OFFICE OF THE SHERIFF

RICHMOND, VIRGINIA

SPECIAL REPORT

JANUARY 2001

Auditor of Public Accounts

COMMONWEALTH OF VIRGINIA

Commonwealth of Virginia

Walter J. Kucharski, Auditor

Auditor of Public Accounts
P.O. Box 1295
Richmond, Virginia 23218

January 12, 2001

Members of the Richmond City Council

Sheriff Michelle B. Mitchell

On November 6, 2000, we received a letter from the Acting Director of Finance questioning certain payments to Sheriff Michelle Mitchell. The Acting Director of Finance wrote the letter after a review of these payments by the City Internal Auditor. These payments appeared contrary to the policies and procedures of the Commonwealth of Virginia's Compensation Board and the City of Richmond.

As our report details, these payments are contrary to both the policies and procedures of the Compensation Board and the City of Richmond. However, the payments are consistent with the informal policies of the Sheriff's Office. Without guidance from City Council directing the use of funding, the Sheriff does have the authority to adopt and follow internally developed independent policies and procedures.

Our review has found that the Sheriff has consistently followed her informal internal policies and procedures for all employees, including herself. City Council has the authority, through its funding of the Sheriff's Office, to determine if these policies and procedures should continue to receive funding in the future.

We conducted exit conferences with the Sheriff on January 3, 2001 and with City management on January 11, 2001.

Sincerely,

Walter J. Kucharski
Auditor of Public Accounts

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BACKGROUND

General

The Sheriff is a constitutional officer and as such, is independent of both the City's and the Commonwealth's personnel policies and procedures. This independence applies to both the Officer as well as the Officer's employees. However, this independence is limited by the funding available to implement any personnel policies and procedures.

Constitutional officers receive funding from the Compensation Board, a state agency of the Commonwealth of Virginia. The Compensation Board allocates resources to all constitutional officers and requires that the local governing body provide certain funding. As an example, constitutional officers and their employees participate in retirement plans; however, the Compensation Board only funds an amount equal to the state's retirement contribution amount and requires the local governing body to fund the difference, if any.

Local governing bodies can also elect to supplement the constitutional officer's budget in addition to amounts received from the Compensation Board and required local funding. Supplemental funding can take different forms such as providing additional salary and fringe benefits, special training, or equipment for the office. The local governing body, through the budget process, can restrict the use of the supplemental funding.

As part of the Compensation Board's new officer training program, the Compensation Board reminds constitutional officers that if the Officer does not follow state or locality policies, then they should commit to writing the policies and procedures they intend to follow. Also, if these policies and procedures require additional funding from the local government, then the governing body must review and agree to fund the policy or procedure.

City of Richmond Sheriff's Office Leave Policies

The Sheriff's written procedures show that individual employees earn leave at the same rate as other city employees. Employees can also accumulate leave balances up to a maximum level equal to that allowed for city employees.

The Sheriff stated that, in addition to these written policies and procedures, she had informally adopted other policies and procedures that the Office had followed since she became Sheriff. She stated that several of these changes were responses to high staff turnover and the need to cancel or deny staff's leave requests. These informal policies and procedures included paying employees for the amount of vacation leave in excess of the maximum accumulation at the end of each calendar year. In addition, the Sheriff, on a case-by-case basis upon request, would pay employees for their unused vacation leave during the year.

The Sheriff stated that she applies both the written and informal policies and procedures to herself. Further, she received payments using the same procedures that she applies to her staff.

City Policies and Procedures for the Sheriff's Office or other Constitutional Officers

The City has no written policies or procedures governing how the Sheriff or other constitutional officers will use the money the City provides to supplement their Offices' budgets. We could find no detailed guidance or other documents from the governing body, City Manager, or the budget and human resource departments that discussed any restrictions or guidance on the use of the budget supplements.

RECORD REVIEW

We conducted a review of the leave and payroll records of the Sheriff's Office. We conducted this review to determine the policies and procedures of the Sheriff's Office and whether the Sheriff received the same treatment that employees received when it came to receiving payment for leave. Additionally, we contacted the former Sheriff to determine if he had earned leave and, if so, whether he received payment.

In order to determine that the Sheriff consistently followed procedures for the accrual and payment of leave, we had the Sheriff commit to writing her written and informal policies and procedures. We obtained copies of the Sheriff's leave record and a listing of all employees who received payment for leave for reasons other than termination. We also arranged to review the leave records for the Sheriff's Office and the City's payroll records.

AUDIT PROCEDURES FOLLOWED

1. We met with the City's financial staff to review and discuss state and city policies and procedures regarding vacation leave and how those policies applied to the Sheriff's Office. As noted earlier, the City does not have leave, overtime, or other leave or fringe benefit policies and procedures for the Sheriff's Office.

2. We met with the Sheriff to discuss vacation leave policies and procedures, reviewed her Office's policy and procedure manual, and had the Sheriff commit to writing her informal policies and procedures. During this meeting, the Sheriff stated that she considers herself subject to all leave policies and procedures the same as an employee.

3. For the last two calendar years, we had the Sheriff provide a listing of employees who received payment for excess accumulated leave at year-end or received a leave payment during the year.

4. We selected the Sheriff and a sample of employees from the listing obtained in Step 3 and reviewed the individual leave records and payroll records to confirm that the individuals received payment in accordance with the policies and procedures. Our findings are below.

5. We contacted the former Sheriff, who confirmed that he had earned and accumulated leave. The former Sheriff stated that he did not receive any payments for accumulated leave.

FINDINGS

- The Sheriff's Office vacation leave records appear reasonable and there is a proper calculation of balances. We found an error in the Sheriff's record where she received payment for 80 hours of vacation leave, but there was no reduction in her leave balance. In January 2001, the Sheriff adjusted her leave records to reduce available vacation leave.

- Since 1997, the Sheriff's Office paid thirty-one employees 68 times for accrued vacation leave totaling over $65,000. These payments were made for both excessive leave balances at year-end and by request during the year. Since 1996, the Sheriff received thirteen vacation leave payments for $33,168. These payments include vacation leave hours accrued before she became Sheriff.

- Two employees assigned to a special affairs division accumulated balances of over 600 hours that carried into the next year when the maximum accrual limit was 336 hours. These employees were subsequently paid for these excess balances. The Sheriff indicated that the employees in this division were allowed to carry over excessive leave balances; however, this policy was not in writing.

- Two employees receiving payments had not taken sick leave or vacation leave since before 1998. The Sheriff's records indicate she had not taken sick leave or vacation leave since 1993.

- City Council has not reviewed or approved the Sheriff's leave policies and any other policies and procedures concerning the use of City funds appropriated to this Office or any other constitutional officer.

SUMMARY AND RECOMMENDATIONS

From our review, we determined that the Sheriff's unwritten policy regarding the payment of vacation leave balances is the official policy of the Sheriff's Office, and is in practice for all employees. Further, we noted that the Sheriff adhered to this policy and received the same treatment as her employees when it came to receiving payment for leave.

Recommendations

1. The City Council should direct the City Manager and his staff to work with all the constitutional officers to document all of their fiscal policies and procedures, especially those related to fringe benefits and salaries. This process should indicate if the Officers are following either state or city policies and procedures, or have developed fiscal internal policies and procedures. The constitutional officers should indicate the cost of these policies and procedures, especially those developed internally. Based on these documents and the cost analysis provided by the constitutional officers, City Council should determine if they wish to continue funding these internal fiscal policies and procedures.

2. City Council should direct the City Manager to develop procedures to review and discuss the City's policies and procedures for funding constitutional offices when there is a change in a constitutional officer.

3. Specifically, the Sheriff should commit to writing all of her Office's policies and procedures, especially those for personnel, payroll, and related fringe benefits. The Sheriff, as part of this process, should document and explain the need for any policy or procedure that deviates from either state or city policies or procedures.

4. The Sheriff should request that the City Auditor perform a full audit of all of her staff's leave and overtime records.

5. The Sheriff should continue to use the City leave and payroll systems and should consider shifting as much accounting, purchasing, or other non-jail related activities to the City Director of Finance's Office.

6. The Sheriff and the City's Human Resource Department should review staffing levels and hiring needs, since she must incur substantial overtime and pay individuals for accumulated and unused leave. These problems typically indicate staffing shortages and can also impact morale, especially when normal policies require employees at all levels to take regular time off.