



OFFICE OF INSPECTOR GENERAL

Thomas J. Dagley
Inspector General

December 8, 2008

Phil Andrews, President, County Council
Isiah Leggett, County Executive

President Andrews and Executive Leggett:

The purpose of this letter is to provide an update to the ongoing work of the Office of Inspector General (OIG) regarding the Montgomery County government (MCG) disability retirement program. Last week, we briefed Council and Executive staff on key information in this letter. We believe the update is needed to reinforce recommendations to management in the Interim Evaluation Report (September 2008). OIG follow-up on the report's findings and recommendations is planned prior to issuing a final report. In addition, we believe the information will benefit the Council in determining the need for any legislative changes to ensure legal, fiscal, and ethical accountability.

In the interim report, we advised that our analysis of service-connected disability retirements (SCDRs) approved for police officers over approximately the past three years disclosed individual cases and patterns that we believe a prudent person would consider abusive. The report's first finding identifies a need to improve internal control and management oversight. The second recommendation for this finding involves management re-examining, under its current authority, certain SCDR cases to determine if the status of the former employee has changed. At this time, the extent of management's re-examination of these SCDR cases is not clear.

Incident to issuing the interim report, the OIG received additional allegations of SCDR abuse from concerned police officers, other MCG employees and taxpayers. One specific allegation involves a former County police officer whose SCDR was approved by management in 2003 following a disability review panel determination that his impaired right upper extremity rendered him unable to meet key minimum qualifications of his position. We found that this former employee was the subject of two separate complaints in 2003 alleging a conflict between his medical restrictions and employment outside MCG. Although the allegations received some investigative attention by MCG, the results were inconclusive.

In October and November 2008, the OIG obtained video evidence showing this former employee working on three separate occasions as a women's self-defense tactics instructor for a municipality in Maryland – his work as an instructor for the same



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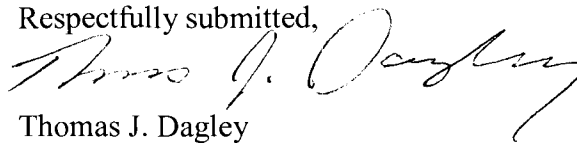
municipality was part of the 2003 complaints. The video was obtained using generally accepted practices of MCG to address credible allegations of medical restrictions abuse; its use will be restricted to MCG officials directly involved in corrective actions needed to address disability retirement program deficiencies. The video documents the former employee demonstrating self-defense tactics to individuals who registered for classes sponsored by the municipality. His instructor activities appear to conflict with information relied upon by MCG to approve a permanent SCDR.

According to public information, the former officer reported in July 2004 that he was working as an executive protection specialist and a self-defense instructor. In addition, we found that since 2006, he has been a contract State employee working as a bailiff for the District Court of Maryland. We were advised by State officials that as a bailiff, he has special police officer powers on district court property. According to State records, a bailiff's primary tasks include maintaining order in the courtroom (i.e. providing security for the judge) and courthouse (i.e. detaining "problem" citizens until police arrive). We were advised that as a bailiff, he is armed and issued handcuffs and pepper spray. Physical requirements for a bailiff include being able to restrain others when necessary.

Although under MCC Chapter 33, Section 33-43, Disability Retirement, management has the authority to require employees receiving SCDR benefits to undergo a yearly physical examination during the five-year period following retirement and once every three-year period thereafter until age 55, we found no evidence that this former employee, now in his late 40s, has ever been re-examined to determine if his SCDR status changed. From July 2004 to June 2008, this individual received approximately \$184,000 in tax-exempt SCDR payments from MCG. In addition, using actuarial life expectancy tables, this individual could receive more than \$1.5 million in additional tax-exempt SCDR benefits over the next 30 years.

As we continue to examine allegations of SCDR fraud, waste, and abuse, the information received to date leads us to believe there are other examples similar to this case that warrant the re-examination of former MCG employees. I request that you advise me by December 19, 2008 of your need for any additional information from the OIG on this case or the SCDR cases referenced in our interim report that can help MCG officials strengthen accountability for the disability retirement program.

Respectfully submitted,



Thomas J. Dagley
Inspector General