

**Executive Summary Concerning the Results  
of an Office of the Inspector General Investigation  
Into Employee Misconduct Violations by a  
D.C. Department of Health Employee**

**Investigation 2009-0365 (S)**

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**INVESTIGATIVE SYNOPSIS**

After receiving a Report on Investigation dated April 28, 2009, from the District of Columbia Department of Health (DOH), the District of Columbia Office of the Inspector General (OIG) initiated an investigation into allegations that a DOH Bureau Chief inappropriately released the personal medical information of a dog walker. The dog walker (dog walker one), who was walking a dog owned by someone else, was bitten by a dog owned by a second dog owner. The OIG investigation revealed that the Bureau Chief engaged in conduct that violated one section of the DPM<sup>1</sup> when she revealed the personal medical information of dog walker one to dog owner one, in an effort to convince dog owner one to settle the case.

During the investigation, OIG investigators reviewed the DOH Report of Investigation dated April 28, 2009, and reviewed dog walker one's hospital records.<sup>2</sup> OIG investigators also interviewed dog walker one, dog owner one, the attorney representing the second dog owner, the DOH Assistant General Counsel, the attorney representing dog walker one, a DOH Program Specialist, and the Bureau Chief.

The OIG investigation revealed that on October 28, 2008, dog walker one was walking a dog owned by dog owner one when she encountered a second dog walker, walking a dog owned by the second dog owner. During the encounter, both the dog owned by dog owner one and dog walker one were bitten by the second dog owner's dog. Dog walker one lost part of her finger. Metropolitan Police Department (MPD) Police Officers responded to the incident and dog walker one received medical treatment from a number of medical facilities. Dog walker one's hospital records include a notation indicating a psychiatric history.

In an interview with OIG investigators, dog owner one said she spoke to the Bureau Chief on three occasions, once in February 2009, a second time in March 2009, and a

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<sup>1</sup> DPM § 1803, Responsibilities of Employees, provides, in pertinent part, that District government employees shall avoid conduct which might result in or create the appearance of: (a)(6) Affecting adversely the confidence of the public in the integrity of government.

<sup>2</sup> Dog walker one voluntarily provided the OIG with a copy of her medical records.

third, subsequent conversation. In February 2009, the Bureau Chief asked dog owner one about the injuries to her dog and advised dog owner one of a scheduled administrative hearing. Dog owner one told OIG investigators that the Bureau Chief contacted her again in March 2009 and said that she was trying to get dog walker one to settle the case because there was something in dog walker one's background that would hurt her credibility. According to dog owner one, the Bureau Chief said that she did not want to put dog walker one through a painful cross examination because of this damaging medical issue. Dog owner one told OIG investigators that she informed dog walker one of the conversation she had with the Bureau Chief, including the statement the Bureau Chief made regarding dog walker one's medical background. Dog owner one said that the Bureau Chief later called her to confirm that they had reached a settlement.

Dog walker one confirmed to OIG investigators that dog owner one had informed her that the Bureau Chief said that dog walker one has a suspicious medical background, which would hurt her credibility in court.

In an interview with OIG investigators, the Program Specialist said that she was assigned to work on the dog bite incident regarding dog walker one. During the normal course of working on this matter, DOH obtained dog walker one's medical records. The Program Specialist said that although she does not recall if she received dog walker one's medical records from the DOH Assistant General Counsel or the Bureau Chief, she discussed dog walker one's medical records with both of them. The Program Specialist said that she did not discuss dog walker one's medical records with anyone outside of DOH. She also told OIG investigators that she stored the medical records in her office and the Bureau Chief is the only other person with a key.

The DOH Assistant General Counsel told OIG investigators that he negotiated a settlement on the dog bite incident regarding dog walker one. He said that the second dog owner's attorney telephoned him sometime between February 19, 2009, and February 23, 2009, regarding dog walker one's medical history.<sup>3</sup> During that conversation, they discussed dog walker one's mental health issues and the second dog owner's attorney indicated that he would use the information to cast doubt as to dog walker one's credibility. The DOH Assistant General Counsel told OIG investigators that he negotiated a settlement in this case because the specific facts would make it difficult to prove that the biting dog was dangerous. As a result of his conversation with the second dog owner's attorney, the DOH Assistant General Counsel instructed the Bureau Chief to contact dog owner one to advise her of a settlement offer. The DOH Assistant General Counsel gave those instructions to the Bureau Chief sometime between March 23, 2009 and March 27, 2009. The DOH Assistant General Counsel said that he could not remember if he discussed dog walker one's medical background with the

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<sup>3</sup> The DOH Assistant General Counsel told OIG investigators that it is standard operating procedure for DOH to obtain pertinent medical records and confirmed that he received dog walker one's medical records from her attorney. Dog walker one's attorney informed OIG investigators that he obtained dog walker one's medical records from the hospital after she signed a release. Dog walker one's attorney confirmed that he provided a copy of dog walker one's medical records to the second dog owner's attorney, but told OIG investigators that he could not recall whether he had provided a copy to the DOH Assistant General Counsel.

Bureau Chief. He also told OIG investigators that he did not have any conversations with dog owner one and that the Bureau Chief was the intermediary between him and dog owner one.

The second dog owner's attorney told OIG investigators that during his representation of the second dog owner, he obtained dog walker one's medical records and that he discussed them with the Bureau Chief. The second dog walker's attorney said that he thinks dog walker one's medical records damaged her credibility. He said the only conversations he had with the Assistant General Counsel concerned settling the case or scheduling a hearing. He said that he did not discuss the dog bite incident with dog owner one.

When interviewed by OIG investigators, the Bureau Chief said that she received dog walker one's medical records from the second dog owner's attorney.<sup>4</sup> In the written statement she made at the time of her interview, however, the Bureau Chief wrote, "I never had [dog walker one's] medical records in my possession." The Bureau Chief did not explain the discrepancy in these two statements to OIG investigators. The Bureau Chief acknowledged to OIG investigators that she had two telephone conversations with dog owner one, the first to explain the administrative process and DOH's authority, and the second, in March 2009, to get dog owner one to agree on the settlement. She said, however, that she never discussed with dog owner one the terms of the agreement or dog walker one. The Bureau Chief told OIG investigators that the Assistant General Counsel had discussed with her a conversation he had had with the second dog owner's attorney, indicating that the second dog owner's attorney had planned to raise dog walker one's medical background as a defense to damage her credibility. The Bureau Chief denied that she had told dog owner one that DOH does not want to put dog walker one through a painful cross examination and that dog owner one's medical issue would affect her ability to be a good witness.

## **ANALYSIS AND CONCLUSIONS**

The facts uncovered during this investigation are sufficient to show, by a preponderance of the evidence, that the Bureau Chief discussed dog walker one's medical information with dog owner one. Clearly, the telephone conversation between the Bureau Chief and dog owner one, during which dog walker one's medical information was discussed, was a one-on-one conversation, with no other witnesses present. The evidence that this conversation included a discussion of dog walker one's medical information, though circumstantial, exists.

First, dog owner one clearly was aware of dog walker one's medical information so she had to have obtained it from someone. She identified the Bureau Chief as the source of the medical information and had no discernable reason to lie about who provided her with dog walker one's medical information. It seems unlikely that dog owner one obtained

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<sup>4</sup> The DOH Assistant General Counsel confirmed that the Bureau Chief obtained a copy of dog walker one's medical records from the attorney representing the second dog owner.

dog walker one's medical information from dog walker one herself, because dog owner one reported to dog walker one that the Bureau Chief had divulged dog walker one's medical information and because dog walker one was upset that dog owner one was aware of the medical information.

Second, the DOH Assistant General Counsel stated that he did not have any conversations with dog owner one and that the Bureau Chief was the intermediary between him and dog owner one. The Assistant General Counsel, in fact, specifically instructed the Bureau Chief in March 2009 to contact dog owner one to advise her of the settlement offer. It was during this conversation that dog owner one said the Bureau Chief told her about dog walker one's medical information and that it would hurt dog walker one's credibility, in an effort to get the case settled. Although inappropriate, there is a certain logic to the Bureau Chief discussing the weaknesses in the case in an effort to get it settled.

Third, the attorney representing the second dog owner discussed dog walker one's medical information with the Bureau Chief and told her that he believed it damaged dog walker one's credibility, the exact information and opinion that were conveyed by the Bureau Chief to dog owner one. The Bureau Chief is the only person from DOH with whom the attorney representing the second dog owner discussed the issue of dog walker one's medical information damaging her credibility.

Fourth, the DOH Assistant General Counsel confirmed that both he and the Bureau Chief had received dog walker one's medical records from dog walker one's attorney and the attorney representing the second dog owner, respectively. The Program Specialist stated that DOH had dog walker one's medical records and that she stored them in her office, to which the Bureau Chief had the only other key. The Program Specialist also recalled discussing dog walker one's medical records with the Bureau Chief and denied discussing them with anyone outside of DOH.

Finally, the Bureau Chief told OIG investigators that she received dog walker one's medical records from the attorney representing the second dog owner. She then said in a written statement that she never had dog walker one's medical records. These inconsistent statements, though not explained by the Bureau Chief, raise concerns about the Bureau Chief's credibility on this issue. Even if her written statement, that she never had dog walker one's medical records, were true, it does not change the fact that she clearly had discussed dog walker one's medical information with the attorney representing the second dog owner and the Program Specialist. The Bureau Chief's inappropriate conduct is not whether she had dog walker one's medical records, but whether she divulged dog walker one's medical information to dog owner one. The facts uncovered during this investigation show that she knew dog walker one's medical information and had discussed it at least twice before revealing it to dog owner one.

By discussing dog walker one's medical information with dog owner one, the Bureau Chief exercised extremely poor judgment. In doing so, she affected adversely the

confidence of the public in the integrity of government and divulged official government information to an unauthorized person in violation of one section of the DPM.

Therefore, the issue of whether the Bureau Chief violated DPM §§1803.1 (a)(6) Affecting adversely the confidence of the public in the integrity of government, is **SUBSTANTIATED**.

### **RECOMMENDATIONS**

Based on the results of this investigation, the Office of the Inspector General recommends that DOH:

- Address the conduct of the Bureau Chief with appropriate administrative action;
- Create written internal regulations and procedures regarding the handling of sensitive and/or confidential information; and
- Train all DOH personnel on the appropriate handling of confidential information.

*May 24, 2010*