



**DISTRICT OF COLUMBIA**  
**OFFICE OF THE INSPECTOR GENERAL**  
**BLANCHE L. BRUCE**  
**INTERIM INSPECTOR GENERAL**

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# **Inspections & Evaluations Division**

## *Summary of Compliance Activities*

**September 2014**

**COMPLIANCE**

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**SEPTEMBER 30, 2014**

**Inspections and Evaluations Division**  
**Mission Statement**

The Inspections and Evaluations (I&E) Division of the Office of the Inspector General is dedicated to providing District of Columbia (D.C.) government decision makers with objective, thorough, and timely evaluations and recommendations that will assist them in achieving efficiency, effectiveness, and economy in operations and programs. I&E goals are to help ensure compliance with applicable laws, regulations, and policies, to identify accountability, recognize excellence, and promote continuous improvement in the delivery of services to D.C. residents and others who have a vested interest in the success of the city.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Inspector General

Inspector General



September 30, 2014

Allen Y. Lew  
City Administrator  
Government of the District of Columbia  
1350 Pennsylvania Avenue, N.W., Suite 513  
Washington, D.C. 20004

Phillip A. Lattimore, III  
Director and Chief Risk Officer  
Office of Risk Management  
441 4<sup>th</sup> Street, N.W., Suite 800S  
Washington, D.C. 20001

Dear Mr. Lew and Mr. Lattimore:

I am writing to provide you with a summary of the Office of the Inspector General (OIG) Inspections and Evaluations Division's (I&E) recent work to monitor agencies' compliance with recommendations presented to them in reports of inspection (ROIs), reports of special evaluation, and Management Alert Reports (MARs).

**Background**

The OIG monitors agencies' compliance with published recommendations to ensure a continued effort to mitigate deficient conditions noted in our reports and improve service delivery to District residents and others who have a vested interest in efficient and effective government operations.

Upon publication of a final report of inspection or special evaluation, the I&E inspection team sends the agency a compliance form for each recommendation presented in the report that has not been fully implemented, i.e., is still considered to be "open." Agencies are instructed to use the forms to provide: (1) a narrative regarding corrective actions the agency has taken; and (2) the name and contact information of the agency management official responsible for the corrective action(s). We ask agencies to furnish an initial response 60 days after the date of report publication; thereafter, I&E uses the contact information provided to send targeted requests for additional information, if needed, to the responsible manager. Similarly, when the OIG issues MARs to District agencies and other entities, they are asked to respond to the conditions cited and the recommendations presented in the reports.

## Organization of this Report

This Summary of Compliance Activity addresses a number of the reports that I&E has published since fiscal year 2012. For each, we present a brief explanation of the key findings and recommendations; summarize any corrective action taken by the inspected agency to remedy the condition cited by the OIG; and note whether any conditions/recommendations remain unaddressed.

(For the convenience of those reading this compliance summary in electronic format, each report's title contains a hyperlink to the location of the full report on the OIG's website: [www.oig.dc.gov](http://www.oig.dc.gov).)

### Fire and Emergency Medical Services Department (FEMS)

#### *FEMS Fails to Address Critical Staffing Shortages – Report of Special Evaluation*

Date of Publication: December 2013

## Overview

I&E conducted a special evaluation of staffing in FEMS in the aftermath of a significant staffing shortage on December 31, 2012. The objectives of this special evaluation were to: (1) assess FEMS's ability to staff its routine 24-hour emergency response operations sufficiently; and (2) determine whether FEMS has adequate contingency staffing procedures when faced with significant absences of operational personnel.

## Key Findings and Recommendations

The OIG found, among other things, that FEMS's Operations Division had too few members to meet operational demands consistently; staffing shortages led to vehicles being placed out of service and downgrades of Advanced Life Support (ALS) units; and there was an excessive reliance on overtime to compensate for absences.

The OIG presented 11 recommendations, including:

- That the FEMS Chief develop a formal plan to recruit aggressively and quickly hire a sufficient number of certified paramedics to fill all vacant positions and fully staff all ALS units; and
- That the FEMS Chief develop a formal plan to decrease FEMS's reliance on overtime, particularly mandatory overtime, to levels commensurate with the D.C. Council's budget allocations and that do not violate the Overtime Act.

## **Agency Response**

In its December 2013 response to the draft report, FEMS noted that in 2011, FEMS “began proposing a work schedule that provided a flexible work force, capable of responding to the wide variety of calls for service the agency addresses every day.... The proposed work schedule would allow the agency to distribute the 175 operational paramedics over three shifts instead of four, increasing the number of operational paramedics to 58 per shift.” FEMS noted that in November 2013 the District’s Public Employee Relations Board (PERB) ruled that FEMS had the authority to implement such a change to their employees’ work schedules, which FEMS said would “enable the agency to address the personnel recommendations in this report.” FEMS’s then-Chief further wrote:

The pursuit of an alternative work schedule, which will enable the agency to be more responsive to the needs of the city, has generated considerable interest internally and externally and should not be overlooked as the agency leaders work to transform [FEMS].

In January 2014, FEMS informed the OIG that the proposed change “[had] been resisted” by its labor organization, which was appealing the PERB ruling, and that FEMS’s vacancy rate had decreased since publication of the OIG’s report.

## **Current Status**

In September 2014, FEMS informed the OIG “[a]t this time there is no activity or immediate plans involving the shift change for the foreseeable future. We have engaged in hiring to hopefully eliminate any need for a shift change.”

### **Department of Youth Rehabilitation Services (DYRS)**

#### ***Report of Special Evaluation***

Date of Publication: December 2013

## **Overview**

The special evaluation’s objectives were to assess: (1) the quality of DYRS oversight and that of other relevant entities prior to a youth’s abscondence; and (2) the effectiveness and timeliness of DYRS efforts and those of other relevant organizations to locate absconders.

## **Key Findings and Recommendations**

The key findings of this special evaluation pertained to DYRS’s failure to: monitor youths adequately; provide clear standards to families or its contracted facilities about reporting abscondences; optimize its use of global positioning system (GPS) devices to monitor youths placed in the community; place youths according to need, both due to the lack of an adequate re-

assessment instrument and a lack of housing containing appropriate services and levels of security; and systematically analyze reasons youths may be absconding.

The OIG recommended, among other things, that the Director of DYRS:

- Develop a risk re-assessment that takes into account a youth's progress in DYRS's program and implement procedures for its use;
- Provide a written procedure to parents/guardians of committed youths that outlines the expectations and protocols to follow in the event of an abscondence; and
- Formalize procedures for its GPS electronic monitoring program.

### **Current Status**

In September 2014, DYRS informed the OIG that it fully implemented a new assessment tool, the Child and Adolescent Functional Assessment Scale, which is administered to each youth prior to his/her commitment to DYRS and every 90 days thereafter. DYRS also reiterated its initial position that although "it is not within DYRS's authority to issue policies to guardians or parents," it directs them to immediately call the youth's DYRS social worker in the event of an abscondence. Finally, with regard to procedures for its GPS program, DYRS wrote:

DYRS stands by our initial position disagreeing with this recommendation. We believe the procedures currently in place are effective at efficiently running the GPS programming. Furthermore, codifying strict policy for assigning a GPS device or tampering with a GPS device goes against our mission statement of rehabilitating youth in the least restrictive, most homelike environment consistent with public safety.

□

Our social workers and their clinical supervisors require flexibility in determining the level, duration and manner of supervision for each individual young person to ensure that the devices are being used for rehabilitation as opposed to being used as a punitive measure. Furthermore, our graduated responses protocol has effective sanctions in place that can lead to the assignment of a GPS device and additional sanctions for other offenses, which include tampering with a GPS device.

DYRS also noted that as of August 1, 2014, 27 youths were abscondence, "or approximately 5%. This is consistent with where we have been over the past year and a stark contrast from previous years ...."

## Department of Health

### Health Regulation and Licensing Administration (HRLA) – Report of Special Evaluation

Date of Publication: September 2013

#### Overview

Two of the primary objectives of this special evaluation were to assess: (1) compliance with requirements related to grant funds HRLA received from the Centers for Medicare and Medicaid Services (CMS) for a criminal background check (CBC) program; and (2) implementation of the CBC program as indicated in the Department of Health’s (DOH) response to MAR 10-I-004 (entitled, [DOH Not Complying With District Law that Requires Health Professional License Applicants to Undergo a Criminal Background Check](#)).

The Affordable Care Act requires that grant recipients implement a “rap back” system. Under this system, a law enforcement agency must notify the grantee when a covered healthcare employee is convicted of a crime after a pre-employment CBC is completed. Implementation of a “rap back” system is a key requirement of the grant that HRLA received.

#### Key Findings and Recommendations

The OIG found that HRLA made significant progress in implementing the CBC program, but that “[l]egislative obstacles and poor planning may impede HRLA’s implementation of rap back ... by the end of the grant term.” As stated in the report, “[a]ccording to MPD and HRLA employees, the D.C. Code may not grant third-party contractors or District agencies authority to retain fingerprint images, and HRLA did not timely identify and address potential legislative and administrative impediments pertaining to rap back.” The OIG recommended, among other things:

- That the Director of DOH work with MPD and the City Council to identify and resolve any legislative obstacles delaying rap back implementation; develop protocols defining the roles and responsibilities of each involved agency; implement rap back prior to the grant’s expiration; and identify a funding source to sustain rap back.

#### Agency Response

In January 2014, DOH informed the OIG that it had asked CMS for an extension of the CBC program grant award, and that CMS had approved extension of the grant through December 31, 2014. DOH also noted that with the grant extension, “the ‘rap back’ initiative will move ahead ....”

#### Current Status

HRLA did not respond to September 2014 OIG requests for an update regarding the status of the implementation of the “rap back” system.

**Department of Human Resources (DCHR)**

***Agencies' Implementation of and Compliance With the District's  
Mandatory Employee Drug and Alcohol Testing Policy – Report of Special Evaluation***

Date of Publication: June 2013

**Key Findings and Recommendations**

DCHR's Policy for the Mandatory Drug and Alcohol Testing of Employees (MEDAT) who Serve Child and Youth ([E-DPM Instruction No. 39-2](#)) requires testing of District government employees who serve children or youths and whose positions are considered safety-sensitive or "covered positions." The objectives of this special evaluation were to ascertain: (1) the extent to which agencies subject to the policy were in compliance with its requirements and procedures and (2) whether testing records and results were retained properly.

The OIG's primary findings were that: the MEDAT program lacked quantified random testing goals; DCHR was not effectively auditing and assessing covered agencies' compliance with MEDAT program requirements; and implementation and application of the policy had been extremely inconsistent. Two of the report's primary recommendations were that the Director of DCHR: (1) issue a timely update of E-DPM Instruction No. 39-2 to include minimum annual random drug and alcohol testing rates for all safety-sensitive employees; and (2) clarify the roles and responsibilities of both DCHR and all covered agencies with regard to compliance and auditing duties.

**Agency Response**

In September 2013, DCHR informed the OIG that DCHR had established a minimum annual random drug testing rate of 50% of the pool of covered employees, and a minimum annual random alcohol testing rate of 10%, also noting: "We will monitor this random testing over the next fiscal year to determine whether these testing standards are appropriate or whether they may require additional modification." In response to a number of the report's 15 recommendations, DCHR stated: "DCHR is undertaking a comprehensive review of its entire suitability program (which includes drug and alcohol testing along with criminal background checks, traffic checks, credit report checks, etc.); and [we anticipate] making extensive revisions to the E-DPM instruction. We anticipate concluding this effort by Spring 2014."

**Current Status**

In response to a September 2014 OIG inquiry regarding the status of the planned revisions to E-DPM Instruction 39-2, DCHR wrote:

[T]he entire suitability program has been revised and Chapter 39 is destined to be repealed. Those provisions have been updated and will be folded into [DPM] Chapter 4. We anticipate Chapter 4 being published in final form between October 12 and November 30 (depending on comments revised [sic] from the public). The



guidance instructions will be issued at or immediately following publication of the Chapter. Barring any unforeseen impediments, everything should be in place no later than December 31.

**Department on Disability Services**

***Developmental Disabilities Administration – Report of Special Evaluation***

Date of Publication: November 2012

**Key Finding and Recommendation**

The special evaluation objective was to assess the quality of the Developmental Disabilities Administration's (DDA) monitoring of clients' treatment in out-of state residential facilities. The OIG learned that a DDA client was receiving aversive treatment in a Massachusetts facility, and that DDS's policy on "Restrictive Procedures" lacked clarity regarding (1) whether certain aversive procedures are prohibited; and (2) the policy's applicability to DDS clients in District and out-of-state placements. At the time, DDS's policy did not specifically prohibit aversive procedures such as shock therapy, white noise therapy, and bitter-tasting food procedures.

**Agency Response**

In January 2013, DDS informed the OIG:

DDS defines 'aversive practice' as: 'Unpleasant, painful, uncomfortable or distasteful stimuli used to alter a person's behavior. The use of aversive interventions is strictly prohibited in all programs funded or operated by DDS, including but not limited to shock therapy, white noise and bitter tasting foods procedures.' DDS is in the process of revising its Behavior Support Policy and at the OIG's recommendation will incorporate this language directly into the policy.

**Current Status**

DDS recently confirmed that in August 2013, DDS revised its Behavior Support Policy and added the following language banning the use of aversive practices:

DDS prohibits the use of aversive interventions in all programs funded or operated by DDS. Aversive interventions are defined as unpleasant, painful, uncomfortable or distasteful stimuli used to alter a person's behavior, including but not limited to shock therapy, white noise and bitter tasting foods procedures.

**Department of Human Services (DHS)**

**Adult Protective Services – Report of Inspection**

Date of Publication: September 2012

**Overview**

Adult Protective Services (APS) is a component of DHS's Family Services Administration that investigates reports alleging abuse, neglect, and exploitation of frail, elderly, and disabled adults and intervenes to protect adults who are at risk. APS provides case management, counseling, and other continuing services to vulnerable adults who have been abused, neglected, and/or exploited.

**Key Findings and Recommendations**

One of the report's primary findings was that APS rarely referred cases to – or investigated cases with – the Metropolitan Police Department (MPD) and noted “[a]s a result, criminal activity may continue unabated and perpetrators' actions may not be investigated and prosecuted, thereby putting the safety and well-being of APS clients and other potential victims at risk.” The report recommended that the Director of DHS and the Chief of MPD establish an MOU that details the types of assistance MPD would provide APS employees and clients. The report of inspection also concluded that APS's policies and procedures were neither thorough nor informed by best practices, and recommended that the Director of DHS lead a priority review and update of them.

**Agency Response**

In its August 2012 response to the draft report, APS indicated it would work to establish a Memorandum of Agreement (MOA) with MPD that would outline processes and procedures for both APS referrals to MPD as well as MPD processing of such referrals. APS also noted:

APS has begun the process through [a Continuous Quality Improvement] Team to revise the existing policies and procedures. The CQI Team has concluded its review of several national APS programs' policies and procedures manuals. APS, District of Columbia is using the APS-Tennessee as the template for revision. It is expected that the revised policies and procedures will be ready for implementation by November 30, 2012. This will allow for external-peer review, internal levels of review and staff training on the new manual. However, throughout this process new and revised policies/procedures will be implemented.

**Current Status**

In February 2013, APS entered into an MOA with MPD that is effective through September 30, 2014, and subsequent MOA will be executed each successive fiscal year. With regard to updating its policies and procedures, APS has been collaborating with an external consultant:

During this process, the Committee has researched and reviewed the manuals of several other APS programs nationally. During this process, it was clear the necessity to work with an external partner. As such, the Committee contacted the National Adult Protective Services Association for accomplished writers who have a solid track record in developing and writing policies and procedures manual[s] for APS divisions. Based on their recommendation and several professional references, DHS/FSA/APS was able to secure this consultant to assist in the revision of the APS-PPM. After completion of the internal review process and completion of any further edits, the training and implementation of the manual is expected to occur in October 2014.

**D.C. Public Schools, Department of Human Resources, and  
the Office of the Attorney General**

***D.C. Public Schools Does Not Conduct Mandatory Drug and Alcohol Testing of Employees in  
Safety-Sensitive Positions As Required By Law (Management Alert Report)***

Date of Publication: April 2012

**Key Findings and Recommendations**

In April 2012, the OIG informed D.C. Public Schools (DCPS), the Department of Human Resources, and the Office of the Attorney General that DCPS was not testing appointees or employees in safety-sensitive positions as required by D.C.'s MEDAT policy. According to a DCPS official at the time, DCPS had approximately 8,200 safety-sensitive employees, but none was being subjected to drug and alcohol testing. In the MAR, the OIG also acknowledged that state and local entities' efforts to implement *random* drug testing programs for teachers have faced considerable resistance from labor organizations and privacy rights advocates.

**Agency Response**

In May 2012, DCPS stated it was "on schedule" to implement pre-employment testing for applicants to safety-sensitive positions in summer 2012, and to begin reasonable suspicion and random testing for employees in safety-sensitive positions in fall 2012. DCPS noted, however, "DCPS fully appreciates the importance of instituting an alcohol and drug testing program as quickly as possible, while fulfilling its obligation to discuss its plans with its union partners."

**Current Status**

Earlier this year, DCPS informed the OIG that it had "fully implemented" pre-employment testing, as well as reasonable suspicion, return-to-duty, follow-up, and post-accident testing of its safety-sensitive employees. It also communicated the following with regard to random testing:

However, due to concerns raised by our union partners regarding the constitutionality of implementing random testing of teachers and our other school-based employees, we asked the Office of the Attorney General (OAG) for legal guidance. Based on OAG's counsel, we believe the random testing of school-based personnel would likely violate the Fourth Amendment. Additionally, the District of Columbia Office of Human Resources (DCHR) appears poised to make changes to the D.C. Municipal Regulations regarding the positions subject to random testing. Based on these factors, we do not intend to implement random testing at this time.

**Fire and Emergency Medical Services Department**

***D.C.'s Primary Fireboat is 50 Years Old and In Need of Thorough Assessment; FEMS Apparently Has No Strategy For Replacing this Critical, Outdated Apparatus (Management Alert Report)***

Date of Publication: March 2012

**Key Findings and Recommendations**

The John H. Glenn, Jr. (the Glenn) is a 71-foot steel-hulled boat that serves as the District's primary fireboat. This MAR identified several concerns pertaining to the condition, operability, and eventual replacement of the Glenn, and recommended, among other things:

1. That the Chief of FEMS formulate expeditiously a plan and timeline to have the Glenn thoroughly inspected, out of the water, for mechanical and structural deficiencies, and request an assessment of its serviceability and overall seaworthiness; and
2. That the Chief of FEMS request an analysis of the Glenn's anticipated remaining service life and devise a plan for its periodic inspection, maintenance, and repair to ensure its ability to fulfill its stated mission during its remaining service life.

**Agency Response**

FEMS stated that an initial inspection of the Glenn would be completed by April 30, 2012, which would be followed by "a more extensive out of water survey," the date of which had not yet been established. FEMS also indicated that it had assembled a team that would develop a strategic plan for the fireboat.

**Current Status**

As part of a February 2014 update to the OIG regarding several matters pertaining to its operations, FEMS noted that the dry-dock and repair of the Glenn were "on hold." In September 2014, the OIG asked FEMS about its current plan for repairing The Glenn and the associated

schedule. FEMS responded, “[f]unding is being sought to improve our chances of getting the needed repairs complete. The request for funds is in the review stage.”

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The OIG encourages your respective Offices, and the Council members responsible for oversight of the agencies cited in this report, and their staffs to view this Summary of Compliance Activity as a tool to help ensure that progress continues to be made on the matters discussed herein.

If you have questions or require additional information, please contact me at (202) 727-2540.

Sincerely,



Blanche L. Bruce  
Interim Inspector General

cc: See Distribution List

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