

March 2002

The County Council and County Executive
of Prince George's County, Maryland

We are currently in the process of conducting a performance audit of the Office of the Sheriff in accordance with the requirements of Article III, Section 313, of the Charter for Prince George's County, Maryland. Included in the scope of our audit are the areas of confiscated property, civil paper service, warrant service, accreditation efforts, and certain information technology issues.

Under normal circumstances an audit report would be issued after all phases of the audit were completed and the issues were discussed with management of the Office of the Sheriff. As a result of our review of accreditation efforts within the Office of the Sheriff, we are issuing an interim audit report related to our findings. We feel this is necessary in order to address the issues in a timely manner. The remainder of the audit will be discussed in a full report issued to the County Council upon completion of our review.

We have discussed the contents of this interim report with appropriate personnel of the Office of the Sheriff. The scope of our review of accreditation efforts and our findings, comments, and recommendations begin on the following page.

David H. Van Dyke, C.P.A.
County Auditor

ACCREDITATION STATUS

SUMMARY OF RESULTS

The Office of the Sheriff is engaged in the worthwhile pursuit of law enforcement accreditation status, however, the management of the accreditation process, and the progress being made is inadequate.

We identified several opportunities for improvement of the accreditation effort including (a) improving the administration over the contractor's effort, (b) enforcing achievement of the contract's deliverables, (c) ensuring that value is received for the accreditation Consultant Services Agreement, and (d) ensuring full disclosure of the cost of the contractual agreement.

INTRODUCTION AND SCOPE

The Office of the Sheriff is currently in the process of pursuing accreditation for the agency, and has been for the past 3 years. The accrediting body for law enforcement agencies is the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA). CALEA was formed in 1979 to establish a body of standards designed to (1) increase law enforcement agency capabilities to prevent and control crime; (2) increase agency effectiveness and efficiency in the delivery of law enforcement services; (3) increase cooperation and coordination with other law enforcement agencies and with other agencies of the criminal justice system; (4) increase citizen and employee confidence in the goals, objectives, policies, and practices of the agency.

CALEA sets forth the primary benefits of being accredited. These include controlled liability insurance costs (which may not be applicable to the County since it is self-insured), stronger defense against lawsuits and citizen complaints, greater accountability from supervisors,

increased governmental and community support, and better management standards and best practices for the Sheriff to follow.

To successfully complete the accreditation process the Office of the Sheriff has sought outside help by entering into a Consultant Services Agreement with an independent contractor. The current agreement is for the period August 16, 2001 through August 15, 2002. An earlier Consultant Services Agreement covered the period August 16, 2000 through August 15, 2001. The maximum amount payable by each contract is \$64,600 for a potential total payable of \$129,200 for the two-year period.

Our objectives were to (a) determine the overall effectiveness of the accreditation effort, (b) determine independent contractors compliance with the scope and terms of the Consultant Services Agreement, (c) and ascertain barriers to the successful attainment of an accredited status.

Our audit included interviews with Office of the Sheriff key personnel, detailed testing of payments to the contractor, and an examination of all relevant accreditation submissions. We attempted to contact the contractor directly as part of our review; however, we received no response.

FINDINGS, COMMENTS, AND RECOMMENDATIONS

Scope of Services Unmet

The purpose of the Consultant Services Agreement is to “retain a consultant to assist the Office of the Sheriff with the task of becoming nationally accredited.” As set forth in the Scope of Services section of the agreement, the consultant is charged with coordinating and assisting in accreditation activities; developing long and short range plans as it relates to Sheriff

accreditation activities; and gathering and analyzing data, formulating goals and objectives pertaining to achieving accredited status.

During our discussion with Office of the Sheriff command staff, we were informed that the average time it takes to achieve an accredited status is between 4 to 6 years. Sheriff staff expects that it will take them 5 years to achieve an accredited status. Sheriff staff also informed us that they are already 3 years into the process. However, when we inquired about the current status of the accreditation effort, and when we tried to ascertain the major remaining tasks in this effort, we were informed by the staff that they were just in the initial stages of this process. We attempted to determine the current deficiencies but were told that they were still in the pre-assessment phase. The Office had no status reports available to assist us in determining the progress of the accreditation effort.

We believe that after 3 years into the accreditation process and 2 years into the contractual agreement with the accreditation specialist, there should be measurable progress in the form of current status reports on past accomplishments and future challenges related to the accreditation process.

The agreement requires that the contractor submit a written status report of various aspects of the accreditation activity by the 15th of each month. The agreement further requires a biweekly written report in a format determined by the Sheriff. The contractor is failing to satisfy the biweekly and monthly written reports required by the Consultant Services Agreement.

Based on discussion with staff of the Office of the Sheriff, and other information submitted to us by the Sheriff's Office, there has been no monthly or biweekly written reports submitted by the contractor for the duration of this agreement. In fact, we did not receive any evidence of any written submissions by the contractor, for the earlier Consultant Services

Agreement. The Office of the Sheriff has been in a contractual relationship with this same independent contractor (though agreements are renewed annually) since August 16, 2000. We therefore recommend that:

- 1. The Consultant Services Agreement be terminated under the terms set forth in Part V of said agreement. The accreditation effort should be assigned to the Chief Assistant Sheriff who has the expertise to determine the Office of the Sheriff's accreditation readiness. Consideration should be given to recovering monies paid out to the independent contractor over the life of his contractual relationship with the County, which would amount to \$129,200 by the end of the current contractual term.**
- 2. We further recommend that the Office of the Sheriff prepare a status report of where the Office stands in its accreditation effort. This report should include an assessment of past progress made, identify future problems to overcome, and identify priorities. The report should also include projected dates for accomplishing important milestones in the process, including the ultimate goal of achieving an accredited status.**

The requirements of this agreement are not being satisfied due to a lack of enforcement by the Administrator of the agreement, and due to non-performance by the independent contractor. In our opinion, the overall purpose of the Consultant Services Agreement is not being met in an effective or an efficient manner. If a decision is made to retain the current contractor or obtain a new contractor, we recommend:

- 3. The Administrator of the agreement establish a simple record keeping system to monitor the compliance of the contractor with the reporting requirements set forth in the Consultant Services Agreement. The Administrator should perform a monthly review of the written reports submitted by the contractor, ensuring that the contractor is satisfying the reporting requirements set forth in the agreement, and documenting any departure from these requirements. If departure from the reporting requirements is justifiable, then that justification should also be documented. If departure is not justifiable, then administrator should take the necessary steps to preserve the County's interest – ensuring that the County is not paying for services it is not receiving.**

Lack of Full Disclosure in the Consultant Services Agreement

The Agreement sets forth in Part IV of the agreement that:

“The maximum amount including out-of-pocket expenses, payable pursuant to this Agreement, shall not exceed Sixty-four Thousand, Six Hundred Dollars (\$64,600).”

“The Consultant shall be paid biweekly through the County payroll system.”

The consultant is deemed to be an independent contractor and is not an agent or employee of the Office of the Sheriff. Since the consultant is being paid through the County’s payroll system, the County is incurring additional payroll costs, not provided for in the Agreement. These costs are the matching FICA – HI, and FICA – OASDI (Social Security and Medicare taxes) that an employer pays on all its employees. However, since the consultant is explicitly deemed as an independent contractor in the agreement, the County should not be paying these matching FICA costs.

The Consultant Services Agreement does not fully disclose the cost to the County of the contractual agreement.

It is the opinion of our office that the County should not be paying taxes on behalf of its independent contractors. We understand that the substance of the relationships supercedes the form (the agreement). However, if the relationships are so hard to distinguish, and since it is the position of the County to pay the independent contractors taxes for them, we believe the agreements should be written to disclose the true cost of the contractual relationships. As the situation currently stands, the County is likely exceeding the contractual dollar maximums stated in the agreements for all its Consultant Services Agreements. We therefore recommend:

- 4. The County Attorney, if he decides to continue treating personal services contractual relationships as that of statutory employees, ensure that all agreements fully disclose the additional payroll costs that the County will incur as a result of that treatment.**

Employee vs. Independent Contractor

In determining whether individuals hired under personal service agreements are employees versus independent contractors, consideration should be given to whether the individual was a former employee of the County or State and whether they are currently

receiving a pension. If it is determined that the individuals with personal service contracts are actually employees, then there may be a conflict of interest, in some instances, where the employee is currently receiving a pension. We therefore recommend:

- 5. The County Attorney look into all personal service contracts and determine whether a conflict of interest exists, on an individual basis, for those individuals classified as employees versus independent contractors.**