

MONTGOMERY COUNTY MARYLAND

OFFICE OF THE INSPECTOR GENERAL



**Annual Report of Activity**  
**for the**  
**Fiscal Year Ended June 30, 2014**

**September 30, 2014**



### ***A Message from the Inspector General***

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Montgomery County Code §2-151 requires the Inspector General to submit to the County Executive and Council an annual report on the activities of the Office and its major findings and recommendations during the previous fiscal year. This message presents our report for the fiscal year ended June 30, 2014.

The progress report describes our efforts relative to the three work plan initiatives we implemented during FY 2014: (1) *Use data analytics to identify management/internal control weaknesses or deficiencies of organizations and technology systems*, (2) *Use contract subject matter experts to assist in conduct of certain audits and investigations* and (3) *leverage resources*.

The progress report also describes four important organizational improvements completed during FY 2014:

- a follow-up survey of Montgomery County employee attitudes toward the Office of Inspector General;
- an Office Policy Manual that identifies policies and practices that are unique to the Montgomery County Maryland Office of the Inspector General;
- an internal quality control review of our office; and
- implementation of an OIG summer legal intern program.

During FY 2014 we completed and made publicly available the following seven reports. Summaries of each are presented in the body of this annual report.

- *Report of Inquiry: Montgomery County Office of Consumer Protection* (July 2013).
- *Review of Montgomery County Public Schools' Acquisition of Promethean Interactive Classroom Technology* (November 2013).
- *Report of Inspection: Montgomery County Department of Liquor Control—Review of Management Controls Over Inspectors* (January 2014).
- *Advisory Memorandum: Montgomery County Employee Leave Balances* (March 2014).
- *Report of Inquiry: Bethesda Cultural Alliance* (March 2014)
- *Project Management Deficiencies in Constructing the Paul S. Sarbanes Silver Spring Transit Center* (April 2014)
- *Report of Inspection: One-Day Alcoholic Beverage Licenses* (May 2014)

As of June 30, 2014 eleven audits, investigations, inquiries, or referrals were in progress. We completed our review and/or referral of 29 incident reports. Examples of referrals and inquiries that did not result in formal reports are also summarized in the body of this annual report. However, those inquiries referred to a law enforcement entity are not discussed in this report.

The activities identified in this annual report evidence the value of this office in furthering the County's efforts to ensure integrity and effective and efficient use of County resources. I recognize and appreciate the significant assistance and support provided to this office by Council members, the County Executive, other elected and appointed County leaders, and their staffs during this year.

Respectfully submitted,



Edward L. Blansitt III  
Inspector General

**Annual Report of Activity for the Fiscal Year Ended June 30, 2014**  
**Montgomery County Maryland Office of the Inspector General**

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# Montgomery County Maryland Office of the Inspector General

## Statutory Responsibilities and Challenges

### *Responsibilities*

Our office was established by the Montgomery County Council in 1997. We are an independent office that adheres to Government Auditing Standards,<sup>1</sup> the Quality Standards for Inspection and Evaluation<sup>2</sup> and the Quality Standards for Investigations<sup>3</sup> in addressing the following responsibilities prescribed by Montgomery County Code §2-151:

1. review the effectiveness and efficiency of programs and operations of County government and independent County agencies<sup>4</sup>
2. prevent and detect fraud, waste, and abuse in government activities
3. propose ways to increase the legal, fiscal, and ethical accountability of County government departments and independent County agencies

To carry out our responsibilities, we:

- maintain an independent objective organization to conduct audits, reviews, and investigations;
- receive and investigate credible complaints related to our mission from any person or entity;
- report possible criminal violations of law to the appropriate law enforcement agency;
- review existing and proposed legislation and regulations to strengthen controls and increase accountability; and
- submit reports with findings and recommendations, as appropriate, to County leaders.

### *Our Challenges*

We make it a priority to ensure that our professional staff members receive appropriate continuing professional education and acquire additional OIG-related skills. Since our small staff of well-qualified professionals cannot have all the varied, specialized skills needed to approach all complex investigations and reviews, we filled any skill gaps with contractor specialists and temporary staff who provide investigative, information technology, and other specialized skills.

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<sup>1</sup> *Government Auditing Standards*, U. S. Government Accountability Office.

<sup>2</sup> *Quality Standards for Inspection and Evaluation*, issued by the Council of the Inspectors General on Integrity and Efficiency.

<sup>3</sup> *Quality Standards for Investigations*, issued by the Council of the Inspectors General on Integrity and Efficiency.

<sup>4</sup> The independent County agencies include the Board of Education and the Montgomery County Public Schools, the Maryland-National Capital Park and Planning Commission, the Washington Suburban Sanitary Commission, Montgomery College, the Housing Opportunities Commission, the County Revenue Authority, and any other governmental agency (except a municipal government or a State-created taxing district) for which the County Council appropriates or approves funding, sets tax rates, makes levies, or approves programs or budgets.

## Measures of FY 2014 Performance

The OIG work plan places the highest priority on timely investigation of matters and responding to stakeholders as to those matters. In FY 2014 the measures of OIG performance showed continued high marks in those key areas. Despite completing a larger number of reports compared to FY 2013, the measure of timely report completion (reports concluded within 6 months) declined, largely due to the need to divert staff resources to give priority attention to more complex issues such as the Silver Spring Transit Center.

FY Performance Measures	Goal	2013 Actual	2014 Actual
Percent of incident reports reviewed and action initiated within 5 business days:	90%	96%	100%
Complete inquiries within 60 days:	70%	84.4%	92%
Percent of incident reports resolved or referred to management within 90 days:	70%	95%	96%
Percent of audit/inspection/investigation reports completed within 6 months:	50%	40%	29%
Percentage of audit/inspection/ investigation recommendations accepted:	67%	100%	90%

## Organizational Improvements

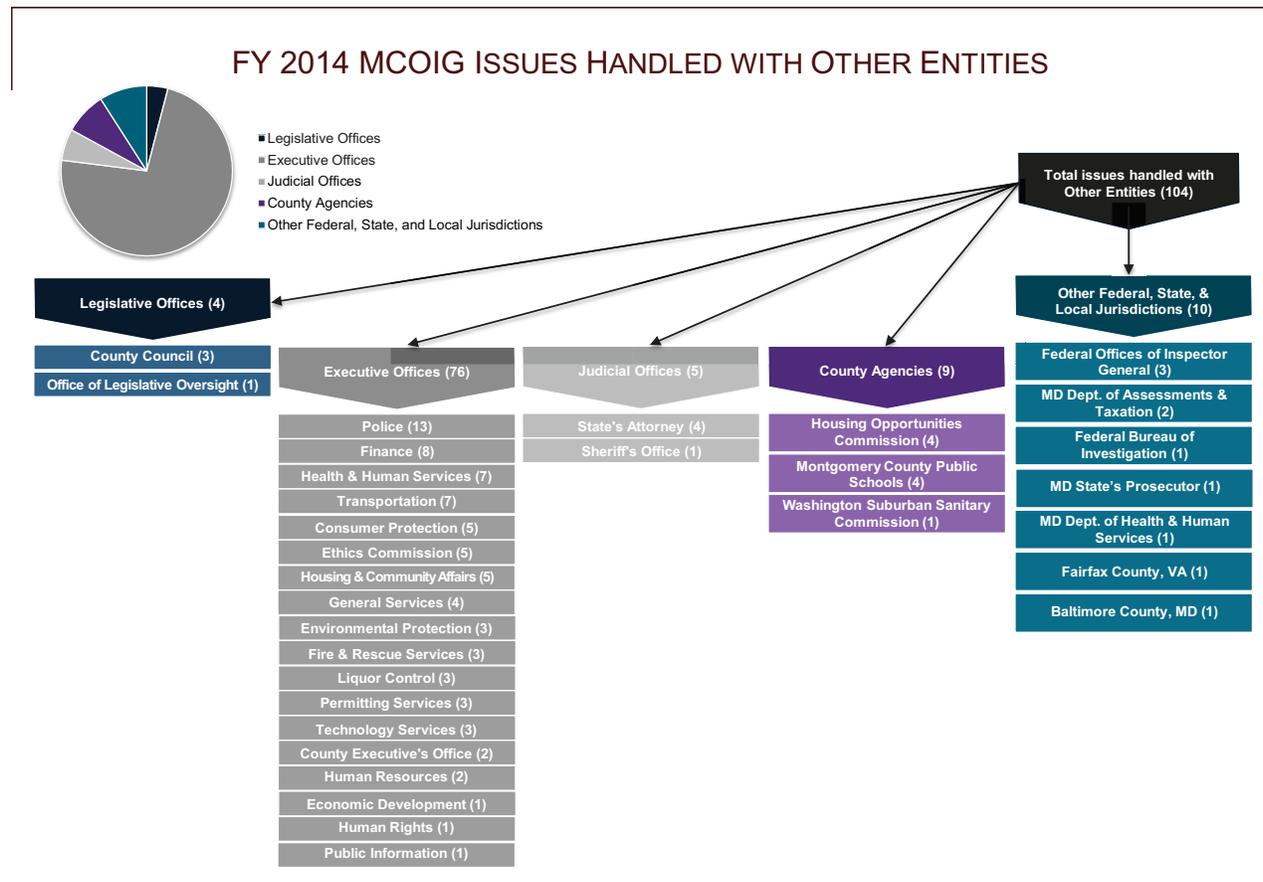
During FY 2014 we completed four important organizational improvements:

- a follow-up survey sent to all Montgomery County Government employees regarding employee attitudes toward and awareness of the OIG mission and activities;
- an Office Policy Manual that identifies policies and practices that are unique to the Montgomery County Inspector General's office which includes information on time reporting, leave, phone etiquette, expenses, etc.;
- an internal quality control review of our office performed by a former career auditor who retired from a presidentially appointed position of Inspector General of a large federal agency; and
- Implementation of an OIG summer legal intern program that included a total of five first year law students from local area law schools in the summers of 2013 and 2014 who worked with OIG staff analyzing complaints and collecting valuable information that contributed to the completion of several preliminary inquiries and OIG reports.

## Implementation of FY 2014 Initiatives and Work Plan

### *Leverage of our resources*

The summaries of referrals and preliminary inquiries presented in a later section of this report reflect our work with management within County government and independent County agencies, the Ethics Commission staff, and law enforcement in responding to complaints reported to our office. We also continued to host meetings of our informal Inspector General Advisory Group to obtain objective input from Montgomery County residents. These activities have enhanced our effectiveness without sacrificing our independence or objectivity.



### *Professional Relationships*

During FY 2014, we met with state and federal auditors and prosecutors and other Inspectors General and participated in meetings of the FBI Public Corruption Working Group. During these meetings, standards applicable to the Inspector General community were discussed along with other matters of mutual interest. Discussions were useful in identifying and prioritizing matters to be addressed. They also helped ensure that OIG audits and investigations did not duplicate or conflict with other efforts.

We also developed presentations regarding selected audit topics and served as panelists in several local professional training conferences sponsored by the Association of Government Accountants.

**Data analytics Initiative**

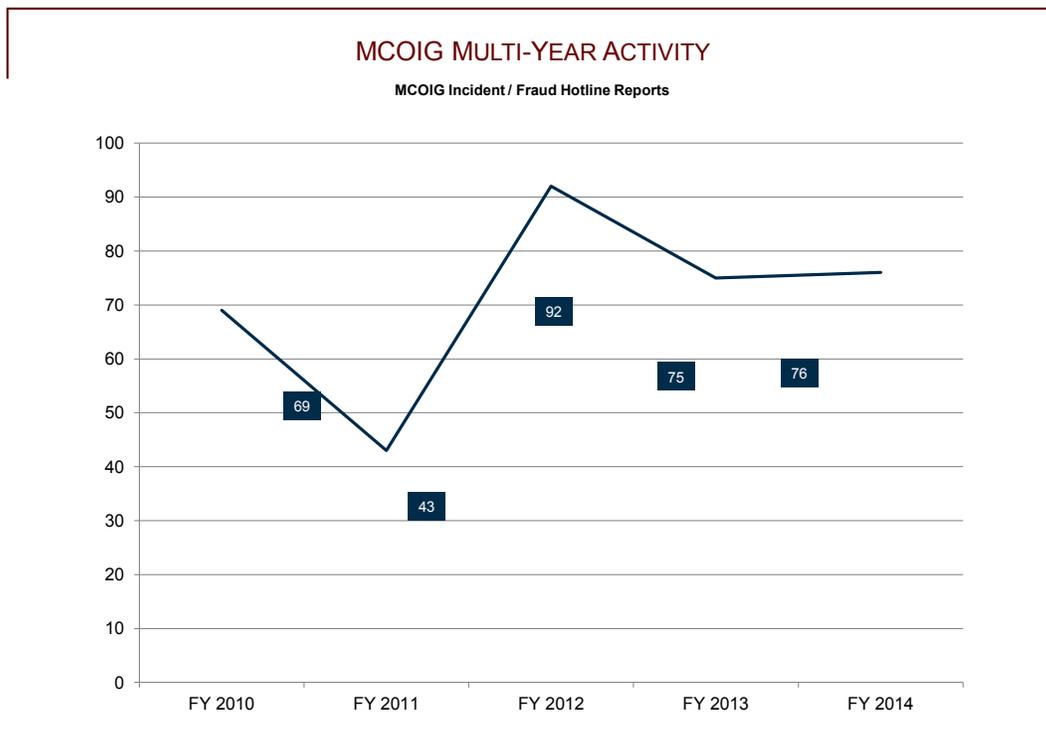
During FY 2012 and 2013, using contractor support, the OIG initiated two reviews based the development and use of data analytic tools. During 2014, in order to reduce reliance on contractor support, all OIG staff members were trained in the use of data analytic tools. Following up on data lead to our review of One-Day Licenses issued by the County Department of Liquor Control and our related report. We are also continuing our review of other data and related concerns.

**Contract subject matter experts (SME) Initiative**

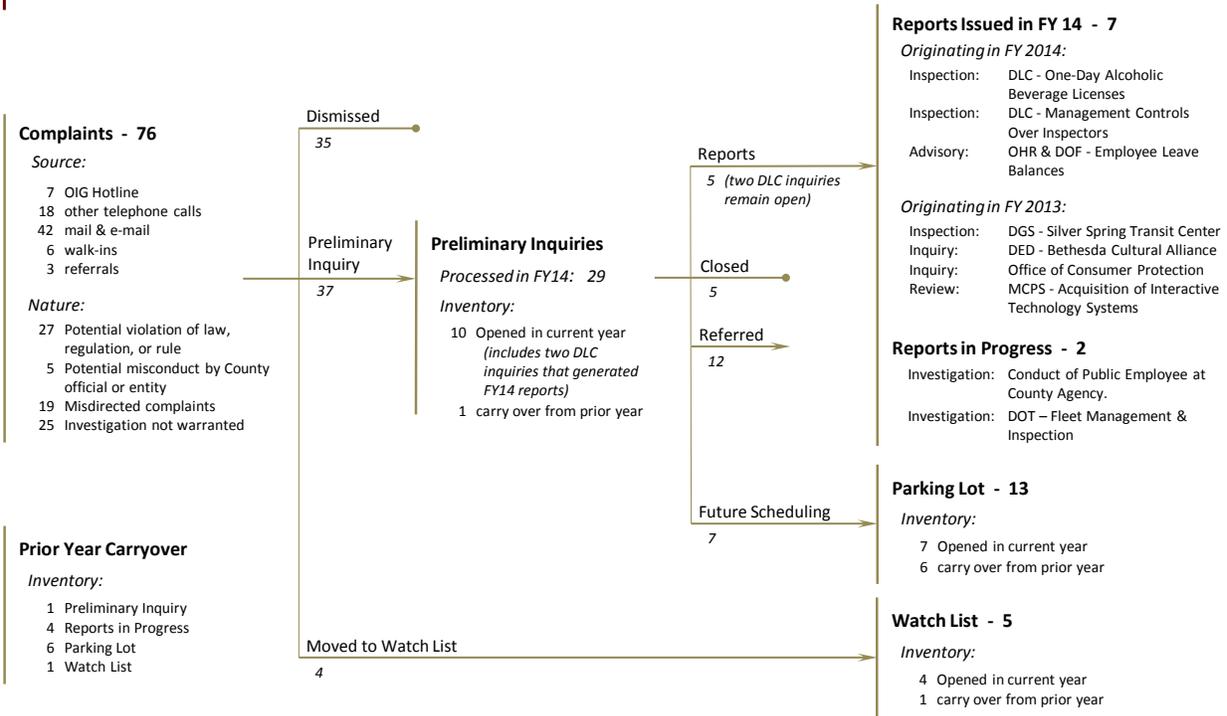
During FY 2014 our primary use of SME’s was an engineering firm whose services we acquired to assist us in conducting our review of the Silver Spring Transit Center. This significant, one-time, non-recurring cost was requested and appropriated for FY 2014 and is not included in the amount appropriated to the OIG for FY 2015 or in budgets projected for FY 2016-2017.

**Work Plan Priorities**

We have followed the priorities as described in our Work Plan. We focused on promptly reviewing each complaint that is received, conducted preliminary inquiries when appropriate, and responded to each complainant who provided us with their contact information. We initiated a review of recommendations made in a prior-year OIG report and will issue that report in early FY 2015. Specific audits initiated and/or completed were consistent with those presented to the Council in our FY 2014 Work Plan. As indicated in the following chart, FY 2014 new incidents were in line with FY 2013.



## FY 2014 Incident Processing and Resolution



Twelve matters were carried over from FY 2013, of which 11 were closed in FY 2014. Of the 76 new incident reports recorded in FY 2014, 35 were closed following our intake review, 29 have been reviewed and/or referred and are now completed, and 12 remained open (11 were in progress as audits, investigations, inquiries, or referrals) as of June 30, 2014.

With regard to each incident report, our policy is to develop a written description of each case on which we spend some time on the complaint. Of the 76 cases that we logged, we found 37 to be initially credible, deserving at least some preliminary inquiry. Summaries of the referrals for which responses have been received and the more significant inquiries for which reports were not issued follow the summaries of reports issued in FY 2014. This report does not include summaries of any preliminary inquiry that was referred to a law enforcement entity.

## Summaries of Fiscal Year 2014 Reports

In FY 2014, the OIG completed and issued the publicly available reports that follow.

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### ***Report of Inquiry: Montgomery County Office of Consumer Protection***

*OIG Report # 14-001 (July 2013)*

#### **Background**

The OIG conducted an inquiry into a complaint filed by two Montgomery County residents (Complainants) with the Montgomery County Office of Consumer Protection (OCP). Specifically, this investigation concentrated on the handling of a complaint by OCP staff.

In April 2007, the Complainants filed a complaint with the OCP alleging misrepresentation by the builder of their home. The OCP is the County Agency responsible for enforcing consumer protection laws that prohibit unfair and deceptive business acts to ensure a fair marketplace for consumers and businesses. The Complainants contacted the OIG in July 2012, stating that they believed the OCP Program Administrator had inappropriately signed an affidavit supportive of the home builder during an adjudicative process. The OCP had not disclosed the existence of the affidavit to the Complainants. The Complainants learned of the existence of the affidavit as the result of the Complainants' September 2010 Maryland Public Information Act (MPIA) request and their inspection of OCP's file.

#### **Key Points in the OIG Report**

We substantiated the allegation that the Program Administrator signed a notarized affidavit prepared for his signature by an attorney for the builder that characterized the attorney's client as "stellar", an action that compromised the perception of OCP's independence and impartiality in the execution of the mission of the office. We also found that neither the OCP nor the County had written policies or procedures regarding the signing of affidavits by County personnel.

#### **Key Points in the County Chief Administrative Officer's Response**

The Chief Administrative Officer's May 15, 2013 response stated that: "The inquiry received by OIG from the owners of a home concerned the manner in which their complaint alleging warranty defects in the purchase of a \$3.6 million residential home was handled by OCP 6 years ago. OCP staff has been counseled regarding the best practices for documenting the action taken by OCP when disputes are partially resolved by OCP and are subsequently submitted to an arbitration process."

#### **Key Outcomes**

The Director of OCP stated that this act was a single instance that took place several years ago, and he has taken appropriate steps to prevent similar issues at OCP.

***Review of Montgomery County Public Schools' Acquisition of  
Promethean Interactive Classroom Technology***

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*OIG Report # 14-002 (November 2013)*

**Background**

The OIG received complaints that the Montgomery County Public Schools (MCPS) obtained Promethean systems in a no-bid procurement and did not evaluate other technologies. The County Council also raised concerns about MCPS' request of FY 2013 appropriations for the acquisition of Promethean interactive classroom systems at a cost of approximately \$9 million.

During the three school years that began in 2005 and ended in 2008, MCPS deployed 242 Smart Technologies and 175 Promethean interactive classroom systems, the two leading providers of interactive white board systems at the time. Beginning with the 2008-09 school year MCPS installed interactive classroom technology systems that were predominantly Promethean systems. Since 2008, MCPS had purchased 4,600 Promethean systems that were adopted as the MCPS technology standard. Our report focused on the acquisition of additional systems during 2013. Our objectives were to determine whether the acquisition was consistent with state law and MCPS procurement policies as well as to determine whether prices obtained by MCPS were reasonable when compared to prices paid for similar acquisitions by other school systems.

**Key Points in the OIG Report**

MCPS procurement actions appeared to have been consistent with state laws, MCPS procurement requirements, and appropriations as proposed by the Board of Education to the County Council.

Information developed by the OIG indicated that prices obtained by MCPS compared favorably to the prices obtained by other school systems that purchased Promethean systems.

We found no evidence suggesting the Promethean systems were not an appropriate technology standard. We expressed to MCPS our concern that they did not document any analysis leading to the selection of the technology standards for this procurement. However, we noted that MCPS had no requirement that the decision process for the selection of a standard be formally prepared or documented.

**Key Points in the County School System Chief Operating Officer's Response and Key Outcomes**

The response indicated agreement with our analysis and conclusions that:

- MCPS procurement actions were consistent with state laws and MCPS procurement requirements;
- MCPS used appropriated funds as proposed, and;
- MCPS received favorable and competitive pricing for the Promethean systems.

The response also stated that the lack of formal documentation of how the technology standard was selected should not diminish the efforts MCPS made in accessing technology products of Promethean and its competitors. However, the CAO agreed that documenting MCPS' decisions is valuable.

***Report of Inspection: Montgomery County Department of Liquor  
Control - Review of Management Controls Over Inspectors***

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*OIG Report # 14-003 (January 2014)*

**Background**

In March 2012, the OIG received complaints from several owners of Hispanic restaurants in Montgomery County licensed to serve alcoholic beverages. The owners complained that during 2011 and early 2012 one inspector from the County Department of Liquor Control (DLC) had been visiting their establishments on a frequent basis and issuing or threatening to issue alcohol violation citations to them based on false findings. They also claimed that DLC and the County Board of License Commissioners demonstrated bias against them. At the time the OIG received the complaints the inspector who was the subject of these complaints had been arrested for allegedly having extorted a Hispanic restaurant owner for \$1,000 in exchange for giving advance notice of future inspections and not submitting citations.

Maryland law requires that sellers of alcohol be licensed (with some small exceptions that do not apply to restaurants and stores in the normal course of business) and provides that County Boards of License Commissioners may issue licenses to sell alcohol, suspend or revoke licenses, and impose fines. Maryland law also provides that counties may have liquor control boards that purchase and sell alcoholic beverages; however, most county governments in Maryland have only license-issuing authority and do not participate in the sale of alcohol.

Currently, the DLC has five inspectors who inspect licensees for compliance with laws governing underage alcohol sales, sales to intoxicated individuals, keg registration requirements, and requirements that receipts from sales of food in restaurants be equal to or greater than receipts from alcohol sales. A police officer and a DLC inspector go together for most compliance checks. If an inspector deems that there has been a violation, the inspector issues a civil citation to the licensee, with a copy sent automatically to the DLC Division Chief.

**Key Points in the OIG Report**

We found that DLC had improved internal controls over its inspections since 2011. However, management controls over the activities of inspectors remained weak.

Prior to 2012, all citations were documented on un-numbered paper forms. Potential inspector misconduct was facilitated by the ability of an inspector to create citations without submitting the forms to DLC.

The DLC put an iPad citation system into use in early 2012, after the inspector was arrested. Inspectors enter data on the licensees visited into the iPads. The iPads record the times citations are written and automatically send them to the DLC supervisor of the inspectors and file an electronic copy in the central database. Once the citation is completed, it cannot be deleted by the inspector. Despite improvements, controls over inspectors remain weak because the data is not used to generate timely, useful management reports on the activities or performance of inspectors.

The data analyzed by the OIG indicated that there were a disproportionate number of violations by Hispanic establishments in 2011 which did not occur in subsequent years. We analyzed violations data for 2011, 2012, and the first half of 2013. DLC's violations data demonstrate that

in 2011, Hispanic establishments accounted for 27% of the violations, but only 13% of the licensees.

We also found that the acquittal rate of Hispanic establishments before the Board of License Commissioners was not significantly different from the acquittal rate for other licensees. Licensees were found not guilty in only 2 of 55 cases that were decided during calendar years 2011, 2012, and 2013 through June 20, 2014.

### **Key Points in the Chief Administrative Officer's Response and Key Outcome**

The Chief Administrative Officer (CAO) concurred with the OIG's recommendation that data available from iPads should be used to develop management reports for monitoring and managing inspections. The CAO also stated that the higher percent of citations for Hispanic establishments in 2011 was attributable to the higher level of enforcement and regulatory activity in the Wheaton business district that occurred in 2011.

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## ***Advisory Memorandum: Montgomery County Employee Leave Balances***

*OIG Report # 14-004 (March 2014)*

### **Background**

The OIG received a complaint from a Montgomery County employee alleging that .01 hours of annual leave that was reported on the employee's pay stub as credited to the leave balance was not actually credited, and a similar issue with the crediting of earned hours to the sick leave balance.

Montgomery County Personnel Regulations (MCPR) outlines the amount of annual and sick leave to be earned by County employees. We analyzed leave accruals for 2 County employees within their first 3 years of County service. Based on the MCPR, both employees should have earned annual and sick leave at the rate of 120 hours per year. Thus, employees in their first 3 years of service should earn .05769230769 hours of both sick and annual leave for each hour worked, resulting in a full-time employee earning 4.61538461538 hours in each leave category per pay period.

### **Key Points in the OIG Report**

We found that on the paystubs of the two sampled employees, the annual and sick leave balance periodically increased by 4.60 hours even though their pay stubs indicated that 4.61 hours had been earned. Additionally, the 4.61 hours stated as earned was slightly less than what the MCPR provides. According to the earned leave column on paystubs, employees in their first 3 years of service are granted 4.61 hours of both annual and sick leave, resulting in 119.86 hours earned per year, which is less than the 120 hours that the MCPR states that the employees are eligible to earn.

### **Key Points in the County Chief Administrative Officer's Response**

The CAO agreed with our report and explained that the annual and sick leave rates originally implemented into Oracle, the County's leave-tracking system, resulted in leave amounts earned

that were slightly less than stipulated in MCPR. The County reviewed the annual and sick leave accruals for all groups of employees and reported that, for the past 3.25 years, a small rounding issue impacted all employees' annual and sick leave accruals for employees with less than 16 years of service. To remedy the discrepancy, the County corrected the hourly accrual rates and granted a one-time credit for both annual and sick leave.

The CAO also clarified that the Oracle system calculates employee leave to the fourth decimal place, while employee paystubs display two decimal places. This accounts for the slight discrepancies between the earned leave and total leave balance displayed on the sampled paystubs.

### **Key Outcomes**

The County adjusted the annual and sick leave accrual rates for the rounding issue noted in our report. The Office of Human Resources released a memorandum to all active County employees indicating that a one-time credit to leave balances would be made to address the previous rounding differences between accrual rates used in Oracle and those required by MCPR. The one-time credit was made and visible on the May 30, 2014 pay-slips.

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## ***Report of Inquiry: Bethesda Cultural Alliance***

*OIG Report # 14-005 (March 2014)*

### **Background**

The OIG received a complaint regarding a County Economic Development Fund (EDF) grant of approximately \$1.8 million that had been made to the Bethesda Cultural Alliance (BCA) in 2006 for the purpose of renovating the Bethesda Theatre. Theatre productions had ceased temporarily after the theatre had been operating for only six months, and they ceased permanently approximately two years later. The theatre never became viable during the time BCA owned it. In early 2010, BCA closed the theatre and defaulted on its mortgage, resulting in an economic loss to the County.

### **Key Points in the OIG Report**

We found that the regulation governing the analyses of EDF applicants' financial viability lacks specificity, and its intent was unclear. County Regulation 20.73.01.05 requires that: "An economic benefit analysis and/or pro-forma analysis will be completed for all awards above \$100,000, the cost of which will be charged to the Fund. The economic benefit analysis will be used when the business prospect can clearly demonstrate its ability and commitment to perform on its proposed project. The pro-forma analysis will be completed for projects which require due diligence by the County to determine feasibility. This could include analysis of the project's financial feasibility by examining revenues and costs, appropriate market analysis, profit and loss projections, current and projected balance sheets and return on investment."

We felt that this Regulation is weak in several ways. Specifically, the terms "economic benefit analysis," "pro-forma analysis," and "business prospect" are neither defined nor described. The regulation states what a pro-forma analysis could contain, but it does not state what it must, at a minimum, contain. The regulation does not state who should prepare and review the analysis;

this could be completed by Department of Economic Development (DED), the Department of Finance, or an outside expert. The regulation does not require that the economic benefit analysis or pro-forma analysis be provided to the Council.

We found that Council's consideration of the County EDF grant was based on information containing an incorrectly applied multiplier. A multiplier indicates the difference between the initial effect of a change and the total effects of that change. DED multiplied the direct effect by the multiplier to determine the indirect effect, instead of the total effect. DED then added this incorrectly large indirect effect (which was actually the total effect) to the direct effect and, as a result, calculated a total that was incorrectly large. This misapplication of the multiplier resulted in an approximately two-fold overstatement of the indirect benefit to the County economy: instead of being approximately \$13 million, the correct calculation yields a figure of \$6.5 million.

We also found that information provided to the Council regarding the Maryland Economic Development Assistance Authority and Fund (MEDAAF) grant for the theatre did not disclose (a) that the County would be the MEDAAF grant recipient, (b) that the County could be obligated to repay the State, or (c) other terms of the MEDAAF grant affecting the County.

At least six documents provided to the Council mentioned the grant recipient as "the Bethesda Theatre" and/or the "Nederlander Project," leading the Council and the public to believe that the grant was directly to the company, not to the County. The MEDAAF grant agreement, signed approximately two months after the Council endorsement of the grant, stated that the County was obligated if BCA defaulted on any indebtedness, but the Council was not informed that would be the case. As a result of not being told all the relevant facts, the County Council was not informed that the County could be obligated to provide not only the EDF financing, but also a repayment of the State financing, for a total of approximately \$2.6 million.

#### **Key Points in the County Chief Administrative Officer's Response**

The CAO indicated that the following actions would be taken in response to our recommendations:

- By amending the Executive Regulation governing the EDF, the recommended clarifications/changes regarding the financial analyses of proposed EDF projects will be made.
- Directors of DED and the Department of Finance will ensure that all future EDF transactions involving "Economic Impact Analysis" using multipliers will be reviewed by outside experts for applicability and accuracy.
- DED will work with the State Attorney General's Office to modify the MEDAAF Resolution document, to clearly convey to the County Council the recommended information.

#### **Key Outcomes**

The County Executive submitted proposed Executive Regulation 09-14 to the Council on July 16, 2014. The County Executive's cover memo stated that the proposed regulation addresses changes in the EDF law made in 2012 and recommendations made by the OIG report.

***Project Management Deficiencies in Constructing the Paul S. Sarbanes  
Silver Spring Transit Center***

*OIG Report # 14-007 (April 2014)*

Per order of Judge Mason in the Silver Spring Transit Center litigation, the referenced Office of the Inspector General reports and presentations have been removed from our web site.

Per order of Judge Mason in the Silver Spring Transit Center litigation, the referenced Office of the Inspector General reports and presentations have been removed from our web site.

## ***Report of Inspection: One-Day Alcoholic Beverage Licenses***

*OIG Report # 14-006 (May 2014)*

### **Background**

In April 2013, Clifton Larson Allen (CLA), on behalf of the OIG, analyzed selected financial and informational data files of the Montgomery County Department of Liquor Control (DLC). The purpose of that analysis was to identify transactions or data relationships that appear to be inconsistent with County or DLC policies. CLA's results identified possible issues in several areas, including a number of issues concerning license fees collected from One-Day license holders. Montgomery County offers any "club, society or association" the opportunity to obtain a special One-Day license "to serve or sell alcoholic beverages" at a specific event.

The objectives of this review related to the issuance of One-Day licenses were to evaluate DLC's current policies, procedures, and related internal controls from the standpoint of effectiveness, efficiency, and safeguarding of assets and determine whether there are any violations of law or regulation in the current procedures.

### **Key Points in the OIG Report**

We found there was little documentation of the processes or internal controls regarding the issuance of One-Day licenses and handling of financial instruments. One-Day license applications and fees received were not recorded at the time that they were received. The accounting entries for One-Day license applications were made after the Board considered the application, as a lump sum amount covering fees of all applications approved for that day. Checks received from One-Day license applicants were not being deposited daily, but instead were stored in an open, unlocked area until the Board considered the application.

We recommended that DLC create formal, written policies and procedures regarding issuance of One-Day licenses, including the handling of license payments. We also recommended DLC should maintain a daily log of all One-Day license applications received, including the date of receipt, name of the licensee, and fees collected or to be collected. Finally, DLC should reconcile the daily log with funds received and deposited. Checks received should be immediately restrictively endorsed and deposited daily.

The OIG also found multiple instances where DLC's practices regarding One-Day licenses appeared to conflict with Maryland law including:

1. One-day license cardstock does not include sequential license numbers. Maryland law requires that "Every license shall be appropriately numbered by the official issuing the same."
2. Cases where One-Day licenses were issued for more than 7 days, including periods up to 21 non-consecutive days. Maryland law states that a One-Day license can be issued "for a period not exceeding seven consecutive days from the effective date thereof."
3. When an application was submitted for a One-Day event occurring prior to the next County Board of License Commissioners (Board) meeting, the Office of Licensure, Regulation, and Education Division Chief approved the license without the Board voting on the matter. These licenses are then printed with the signature of the Chairman of the Board, creating the appearance that they were approved by the Board. Maryland law

requires that at least three members of the Board “who are present at the voting session, must concur in the approval, denial, revocation, suspension, or reclassification of an alcoholic beverage license.”

4. For One-Day licenses, DLC does not comply with the notice and posting requirements codified in Maryland law.

We recommended that DLC should align its practices with the requirements contained in Maryland law. DLC should consider the need to request that the Maryland Code be amended to exempt One-Day licenses from the notice and posting requirements.

#### **Key Points in the County Chief Administrative Officer’s Response**

The CAO agreed with many of our findings and recommendations, but disagreed on some others. The CAO agreed to develop and document the standard operating procedure for the issuance of One-Day licenses, to develop a daily log of license applications received and a reconciliation process with the related funds deposited, and to immediately adopt a policy wherein checks are restrictively endorsed upon receipt, kept in a locked cabinet, and routinely deposited.

The CAO agreed that current practices did not align with Maryland law in that One-Day licenses do not include a license number and have been issued for more than seven non-consecutive days.

The CAO did not agree that One-Day licenses should be issued only by the Board or that Maryland law requires One-Day license applicants to comply with notice and posting requirements. Although not expressly stated in the statute, the CAO interpreted Maryland law as exempting One-Day licenses in this and other areas.

The CAO’s response stated that our report highlighted some understandable confusion on Article 2B of the Maryland Code regarding the requirements for regular (full time/annual) licenses versus the temporary, special event One-Day licenses that were the focus of this review. The CAO agreed to request clarification in this general area from the Maryland Attorney General.

#### **Key Outcomes**

DLC has proposed legislation exempting One-Day licenses from the Maryland law prohibiting issuance of an alcoholic beverage license within 750 feet of any secondary or elementary school, church or other place of worship. During a July 2014 Council session, DLC attributed their legislative request to discussions with the Inspector General during this review. DLC reported that approximately 80% of One-Day license requests come from Churches and places of worship.

## Summaries of Closed Preliminary Inquiries and Referrals to Which Responses Were Received in FY 2014

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### *The Parking Lot Pilferer*

OIG-12-032

**Complaint Summary:** In March 2012, a visitor to the Ethics Commission asserted that for some time a County employee had been using his personally owned pickup truck to pilfer construction materials from the County Department of Transportation's (DOT) Silver Spring parking garage at which he was based. Construction materials for DOT use were stored in a secure storage area within that facility. The Ethics Commission referred the matter to our office.

**Outcome:** OIG staff members visited the parking garage where the pilfering had allegedly taken place to understand the manner in which the personally owned truck could be used to steal materials and subsequently notified Montgomery County Police Department (MCPD), who worked with OIG on the issue. MCPD interviewed various parties and on one occasion caught the pilferer with a small amount of likely stolen County assets in his truck. However, it was agreed that DOT would handle this matter administratively.

After a period of several months, in spring 2013, the complainant contacted the OIG and informed us that the subject employee was again stealing construction materials, even though on a smaller scale. OIG staff visited the garage on several occasions and observed some DOT staff members monitoring the contents in the bed of the subject's pickup truck.

In September 2013 the complainant called OIG to say that the pilferer had resigned from the County, which the OIG confirmed. Per the County's Office of Human Resources, "The reason for his resignation states that he left for better promotional opportunities."

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### *Improper Volunteer Fire Department expenditures*

OIG-13-030

**Complaint Summary:** The OIG received a referral from the Maryland Office of Legislative Audits, who received a complaint via email about expenditures approved by two supervisors in a Montgomery County Volunteer Fire Department (MCVFD). The complainant stated that for about 14 years, MCVFD had purchased alcohol with MCVFD funds, served alcohol to minors, purchased an ambulance without going through a required competitive process, purchased a fire engine based on inflated seat count, used County vehicles for personal use and commuting, and used MCVFD funds for personal travel including overseas travel.

**Outcome:** The OIG worked with the Montgomery County Fire and Rescue Service (FRS) Office of Internal Affairs (OIA) to investigate these allegations. We learned that the two supervisors implicated in the allegations were no longer with that particular MCVFD. One supervisor had transferred to another MCVFD and the other supervisor had separated from County service.

Documents confirmed that the MCVFD purchases of departmental vehicles and emergency vehicles had followed the acquisition policies for the County; that in a former period alcohol had been purchased and served at the MCVFD annual banquet by a caterer who was responsible for ensuring that alcohol was not served to minors; that MCVFD funds were approved for a member of the MCVFD to attend a 2005 conference in Germany and that only personal funds were used to attend that conference in 2010.

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***Medicaid payments made to facility after patient discharge***

*OIG-13-038*

**Complaint Summary:** A County resident reported that a brother was discharged from a medical facility where Medicaid was paying for all or part of his medical expenses. The resident believed that Medicaid continued to pay the facility after the brother was discharged. Since Medicaid is funded by the states, the OIG referred this complaint to the State of Maryland Department of Human Resources Office of Inspector General (DHR/OIG).

**Outcome:** The DHR/OIG referred this matter to the Office of Inspector General for the State of Maryland's – Department of Health and Mental Hygiene (DHMH) for review. The DHMH conducted a review and determined less than \$300 was paid on behalf of the brother.

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***Problem regarding use of gift cards at County Liquor Stores***

*OIG-13-039*

**Complaint Summary:** The OIG received a complaint from a County resident who attempted to apply the remaining balance of a Visa gift card to the purchase of an expensive bottle of liquor. The complainant did not know the exact balance remaining on the gift card, but gave the clerk both the gift card and a credit card on which to charge the amount of the purchase not covered by the gift card. The clerk processed the transaction and allegedly offered to dispose of the gift card used but the complainant decided to retain the gift card. When he later looked at his receipt, the complainant saw that the full amount of the purchase had been charged to his credit card and returned to the store to question what happened to the balance on his gift card. The complainant claimed he was told that the store had "taken" the balance and suggested he call the Department of Liquor Control (DLC) to discuss restoring the balance to the gift card. The store clerk's offer to dispose of the gift card made the complainant suspect that the store clerk wanted to steal the remaining value of the card.

Complainant stated that he spoke with a supervisor at DLC who allegedly told him that when a gift card is used to purchase a product that costs more than the value of the card, the card balance is wiped out and cannot be restored. However, the DLC supervisor called the complainant four days later to tell him his gift card's unused balance had been restored. Complainant stated that he sent his driver to a different liquor store to make a similar purchase splitting the cost between a gift card and a credit card and told us that the driver had the same experience as did the complainant, the entire purchase was charged to the credit card.

**Outcome:** OIG staff visited the first liquor store in question and was told by the clerk on duty that the type of gift card in question may only be used to purchase an item whose cost is either lower than or equal to the balance of the gift card. He further told them that if they wished to buy an item that costs more than the balance of the gift card, the clerk must be told the exact amount to charge to the gift card and the amount to be charged to a different card (or paid in cash) because if the cost of the item exceeds the balance of the gift card, the system will not charge any portion of the amount to the gift card. It will instead charge the full amount to the credit card and put a temporary (4-5 day) hold on the amount that is available on the gift card. He stated that he would not be able to determine the remaining value of the gift card.

OIG contacted several sources, including a Visa gift card customer service representative who explained that if there is an attempt by a vendor to charge an amount in excess of the balance available on a gift card, the card will reject the transaction. However, the representative asserted that no hold is put on the card balance and that it should be possible to use the card immediately. We noted that an audit of the DLC's recently installed Point of Sale (POS) terminals apparently did not test similar gift card transactions.

OIG made a test purchase from a DLC store using a Visa gift card and a personal credit card and found that the POS system worked as had been explained by the gift card representative. OIG sent an information memorandum to the DLC Director advising him of this situation and advising him to consider whether store clerks are sufficiently trained to understand and explain gift card procedures to customers. The complainant was advised of the OIG actions.

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### ***Misuse of County time and equipment***

OIG-13-043

**Complaint Summary:** A County employee alleged that a co-worker wrote two books on company time using a County computer, and printed the book with the office printer at work, with the supervisor's knowledge. A second complainant confirmed the employee's statements.

**Outcome:** The OIG referred this complaint to the Chief Administrative Officer (CAO) for appropriate action. The CAO responded that their investigation into the complaint confirmed the allegations which resulted in several recommendations, including reimbursement by the employee for the cost of the print job at work.

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### ***Fraudulent disability claim***

OIG-13-045

**Complaint Summary:** Complainant reported that a Montgomery County firefighter has been on disability leave for several years due to an alleged injury to his back and told some friends he was waiting for full disability. The complainant does not believe the firefighter is disabled because the complainant viewed (and sent to the OIG) a You-Tube video of the firefighter vigorously dancing and lowering himself to his knees. In addition, the firefighter has a motorcycle which he rode to Philadelphia and Atlanta.

**Outcome:** The OIG referred this matter to the Division of Risk Management, which advised the OIG that although the firefighter had been granted full disability, the County would conduct an investigation into the allegation. Subsequently, the County brought the firefighter's disability claim before the Worker's Compensation Commission (WCC). The County filed issues for consideration of betterment for this claimant. Through an error at the WCC, there was confusion at the hearing and the Commissioner dismissed the claimant from the proceeding before the County's attorney could stop the proceeding. The County subsequently decided to withdraw its issues, because the County is currently receiving an offset through the retirement program that is larger than the amount it would have to pay. For that reason, no worker's compensation payments are being generated to the firefighter at this point in time.

The County has stated that it will again file for betterment if it has substantiating evidence and the firefighter begins to receive disability retirement payments.

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### ***Brickyard Road***

*OIG-12-052; OIG-13-059*

**Complaint Summary:** From May 2011 through May 2013, the OIG received multiple complaints regarding the Board of Education's lease of the Brickyard Road school site in Potomac, Maryland to the County, and the County's sublease of that property to Montgomery Soccer, Inc. (MSI), to develop soccer fields on the site. The Brickyard site is a 20 acre parcel of land that has no school on it and was leased for many years for use as an organic farm.

Among the complaints received were allegations that: (1) MSI filed forms with the Internal Revenue Service (IRS) improperly indicating that MSI had not been involved in lobbying, while forms an MSI contractor filed with the Ethics Commission did report lobbying; (2) the County and the Board of Education did not submit the Brickyard proposal to the Planning Board for the mandatory referral review required by State law; (3) the Director of the Department of General Services (DGS) misrepresented the Planning Board staff's position in his statements to the Board of Education; and (4) the County failed to respond sufficiently to Maryland Public Information Act (MPIA) requests and retain records related to this matter as required by law.

Some of these issues were the subject of several lawsuits and administrative proceedings. Consistent with OIG policy, the OIG did not express any views on the legal merits of the controversies or on any specific issues raised in the legal proceedings while the issues were the subject of legal proceedings.

**Outcome:** Regarding the above complaints, the OIG determined that (1) information contained in MSI's Internal Revenue Service (IRS) forms and information in the MSI contractor's County ethics filings were not necessarily inconsistent, as the IRS and the County use different definitions of lobbying; (2) evidence did not indicate that the time had expired for mandatory referral review submission; (3) the statements allegedly made by the Director of DGS did not constitute misrepresentation; and (4) a Montgomery County Circuit Court judge determined that the County did not violate the MPIA and that there was no credible evidence that the County had destroyed documents intentionally or negligently failed to preserved documents. The OIG review did not find evidence indicating noncompliance with either the MPIA or the records retentions law related to the issues raised by the complainants.

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### *Property tax credits*

OIG-14-009

**Complaint Summary:** A complainant sent the OIG a list of 31 properties whose owners, the complainant believed, were improperly receiving property tax credits. These properties were recorded in the records of the State Department of Assessments and Taxation (SDAT) as Principal Residences, indicating that they were owner occupied, but the complainant found them listed for rent on the real estate multiple listing service (MLS). A property coded as a Principal Residence can qualify for the Homestead Property Tax Credit, which limits property tax increases when assessments rise more than 10%, and the Income Tax Offset Credit (ITOC). The complainant estimated that the County was losing \$21,452 per year on the ITOC on just these 31 properties.

**Outcome:** The OIG referred the matter to the Montgomery County Department of Finance (DOF). The DOF advised the OIG that they use MLS data and other databases to research whether properties are incorrectly coded in SDAT's system as Principal Residences. When SDAT gives DOF the approval to do so, they send verification letters to the property owners on behalf of SDAT. These letters state that proof of principal residency must be provided to SDAT within 30 days, or the property will be coded as not a Principal Residence. The DOF was in the process of sending these letters out to over 3,000 properties, including some of the 31 the Complainant had provided. DOF indicated that they would include other properties from that group of 31 that were incorrectly coded in its next update to SDAT. When the SDAT records are revised, SDAT provides DOF with a file for revised property tax bills to collect the ITOC from each non-compliant account.

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### *Intern related to department director*

OIG-14-010

**Complaint Summary:** An anonymous complainant wrote the OIG that a teenager who was an intern in a County Department was the daughter of the Department's Director.

**Outcome:** Because the hiring of close relatives is an ethics issue, the OIG referred this complaint to the Chief Counsel/ Staff Director of the Ethics Commission who informed the OIG that he had received a similar complaint. The Department Director was informed that the internship, though uncompensated, was improper. The internship was terminated shortly thereafter.

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### *County employee conducting business at work*

OIG-14-011

**Complaint Summary:** An anonymous complainant alleged that a County employee was engaging in a private/personal business while using County time and resources. The Complainant asserted that the employee sold Mary Kay products, and provided a catalog on which the County employee's office and cell telephone numbers were provided.

**Outcome:** The OIG referred this matter to the management of the employee’s Agency. The Agency’s management counseled the employee, who agreed not to use the County telephone number or do any work related to the selling of Mary Kay products during the employee’s County work hours.

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***Property obtained under HOC no longer qualifies***

*OIG-14-017*

**Complaint Summary:** A complainant alleged that a family who obtained their home through the Montgomery County Housing Opportunities Commission (HOC) program no longer qualified for assistance because a family member’s spouse moved into the residence and, given this additional income, the family likely exceeded the income limits for assistance.

**Outcome:** The OIG referred this matter to the HOC who could not substantiate the allegation.

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***Tenant no longer qualifies for assisted housing***

*OIG-14-028*

**Complaint Summary:** A complainant asserted that an individual participating in a County rental assistance program was renting a room in the sponsored County apartment. The complainant also asserted that the individual’s significant other was living in the property and earning an income.

**Outcome:** The OIG referred this matter to the Department of Housing and Community Affairs (DHCA). They found that the individual resided in a Housing Initiative Funds-restricted unit and received Section 8 assistance. After a unit inspection, it appeared that there was one unauthorized occupant living in the second bedroom. Management of the property drafted a lease violation notice, which gave the individual 21 days to correct the violation or be asked to vacate.

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***Spoof call***

*OIG 14-036*

**Complaint Summary:** The complainant stated that he received a telephone call from someone who claimed that complainant should call “another officer” at a provided number or he would be arrested. The caller ID displayed on the complainant’s telephone, 240-777-7000, was identified as the Montgomery County Sheriff’s Office general number. When the complainant called, there was no one with the name given.

**Outcome:** Based on our discussion of this matter with the Sheriff’s Office, the OIG advised the complainant that although callers can reach the Sheriff’s Office using the general number, calls cannot originate from it. It appears the caller used some means to display a false originating call number (spoof) for an unknown purpose.

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***Police take-home vehicles***

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*OIG-14-047*

**Complaint Summary:** The complainant stated that two employees of the Montgomery County Police Department (MCPD) improperly took County vehicles home. The employees in question live well outside of the 15 mile radius of the County line that is allowed per union agreement and County policy.

**Outcome:** The OIG referred this matter to the Internal Affairs Division of the MCPD. They conducted an investigation regarding the complaint. The two employees involved have been informed that they no longer have use of their County vehicles to take home as they live outside the 15 mile radius standards set in the Fraternal Order of Police contract.

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***Landlord not repairing property***

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*OIG-14-050*

**Complaint Summary:** A complainant reported that a rental property was in very bad condition, and the landlord ignored repeated requests for repairs. The complainant stated that the County had recently completed a rental property inspection, which the property had passed.

**Outcome:** Shortly after the OIG received this complaint, the County Department of Housing and Community Affairs (DHCA) inspected, found violations on, and required repairs of the property.

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***Tenant improperly in Moderately Priced Dwelling Unit program***

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*OIG-14-073*

**Complaint Summary:** An anonymous complainant alleged that a neighbor in an apartment complex was now, after moving into an apartment, living with a woman, and that their combined incomes exceeded Moderately Priced Dwelling (MPD) requirements. MPD offers affordably priced townhomes and condominiums - both new and resale - to first-time homebuyers who have a moderate household income.

**Outcome:** The OIG referred the complaint to the Manager of the Affordable Housing Section of the County's Department of Housing and Community Affairs (DHCA), who contacted the property manager of the apartment complex. DHCA was advised that, based on recent documentation, the resident's income does not exceed eligibility requirements and he has not been seen with any woman who may be residing in this unit.

# **MCOIG HOTLINE**



**240-777-7OIG (7644)**

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