

# GOVERNMENT OF THE DISTRICT OF COLUMBIA

## Office of the Inspector General



Inspector General

### **Executive Summary Concerning the Results of an Office of the Inspector General Investigation Into Misconduct Violations by an Employee of the Alcoholic Beverage Regulation Administration**

**2012-0177**

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#### **INVESTIGATIVE SYNOPSIS**

The District of Columbia Office of the Inspector General (OIG) initiated an investigation after receiving allegations that a supervisory investigator with the Alcoholic Beverage Regulation Administration (ABRA) received free liquor from a nightclub in the District, while on duty. The OIG investigation revealed that during his official tour of duty on November 23-24, 2011, supervisory investigator 1 used his official position to solicit preferential treatment and accept a benefit from the owner of a nightclub for which he has responsibility for inspecting, investigating, and enforcing ABRA regulations. As a result, supervisory investigator 1's conduct violated five sections of the DPM and two sections of ABRA Policy.<sup>1</sup>

During the investigation, OIG investigators reviewed ABRA policies and procedures, time and attendance records, investigator Run Sheets (activity logs), and vehicle logs. OIG investigators also reviewed digital recordings from security cameras at several District nightclubs. OIG investigators interviewed the owner and three waitresses of the nightclub as well as numerous employees of other bars, restaurants, and nightclubs within the District. OIG investigators also interviewed the ABRA Chief of Enforcement, and the supervisory investigators.

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<sup>1</sup> DPM § 1803.1 provides, in pertinent part, that District government employees shall avoid conduct that might result in or create the appearance of: (a)(1) Using public office for private gain; (a)(4) Losing complete independence or impartiality; and (a)(6) Affecting adversely the confidence of the public in the integrity of government.

DPM § 1803.2(a) prohibits D.C. employees from accepting any gratuity, favor, loan, entertainment, or other items of value from prohibited sources. Under DPM §§ 1803.2(b)(2) and (3), prohibited sources include those who conduct operations or activities that are subject to regulation by the D.C. government as well as those who have an interest that may be "favorably affected by the performance or non-performance of the employee's official responsibilities."

DPM § 1806.1 provides, in pertinent part: "A District employee shall not use or permit the use of government property, equipment, or material of any kind . . . for other than officially approved purposes."

ABRA Policy Number 2009-037 incorporates the DPM's prohibitions against receiving gifts from prohibited sources and using government property for personal purposes.

ABRA Policy Number 2009-038 provides, in pertinent part: "ABRA staff should [ ] not accept gifts or benefits from others that might influence, or appear to influence, the employee's impartial judgment in the course of performing his or her official duties."

ABRA investigators are divided into two teams that rotate between day and evening shifts on a weekly basis. ABRA investigators who work the evening shift primarily inspect and monitor<sup>2</sup> nightclubs, bars, and taverns. Investigators are not assigned to a specific area of the city and are authorized to travel anywhere within the District during their shift. The ABRA Chief of Enforcement explained that the main goal of the ABRA enforcement staff is to ensure safety in the District's nightclubs, bars, and taverns. Therefore, when monitoring or inspecting an establishment, ABRA investigators are supposed to ensure that the establishment has adequate internal security, is operating according to its approved security plan and license, and that the crowd is not out of control.

The ABRA Chief of Enforcement told OIG investigators that over the past 4 years, the supervisory investigator occasionally has inspected and monitored the nightclub, conducted two investigations into incidents that occurred at the establishment on February 17, 2008, and September 14, 2008, and, as a supervisor, approved three investigations involving the nightclub.<sup>3</sup>

The OIG investigation revealed that on November 23, 2011, at approximately 10:00 p.m., the supervisory investigator, using his government cell phone, called the nightclub owner, on his personal cell phone, to make a table reservation on behalf of his friends. He then went to the establishment at approximately 11:15 p.m. in an effort to solidify the arrangements. He also made entries in the ABRA activity log indicating that he visited the nightclub twice during his shift.

During his OIG interview, the nightclub owner told OIG investigators that on November 23, 2011, the supervisory investigator called him on his personal cell phone and asked if there was a table available for five of his friends at his establishment later that evening. The nightclub owner stated that the nightclub is very busy just before Thanksgiving and told the supervisory investigator that the nightclub was fully booked. The nightclub owner also told the supervisory investigator that if he met him at the nightclub, he would see if an arrangement could be made. The nightclub owner said that he recalls that at approximately midnight, the supervisory investigator arrived with approximately five other men. The nightclub owner seated the supervisory investigator, along with his party, at table #305, in a separate seating area of the nightclub known as the gold room. The nightclub owner told OIG investigators that any time he is dealing with a government official he attempts to accommodate them as a courtesy, but not because he is expecting anything in return.

Nightclub waitress 1 told investigators that shortly after the supervisory investigator's party was seated, one of the men ordered a bottle of Ciroc,<sup>4</sup> which waitress 1 served. Waitress 1 stated that by the time she served the bottle of Ciroc, the supervisory

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<sup>2</sup> An ABRA inspection includes license and invoice verifications, and ensuring that the establishment is not overcrowded and adheres to noise and other regulations set forth in voluntary agreements (agreements made with members of the community restricting certain activity). Monitoring refers to observing activity both inside and outside of the establishment to ensure adequate security and to verify that the establishment's activities are permitted by its license.

<sup>3</sup> These investigations were initiated by ABRA on January 31, 2009, June 22, 2009, and February 5, 2010.

<sup>4</sup> Ciroc is brand of vodka that is listed on the nightclub's menu for \$320 per bottle.

investigator was no longer at the table. She also said that it is customary for nightclub staff to collect a credit card and identification from customers prior to seating, which was not done prior to seating the supervisory investigator party. Waitress 1 said that after serving the bottle of Ciroc, she became concerned and told the head waitress (waitress 2) that staff had not obtained a credit card and identification when seating the table. Waitress 1 said that waitress 2 told her that she did not need to obtain a credit card and identification because the supervisory investigator is an ABRA investigator and the bottle of liquor should be “comped” (provided free of charge).<sup>5</sup>

The nightclub owner and waitress 1 recalled that a short time later, a group of female club patrons arrived to celebrate a birthday. The group previously had reserved two tables in the gold room, but the supervisory investigator’s party occupied one of the tables. Because one of the members of the supervisory investigator’s party knew one of the members of the party of females, the supervisory investigator’s party allowed the females to share their table.

Both the nightclub owner and waitress 1 told investigators that the bills for the two groups later were combined and the bottles of liquor were comped. The nightclub owner told OIG investigators that two bottles were comped because the groups had to share a table, and a third bottle was comped because a member of the party of females was celebrating a birthday. The nightclub owner and waitress 1 both said that the bills were combined to keep all of the comps on one check.

Nightclub waitress 3 told OIG investigators that she has known the supervisory investigator for several years and has had him as a customer approximately 10 times. Waitress 3 said that the supervisory investigator often brought large groups to the nightclub, without a reservation. She also said that the supervisory investigator “never pays for anything.” Waitress 3 added that it is common knowledge among nightclub staff that the supervisory investigator does not pay for anything and that nightclub management always comped his entire check. In addition, waitress 3 noted in her shift summary for that night that the supervisory investigator “sat at 305, was comped 2 Ciroc & 2 Ciroc peach bottles. No bottle tickets.”

During his OIG interview, the supervisory investigator initially denied contacting the nightclub owner, attempting to make a reservation, or reserving a table for his friends. The supervisory investigator told OIG investigators that if he were even to admit to calling the club owner, that would make him look bad. After being asked additional questions, however, the supervisory investigator admitted to calling the nightclub owner from his District cell phone at approximately 10:00 p.m. to request a table reservation for friends. The supervisory investigator said that he knows the nightclub is busy the night before Thanksgiving. The supervisory investigator also stated that although he assisted his friends with securing a table, and made the reservation under his name, he did so with the understanding that his friends would pay full price for their drinks. The supervisory investigator told OIG investigators that he arrived at the nightclub at approximately 11:15 p.m. to solidify the reservation, left shortly after his friends were seated, and did not

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<sup>5</sup> In her interview, however, waitress 2 said that she did not know anything about why the bill for the supervisory investigator’s party was comped.

return until approximately 2:00 a.m. on November 24, 2011. The supervisory investigator stated that he did not know that his friends were given free bottles of liquor until he read about it in the newspaper a few days later.<sup>6</sup> The supervisory investigator told OIG investigators that the bottles of liquor were comped because of a fight at a neighboring table involving a nightclub employee, resulting in a bottle of liquor on the supervisory investigator's party's table being broken.<sup>7</sup>

As a supervisor, the supervisory investigator is not required to maintain or turn in an activity log. The Chief of Enforcement, however, found in the supervisory investigator's desk an activity log dated November 23, 2011, bearing the supervisory investigator's name. During his interview, the supervisory investigator said that he filled out this activity log for his own records. The log indicates that the supervisory investigator, while working his tour of duty, arrived at the nightclub at 11:35 p.m. and left at 12:10 a.m. The activity log states that he conducted a "walk through" and "spoke with security" outside. According to the activity log, the supervisory investigator returned to the nightclub at 1:55 a.m. and left at 3:00 a.m. The activity log states, "Monitor walk through. Ended eve early Multiple Affrays MPD no Arrest."

The ABRA vehicle log for November 23, 2011, states that the supervisory investigator signed out a District government vehicle at 9:00 p.m. The ABRA Vehicle Mileage Log shows that he drove 9 miles and under the "Description Purpose" column states "Work."

### **ANALYSIS AND CONCLUSIONS**

The OIG investigation revealed that the supervisory investigator engaged in a course of conduct on November 23, 2011, designed to obtain for his friends both a table and a comped bill at the nightclub. First, the supervisory investigator used his District cell phone to contact the nightclub owner on his personal cell phone in an attempt to reserve a table. Given that the supervisory investigator acknowledged that even calling the nightclub owner for this purpose looks bad, OIG investigators believe that the supervisory investigator made the call because he and the nightclub owner knew each other from previous contacts and he expected that the nightclub owner would accommodate his request. Second, the supervisory investigator went to the nightclub with his friends to meet with the nightclub owner and secure a table for his friends. Again, the supervisory investigator clearly knew that the nightclub owner would find a table for his party, even though the nightclub is typically busy just before Thanksgiving.

Third, despite that the supervisory investigator denied knowing that the bottles of liquor had been comped for his friends until reading about it in the newspaper and that the nightclub owner provided a different explanation of why the bottles of liquor were comped, based on previous practice described by the nightclub waitresses, it is more likely than not that the supervisory investigator expected that his party's bill would be

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<sup>6</sup> Because the bill for the supervisory investigator's party was comped, the nightclub had no receipt or written record of the transaction that would provide the total cost and/or the time the bill was settled.

<sup>7</sup> Of all of the nightclub personnel who were interviewed, only waitress 2 told OIG investigators that there had been a fight at the nightclub on November 23, 2011, near the supervisory investigator's party's table. Waitress 2 also said that the fight was the reason the bill for the supervisory investigator's party was comped. OIG investigators also found that there is no police report indicating that this fight occurred.

comped. Waitress 1 reported that waitress 2 said that she did not need to obtain a credit card and identification from the supervisory investigator because he is an ABRA investigator and the bottle of liquor should be comped. Waitress 3 said that the supervisory investigator often brings large groups to the nightclub and never pays for anything as management always comps his entire check. The nightclub owner, who ultimately made the decision to comp the bill for the supervisory investigator's party, said that any time he is dealing with government officials he attempts to accommodate them as a courtesy. Therefore, based on the past pattern of conduct of Josephine personnel, it is reasonable to conclude that the supervisory investigator contacted the nightclub owner to have a table available when he and his friends arrived at the nightclub. Furthermore, based on past practice, it is reasonable to conclude that the supervisory investigator thought that his presence would ensure that the bill would be comped.

In addition to the above, the ABRA records pertaining to the supervisory investigator's use of a District government vehicle clearly contain false entries. The supervisory investigator clearly filled out these records attempting to make it seem as if he had visited the nightclub on November 23, 2011, for work-related purposes. These entries clearly are false and his use of the District cell phone to request a reservation and the District vehicle to make two visits to the nightclub that evening constitute improper uses of District government property. Finally, because the supervisory investigator's presence at the nightclub was not work-related, he was Absent Without Leave from his ABRA tour of duty during the times he was at the nightclub on November 23, 2011.

Accordingly, the issue of whether the supervisory investigator violated DPM § 1803.1(a)(1) (Using public office for private gain); § 1803.1(a)(2) (Giving preferential treatment to any person); § 1803.1(a)(4) (Losing complete independence or impartiality); § 1803.1 (a)(6) (Affecting adversely the confidence of the public in the integrity of government); § 1803.2(a) (Acceptance of gifts from prohibited sources); § 1806.1 (Use of government property); and ABRA Policy Numbers 2009-037 and 2009-038 is **SUBSTANTIATED**.

### **RECOMMENDATIONS**

Based on the results of this investigation, the OIG recommends that ABRA:

- Address the supervisory investigator's conduct with appropriate administrative action;
- Ensure that all ABRA employees are trained appropriately regarding the District's standards of conduct; and
- Create a policy regarding the on and off duty conduct of ABRA investigators who patronize ABRA regulated establishments.

*April 11, 2012*