - Senior: 07/15/2006 – 10/22/2007

The DHR class definition for Senior Housing Inspector reflects the following educational standards:

- Requirements – Completion of two years at an accredited college or university and two years of experience in housing inspection work.
- Equivalencies – Graduation from an accredited high school or possession of a GED certificate and four years of experience in housing inspection work . . .

Mr. Epps had gained only nine months of experience as a Housing Inspector since his hire on 10/17/2005. The OIG found no evidence indicating additional assessment of prior experience beyond that outlined under the Housing Inspector class above. As such, the OIG’s concerns regarding the evaluative process continued through this period and promotion.

Assistant Superintendent of Housing Inspections: 10/22/2007 - Present

Mr. Epps applied for this supervisory position on 06/29/2007 and was initially denied. He was promoted after an appeal on 10/22/2007.

The DHR class definition for Assistant Superintendent of Housing Inspections reflects the following specifications concerning education and experience:

- A bachelor’s degree; and

IG 101409-106 Public Synopsis

- Three years of experience in performing housing inspection work involving exterior and interior housing inspection work of large multiple family dwellings, hotels, rooming houses, commercial establishments, and domiciliary care facilities and buildings.

At this point, Mr. Epps' experience that reasonably correlates to the requirements of 3 years housing inspector experience is as follows:

1. Senior Housing Inspector 11 months, 2 weeks
2. Housing Inspector 8 months, 3 weeks

The requirement that the work experience be at the elevated level of a Senior Housing Inspector applied at face value would have only permitted Mr. Epps credit for the time he spent in that position, which was 11 months and 2 weeks. Although it is questionable as to whether service in the Housing Inspector position would merit credit, the combination of the two positions' experience still falls significantly below the required level. As with the prior positions the OIG found no evidence indicating additional assessment of prior experience beyond that outlined under the Housing Inspector and Housing Inspector – Senior class' noted above. As such, the OIG's concerns regarding the evaluative process continued through this period and promotion.

It seems that the disparities were initially picked up as Mr. Epps was originally turned down for this position, but was approved upon appeal. Although the appeal was conducted by DHR, records were not able to be located. As such, the OIG was unable to determine what information or experience was considered during this process.

Position of Trust/Criminal History Investigation

The designation that a position is a "position of trust" has specific meaning within Baltimore City government. The implications of designating a "position of trust" is set forth in the Administrative Manual (hereinafter "AM") under 237-1 (hereinafter "AM 237-1"). AM 237-1 reads in part that "*A position of trust is created when an individual is permitted to exercise certain authorities without close supervision; and these authorities, if abused, could lead to personal financial benefit either directly or indirectly.*"

The positions of Housing Inspector, Senior Housing Inspector, and Assistant Superintendent of Housing Inspections have all been designated by DHCD as "positions of trust." One of the most significant implications of this designation is that a Criminal History Investigation (hereinafter "CHI") is required prior to appointment. If the CHI report results in the discovery of criminal history, the information is forwarded to the relevant department, in this case DHCD, for assessment consistent with policy. AM 237-1 provides the following guidance for assessment:

In determining the job-related nature of a conviction, the following criteria must be used:

- Number and types of convictions;
- Severity of the crime and the sentence imposed;

IG 101409-106 Public Synopsis

- Recency of the conviction;
- Evidence of rehabilitation; and
- Conditions in the workplace.

Of the five criteria listed, four present interesting questions.

1. Number and type of conviction: Records reflect Mr. Epps' date of offense as 6/21/2004 for 13 charges of theft and one charge of conspiracy related to theft from the Maryland Department of Corrections. Further, the charges involved sick leave abuse and falsified medical slips.

At the time Mr. Epps was hired by DHCD on 10/17/2005, these charges had been filed but had not yet been adjudicated. Further, of the application documents located by the OIG that had been received by the City up until his time of hire, none asked any questions concerning criminal history, pending charges, or reason for leaving the previous position. Any of these questions answered honestly would have revealed Mr. Epps' current situation and permitted a more informed decision. Further, a CHI should have revealed the pending charges; however, the OIG was unable to find any evidence that a CHI was requested during the hiring process.

On 10/28/2010, the OIG, via public domain internet search, located three press releases from the State of Maryland Attorney General's Office: 7/15/2004¹, citing the arrest of Mr. Epps and his wife; 11/18/2004², describing the conviction of Mr. Epps and his wife; and 12/17/2004³, announcing the sentencing of Mr. Epps and his wife.

Mr. Epps was convicted of all charges on 02/06/2006, just five months before being promoted to Senior Housing Inspector on 07/15/2006. This promotion should also have resulted in a CHI that would have revealed the relevant history. No evidence can be found by the OIG that a CHI request was submitted or performed.

2. Severity of the crime and the sentence imposed. Mr. Epps was convicted of multiple thefts and conspiracy charges, albeit from a continuing course of conduct. Theft is one of the crimes that is commonly considered as relevant in legal settings as an indicator of an individual's believability and truthfulness. As such, the OIG believes that it should have been considered as a significant component of any assessment made by DHCD when considering an individual for a position of trust. Mr. Epps was sentenced to a 12-month suspended sentence and two-year period of supervised probation along with performing 100 hours of community service on 02/06/2006.
3. Recency of the conviction. Mr. Epps was charged less than one year before his appointment as a Housing Inspector and convicted four months after being retained. As such, Mr. Epps' conviction could barely have been more "recent" when considered against his promotion to Senior Housing Inspector.

1 See: <http://www.oag.state.md.us/Press/2004/0715b04.htm>

2 See: <http://www.oag.state.md.us/Press/2004/1118b04.htm>

3 See: <http://www.oag.state.md.us/Press/2004/121704.htm>

IG 101409-106 Public Synopsis

4. Evidence of rehabilitation. The OIG is unaware of any significant evidence of rehabilitation demonstrated by Mr. Epps other than his apparent performance at DHCD.
5. Conditions in the workplace. This criterion is focused on the individual work environment where the employee would be working. Seemingly this would include whether the employee worked in an office setting or in the field, the level of supervision, and the scope of authority provided. Mr. Epps did routinely work in the field and was granted increasing authority with each promotion. The OIG believes he was well supervised.

Special Enforcement Officer Certification

Each of the positions that Mr. Epps has held mandated that all persons in that class obtain and maintain a Special Enforcement Officer Certification. This requirement was initiated with a re-classification that was effective on 12/08/2002. Further, the classification for Housing Inspector at the time Mr. Epps was hired required that he obtain the certification within six months of hire and that failure to do so was cause for dismissal.

Based on that requirement, he should have been required to obtain the certification by 3/17/06. Records reflect the application was not submitted to the Baltimore City Police Department (hereinafter "BPD") until 06/09/2007 and that it was returned on 09/26/2007. This was 18 months after he was employed. Further, Mr. Epps was promoted twice prior to being required to seek the certification and once afterward, despite his denial

From the inception of Mr. Epps' retention as a Housing Inspector on 7/13/05, he was required to obtain and maintain a certification as a Special Enforcement Officer. Mr. Epps was not required to pursue this classification requirement until 9/24/2007.

International Code Council Certification

According to the Department of Human Resources ("DHR"), the class definitions for Senior Housing Inspector (42133) and the Assistant Superintendent of Housing Inspections (42134) were amended on 06/07/2007. The amended language requires that "Certification as a Property Maintenance and Housing Inspector by the ICC is required within one year of hiring. Failure to obtain or revocation of the Certification as a Property Maintenance and Housing Inspector are grounds for dismissal."

The Assistant Commissioner of Code Enforcement indicated that originally a period of six months was provided for staff to obtain compliance and that subsequent deviations were made as a result of consultations with the union. Mr. Epps received his certification on 12/16/2008, nearly 18 months after the requirement was put in place.

Additional DHCD Employees Denied for Commission as Special Enforcement Officers

During the course of the investigation involving Mr. Epps, OIG inquired as to the status of additional employees that were denied Commission as Special Enforcement Officers despite the job specification mandating this as a requirement for employment. Records revealed that nine current housing inspection employees have been denied the required certifications.

A review of the documents surrounding each of the denials was conducted and revealed that while the circumstances varied significantly that the BPD had followed their internal protocol and denied the certification based on established standards. Further, the denials had been routinely forwarded to a Deputy Commissioner of DHCD in a timely manner.

FINDINGS, VIOLATIONS, AND DEPARTMENT POLICY OBSERVANCE

Findings:

1. Mr. Epps was hired into a position of trust on 10/17/2005.
2. Mr. Epps submitted inaccurate, incomplete, or misleading application and background material during his internal promotional processes.
3. Mr. Epps submitted false and misleading information on his application for a Special Enforcement Officer Commission in the form of a false Social Security number, false middle name, and false date of birth, among others.
4. Mr. Epps was charged on 6/21/04 with 13 counts of theft and one count of conspiracy to steal over \$20,000.00 from the Division of Corrections through a continuing scheme based on the submission of fraudulent leave slips between 1996 and 2002. Further, these charges were pending when Mr. Epps was hired.
5. Mr. Epps was convicted on 02/06/2006, after he was hired, and sentenced to a 12-month suspended sentence, a two-year period of supervised probation, and 100 hours of community service.
6. Mr. Epps has worked under the general supervision of the Assistant Commissioner, Code Enforcement Division, DHCD.
7. Mr. Epps' duties included performing a variety of functions: inspecting the exterior and interior of vacant and occupied single- and two-family dwelling units and adjacent property and the exterior and adjacent property of commercial establishments, for compliance with or violation of applicable Baltimore City Codes and Ordinances; identifying unsanitary conditions; and verifying completion of scheduled jobs, warranting the attention of other City agencies, for which appropriate referrals were made, etc.
8. Mr. Epps was not required to seek the necessary certification as a Special Enforcement Officer upon his initial hire as required by the classification since 2004.

IG 101409-106 Public Synopsis

9. Based on a hire date of 10/17/2005, existing policy should have required Mr. Epps to obtain the certification by 3/17/06.
10. Mr. Epps was not required to submit his application to the BPD until 06/09/2007, more than 18 months after hire.
11. DHCD became aware of Mr. Epps' criminal history as a result of the BPD's denial of his application for commission as a Special Enforcement Officer via that process on or about 09/26/2007.
12. Mr. Epps was promoted to Senior Housing Inspector on 07/15/2006 before he was required to seek the mandatory Special Enforcement Officer Commission and then to Assistant Superintendent of Housing Inspections on 10/22/2007 after he had been denied.
13. DHCD granted credit for "housing inspection experience" for prior work experience that is not supported by an assessment of duties and responsibilities as considered against the requirements for "Inspector" under either Maryland Law or the ICC.
14. The denial return provided by the BPD to DHCD listed all convictions as well as the fact that Mr. Epps had supplied false information regarding his criminal history.
15. Mr. Epps was promoted after DHCD became aware of both his criminal history and his inability to meet the requirements of his classification.
16. DHCD is also currently aware that as many as nine other employees continue to work in classifications that require a Special Enforcement Officer Commission after their applications had been denied.
17. DHCD instituted classification requirements on 06/07/2007 concerning compliance with Inspector certification by the ICC. In conjunction with the new requirement, the Assistant Commissioner, Code Enforcement Division, initiated a transition period for existing staff to seek compliance. Further, despite the window being extended several times, several employees have not complied, and actions have been initiated to adjust the classification grades to reflect the lack of certification.
18. Mr. Epps did receive his ICC certification on 12/16/2008, 18 months after the requirement was initiated.

Department Policy and Policy Observance:

The OIG is aware that there may be department and agency-based operational protocols for handling various issues. Notwithstanding the degree of independence departments and agencies permissibly exercise, all internal policy must still comply with the established policy and procedure as set forth in the Administrative Manual, Personnel Manual, and the Rules of the Civil Service Commission, among other sources of authority.

The OIG's assessment of policy compliance focuses not on the mechanical or specific process applied; rather, on whether the outcome of the agency's actions rose to the level required by established City policy and procedure. A detailed examination of Mr. Epps'

IG 101409-106 Public Synopsis

employment with the DHCD was conducted, revealing several areas that do not appear to have been managed in compliance with City policy and procedure.

Civil Service System Compliance

Baltimore City utilizes a Civil Service System for employee management. The Civil Service process is administered by the Civil Service Commission and the Department of Human Resources. Under this structure, the DHCD is not authorized to unilaterally change or modify the Civil Service System or any of its components, to include the established classifications, without approval.

The Baltimore City Charter (2010 Edition as Amended) Art. IV § 94 *et seq.* establishes the Civil Service Commission. Art. IV § 99 “Civil Service positions” requires that all positions in the City of Baltimore be within the Civil Service except as otherwise provided by the Charter or state law.⁴

Within the Charter sections establishing the Civil Service Commission are provisions establishing the Department of Human Resources and its powers and duties.⁵ The Department of Human Resources’ purpose is stated, in part, as to “ensure that appointments and promotions in the City’s Civil Service are made and that salaries are established, without regard to political affiliation.”⁶

Further, the duties and responsibilities of the Department of Human Resources include submitting to the Commission for final approval rules and regulations that govern the “classifications, reclassifications, examinations, promotions” process; establishing the different classifications for the various job classes; and that all the “[c]lassified positions shall constitute the Civil Service, and appointments to positions in the Civil Service shall be made according to the rules of the Commission.”⁷ Lastly, the Department of Human Resources is tasked with providing for competitive examinations, non-competitive examinations, and other evaluative measures to assure that hiring and promotions are based on merit.⁸

The integrity of the Civil Service System is considered so significant that the Charter provides criminal sanctions for violations relating to “the Civil Service, or any willful use of any corrupt means in connection with any examination, appointment, promotion,” etc.⁹

-
4. Baltimore City Charter (2010 edition as amended) Art. IV § 99. excepts the following positions from Civil Service:
A. Elected officials and those employees whom elected officials have designated as members of their personal staffs; B. Assistant City Solicitors; C. With the exception of the Director of the Department of Legislative Reference, Directors, or by whatever other name the Chief Administrative Officer may be known, and the Deputy Directors, of all departments of the City; D. All members of boards and commissions; E. All professional employees of the Department of Education; Persons in positions of temporary or seasonal employment; and F. Persons who, in the judgment of the Civil Service Commission, exercise policy-making discretion or occupy a position of special trust and confidence that is inconsistent with membership in the Civil Service.
 5. Baltimore City Charter (2010 edition as amended) Art. IV § 96-98.
 6. *Id.* at § 96 (a)(b)(2).
 7. *Id.* at § 97 (a)-(c).
 8. *Id.* at § 97 (d) and (e).
 9. *Id.* at § 97.

IG 101409-106 Public Synopsis

The City of Baltimore Administrative Manual communicates official City policies and procedures which affect City employees. AM 201-1 reiterates the roles of both the Civil Service Commission and the Department of Human Resources in establishing and administering the Civil Service System, to include classifications, reclassifications, examinations, and promotions.

The application and enforcement of Civil Service regulations, including classifications within the DHCD, are the responsibility of the DHCD Human Resources Manager. The Human Resources Manager serves as the agency gatekeeper concerning compliance with Civil Service Commission requirements. It is incumbent upon the DHCD Human Resources Manager to ensure that classification requirements for hiring and promotion are properly adhered to and to advise the proper course of action to management. In the situation presented in the Epps matter, there are certain classification requirements that were clearly not complied with by the DHCD while others were addressed in a manner that were debatable.

Special Enforcement Officer – The classifications of Housing Inspector, Senior Housing Inspector, and Assistant Superintendent of Housing Inspections each contain the following language:

Section VI. - LICENSES, REGISTRATIONS, or CERTIFICATES:

Candidates hired after 12/08/02 must obtain a Certificate of Appointment as a Special Enforcement Officer by the Police Commissioner of the City of Baltimore within six months of the date of hiring. Failure to obtain or revocation of the commission by the Police Commissioner is grounds for dismissal.

Mr. Epps was permitted to maintain his employment and be successfully promoted without meeting the requirement of his classification that he acquire a Special Enforcement Officer Commission. In addition, nine current employees were identified that also do not meet the same classification requirement.

- **Applicability:** The classification mandate was initiated in 2004 and applied to all Housing Inspectors hired after 12/08/2002. As Mr. Epps was hired on 10/17/2005, the provision should have been pursued concurrent with his initial appointment.
- **DHCD Staff Action:** The evidence in this matter indicates that the classification mandate concerning a Special Enforcement Officer Commission has not been effectively enforced among the Housing Inspector class. Further, it was not effectively enforced at any point during Mr. Epps' five-year tenure with the DHCD. In addition, when action was taken in 2007 that resulted in the identification of nine active employees that had been denied the Special Enforcement Commission, there was also no action taken, and the employees were allowed to remain in the classification despite their ineligibility.

Considering Mr. Epps' specific situation, as well as that of the others who were denied the required commission, it is apparent that various staff failed to take the required action and that failure to do so is in violation of the City Charter and the

IG 101409-106 Public Synopsis

Administrative Manual, as they apply to Civil Service regulations and procedures.

- 10/17/2005: There is no evidence to indicate that upon Mr. Epps' hire any action was taken to initiate his application for a Special Enforcement Officer Commission as should have been initiated by the DHCD Human Resource Manager or the DHCD Assistant Commissioner of Code Enforcement who oversees the Housing Inspectors and made the selection. Mr. Epps should have been required to comply with this mandate during his probationary status which ended on 03/17/2006.
- 07/15/2006: There is no evidence to indicate that at any time during the promotional process to Senior Housing Inspector, which requires the Special Enforcement Officer Commission, any action was taken to initiate that application process by the DHCD Human Resource Manager or the DHCD Assistant Commissioner of Code Enforcement.
- 09/26/2007: There is no evidence to indicate that upon return of Mr. Epps' denied application for a Special Enforcement Officer Commission any appropriate action was taken to initiate proper personnel action regarding Mr. Epps' failure to comply with a classification requirement by the Acting DHCD Human Resource Manager,¹⁰ the DHCD Assistant Commissioner of Code Enforcement, or the DHCD Deputy Commissioner to whom the responses from the BPD are addressed and returned.
- 10/22/2007: There is no evidence to indicate during the promotional process to Assistant Superintendent of Housing Inspections, which also requires the Special Enforcement Officer Commission, that any action was taken to prevent promotion or initiate proper personnel action by the Acting DCHD Human Resource Manager or the DCHD Assistant Commissioner of Code Enforcement who initiated and approved promotion.
- 11/13/2007 - 5/20/2008: There is no evidence to indicate that any action was initiated or taken in response to the multiple housing inspection employees' inability to meet their classification requirements by the DCHD Human Resource Manager, the DCHD Assistant Commissioner of Code Enforcement, or the Deputy Commissioner to whom the responses from the BPD are addressed and returned.

Class Requirements – Each of the classifications of Housing Inspector, Senior Housing Inspector, and Assistant Superintendent of Housing Inspections contains unique educational and experience requirements.

- Applicability: Each of the three positions held by Mr. Epps set forth mandatory requirements specific to the class.
- DHCD Staff Action:
 - Housing Inspector and Senior Housing Inspector: The determination of whether

10. During this period the regular DHCD Human Resources Manager was on extended leave and other staff was filling in on an interim basis.

IG 101409-106 Public Synopsis

Mr. Epps' job history satisfied the provisions he was required to meet to the DCHD Assistant Commissioner of Code Enforcement. For the reasons noted above in the applicable section, it is the position of the OIG that DHCD efforts leave some question as to Mr. Epps' qualifications for Housing Inspector, Senior Housing Inspector and that based on the available documentation there was inadequate qualifications for the position of Assistant Superintendent of Housing Inspections.

Administrative Manual AM 237-1. "Position of Trust"

The designation that a position is a "position of trust" has specific meaning within Baltimore City government. The implications of designating a "position of trust" is set forth in the AM under 237-1 (hereinafter "AM 237-1"). AM 237-1 reads in part that "*A position of trust is created when an individual is permitted to exercise certain authorities without close supervision, and these authorities, if abused, could lead to personal financial benefit either directly or indirectly.*"

AM 237-1 requires that a CHI be completed prior to appointment and that upon the discovery of criminal history that the department engage in a review consistent with the policy. The OIG was not able to verify that DHCD took the appropriate steps as required by policy to request a CHI upon appointment and promotion to Senior Housing Inspector. Further, that upon eventual discovery of criminal history during the process of promotion to Assistant Superintendent of Housing Inspections that the actions taken fulfilled the evaluative requirements of the policy.

- Applicability: Each of the three positions held by Mr. Epps and each of the positions held by the remaining nine employees who have been denied a Special Enforcement Officer Commission are designated by DHCD as "positions of trust." As such, these positions are subject to AM 237-1.
- DHCD Staff Action: There is no evidence that indicates that a CHI was conducted during the initial hiring or during the first promotion. Further, when a CHI was requested during the second promotional process, there is no evidence that it resulted in a purposeful evaluation consistent with the policy conducted by staff at any level within DHCD. However, there were ample indications throughout the interviews that discussions of Mr. Epps' criminal history were attended by the DHCD Human Resource Manager, the Assistant Commissioner of Code Enforcement, and the Deputy Commissioner, with the eventual outcome being that his performance with DHCD outweighed the history.

Incompetent, Inefficient, or Negligent in the Performance of Duty - Rule 56 "*Cause for Discharge, Demotion, and Suspension,*" Part (2), of the Baltimore City Department of Personnel and the Baltimore City Civil Service Commission sets forth various situations that are recognized as constituting "*just and sufficient cause for suspension, demotion, or discharge.*" Sub-part (b) sets forth one of the recognized areas as: "*The employee is incompetent, inefficient, or negligent in the performance of duty.*"

- DHCD Staff Action: During the course of Mr. Epps' employment, a variety of opportunities existed that, had proper procedure been followed, would have

IG 101409-106 Public Synopsis

resulted in not appointing Mr. Epps, placing him in a classification he was qualified for, or separating him from City employment.

- Had a CHI been requested during initial appointment or during promotion to Senior Housing Inspector, or if it was obtained, had it been evaluated consistent with policy, the result would have likely been more effective human resources practices.
- During the promotion process for Assistant Superintendent of Housing Inspections, the DHCD Human Resources Manager, the Assistant Commissioner of Code Enforcement, and the Deputy Commissioner became aware of Mr. Epps' criminal history and his inability to meet the Special Enforcement Officer Commission requirement. Despite Mr. Epps failing to meet the classification, he was promoted.
- The Assistant Commissioner of Code Enforcement became aware that nine additional Housing Inspectors failed to meet their classification requirement to obtain a Special Enforcement Officer Commission. Despite their failure to meet the classifications, those employees remain in place.

RECOMMENDATIONS

1. *The OIG recommends that DHCD Human Resources institute stronger and more effective oversight and verification mechanisms for Human Resources Management as it pertains to the integrity of the Civil Service classification process.*
-

It is the responsibility of the Department Head and the DHCD Human Resources Manager to ensure that Civil Service classification requirements are strictly followed. The OIG recognizes that there are many proper personnel assessments made by management but also cautions that management must not be permitted to override or modify class requirements.

It is clear that the DHCD routinely, and appropriately, works with the City Department of Human Resources Management (hereinafter "DHRM") to revise classifications or develop new classifications. This process ensures that the approved classifications are consistent with professional best practices and legal requirements. It is to the application of these classifications to the DHCD workforce that the following recommendations are directed.

The OIG recommends that the DHCD Human Resources Management System be supplemented with meaningful, written verification and reporting requirements concerning several personnel compliance issues which are to be completed prior to appointment and prior to releasing the employee from probationary status, or approving a promotion when the action is dependent upon compliance with classification provisions not yet satisfied.

- A. *Required Background Processes for Applicants to "Positions of Trust:"*
If followed, current policy requires a CHI be completed prior to appointment of persons to "positions of trust." If the CHI results in the discovery of criminal history, the information is forwarded to the

IG 101409-106 Public Synopsis

department for assessment consistent with policy AM 237-1. The OIG recommends that DHCD verify and document that the CHI was completed and that in the event criminal history is discovered, the required assessment be provided by the appointing authority, in writing.

- B. *Education and Education Off-Set:* This is an area that is properly within management's discretion. Management should be able to support those off-set decisions in a logical and reasonable manner. The OIG recommends when the off-sets require demonstrated skills at a certain level, the source of the experience being relied upon be cited in writing by the appointing authority. Allowing off-sets for experience that does not reasonably fit the classification requirements does not support the purpose of the Civil Service.
- C. *Special Licenses and Certifications:* The OIG recommends that no appointments or promotions be approved without a written acknowledgement by the DHCD Human Resources Manager that all classification requirements concerning licensing and certifications have been complied with, or in the alternative, that a procedure has been established to ensure compliance in accordance with policy prior to moving the employee out of a probationary status.

- 2. *The OIG recommends that the DHCD should immediately initiate a re-examination of employees who have been denied the required commissions as Special Enforcement Officers from the Police Commissioner, as well as other similarly structured job classes.*
-

The Civil Service System is the foundation the City uses to structure a fair and equitable environment for the majority of its employees. No department or manager should willfully permit employees to remain in classifications they do not meet. To do so harms the integrity of the Civil Service and weakens our employees' trust in the system.

The OIG strongly recommends that where existing City employees are unable to meet the requirements of their class, immediate action be taken to either separate the employee from City employment, reclassify the employee into a more suitable job class, or modify the existing job class to accurately reflect the requirements needed and adjust the salary as required.

END OF DOCUMENT