



Office of Legislative Oversight

## MONTGOMERY COUNTY, MARYLAND

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### M E M O R A N D U M

November 15, 1978

TO: County Council  
FROM: Andrew Mansinne, Jr., Director, Office of Legislative Oversight  
SUBJECT: Evaluation of Police Department October/November 1978  
Responses to CODE 3 Allegations and OLO Questions.

#### BACKGROUND

1. In letters to the County Executive, dated June 12 and 19, 1978, CODE 3 alleged a series of operational and management problems in the Police Department. Copies of the letters were provided Council on June 21, 1978. Between July 17 and 24, 1978, four "cases" detailing allegations relating to four consultant contracts and a letter concerning crime and arrest rates were handcarried to Council President Scull from the attorney for CODE 3.
2. The Police Department and the Auditing Division (Department of Finance) prepared responses to most of CODE 3's allegations and provided Council copies of these responses on August 14, 1978.
3. The Office of Legislative Oversight was directed to evaluate the Police Department response and the Auditing Division's comments; but not to conduct an investigation. On August 21, 1978, OLO advised Council that the Police Department's explanations were neither adequate nor responsive.
4. On August 24, 1978, Council requested additional comments from the Executive branch on the questions raised by OLO and Mr. Potter's questions concerning the violent crime rate.
5. On October 16 and November 3, 1978, revised replies were received from the Police Department (via the CAO) which replaced the previous reports and incorporated answers to questions raised by OLO. On instructions of the Council President, OLO again evaluated these revised Police responses; again, no investigation was conducted to verify any response.

GENERAL

1. This whole issue is complicated by the piecemeal manner in which the Police Department responded to the CODE 3 allegations and by OLO's challenge to the adequacy and responsiveness of the initial responses from the Police Department and the Auditing Division. A new dimension was added when the Grand Jury recently was extended to investigate the Police Department with the assistance of the State Prosecutor. Throughout, the CODE 3-Police controversy has received heavy media attention.

2. In an attempt to organize the individual issues which have appeared piecemeal over the past five months, I have prepared the following two spreadsheets which, hopefully, will present the issues in a clearer and more concise manner:

- a) Spreadsheet A (TAB A) Subject: Police Department October/November 1978 Responses to Specific Issues Not Adequately Addressed in Their July 12, 1978, Response.
- Col I: Summarizes CODE 3 allegations and issues not adequately addressed in earlier Police Department responses.
- Col II: Police Department revised October/November responses.
- Col III: OLO evaluation.
- b) Spreadsheet B (TAB B) Subject: Evaluation of Police Department October 1978 Responses to Specific OLO Questions on Contracts.
- Col I: Specific OLO questions.
- Col II: Police Department October 1978 responses.
- Col III: OLO evaluation.

DISCUSSION/CONCLUSIONS

1. CODE 3's major allegation is that the Police Department is mismanaged as evidenced by a rising crime rate and declining arrest rate. CODE 3 alleges that the inability to fight crime on the streets has been caused by the Police Department management decisions to maintain vacancies in the Patrol Division so as to create surplus funds to hire consultants, conduct conferences and take trips, make useless purchases and conduct other activities which do not relate to crime fighting. Further, CODE 3 alleges the safety of patrol officers is threatened by lack of back-up units and faulty radios.

County Council  
November 15, 1978  
Page 3

2. After evaluating the allegations and responses, the Office of Legislative Oversight has come to the following major conclusions:

a) The CODE 3-Police Department controversy was exacerbated by the initial failure of the Police Department to answer adequately and responsively many CODE 3's allegations.

b) The revised Police Department submissions of October and November 1978, are, on the whole, responsive and provide the basis for a reply to CODE 3. It must be emphasized, however, that the Office of Legislative Oversight has only evaluated the responsiveness of the Police Department replies. No investigation to confirm and verify any response has been directed by Council.

c) The Office of Legislative Oversight maintains, and has so stated in its August 21, 1978 evaluation of the Police Department response, that the Chief of Police has broad authority to run his department. The exercise of a particular philosophy and management style may be subject to questioning, and even criticism, but it does not in itself constitute mismanagement.

d) There have been procedural violations, administrative errors and misrepresentations on the part of the Department of Police in processing some contracts.

e) County administrative procedures concerning contracts, especially those relating to professional service mini-contracts, are outdated, incomplete and vague. The new County government administration should be requested to review and revise current County administrative procedures so as to reflect the provisions of the new purchasing and contract law (Chapter 11B, Montgomery County Code, 1972) and the realities of how grants and contracts are processed, coordinated and approved. Special attention will have to be given to the issue of contractor activities prior to contract approval. At Tab C in a Spreadsheet listing recommended improvements to correct shortcomings in contract procedures for professional services and other matters which OLO uncovered during this evaluation. (Note: Some of these procedures may already be under review by a consultant working for the Purchasing Office; and OLO will be looking at the general topics of grants and consultants during its current work program).

f) During the FY 80 budget worksessions the next County Council should review with the Police Department the issues of patrol officer availability, response and back-up unit requirements, the timetable to correct communications problems, and the priority of implementing the various innovative police programs.

County Council  
November 15, 1978  
Page 4

g) The County Council should reply to a September 12, 1978, letter from CODE 3's attorney specifically requesting that OLO be directed to investigate the Police Department.

#### COUNCIL OPTIONS

Considering the on going Grand Jury investigation, the activities of the State Prosecutor and the upcoming change in County government administration, it would appear that the following options are available to Council:

1. Inform CODE 3 and the present County government administration that Council plans no further action on this matter.
2. Inform CODE 3 and the present County government administration that Council is directing the Office of Legislative Oversight to conduct an investigation of CODE 3 allegations.
3. Inform CODE 3 that Council will take no further action pending the outcome of the Grand Jury and State Prosecutor investigations.
4. Provide the newly elected County Executive the opportunity to review the whole matter and advise Council of what action, if any, his new administration plans concerning this CODE 3-Police Department controversy.

AM:cls

Attachments

COL I  
Issue Not Adequately Addressed

COL II  
Police Department Oct/Nov 1978 Response

COL III  
OLO Evaluation

1. Increase in Reported Crime.

Code 3 has addressed the rise in crime in Montgomery County in three distinct references.

(a) June 12, 1978, letter to County Executive alleging a 32.5% increase in violent crime (murder, rape, robbery and aggravated assault) for period Jan-April 1978 compared to like period, 1977.

(b) July 24, 1978 letter to Mrs. Scull alleging an increase in crimes (not specifically limited to violent crime) for period Jan-May 1978 compared to like period, 1977.

(c) Sept. 15, 1978 letter to Mrs. Scull alleging an increase in crimes for period Jan-July 1978 compared to like period, 1977.

CODE 3 further alleges a decrease in arrests, citing the following reasons why the Patrol Division had difficulty combating crime:

(1) Decrease in officers patrolling streets; (2) Lack of back-up units; (3) Heavy workload for patrol officers; (4) Faulty radios; and (5) Lack of computerized information on criminal suspects.

Police Department presents a series of exhibits which present crime statistics in Montgomery County in multi-years and compares the County with other jurisdictions. An analysis of these exhibits indicates that reported crime has increased over a 30 month period (Jan 1976 to June 1978). The major increase has been in aggravated assault.

The response also has a detailed discussion on "statistical orientation" of Department in past and outlines a new department emphasis on patrol officer involvement in the process of investigating crimes and the "human side of policing."

Finally, presents a "Crime Statistics Paradox" which results in a higher number of reported events by a public which has confidence in the Police Department.

Although avoiding a clear statement to the fact, the Police Department essentially concurs that there has been an increase in reported crimes during the first half of 1978 when compared to a like period in 1977. This increase is reflected in another Metropolitan Area jurisdiction--Fairfax County; but the upward trend is not reflected in other local jurisdictions. (In subsequent pages of this analysis, the other issues concerning back-up units, radios, etc. are discussed).

COL I Issue Not Adequately Addressed	COL II Police Department Oct/Nov 1978 Response	COL III OLO Evaluation
<p>2. <u>Officers Avail for Street Assignment.</u></p> <p>CODE 3 alleges that incidents of crime have increased while the strength of patrol officers is less in 1978 than in 1977.</p> <p>Further alleges that officers assigned to Patrol Division are actually on-duty in other temporary assignments which prevent them from patrolling.</p> <p>Finally, alleges that vacancies were created in the Patrol Division to have funds for "pet projects."</p>	<p>The Department presents (Exhibit VI) a comparison of "deployable street strength" in the Field Service Bureau (formerly called the Patrol Division) at three points in time--Jan '76, Jan '77 and Oct '78. This comparison reflects that the number of officers assigned to patrol or traffic shifts have increased.</p> <p>Presents a lengthy discussion on department efforts toward improving resource allocation and the delivery of police services "at the street level."</p>	<p>Although the comparison in Exhibit VI is responsive, a complete response should have reflected a more detailed present for-duty patrol strength--such as the monthly average or quarterly average. Three samples in a 34 month period appears to be rather thin.</p> <p>The Police response acknowledges a departmental analysis which "indicated a gross imbalance between service demand and on-duty officer availability." Currently, one district--Wheaton--is experimenting with a seven shift deployment plan to "better match available resources with service demands."</p>
<p>3. <u>Insufficient back-up capability for serious calls.</u></p> <p>Alleges that, on occasion, on-duty patrols responding to serious crimes and disturbance calls (bar room brawls, family fights, etc.) have difficulty getting back-up support.</p>	<p>Department contends that the allegation that there is insufficient back-up capability for serious calls "cannot be supported, or refuted, by data currently available in the department," labeling CODE 3's "charge [as] yet another example of a wild and unsubstantiated statement, which seems to be based upon emotion rather than fact."</p> <p>The department response deals with the allegation in terms of resource allocation initiatives.</p> <p>More specifically addressing back-up response, the department considers the necessity for a back-up unit to be dependent upon the circumstances of the incident and the judgment of the field supervisor.</p> <p>Department considers off-duty officers responding to back-up calls to be a requirement of the take-home car program.</p>	<p>Responsive. The whole issue of adequacy of back-up vehicles is impossible to evaluate without exact data on the number of calls where back-up units were needed but not available. One would have to review the file of tapes of the calls and assignments and make value judgments; and those value judgments would be difficult considering the department does not have a regulation which specifically addresses back-up units and the criteria for their assignment.</p>

COL I  
Issue Not Adequately Addressed

COL II  
Police Department Oct/Nov 1978 Response

COL III  
OLO Evaluation

4. Radio Problems.

CODE 3 alleges defects in radio equipment, especially portable radios.

Department states that upgrading police communications system has been receiving priority attention during the last eighteen months. Quotes an August 15, 1978, memo from the Director, Facilities and Services that problems with portable radio failure has significantly improved.

Responsive. The problem with radio communications within the County is well documented. Improvements began on a major scale in FY 76 with the approval of a CIP in excess of \$4 million. The improvements have been phased in over the past years (Program completion in FY 81) with the number of assigned portable radios increasing from 130 VHF sets to the present 460 UHF radios.

5. Hiring of Civilians.

Alleges that hiring of civilians has not had the result which Chief diGrazia has maintained, i.e., improving the safety of the citizens and the working conditions of street officers, and increasing patrol strength.

Department defends hiring of civilians in terms of management style, the operational philosophy of the department director, and cost effectiveness.

Responsive. Hiring of civilians is a part of the current director's management philosophy as contained in his new Career Development Plan. Hiring civilians in positions formally held by sworn officers is the Department director's prerogative so long as such hirings comply with personnel regulations.

COL I Issue Not Adequately Addressed	COL II Police Department Oct/Nov 1978 Response	COL III OLO Evaluation
6. Reinier was selected without receiving LEAA prior approval or following LEAA bid procedures.	(Sec. II, p. 3-5, 12-15). Reinier picked by Management of Criminal Investigations (MCI) Task Force. The Police Department reports that the requirement for Governor's Commission advertising and bids were waived by the Commission for the Reinier contract because the department had LEAA approval for six mini-contracts to be awarded on a non-competitive basis. The Governor's Commission staff interpreted this LEAA approval as the Police Department's authorization to proceed with the contracts without the Commission's additional approval.	Responsive.
7. Reinier was paid in excess of \$135/day when LEAA authorizes only that amount unless specifically exempted.	(Sec. II, p. 5, 12-15). Police Department acknowledge that prior LEAA approval to exceed the daily rate of \$135/day was not obtained. Thus all expenses over that rate had to be paid by the General Fund. Highlights Reinier billed County as a corporation rather than as an individual.	Responsive. Procedures should be instituted to assure that all available grant funds are used rather than County funds.
8. Police Department failed to coordinate the Reinier contract with the Grants Section of Budget Office (Para. 4.6, AP 3-4).	(Sec. II, p. 12). Department justifies not coordinating because it was dealing directly with the Governor's Commission staff and LEAA representatives.	Responsive. However, the Department should have complied with all County procedures.

COL I  
Issue Not Adequately Addressed

COL II  
Police Department Oct/Nov 1978 Response

COL III  
OLO Evaluation

9. An apparent duplication in Reinier contract to design an incident form and contracting with Bethesda Graphics to design a form.

(Sec. II, p. 15-16). Department used Bethesda Graphics to transfer the rough draft of the new event report form into a draft which could be printed. Bethesda Graphics had considerable experience in form design and conceptualization.

Responsive. The language of the Reinier proposal and contract concerning design would lead to a question of duplication:

a) Reinier's March 7, 1977 proposal to Chief diGrazia included "design" of a comprehensive incident report form to include, "2) structure of the report to enhance its operational use."

b) The Mini-Contract of May 6, 1977 includes language, "...you [Reinier] assist the Montgomery County Department of Police in the design of a comprehensive incident report form..."

10. Department did not respond to complaint that Reinier designed incident form was not being used.

(Sec. II, p. 4). The original event form has been modified and new supplements have been developed.

Responsive.

11. Insufficient explanation of Krantz and Reinier expenses.

(Sec. II, p. 14, 19-20; App. C, p. 14, 21-22). Department states all travel expense vouchers have included receipts for all claims (except tips and taxi receipts); and all expenditures are reviewed by the Fiscal Management Division of the Police Department for appropriateness and contract compliance.

Responsive. As is the case for County employees, County procedures should require that all receipts, etc., accompany requests for payments to consultants from the department to the Accounts Payable Section of Finance.

COL I  
Issue Not Adequately Addressed

COL II  
Police Department Oct/Nov 1978 Response

COL III  
OLO Evaluation

12. Incomplete explanation on Krantz contract with Police Foundation in early 1977.

(Sec. II, p. 5, App. C, p. 21-22; App. H): Department reports that a Krantz report submitted in January 1977 on the Juvenile Section was the result of a contract with the Police Foundation. No County funds were involved in this contract.

Responsive. Police Department should provide a copy of the Police Foundation contract with their response.

13. Krantz and Doyle performed services prior to contract approval.

(App. O and P). Department does not address the issue of initiating work prior to formal contract approval in the context of the contracts with these two consultants. However, in discussing three other contracts (Reinier, Rasmussen and Segal) the department acknowledges work began before contract approval.

Department does not directly address these two specific complaints (complaint #4, Case II and complaint #4, Case III). A review of the Krantz and Doyle contracts reveals that work was initiated prior to formal contract approval. A further review indicates there are a total of six such incidents (See Spreadsheet B, item d). Although there seems to be a general "feeling" in the County that contracts should be formally approved prior to initiating any work, there is no specific law or administrative procedure prohibiting prior initiation. There is a definite need to include in administrative procedures such a prohibition.

14. CODE 3 questions as to what training Doyle performed, who was trained and the necessity of the training.

(App. C, p. 6). Department reports that Doyle presented the theory underlying simulations in police work and demonstrated training methods and validation of simulated interaction training. Provided directly to Training Academy staff and selected managers from the Field Service Bureau (Patrol). Overall purpose was to demonstrate an established training technique for possible incorporation into future recruit and in-service training programs.

Responsive.

COL I Issue Not Adequately Addressed	COL II Police Department Oct/Nov 1978 Response	COL III OLO Evaluation
15. Alleged duplication of Montgomery College (Geer) and Krause contracts re: MBO.	(Sec. II, p. 6-9). Department discusses in some detail the two MBO related contracts. Summary: "Montgomery College contract was intended to train managers in certain management concepts, whereas Krause contract was intended to apply these concepts to an ongoing implementation effort."	Responsive.
16. Allegations that a consultant hired for \$4,000 to evaluate staff of Research and Planning Division (primarily new civilian employees), performed psychological tests and thereby invading the privacy of the employees.	(Sec. II, p. 6; App. C, p. 4-5). Department denies there was any psychological testing of any kind. Further states that the training and consultation is being delivered to entire staff of the division, not just civilian employees.	Responsive.
17. Alleges a consultant was hired for \$4,995 to evaluate a program which LEAA would fund.	(Sec. II, p. 26-27). Department feels that an indepth evaluation was required because the first 18 months of the project "had been fraught with problems, both operationally and administratively." Believed \$2,500 authorized under the LEAA grant would not be sufficient to obtain the type evaluation desired. The work of the consultant, Mr. Rogovin, was critical and useful.	Responsive.
18. Alleges vacancies were created in Patrol Division to have funds for "pet projects."	(Sec. II, p. 9-12). Funds are available from the Field Service Bureau (Patrol Division) because that bureau represents approximately 80% of the total department budget and most personnel attrition occurs in that bureau. Normal attrition is routine and no extra ordinary action was taken to create the vacancies and hence the funds.  Funds generated through vacancies are available for expenditure for other department purposes	Responsive

through approved transfer under County budget procedures.

Finally, many of the contracts benefited the Field Service Bureau--examples are the Krantz, Montgomery County (Geer) and Rogovin contracts.

19. LEAA and Commission correspondence re audits of grants.

(Sec. II, p. 11-12; App. G). Department cites four letters concerning LEAA and the Governor's Commission "investigation" of some allegations as the basis for concluding that there is nothing in CODE 3's allegations which would require an investigation by LEAA. Of particular note is a quote from an August 2, 1978, letter to Chief diGrazia from Mr. David R. Powel, Director, Northeast Area, LEAA Office of Criminal Justice Program, in which Mr. Powel states: "I see no need for an immediate special audit since Mr. Wertz's response [of June 7, 1978] to our March 10, 1978, inquiry gives no indication that further action is necessary. This response establishes that the allegations have not been substantiated." (Note: Mr. Wertz is the Executive Director of the Governor's Commission.)

Responsive.

The above quote is in response to Chief diGrazia's July 18, 1978, letter to LEAA in which he stated: "...if you think it would be useful, I would urge you to consider an immediate special audit of all the grants in order to resolve any doubt in your mind concerning the administration of grants by this Department." (Emphasis added.)

20. Hors d'oeuvres costing \$87 were purchased with County funds.

(Sec. II, p.2). The department MCI Project Director (of an LEAA grant) reports no knowledge of such an expenditure.

Responsive. However, the response is limited in that the MCI is only one of several LEAA grants. Were other project directors or the department's Fiscal Management Division queried?

COL I  
Issue Not Adequately Addressed

COL II  
Police Department Oct/Nov 1978 Response

COL III  
OLO Evaluation

21. Rasmussen contract for Model  
In-Service Training Program.

(Sec. I, p. 26; App. D). Department reports that \$417 worth of services were rendered by Rasmussen prior to contract approval. App. D reflects as much as \$817 worth of services performed. No details on what work was done or why LEAA funds were not used.

Responsive. However, documentation at App. D is not complete enough to evaluate what exactly Rasmussen did. Also, there appears to be a discrepancy as to whether \$817 or \$417 worth of services were rendered by Rasmussen prior to contract approval.

Subject: Evaluation of Police Department October 1978  
Responses to Specific OLO Questions on Contracts

SPREADSHEET B

Overview: The Aug. 21, 1978 OLO evaluation included the following two major comments:

1. This writer does not question the Department director's authority to enter into contracts and hire consultants. The degree of use of consultants is a matter of fund availability and management style.
2. However, there are too many unanswered questions and unsupported statements in the Police Department response to make a judgment on the adequacy of the response. With the exception of three contracts totalling \$4,777.50 where procedures were admittedly not followed: Bethesda Graphics (\$177.50), Dr. Moreley Segal (\$2,100), and G. Hobart Reinier contract #608-78 (\$2,500), the Police Department response does not present enough facts to evaluate whether contract/purchasing/grant administrative procedures were followed, contract objectives were met, or that the County benefited from the consultants' efforts.

COL I Specific OLO Questions	COL II Police Department October 1978 Response	COL III OLO Evaluation
a) Is a form developed by a consultant at a cost of \$2,500 in 1977 currently not being used (Reinier #608-77)?	(Sec. II, p. 4). The report developed by Mr. Reinier and the MCI Task Force has been modified for implementation on an experimental basis for use in this agency, with supplement reports added.	Responsive. The department is not prohibited from modifying a consultant-developed form when usage dictates a modification is necessary.
b) Did the contract for the above form include design, considering that another contract had to be let to design the form?	(Sec. II, p. 15, App. K). Bethesda Graphics was selected to assist the MCI Task Force in transforming its rough draft of the new event report form into a draft which could be printed.	Responsive. It should be noted that the Reinier proposal includes the statements: "design of a comprehensive incident report form..." and "...provides onsite services to identify:...structure of the report to enhance its operational use...."
c) What are the request for proposal (RFP) and bid procedures governing professional service contracts considering that Administrative Procedure 3-5 applied to the old law (prior to the new law of July 1, 1977)?	(Sec. II, p. 16-17). Police Department states that it has complied with all administrative procedures except for three instances (Rasmussen, Reinier, Segal)--neither of which is the specific CODE 3 complaint concerning Bethesda Graphics).	Responsive. Of the four contracts identified by CODE 3--Reinier, Krantz, Doyle & Krause--there is evidence that the Police Dept. followed all RFP and bid procedures required by County regulations. The three instances identified by the Police Department in their reply concern the initiation of

consultant services prior to contract approval. (See d below.)

d) What is County procedure regarding the performance of professional services prior to official contract approval?

(Sec. II, p. 17 & 26; App. C, p. 9-10, 18). Department admits three incidents when professional services were performed prior to official contract procedure. Also in Sec. II, p. 15-16 there is a fourth incident of services rendered by Bethesda Graphics prior to the Purchasing Office's approval of that firm as a contractor.

Responsive. The current law (Chap. 11B M.C. Code) and County procedure do not specifically require that a contract be approved prior to performance under the contract. However, prudent judgment would indicate that work should not commence prior to official contract approval. Three specific CODE 3 identified contracts--Reinier (Bethesda Graphics), Krantz & Doyle reveal work was performed prior to official contract approval. (In the third instance, the date on the Doyle contract would suggest that site-work was performed prior to official contract approval). Thus there are at least six examples of work initiation prior to contract approval (Rasmussen, Sec. II, p. 26; Segal App.C, p. 9-10; Reinier, App.C p. 18; Bethesda Graphics, p. 15-16; Krantz, App. O and Doyle, App. P). In

the case of Krantz, the Police Mini-contract was proffered on July 1, 1977, indicating what work was to be accomplished; however, Krantz had already commenced work in April 1977.

e) Why, when LEAA grants authorize a maximum payment for consultants of \$135/day (\$14.86 per hour) does the County contract for services at \$150/day (\$18.75/hour) and \$200/day (\$25/hour)?

(Sec. II, p. 18-19). Although LEAA grants authorize a maximum payment, consultants may be paid more than the \$135/day daily rate with County funds. Generally, consultant fees are negotiated.

Responsive. Police Department was within their authority to pay daily fees in excess of \$135/day; provided funds were available in the department account. However, the federally established \$135/day (except for "rare and unusual and extreme circumstances") appears to be a reasonable guide; and paying 68% over that guide (\$200/day) appears generous. Also (see (f) and (n) below.

COL I Specific OLO Questions	COL II Police Department October 1978 Response	COL III OLO Evaluation
f) Although LEAA grant procedures permit exceptions to the above \$135/day limit under "rare and unusual and extreme circumstances" with prior LEAA approval, why hasn't the Police Department applied for an exception and pay the \$200/day with grant funds?	(Sec. II, p. 18-19; App. K, Ex. 11). Police Department states that Reinier, the only LEAA grant funded example, was contracted at the rate of \$135/day. Additional add on costs were not allowed by LEAA.	Responsive. Note: The add on costs were paid in full from the General fund.
g) Have all travel expense vouchers included receipts for all claims and were all expenditures reviewed?	(Sec. II, p. 19). Department claims all travel vouchers have included receipts for all claims (except some gratuities and taxi receipts.) "In addition, all expenditures are reviewed by the Fiscal Management Division of the Police Department for appropriateness and contract compliance."	Responsive. The Accounts Payable section of the Finance Department does not require submission of detailed travel vouchers and/or receipts for consultant expenses approved by a department. The Accounts Payable section only reviews County employees' vouchers and receipts. County procedure assigns to the department head the responsibility of verifying that all payments are authorized. However, for LEAA funded claims, detailed documentation is necessary.
h) Are consultants' expenses reviewed to verify that claims are appropriate, i.e., coach class air travel, 15¢ per mile transportation, meals, etc?	(Sec. II, p. 20). "Consultants' expenses are reviewed by the Contract Administrator(s) and the Fiscal Management Division of the Department to verify appropriateness of their claims." Although there is no County procedure requiring coach class air travel or 15¢ a mile, the department uses coach air fare and 15¢ per mile as "guidelines" for consultants. "Our policy is one whereby costs for travel, meals, ground transportation, etc. are negotiated with the consultant using a reasonable standard and based upon the estimated (sic) in the proposal."	Responsive.

COL I  
Specific OLO Questions

COL II  
Police Department October 1978 Response

COL III  
OLO Evaluation

i) Have all contracts involving State/Federal grants (e.g., LEAA) been coordinated with the Grants Coordinator in the Office of Budget and Research?

(Sec. II, p. 12). The Police Department states that the one LEAA funded contract (Reinier) was a discretionary grant and was not coordinated with the Grants Coordinator in the Budget Office because the Police Department was working directly with the Governor's Commission staff and LEAA representatives.

Responsive. However, paragraph 4.6, AP 3-4 requires all contracts involving State/Federal Grants resulting in the purchase of services from agencies or individuals to be coordinated with the Grants Coordinator in the County Office of Budget and Research. This is a County government requirement which would not be excused because of direct coordination with State and Federal agencies.

j) Did the Contract Review Committee (CRC) concur in the "Request for Proposal" soliciting contractors?

(Sec. II, p. 20-21). Such approval is not required for contracts under \$5,000. Where required--Krause contract for \$15,588-- CRC approval was obtained.

Responsive.

k) Were all contracts coordinated with the Purchasing Office, Office of Budget and Research, County Attorney and Department of Finance for concurrences as required by AP 3-5, Paragraph 3.6?

(Sec. II, p. 21-23). Department indicates contracts under \$5,000 (Reinier, Doyle, Krantz) were coordinated with the contractor, Chief of Police, Assistant CAO and County Attorney; and for contracts over \$5,000 (Krause) coordination was also made with the CRC and Purchasing Office.

Responsive. There appears to be no written County procedure to implement paragraph 3.6, AP 3-5. In addition to the offices indicated in the Department response, the Purchasing Office and the Dept. of Finance must have been a part of the coordination as purchase orders and fund encumbrances were accomplished. Although required by AP 3-5, there appears to be no purpose served in coordinating mini-contracts involving General funds with the Budget Office if the Finance Department has approved encumbering the funds.

COL I  
Specific OLO Questions

COL II  
Police Department October 1978 Response

COL III  
OLO Evaluation

1) Did the Department of Police use a Qualification and Selection Committee?

(Sec. II, p. 23-24. The department reported that, as a general rule, a formal qualification and selection committee is used only for contracts over \$3,000 with an informal procedure "...proving more cost effective for contracts under \$3,000." A formal qualification and selection committee was used for the Krause Contract (\$15,588).

Responsive. In general, County procedures do not require a qualification and selection committee for mini-contracts under \$5,000. However, AP 3-5 requires qualification and selection committees for specific departments in the case of contracts for professional services. It is my opinion that the Department of Police should be added to those specific departments.

m) Were public announcements made outlining intent to procure professional services?

(Sec. II, p. 24-25). A public announcement was made for the Krause contract (over \$5,000), but not for the other three mini-contracts discussed by CODE 3--Reinier, Krantz and Doyle.

Responsive. However, para. 5.0 of AP 3-5 and paragraph 7.10 of AP 3-4 require public announcement for procurement of professional consultants. In addition, the Governor's Commission regulations requires advertised bids for contracts over \$2,000.

n) Does the Police Department publish fee guidelines? Did the CRC review and approve these fee guidelines?

(Sec. II, p. 25). Montgomery County does not publish specific fee guidelines. However, the fee for a contract is reviewed and approved first by the CRC then a representative of County Attorney then by Assistant CAO.

Responsive. Re: AP 3-5 "Fee guidelines should be issued by the department involved and should be consistent with those used in industry. Before issuance, these guidelines should be sent to the CRC for review and approval." In practice, this has been followed principally for architects and engineers but not for other consultants. As for CRC review of a specific contract fee, this would occur only if the contract was sent to CRC, i.e, over \$5,000. Further, the County Attorney's Office reviews for legality and form, but does not review or approve fees.

COL I  
Specific OLO Questions

COL II  
Police Department October 1978 Response

COL III  
OLO Evaluation

o) Did the CRC review all contracts which were sole source-proprietary or non-bid contracts of \$3,000 or more?

(Sec. II, P. 25). Sole source - proprietary or non-bid contracts of \$3,000-\$5,000 were coordinated with the County Attorney's Office and Assistant CAO. The Assistant CAO decided on whether to sign the contract or have the CRC review it.

Responsive. The County Attorney and Assistant CAO consider sole source proprietary contracts to refer principally to goods and not to services. The Assistant CAO has the authority, and has exercised that authority, to have the CRC review any contract regardless of the amount involved.

p) Does the Police Department have developed methods, tools and forms to evaluate proposal submissions?

(Sec. II, p. 20-21). Formal methods, tools and forms to evaluate proposal submissions for each mini-contract have not been developed as "...such an action would not prove cost effective." Formal procedures for larger contracts are outlined in AP 3-5, para. 7.0-7.18.

Responsive. The AP which requires formal evaluation procedures and methods (AP 3-4, paragraph 6.7) is vague as to whether it applies to the Police Department. When the AP was prepared in 1975 the Police Department was seldom involved in contracts for professional services; consequently, that department is not one of the departments specifically identified as requiring such methods and forms. It is my opinion that the Police Department should be added to the specific list of departments required to have a formal evaluation process.

Subject: OLO Recommended Improvements to Correct Shortcomings in Contract Procedures for Professional Services and Other Matters

SPREADSHEET C

Observation

OLO Recommendation

1. The current law (Chap 11B, M.C. Code) does not specifically require formal contract approval prior to initiating actions under the contract. However, there is universal agreement in the Contract Review Committee, County Attorney's Office and the Department of Police that work should not commence until the contract for the work is approved.

County regulations should specify formal contract approval before professional services are rendered.

2. Para. 4.0, AP 3-5 entitled, "Architects, Engineers, Consultants' and other Professional Service Contracts," required specific departments (at the time the procedure was written--1975) to establish Contractor Qualification and Selection Committees to review and evaluate qualifications of professional contractors. The Police was not one of the specified departments.

The Department of Police (and probably other departments) presently contract for professional services and should be required to establish such committees. (See also para. 6.4, AP 3-4, entitled: Contracts.)

3. The AP which requires formal evaluation procedures and methods (AP 3-4, paragraph 6.7) is vague as to whether it applies to the Police Department. When the AP was prepared in 1975 the Police Department was seldom involved in contracts for professional services, consequently, that department is not one of the departments specifically identified as requiring such methods and forms.

The Police Department should be added to the specific list of departments required to have a formal evaluation process.

4. The current law (Chap. 11B-21(b), M.C. Code) and AP 3-5 specify that "fee guidelines should be issued by the department involved and should be consistent with those used in industry." In practice, County government has interpreted the regulation as applying to architects and engineers but not to other consultants.

The regulation should be clarified to apply to all professional services.

Observation

OLO Recommendation

5. M.C. Code (Chap. 11B-20) and APs 3-4 and 3-5 require public announcements of intent to procure professional consultant services. In the case of Police Department mini-contracts this has not been followed.

The Police Department should establish procedures to ensure public announcements of the intent to procure professional consultant services are made for mini-contracts.

6. M.C. Code, Chap. 11B-17 (b) states, "An underlying policy of the County government is to provide various reviews and control features in order to ensure wide participation in proposal solicitation, evaluation and selection of professional contractors." Chap 11B-24 charges the CAO to establish those procedures. APs 3-4 and 3-5 designate certain departments and offices to conduct such reviews, but the procedure does not match reality. As an example, AP 3-4, para. 6.3 and AP 3-5, para 3.6 require the coordination of mini-contracts (under \$5,000) through the Office of Budget and Research. In reality this is seldom if ever done (possible exemptions are in the case of contracts funded by a grant or when a reallocation or transfer of funds is necessary).

County regulations should specify a step-by-step procedure for processing mini-contracts through the review and coordination process.

More specifically, the APs do not contain a step-by-step procedure for processing mini-contracts through the review and coordination steps.

7. Current County procedures concerning contracts in general and professional service contracts in particular do not reflect the new law (Chap 11B) which became effective in mid-1977.

It is my understanding that a consultant is working with the Purchasing Office to update County procedures. This effort should be accomplished on a priority basis.

8. Current regulations require that expense reimbursements claimed by public employees be accompanied by receipts for all expenses incurred. This applies to reimbursements from petty cash or by direct payment. These receipts are reviewed by the Accounts Payable Section of the Department of Finance. However, in the case of claims from consultants for like expenses, County government regulations do not require submission of receipts or an explanation of the expenses claimed.

Finance Department (Accounts Payable) should receive and review receipts for expenses incurred and claimed by contractors.

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Observation

OLO Recommendation

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9. While recognizing that the fee paid consultants and other professionals are customarily negotiated, there should be established some rigid guidelines on expense limits for air travel, mileage, lodging, food and like expense allowances (secretarial assistance, travel time reimbursements, car rentals, etc.). The County is quite specific in establishing limits in many of those areas for its own employees. Many federal agencies have "plugged" this potential costly appendage to the negotiated daily/hourly fee with such regulation wording as: Reimbursement for travel, (lodging, car rental, etc.) in connection with contract execution will be consistent with that normally allowed agency [County] employees in like circumstances.

County regulations should provide guidelines on expense limits for consultants.

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10. A review of mini-contracts reveals a lack of specificity in such critical areas as: period when services are to be performed; scope of service, to include written reports; compensation limits and detail of authorized expenses; and commencement date.

County regulations should provide specific minimum contents for each mini-contract.

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11. In at least two instances, the Police Department has been the recipient of gratis services from the Police Foundation without any formal procedure by the County to review and accept those services. Although in these instances the grantor of these services was the Police Foundation, a reputable organization, the County should have a written policy concerning such gratis services so as to preclude being placed in the position of one of its employees receiving gratis services without formal County approval. (The above has been discussed with the County Attorney.)

County government regulations should be developed which enumerates the policy and specific procedures for officially reviewing and accepting services to public employees or agencies from privately funded, independent organizations.

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12. In reviewing several professional service contracts it was difficult to identify a documented "audit trail" from contract inception thru completion and remuneration. Maintaining an audit trail enables management to review contract progress and provides check points to evaluate contract execution.

County procedures should specify that an accurate "audit trail" be maintained for at least contracts which are negotiated.

Observation

OLO Recommendation

13. Examples were found where a County employee was reimbursed for lunch when the employee's only guest(s) was another County employee. Administrative Procedure 1-5 prohibits such reimbursement, but the prohibition has either not been emphasized or is unclear.

That portion of Administrative Procedure 1-5, which addressed employees lunching together at County expense (Para. 6.2) must be reemphasized and clarified.

14. Administrative Procedure 2-1 is written primarily to apply to the petty cash funds administered by the Department of Finance, Division of Revenue. Currently there are petty cash funds within several departments. One specific shortcoming is that the procedure does not specify a system of internal control of the fund. For example, in the Department of Liquor Control, the Authorized Agency Representative, the cashier and the individual receiving reimbursements is the same employee.

Administrative Procedure 2-1, Petty Cash Funds, should be revised and updated. Also, it is recommended that the Cashier and Authorized Agency Representatives not be the same individual.