



OFFICE OF THE INSPECTOR GENERAL

PRELIMINARY INQUIRY MEMORANDUM

December 23, 2014

TO: Timothy L. Firestine
Chief Administrative Officer

FROM: Edward L. Blansitt III 
Inspector General

SUBJECT: Department of Liquor Control – *Internal Control Matters*
OIG PIM #15-003

This Preliminary Inquiry Memorandum (PIM) describes specific issues or complaints and the outcomes of limited procedures undertaken during a Preliminary Inquiry conducted by the Office of the Inspector General (OIG). Copies of this PIM along with your response, if any, will be provided to the members of the County Council and the County Executive within 10 business days of the date of this PIM.

Background and Summary of Complaints:

Since November 2013, the OIG received complaints concerning the Montgomery County Department of Liquor Control (DLC) that warranted our performance of preliminary inquiry procedures. We also observed conditions at the DLC warehouse that are addressed in this memo.

1. Multiple anonymous complainants alleged that a company owned by the spouse of the Division Chief of Licensure, Regulation, and Education (LRE Division Chief) was hired to cater DLC events. One complainant reported witnessing the spouse serving food at an event in September 2014.
2. An anonymous complainant alleged that some caterers operating in Montgomery County have been awarded a Montgomery County Beer, Wine, and Liquor Caterers License without paying the required county fee.
3. A DLC employee alleged that security cameras within the DLC warehouse are not operational and side doors are regularly left propped open, leaving the product stored within the warehouse vulnerable to theft.

4. DLC staff reported that “checkers” within the warehouse were not properly checking the contents of returning DLC delivery trucks.
5. We observed that DLC driver paperwork containing relevant information regarding truck shorts, overages, breakage, and returns was collected but not aggregated or analyzed.

In performing preliminary inquiry procedures regarding these allegations, we interviewed numerous DLC employees, observed warehouse operations, and reviewed relevant financial and administrative records provided by DLC.

We reviewed each issue and discussed the information collected with DLC management. We have seen evidence that DLC has worked to address some of the issues raised within this memo and have been told that others are being addressed. This memo details DLC’s efforts as reported to our office.

We expect to release a report of a comprehensive review of DLC warehouse and delivery operations later this fiscal year.

Potential Conflict of Interest regarding DLC Catered Events

Inquiry and Outcome:

Based on an internet search, we identified a local catering company whose website listed the spouse of the LRE Division Chief as a point of contact for information regarding catering and room rentals. Subsequently, we reviewed the records provided by DLC for catered events during the past 5 years and found 3 instances (totaling \$3,052) where that particular catering company was contracted and paid by DLC. Two payments were for recent DLC events occurring in September 2014. We focused our efforts on those 2 events.

When interviewed, the LRE employee who booked the events and another LRE employee¹ who arranged payment for the services, told us that the LRE Division Chief neither pressured nor encouraged the employees to retain the services of this particular catering company. Neither recalled the LRE Division Chief playing a role in the decision. The employee booking the September 2014 events provided documentation indicating that she requested quotes from 2 caterers who had provided service to DLC in the past. The documents supported her statement that the company employing the spouse of the LRE Division Chief was hired because it quoted a lower price.

The LRE Division Chief acknowledged that 2 of her subordinates hired and paid the catering company that employs her spouse to cater DLC events. The LRE Division Chief stated that she had no involvement in the booking process, never saw the invoices and had

¹ All LRE employees fall below the LRE Division Chief in the chain of command.

not pressured anyone to hire her spouse. The LRE Division Chief explained that she had not realized that to some it may appear that it is a potential conflict of interest for this company to be utilized to cater DLC events and stated that she would make sure that the company would not be used for future events. We found no evidence conflicting with the statements made by the LRE Division Chief.

A LexisNexis search for information regarding the catering company did not return any results suggesting that the LRE Division Chief's spouse had ownership in the company.

Summary and Conclusion:

We substantiated that over the past 5 years a company employing the spouse of the LRE Division Chief was hired by LRE staff to cater 3 DLC events. However, we found no evidence that the LRE Division Chief's spouse had an ownership interest in the catering company. Additionally, we did not substantiate that the LRE Division Chief pressured or encouraged her subordinates to hire the caterer.

DLC Catering Licenses Issued without Payment

Inquiry and Outcome:

Based on documentation provided by a complainant and statements made by DLC employees, we verified that 2 local caterers were provided current DLC-issued Montgomery County caterer's (CAT) licenses without paying the annual license fee.² Based on information received from DLC, fewer than 5 caterers possessing Statewide Alcoholic Beverages licenses operate in Montgomery County. A notation in one of the files states:

This license was issued so that [the caterer] (which holds a state catering license) can order alcoholic beverages from [DLC]. Licensees have not appeared before [the Board of License Commissioners] nor have they been fingerprinted through our offices.

According to information obtained from the Comptroller of Maryland website, both of the licensees reviewed possess active Statewide Alcoholic Beverages licenses. The LRE Division Chief stated that it was her understanding that caterers possessing a Statewide Alcoholic Beverages license are not required to obtain a County liquor license. She explained that, at some point in the past, the Office of the Comptroller of Maryland reached out to DLC to ensure that caterers with a Statewide Alcoholic Beverages license holding events in Montgomery County were purchasing alcohol from DLC. LRE made the decision

² Maryland Code, Article 2B § 6-706.1(a-c) sets the Montgomery County caterer's (CAT) annual license fee at \$1,250.

to issue “dummy” licenses to caterers holding statewide licenses in order to facilitate their purchase of alcohol from DLC. These particular caterers are not charged a fee or required to appear before the Board of License Commissioners to obtain the license. According to the LRE Division Chief, these licenses are issued because they allow DLC to assign state-licensed caterers a DLC license number, which makes it easier for DLC Inspectors to verify that the caterers are purchasing alcohol for Montgomery County events from DLC. The LRE Division Chief stated that this was an internal decision and she did not believe anyone at DLC had consulted the Office of the County Attorney in making this decision.

Summary and Conclusion:

We verified that DLC issued at least 2 local caterers, already possessing an active Statewide Alcoholic Beverages license, a Montgomery County caterer’s (CAT) license without requiring them to pay an annual license fee. We note that the amount waived by DLC is only \$1,250 per year for each of the two licenses.

In response to an OIG request for guidance regarding whether the current procedures comply with the law, the Office of the County Attorney stated, “Article 2B (section 6-706.1(c)) and the Board’s rules (Rule 2.3(e)) state that the annual fee for the County’s CAT license is \$1,250. There is no provision for or against waiving the fee.”³

Lack of Physical Security at DLC Warehouse

Inquiry and Outcome:

During our observations of warehouse operations, DLC warehouse employees alleged that some of the security cameras functioned improperly. They also stated that staff members regularly used sticks or rocks to prop open perimeter fire doors within the warehouse. On October 16, 2014, the OIG informed the DLC Director of the allegations regarding the doors and cameras. Available documentation indicates that the DLC staff began working to address the allegations the following day.

We obtained documentation indicating that on October 17, 2014, DLC began working with a contracted security firm to repair or replace broken or poorly functioning cameras. Additionally, DLC has asked the contractor to install a feature wherein DLC management will be automatically notified when one of the cameras is not recording properly.

We did not verify whether or not doors had been left propped open at the DLC warehouse, but a policy memo was issued on October 17, 2014 counseling staff to, “Only use

³ Maryland Code, Article 2B § 6-706.1(c) and *Rules and Regulations Board of License Commissioners of Montgomery County Maryland*, Section 2.3(e) - Effective January 1, 2007 and last amended May 2, 2013.

designated employee doors. All other doors should be treated as emergency exits only and should never be left open with a rock or piece of wood.”

Summary and Conclusion:

The DLC director took remedial steps to resolve the issues. A contracted security firm replaced or repaired non-functional cameras. Additionally, DLC is working to implement a program wherein they will be automatically notified when a camera needs repair. DLC warehouse staff were provided a memo directing them not to leave doors propped open.

DLC Delivery Truck Content is not Properly Inventoried upon Return to the Warehouse

Inquiry and Outcome:

DLC staff told us that after a truck returns to the warehouse, drivers are to provide their paperwork, including credit forms, returned/received/exchange forms, and unresolved invoices to a “checker.” At the same time, the driver unloads any product left in his truck for the checker to observe, count, and compare with the information included in that driver’s paperwork. This serves as a control to ensure that drivers submit the proper paperwork and return broken, returned, or extraneous merchandise to the warehouse. According to a driver supervisor, regardless of whether a checker is present at the time the truck arrives, it is expected that drivers take responsibility for getting properly checked in by an assigned checker or member of the managerial staff.

Three warehouse managers reported that checkers fail to properly check trucks in upon return from their delivery route. During a site visit, an OIG staff member observed the return of 2 delivery trucks to the warehouse. No checker was present at the checking station during either delivery. In both cases, we observed a manager perform the checker’s duties. Additionally, during a review of June 2014 driver paperwork, we found a significant number of trucks whose paperwork had no signature on the checker line, indicating that the contents of their truck had not been reviewed upon return to the warehouse. (See figure 1.)

	# Driver Tally Sheets	With Signature	Without Signature
Wine/Liquor	167	111	34%
Beer	357	280	22%

Figure 1: June 2014 Driver Tally Sheets with Signed Checker Line

Since our October 16, 2014 meeting with the DLC Director, DLC has changed its policy to ensure that all DLC delivery trucks are properly checked-in. Checkers no longer perform this function, which is now assigned to management.

An October 17, 2014 memorandum to all DLC delivery drivers states:

Upon returning from your route – you must be checked in by a member of management.

They are the only staff authorized to sign off on your Drivers Tally Sheet. This must be signed off prior to you leaving for the day.

Additionally, the Chief of Warehouse Operations informed the OIG that he had restructured the assignment of warehouse managers in order to assign a specific manager to the checker function. That manager is not permitted to leave the warehouse until all drivers return from their route.

Summary and Conclusion:

Our limited analysis of Driver Tally Sheets indicates that the content of DLC delivery trucks was not always properly reviewed upon return to the warehouse. DLC has issued new policy and restructured staff assignments in order to address the issue.

DLC does not Aggregate Information Regarding Driver Shorts, Overages, or Returns

Inquiry and Outcome:

DLC staff reported that the Driver Tally sheet and Credit Forms are the principle means of tracking delivery accuracy. The forms appear to adequately capture relevant information regarding driver-reported overages, shortages, breakage, and returns. However, driver-reported shorts, overages, and returns were not tracked, communicated to staff, or regularly investigated to determine the accuracy or cause of these deviations.

Based on our limited analysis, drivers frequently report trucks as not accurately packed. For 206 wine/liquor driver tally sheets available for trucks dispatched during June 2014, only 9 were reported as being accurately loaded. (i.e., no product overages or shorts reported by driver.)

A recent investigative news report⁴ stated that over a six month period, certain DLC beer delivery drivers reported as many as three times the number of shorts⁵ as compared to other drivers. According to the newscast, the drivers may be falsely reporting that their trucks have been shorted product in order to personally sell cases of beer. DLC informed us that subsequent to the newscast, several employees left their positions.

During the course of our preliminary inquiry, DLC began keeping a weekly log of shorts, overages, and returns by driver. Drivers are also now required to call and report discovered shorts from the field.

Summary and Conclusion:

Because available information regarding driver reported shorts, overages, and returns was neither aggregated nor analyzed, DLC was vulnerable to drivers falsely reporting shorted product. At this time, DLC has begun to aggregate and possibly evaluate the available data.

cc: George Griffin, Director, Department of Liquor Control

A preliminary inquiry is the first phase of each project the OIG performs in reaction to a complaint. A Preliminary Inquiry Memorandum (PIM) is appropriate in situations that do not warrant full inspections, investigations, or audits but in which we have gathered and assessed sufficient information for us to draw limited conclusions related to the specific complaint. We do not provide full findings and recommendations in PIMs. Instead, we may identify specific conditions, transactions, and events that management may want to continue to research from an investigative or policy standpoint.

⁴ NBC Washington News 4 I-Team, *Beer Bust: Montgomery County Employees Accused of Skimming Cases*, published November 6, 2014 at <http://www.nbcwashington.com/investigations/series/beer-bust/Beer-Bust-Montgomery-County-Employees-Accused-of-Skimming-Cases-281685501.html>.

⁵ At DLC the term “short” means that a product was invoiced as being placed on the DLC delivery truck. However, the item could not be located at the time that the driver made delivery to the targeted customer.

Response to this Preliminary Inquiry Memorandum:**From Montgomery County Chief Administrative Officer:**

On January 20, 2015, the office of the *Chief Administrative Officer* responded via email:

We agree with the report's Summary and Conclusion related to items #1, #3, #4 and #5, and as stated in the report, DLC has already instituted additional policies and procedures to address any concerns. However, regarding the Summary and Conclusion of item #2 (DLC Catering Licenses Issued without Payment) we must clarify the following point:

Montgomery County is one of the few Maryland counties that offers a local "catering" alcohol license (MCAT license) for local businesses who may wish to only operate in Montgomery County. There also exists a statewide catering license (SCAT license) issued by the Maryland Comptroller to catering companies who may wish to operate in more than one jurisdiction in the state. Most companies, including several based in Montgomery County, hold this statewide license. The Maryland statewide license – by definition – supersedes any local licenses and allows the license-holder to operate throughout Maryland, including Montgomery County. DLC has neither provided product to an unlicensed catering company, nor failed to charge a catering company for a required license. The misunderstanding may have arisen due to the fact that SCAT licensees must be "enrolled" in the DLC system and identified as valid license holders in order to purchase products from DLC at the wholesale level. To accomplish this, DLC enrolls the SCAT license holder as a licensee at the time the statewide caterer initially makes a request to order product from DLC for an event to be held in Montgomery County. These particular SCAT licensees are not charged an additional local license fee, or required to appear before the Board of License Commissioners. To avoid any future misunderstanding, going forward DLC will refrain from using the term "dummy licenses" to refer to the internal process of enrolling these licensed caterers in its system.