



# Clerk of the Circuit Court Board of County Commissioners

Marion County



## Internal Audit Division

**David R. Ellspermann**

*Clerk of the Circuit Court*

**Wallace K. Watford**

*Internal Auditor*

Post Office Box 1030, Ocala, Florida 34478-1030

110 NW First Avenue, Ocala, Florida 34475

Telephone: (352) 620-3904

Facsimile: (352) 620-3300

Suncom: 667-3904

### MEMORANDUM

TO: David R. Ellspermann, Clerk of the Circuit Court

FROM: Wallace K. Watford, Internal Auditor

DATE: March 25, 2004

RE: FOLLOW-UP REVIEW OF SALVATION ARMY PROBATION SERVICES AGREEMENT:  
CONTROLS OVER MONEY COLLECTION AND DISBURSEMENT PROCEDURES

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The Internal Audit Division has performed a follow-up review of the Salvation Army (the Army) Correctional Services Department pertaining to the controls over collection of money from probationers and remittance procedures between the Army and Clerk's Office.

#### Background

The Army has provided probation services to Marion County for many years. In 1992, Marion County, on behalf of the Chief Judge of the Fifth Judicial Circuit, entered into the Agreement with The Salvation Army to "continue such services" and to "implement certain probation supervision procedures." Florida Statutes, section 948.09, states that "Any person placed on misdemeanor probation by a county court must contribute not less than \$40 per month."

The Army maintains the Fines and Restitutions (F&R) bank account. Collections from probationers for court-ordered fines (and court costs) and restitutions, whether partial or in full, are kept in the bank account until the probationer satisfies the monetary obligation of each individual criteria, such as court costs or fines, or until the probation is terminated. Once the obligation is met, the Army issues individual checks to the Clerk's Office to be applied against the appropriate probationer files. The Army remits restitution payments directly to the specific business or individual.

#### Previous Review

The Internal Audit Division issued a report dated September 3, 2003, entitled *Salvation Army Agreement Limited Review (Report No. 2003-06)*. We had concluded in that report that the Army has established and maintained satisfactory internal controls to ensure the accuracy of payments to Clerk's Office for probation related fines and court costs.

## SALVATION ARMY FOLLOW-UP REVIEW

Our previous review principally concentrated on Army controls that ensured proper accounting for the F&R account. We stated in our last report that we would conduct another review to determine whether such controls observed in last review continued to exist and to also review controls over collection of money from probationers.

### **Current Activities Performed**

As part of our current review activities, we met with several of the Army's personnel in management, probation, cashiering and accounting. We examined pertinent documentation created and maintained by the Army. We reviewed the flow of activities involved from the time a probationer makes a payment to the cashier until the payment is processed and deposited into the F&R bank account by appropriate Army personnel. We then discussed and observed the creation of check requests resulting in payments to the Clerk's Office. We also met with Clerk's Office personnel in the Criminal Courts section to understand how payments from the Army are processed upon receipt from the Army.

We also examined the Army's most recent internal audit report relating to the F&R account which had been conducted by its District Headquarters. We noted that, as in the two previous internal audit reports that we had reviewed and disclosed in our last report, this section of the report had no material exceptions cited.

We again reviewed the bank reconciliation procedures and other control functions provided by the Army's accounting department to ensure the accuracy of the F&R account.

Since our last review, the Army was authorized to increase the Cost of Supervision (COS) from \$45 to \$50 per month for new cases effective October 1, 2003. The Army continues to write off a substantial portion of COS and drug screening fees because of probationers' inability to pay. The Army chooses to not use a collection agency to enforce collections.

### **Agreement to Provide Probation Services**

We reviewed the Agreement referenced previously and compared to Florida Statutes. We noted that FS section 948.15 specifies the minimum terms to be included in the contract between the probation services provider and "the county in which the services are to be rendered." The existing Agreement does not address all the required terms and therefore may not be in full compliance with FS 948.15. Please refer to Exhibit A and the attachments for the issues we noted. We believe these should be addressed by the related parties.

### **Conclusions**

We concluded from our review that the Army has continued to maintain satisfactory internal controls to ensure accuracy of payments to Clerk's Office for fines and court costs. There are satisfactory controls and procedures over the F&R account. In addition, the Army has established and maintains satisfactory internal controls over the probationers' payments to ensure accuracy in amounts collected and disbursed. We also noted that there was sufficient separation of duties in the processing of money (collecting, depositing and recording), as well as in the authorizations and procedures for payments of the fines and restitutions.

## SALVATION ARMY FOLLOW-UP REVIEW

Regarding the above Agreement, we suggest that the parties to this Agreement consult with one another to determine if the Agreement should be amended.

This review was performed by Wallace Watford, Internal Auditor, and Sachiko Leon, Staff Auditor. We would like to express our appreciation to the management and staff of the Salvation Army Correctional Services Department for their cooperation and assistance in the conduct of our review.

See Attachment: Exhibit A

- c: Patrick G. Howard, County Administrator
- Janet Y. Tutt, Deputy County Administrator
- John W. Garri, Finance Director
- Sonia L. Green, Criminal Courts Manager
- Linda G. Rankin, The Salvation Army Correctional Services Director
- Major Chris Flanagan, The Salvation Army Corps Officer
- Nancy B. Schupp, The Salvation Army Finance Manager

## EXHIBIT A

### Agreement to Provide Probation Services

We reviewed the existing Agreement dated June 23, 1992, between County and the Salvation Army and compared to the relevant Florida Statutes to ascertain whether a new agreement will be required due to the recent Article V revision. Florida Statutes (FS) section 948.15 "Misdemeanor probation services" states that any private entity which provides probation services "must contract with the county in which the services are to be rendered." Therefore, the contractual relationship between the County and the Army should not be affected.

We also noted that FS 948.15 specifies the minimum terms of the contract which must be stated. However, the current agreement did not address all the required terms and therefore may not be in compliance with FS 948.15.

The following requirements of FS 948.15 (3) are not clearly stated in the existing Agreement:

- (b) Staff qualifications and criminal record checks of staff in accordance with essential standards established by the American Correctional Association as of January 1, 1991
- (c) Staffing levels.
- (e) Procedures for handling the collection of all offender fees and restitution.
- (f) Procedures for handling indigent offenders which ensure placement irrespective of ability to pay.
- (g) Circumstances under which revocation of an offender's probation may be recommended.
- (j) Procedures that aid offenders with job assistance.

We suggest that the parties to this Agreement consult with one another to determine if the Agreement should be amended.

See attachments: Florida Statutes, section 948.15  
Existing Agreement dated June 23, 1992

#### **948.15 Misdemeanor probation services.—**

(1) Defendants found guilty of misdemeanors who are placed on probation shall be under supervision not to exceed 6 months unless otherwise specified by the court. In relation to any offense other than a felony in which the use of alcohol is a significant factor, the period of probation may be up to 1 year.

(2) A private entity or public entity under the supervision of the board of county commissioners or the court may provide probation services for offenders sentenced by the county court.

(3) Any private entity providing services for the supervision of misdemeanor probationers must contract with the county in which the services are to be rendered. In a county with a population of less than 70,000, the county court judge, or the administrative judge of the county court in a county that has more than one county court judge, must approve the contract. Terms of the contract must state, but are not limited to:

- (a) The extent of the services to be rendered by the entity providing supervision or rehabilitation.
- (b) Staff qualifications and criminal record checks of staff in accordance with essential standards established by the American Correctional Association as of January 1, 1991.
- (c) Staffing levels.
- (d) The number of face-to-face contacts with the offender.
- (e) Procedures for handling the collection of all offender fees and restitution.
- (f) Procedures for handling indigent offenders which ensure placement irrespective of ability to pay.
- (g) Circumstances under which revocation of an offender's probation may be recommended.
- (h) Reporting and recordkeeping requirements.
- (i) Default and contract termination procedures.
- (j) Procedures that aid offenders with job assistance.

In addition, the entity shall supply the chief judge's office with a quarterly report summarizing the number of offenders supervised by the private entity, payment of the required contribution under supervision or rehabilitation, and the number of offenders for whom supervision or rehabilitation will be terminated. All records of the entity must be open to inspection upon the request of the county, the court, the Auditor General, the Office of Program Policy Analysis and Government Accountability, or agents thereof.

(4) A private entity that provides court-ordered services to offenders and that charges a fee for such services must register with the board of county commissioners in the county in which the services are offered. The entity shall provide the following information for each program it operates:

- (a) The length of time the program has been operating in the county.
- (b) A list of the staff and a summary of their qualifications.
- (c) A summary of the types of services that are offered under the program.
- (d) The fees the entity charges for court-ordered services and its procedures, if any, for handling indigent offenders.

(5) The private entity providing misdemeanor supervision services shall also comply with all other applicable provisions of law.

**History.**—s. 10, ch. 91-280; s. 11, ch. 93-61; s. 42, ch. 95-283; s. 134, ch. 2001-266.

AGREEMENT

THIS AGREEMENT, made and entered into this 23rd day of June, 1992, pursuant to Section 948.15, Florida Statutes, between MARION COUNTY ("the COUNTY"), a political subdivision of the State of Florida, on the behalf of the Chief Judge, Fifth Judicial Circuit ("the Chief Judge"), and THE SALVATION ARMY (the "ARMY"), a Georgia Corporation.

W I T N E S S E T H

WHEREAS, certain misdemeanor defendants are sentenced to terms of probation by the Marion County Court within the Fifth Judicial Circuit (the "COURT"); and

WHEREAS, Section 948.15, Florida Statutes, states that supervision, rehabilitation and probation services may be provided by private entity; and

WHEREAS, the COUNTY seeks a private entity to provide certain probation services for the efficient administration of justice within this circuit; and

WHEREAS, the ARMY has provided probation services to the COURT and the COURT desires that the ARMY continue such services; and

WHEREAS, the county judges of the COURT request that the ARMY implement certain probation supervision procedures; and

WHEREAS, the CHIEF JUDGE of the COURT requests the COUNTY to execute this contract.

NOW, THEREFORE, in consideration of the mutual covenants and provisions contained in this Agreement, the parties agree as follows:

1. TERM AND RENEWAL. The term of the Contract shall begin at the date above written, upon the signatures of all parties and shall remain in effect until terminated by either party. This CONTRACT may be canceled for just cause by either party. However, the COUNTY, after advising the ARMY in writing of deficiencies, must allow the ARMY ninety (90) days to bring the program into compliance. If compliance is attained, the contract period will continue unimpaired. Future non-compliances will be handled as outlined above. If there is continued non-compliance after ninety (90) days, the CONTRACT can be canceled after thirty (30) days written notice.

2. SCOPE OF CONTRACT. The ARMY agrees to provide the following services to court ordered probationers under their supervision consistent with standards and criteria of the Florida Department of Corrections:

A. Prepare a written plan of need which is to be addressed during the period of supervision on each probationer and maintain it in the counselor's case file. Also, identify an self-improvement needs not addressed by the court order and assist the probationer in treatment referral and follow-up.

B. Provide job placement referral service for probationers as needed.

C. Conduct personal office visits for counseling with each probationer. Make no less than one personal contract per month with the probationer by a supervising counselor to evaluate conformity with the court order, provide an opportunity for counseling and to collect cost of supervision fees assessed.

D. Maintain monthly contacts with agencies that provide self-improvement resources necessary to enforce the conditions of supervision. Verify completion of self-improvement programs by the probationer.

E. Maintain close follow-up and enforce all ordered conditions of probation that require participation in a

designed program by making the initial follow-up referrals and enforce special conditions of probation including:

1. Restitution.
2. Fines and Court Costs.
3. Evaluation and Treatment Programs.
4. Community Service Hours.
5. Cost of Supervision.
6. Procurement of License.

F. Prepare a report on violation and modification of probation as appropriate.

G. Pursuant to fees set by Section 945.30, Florida Statutes, collect no less than the court ordered minimum monthly cost of supervision fee from each probationer and maintain documentation of all these payments.

H. Maintain a separate file on each probationer as a part of a uniform file system. Record date and time chronologically of each contact made.

3. RECORDS. Representatives of the Court Administrator of the Clerk of the Court or their duly authorized representatives shall have access for purposes of examinations, to any books, documents, papers and records of the ARMY as they may relate to this project. In addition to fiscal records, the probationer's file will include the following:

- A. Court Order relating to supervision.
- B. Intake and Supervision Report.
- C. Monthly Report.
- D. Monthly Receipts for COS payments.
- E. Records of restitution and court ordered monetary requirements.
- F. Report of treatment programs or other special conditions of the court.
- G. Reports of Violation.
- H. Reports of Termination.
- I. Date and time of each contact in field or office.
- J. Retain and maintain records on probationer's supervision and cost transactions involved in collection of Cost of Supervision for a period of not less than three years from the ending date of the probation.

4. REPORTS. ARMY shall provide to the Chief Judge of the Fifth Judicial Circuit, as well as the appropriate County Judges, a quarterly statistical report summarizing the number of offenders supervised by ARMY, payment of the required contribution under supervision or rehabilitation and the number of offenders for whom supervision or rehabilitation will be terminated.

5. NOTICE. Pursuant to this agreement, notice shall be given in writing by U.S. Mail, addressed as follows:

The "ARMY":  
The Salvation Army  
P.O. Box 5399  
Ocala, Florida 32678

The "CHIEF JUDGE":  
The Chief Judge of the Fifth Judicial Circuit  
P.O. Box 1030  
Ocala, Florida 32678

The "COUNTY":

BOARD OF COUNTY COMMISSIONERS  
601 S.E. 25th Avenue  
Ocala, Florida 32671

6. INSURANCE. The ARMY shall be liable, and agrees to be liable for and shall indemnify, defend and hold the County harmless from all claims, suits, judgements or damages including court costs and attorney's fees arising out of intentional acts, negligence or omissions by the ARMY in the course of the operations of this Contract.

7. ENTIRE AGREEMENT. This written agreement contains the sole and entire agreement between the COUNTY and the ARMY, and superseded any and all other agreements between them.

8. WAIVER OR MODIFICATION. No waiver or modification of this agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the parties hereto.

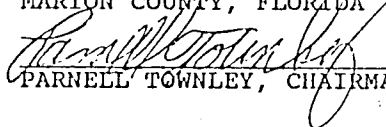
9. CONTRACT GOVERNED BY FLORIDA LAW. This agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the law of the State of Florida.

10. SEVERABILITY. If any provision, or any portion thereof, contained in this agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

11. STATEMENT OF ASSURANCE. During the performance of this Agreement, the ARMY herein assures the COUNTY that the ARMY is in compliance with Title VII of the 1964 Civil Rights Act as amended, and the Florida Human Rights Act of 1977 in that the ARMY does not, on the grounds of race, color, national origin, religion, sex, age, handicap or marital status, discriminate in any form or manner against the ARMY's employees or applicants for employment. The ARMY understands and agrees that this Agreement is conditioned upon the veracity of this Statement of Assurance. Furthermore, the ARMY herein assures the COUNTY that the ARMY will comply with Title VI of the Civil Rights Act of 1964 when federal grant(s) is/are involved. Other applicable Federal and State laws, Executive Orders and Regulations prohibiting the type of discrimination as hereinabove delineated are included by this reference thereto. This Statement of Assurance shall be interpreted to include Vietnam-Era Veterans and Disabled Veterans within its protective range of applicability.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

BOARD OF COUNTY COMMISSIONERS  
MARION COUNTY, FLORIDA

  
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PARNELL TOWNLEY, CHAIRMAN

ATTEST:


  
\_\_\_\_\_  
FRANCES E. THIGPIN, CLERK

THE SALVATION ARMY, A Georgia Corporation

  
\_\_\_\_\_

H. ALWARD

Print name of signer

  
\_\_\_\_\_  
WESLEY FAULKNER ASSISTANT SECRETARY

\_\_\_\_\_  
Title

(404) 728-1300  
\_\_\_\_\_  
Phone number of signer