



**OFFICE OF INSPECTOR GENERAL**  
**MEMORANDUM**

**Thomas J. Dagley**  
*Inspector General*

January 29, 2009

TO: Phil Andrews, Council President

FROM: Thomas J. Dagley  
Inspector General

SUBJECT: Disability Retirement Program Review Update

In September 2008, the Office of Inspector General (OIG) issued an interim report on our review of County government's Disability Retirement Program. Recognizing that service-connected disability retirements (SCDRs) are an important benefit for employees who receive incapacitating injuries during County employment, and that risk factors for SCDRs are high when control and oversight deficiencies exist, we continue to examine specific SCDR cases and pending corrective actions that are needed to restore confidence in the Program.

Five months after reporting findings and recommendations to the Council and Executive, our independent work has identified the need for corrective actions that include provisions in Expedited Bill 37-08, Personnel – Disability Retirement. We believe a combination of legislative amendments by the Council and the execution of effective policies and procedures by management is needed to ensure deserving employees receive SCDR benefits and the Program is protected from abuse.

Key provisions in Expedited Bill 37-08 that we believe are needed to effectively address deficiencies identified in our review to date include:

- Create a Medical Review Panel and a Disability Review Board – the Panel would replace the current Disability Review Panel and make recommendations on medical issues only. The Board would make disability retirement decisions. The Board may: consider any evidence presented by the applicant or County; review the applicant's personnel, worker's compensation, and accidental injury records; and remand the case to the Panel.

Legislation requiring management to use a Medical Review Panel and a Disability Review Board to administer the Program is needed to address SCDR decision-making deficiencies we disclosed wherein the use of relevant non-medical evidence has been discouraged or ignored. For example, we reviewed the case of a former police officer who, after applying for a SCDR in December 2007, retired on a normal retirement in January 2008. The Police Department



notified OHR's Office of Medical Services that the officer was in a full-duty work status when he retired and was never on any type of restricted duty in the three years prior to retirement. However, we were told OHR advised Police Department staff that this information was not relevant because OHR's decision-making process only considered medical information. As a result, it appears the information was not considered by the Disability Retirement Panel or management before approving the SCDR in June 2008 with an effective date of January 1, 2008.

- Create a two-tier system with partial and total incapacitation options that also uses the current medical re-examination provision. Our reviews of approved SCDR cases identified former employees whose medical condition does not appear to justify the award of total SCDR benefits. For example, in our December 8, 2008 update to the Council and Executive, we reported a former police officer who, at age 49, continued to receive SCDR benefits for total incapacity even though his post-County employment for about five years as a self-defense tactics instructor and bailiff for the State's District Court appears to conflict with the medical restrictions used in 2003 to approve the SCDR. In response to allegations of abuse, the OIG obtained relevant video evidence that to date has not been used to re-examine this individual.

With regard to our recommendation in Finding 1 of our September 2008 interim report that management re-examine certain SCDR cases approved in the last three years, management's position on conducting these re-examinations has not been reported to the OIG.

- Correct deficiencies that cause employees who commit an offense that warrants removal from County employment to be approved for a SCDR. In addition to three cases involving serious misconduct that were included in Finding 1, other SCDRs approved by management for employees facing improper or illegal conduct charges have been reported to the OIG. For example, a former County government firefighter charged in August 2005 with sexual and other assault criminal offenses while on duty was found guilty of assault, second degree, in December 2005. He submitted a letter of resignation in January 2006 with a SCDR application pending, and received notification in June 2006 that his SCDR was approved effective January 20, 2006. To our knowledge, a comprehensive review of SCDRs approved in the past 3-5 years for employees facing serious misconduct charges has not been conducted.

Legislation is needed to prohibit management practices that result in the approval of SCDRs for employees who commit an offense that would justify removal for cause, or for employees suspected of such an offense whose case is not yet resolved. The prohibition should include offenses that do not necessarily result in criminal charges.

The OIG plans to continue its independent examination of individual SCDR cases to address our mandate to improve legal, fiscal, and ethical accountability. We plan to issue a final evaluation report after assessing the pending corrective actions by management and the Council's action on Expedited Bill 37-08. Please do not hesitate to contact me if you would like more information on our review of the Disability Retirement Program.

cc: All Council Members  
County Executive