

PS COMMITTEE #2
April 29, 2011

Worksession

MEMORANDUM

April 27, 2011

TO: Public Safety Committee

FROM: Susan J. Farag, Legislative Analyst 

SUBJECT: **Worksession: FY12 Operating Budget
Office of Consumer Protection**

Those expected for this worksession:

Eric Friedman, Director, Office of Consumer Protection (OCP)
Marsha Carter, OCP
Angela Dizelos, Office of Management and Budget (OMB)

Summary of April 7 Committee Worksession:

The Committee discussed OCP's staffing reduction and Council Staff's recommendation to restore an Investigator III position. Councilmember Berliner noted how significant our budget shortfall was and wanted to get more information on OCP's services and to what degree they overlapped with what is already provided by State agencies, such as the State's Attorney General's Office.

Councilmember Elrich was concerned about the failure to use any of the additional Common Ownership Community funds for educational purposes, as the Council requested when the fee was revised in FY10.

The Committee requested the following information from OCP:

- The types of consumer complaints OCP handles, the number of each, which investigator is assigned to them, the number of workyears involved, and how long each case takes. This includes case numbers, information calls, CCOC cases, etc.

- The overlap of types of cases and duties that both OCP and the State Office of the Attorney General handle, as well as a general list of Attorney General duties;
- A formal response about tow truck rates. When is the last time they were increased? What do other jurisdictions charge? Is the business side of this being unduly harmed by regulation?
- A list of the types of services OCP provides to other County public safety departments;
- A detailed plan of how much OCP expects to collect in COC fees that are earmarked for consumer education, as well as how you plan to use these funds in FY12.

OCP's response is provided at © 1 – 35. OMB's response to COC fees is attached at © 36-37. Page 19 of the FY11 Operating Budget Resolution 16-1373, which contains restrictive language on the use of COC funds, is attached at © 38. The April 7 worksession packet is attached at © 39-64.

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OFFICE OF CONSUMER PROTECTION

Isiah Leggett
County Executive

Eric S. Friedman
Director

MEMORANDUM

April 26, 2011

TO: Public Safety Committee

FROM: Eric S. Friedman, Director *ef.*
Office of Consumer Protection

SUBJECT: Responses to Information Requests from the Public Safety Committee Worksession

When Montgomery County first established a County Executive/County Council form of government 40 years ago, one of the first acts the County Council embarked upon was to create a consumer protection office.

In 1971, Montgomery County's first Council President, Idamae Garrott, said that the newly created County Council had established a set of goals and priorities, and "*High on our list of priorities was enactment of consumer protection legislation to eliminate consumer fraud and deceptive and unfair trade practices, to educate consumers, and to provide enforcement procedures.*"

Today, these essential needs are no less urgent to ensure integrity in our complex and ever changing marketplace. The Office of Consumer Protection (OCP) frequently investigates health and safety issues brought to our attention as consumer transactions. Through our licensing program, OCP supports businesses by reviewing their business practices, documents, and policies. OCP also helps small businesses navigate complex regulatory requirements to comply with County and State laws. The residents, businesses, and local economy of Montgomery County have thrived over the past 40 years due, in part, to OCP's actions in improving the marketplace through its enforcement, education, and proactive efforts. The residential and business communities have come to rely on our office to protect their interests when conducting business in the County. We do not wait for complaints to come into our office; we monitor the marketplace, identify trends, and collaborate with other agencies and neighboring jurisdictions enabling the community to rely on the protections afforded in Montgomery County. With only 16 employees, OCP is considered a model agency in its ability to leverage resources by relying on partnerships with other consumer advocates including non-profit partners, skilled volunteers closely supervised by our staff, and other Public Safety agencies, while maintaining a minimal operating budget. The Public Safety Committee has raised important questions to which the following responses are summarized below:

Request: Council Vice-President **Roger Berliner** requested that OCP describe the types of consumer complaints OCP investigates, including the number of each type, the investigator assigned, the number of work years involved, and how long each case takes to investigate. This includes case numbers, informational calls, CCOC cases, etc.

Response: OCP enforces nine (9) County statutes and has jurisdiction with respect to most consumer transactions (Circle 4). In the first three quarters of FY11, OCP received 1,173 written complaints and conducted an additional 3,821 consultations. The top ten (10) categories of complaints involve: home improvement, automotive services, towing, credit/collection practices, retail/rental, telecommunications/internet, services, automotive sales/leasing, moving/shipping, and utilities. OCP's multi-disciplinary staff devotes a total of 9.5 work years to investigative and law enforcement issues in addition to OCP's educational, legislative, and licensing activities. On average, OCP closes consumer cases within 36 workdays. Please refer to Worksheets 1 through 4 and case summaries for additional details (Circles 5 through 10).

Request: Council Vice-President **Roger Berliner** requested that OCP describe the overlap of types of cases and duties that both OCP and the state Office of the Attorney General handle and provide a list of the Office of the Attorney General's duties.

Response: Montgomery County's Consumer Protection Act and the State consumer protection law contain some similar provisions regarding unfair and deceptive practices. However, the services provided by OCP and the Attorney General have some critical differences. First and foremost, the Attorney General's Office does not investigate or enforce individual violations of the Consumer Protection Act; rather, they offer mediation services (Circle 11). The Attorney General's Office does not examine the work performed by a home improvement contractor, does not inspect a consumer's vehicle in connection with an automobile repair dispute, does not conduct face-to-face mediation, and does not mediate most condominium and homeowner association disputes. Please see Chief William D. Gruhn's letter describing the inability of his division to offer the same services that OCP provides (Circles 12 and 13).

Request: Council Vice-President **Roger Berliner** requested that OCP provide a more formal response about tow truck rates. When is the last time they were increased? What do other jurisdictions charge? Is the business side of this being unduly harmed by regulation?

Response: In addition to investigating towing complaints, OCP is responsible for setting rates for trespass towing and for conducting a towing rate review at least every two (2) years to ensure that the rates are "fair and reasonable." In 2008, OCP filed Executive Regulations to raise the rates. According to the OCP review conducted in 2010, the County Executive did not propose any changes to the rates enacted in 2008. In 2011, OCP conducted a review in which comprehensive jurisdictional comparison data was compiled in addition to reviewing specific criteria (Circles 14 through 16). OCP is recommending that the County Executive increase the storage rate for the first 24 hours across all three (3) weight classes by \$10.00 (Circles 17 through 21).

Request: Committee Chair **Phil Andrews** requested that the OCP identify the types of services that OCP provides to other public safety departments.

Response:

- **Police Department** - OCP provides investigative, licensing, administrative, and training services to the Police Department with respect to financial crimes, unlicensed contractors, trespass towing, pawn shops, phony police charities, and certain consumer transactions (Circle 22). These services enhance the Police Department's ability to effectively carry out its mission across all districts in Montgomery County. Please see Chief of Police J. Thomas Manger's memorandum in reference to the vital role OCP plays in protecting the community (Circle 23 and 24).
- **State's Attorney** - OCP provides investigative and consumer outreach services to the State's Attorney with respect to the prosecution of merchants engaged in illegal transactions and with regard to the financial exploitation of seniors (Circle 25). Please see State's Attorney John J. McCarthy's letter in reference to the support OCP provides his office with respect to criminal prosecutions (Circle 26).
- **Sheriff's Office** - OCP provides field inspection, administrative, and retrieval services to the Sheriff's Office as part of the Business Eviction Response Team (BERT) to protect personal property (goods and financial documents) which may otherwise be lost or destroyed in conducting business evictions (Circle 27).
- **Fire Rescue Services** - OCP provides field inspection, investigative, and consumer education services to the Fire Rescue Services with respect to the sale of illegal electrical appliances, chimney fires, sprinkler system maintenance, and fire extinguisher companies (Circle 27).
- **Other Agencies** - OCP provides a myriad of investigative, regulatory, and consumer education services to many other Montgomery County agencies including: Dept. of Permitting Services, Dept. of Housing and Community Affairs, Montgomery County Public Schools, Depts. of Technology Services and Finance, Health and Human Services and HOC, Public Information Office and Council Information Office, Office of Human Rights, Commission for Women, Office of Community Partnerships, Regional Service Centers, County Attorney's Office, Dept. of Environmental Protection, Public Libraries, Circuit Court, County Council Members, and State and Federal Agencies. Please see Circles 28 through 32.

Request: Councilmember **Marc Elrich** requested an explanation of why the CCOC fees that were "earmarked" for consumer education were not used, and requested information regarding CCOC's education plan for FY12.

Response: In 2009, when the CCOC fees were increased by Executive Regulation, the intent of the Committee was to " earmark " one third of the increase for consumer education. However, the County's overall budgetary crisis resulted in the increase being "absorbed" by the general fund. Please see the attached submission from OMB (Circle 33). OCP has prepared a consumer education plan for FY12 (Circles 34 and 35).

OCP LAWS AT A GLANCE

- | | |
|---|-------------|
| 1. Consumer Protection Act | Chapter 11 |
| Energy & Environmental Advocacy | |
| Domestic Workers | |
| 2. Motor Vehicle Repair & Towing | Chapter 31A |
| 3. Towing and Immobilization | Chapter 30C |
| 4. Commission on Common Ownership | Chapter 10B |
| 5. Secondhand Personal Property (Pawn Shop) | Chapter 44A |
| 6. Real Estate Disclosures | Chapter 40 |
| Estimated Property Tax | |
| Energy Audits | |
| 7. Appliance Repair | Chapter 38A |
| 8. New Home Builder Licensing & Warranty | Chapter 31C |
| 9. Development Districts | Chapter 14 |

WORKSHEET 1

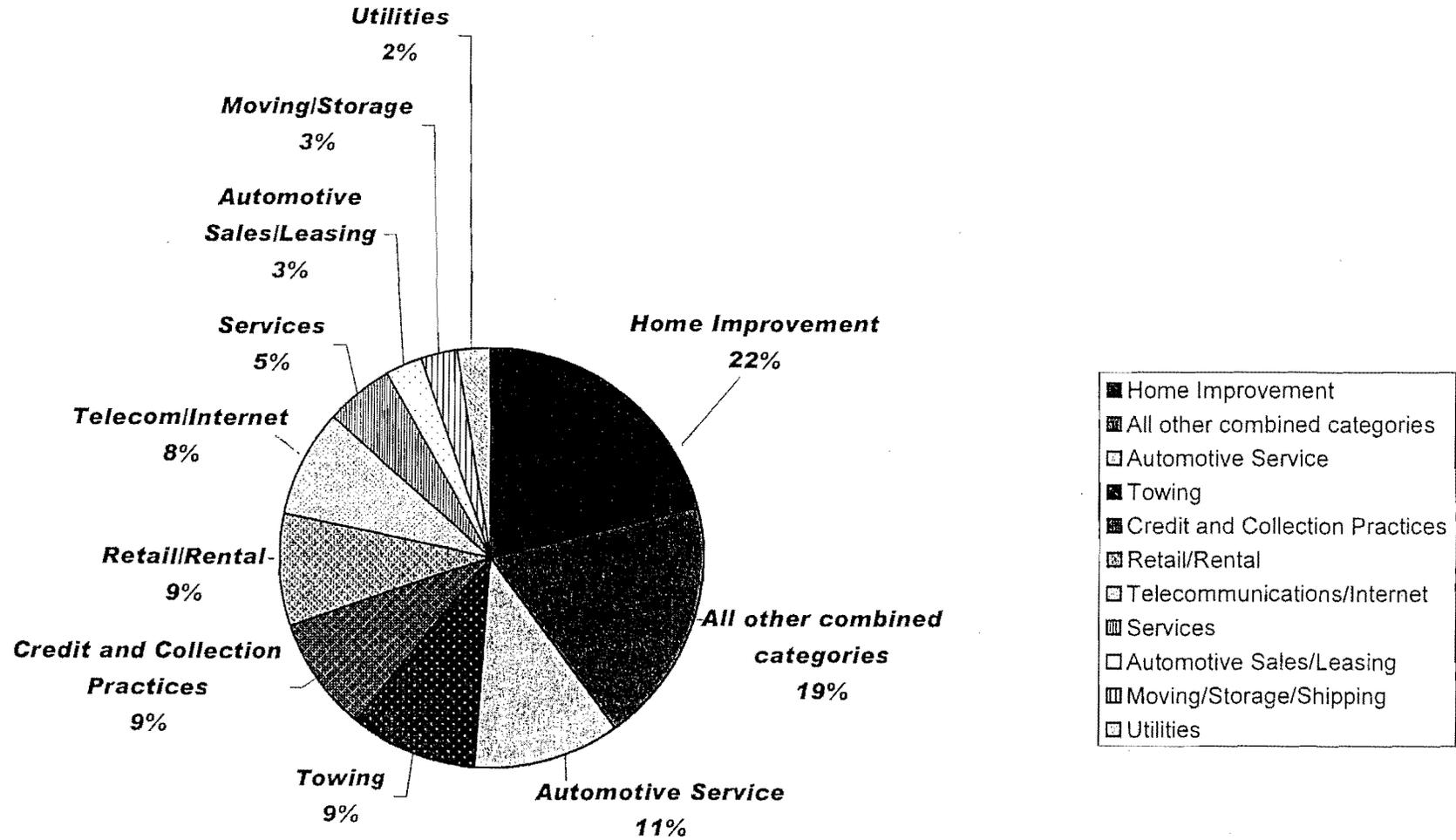
OCP PROGRAMS/SERVICES		FY11 Year to Date (3/31/2011)	FY11 Projected
Investigative Cases	Consumer	1,128	1,504
	CCOC	45	60
	Subtotal:	1,173	1,564
Consultations	Consumer	3,184	4,246
	CCOC	637	850
	Subtotal:	3,821	5,096
	Total:	4,994	6,660

WORKSHEET 2A

COMPLAINT CATEGORIES	% of Total Cases	Number of Cases	Avg. Work Days to Close	WY's
Home Improvement	21%	239	44	1.7
Automotive Service	11%	127	39	.9
Towing	9%	107	41	.7
Credit and Collection Practices	9%	101	27	.7
Retail/Rental	9%	97	39	.7
Telecommunications/Internet	8%	95	25	.7
Services	5%	59	30	.4
Automotive Sales/Leasing	3%	33	31	.3
Moving/Storage/Shipping	3%	31	35	.3
Utilities	3%	27	37	.3
Combined Categories of Less Than 3%	19%	212	34	1.6
	100%	1,128	36	8.3
CCOC		45	89	1.2

5

Worksheet 2B Percentage of Cases by Category



6

WORKSHEET 3

OCP PROGRAMS/SERVICES	WYS
Investigation and Law Enforcement (See Worksheet 2)	8.3
Common Ownership Communities – Investigation (See Worksheet 2)	1.2
Common Ownership Communities - Administration	.7
Consumer Education	1.2
Energy Advocacy	1.2
Licensing	1.0
Legislation	.5
Other (including OCP Administration, Budget/Finance, Human Resources)	.6
Total Work Years	14.7

WORKSHEET 4

	INVESTIGATORS	EXPERTISE
1.	Bailey	Legislation, Resident Tenancy, Consumer Education, Domestic Workers Initiatives, Hispanic Initiatives
2.	Brennan	Energy Advocacy, Telecommunications/Internet, Utilities
3.	Drymalski	Common Ownership Communities
4.	Lewis	Home Improvement
5.	Margolis	Automotive Sales/Leasing, Automotive Warranties, Mortgage, Legislation
6.	Matthews	Retail Sales/Rental, Furniture Sales, Automotive "Lemon-Law"
7.	Numbers	Towing, Moving/Storage
8.	Parks	Automotive Service, Towing
9.	Rosado	Telecommunications/Internet, Credit
10.	Vega	Law Enforcement, Services, Hispanic Initiatives

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CASE SUMMARIES

The following are representative of the types of cases that the Office of Consumer Protection (OCP) investigates and resolves for consumers from each of the top ten categories of complaints that we receive:

Home Improvement

OCP filed a Circuit Court lawsuit against a plumbing firm for charging for permit fees but failing to obtain permits and inspections when installing water heaters. The lawsuit, filed through the Office of the County Attorney, involved documenting that more than a dozen consumers in Montgomery County were charged between \$90 and \$150 by the plumbing firm to obtain a permit from the Washington Suburban Sanitary Commission (WSSC). However, the plumbing firm failed to apply for or receive these permits and consequently no inspections were conducted by WSSC.

The lawsuit charges that All State Plumbing and its master plumber violated Montgomery County's Consumer Protection Act by charging for services it did not provide and for failing to provide documentation to OCP pursuant to an administrative subpoena. These alleged violations resulted in financial harm to consumers and to the extent that the installations have not been inspected by WSSC, these cases also potentially involve safety issues related to the installation and venting of gas appliances.

The County's lawsuit seeks a court order to terminate these deceptive practices, provide restitution to consumers and pay approximately \$100,000 plus punitive damages to Montgomery County for violating Montgomery County's Consumer Protection Act. The suit also seeks to have the plumbing firm comply with the administrative subpoena to provide copies of customer receipts so that OCP can determine how many other consumers in Montgomery County may have been affected by the practices referenced in the lawsuit.

Automotive Service

OCP received a complaint from a consumer who took her car to a repair shop in Rockville for an oil change. After having the work done, she drove about 12 miles and the low oil level light came on in her car. She managed to get her car to a service station. The service station found a broken oil pressure sending unit, which was determined to be the cause of the oil loss from the engine. The repair shop denied breaking the switch. After prolonged negotiations, OCP's ASE certified investigator formulated a unique solution to the problem and convinced the franchise owner's to purchase the car from the consumer for \$4,000.00. The consumer was extremely satisfied with the result.

Towing

OCP received a complaint from a consumer with four children whose husband is currently at sea on active duty with the Navy. When her apartment lease was recently renewed, the resident parking permit for which she pays an additional \$60.00 per month was not updated. Her vehicle was subsequently towed. The apartment complex and tow company refused to refund the \$118.00 towing charge that the consumer was required to pay to retrieve her vehicle. During OCP's investigation of the case, the investigator determined that the signs in the parking lot warning of towing did not comply with County law. OCP issued two civil citations to the property owner for violations of Chapter 30C of the Montgomery County Code.

After negotiations with the attorney for the apartment complex, the consumer received a full refund, and the tow company corrected the signs.

Credit and Collection

OCP received several complaints from consumers who had received notices from a collection agency alleging outstanding debts from a video business that had closed its doors years ago. In most cases, the collection letters misrepresented to the consumers that they had not returned an item. Therefore the consumers were being charged the cost of the video and additional fees amounting to more than \$100.00. An OCP investigator determined that there were violations of the county's consumer protection statute and the Fair Debt Collections Practices Act. He contacted the out of state collection agency and requested that it verify the debts. The collection agency was unable to verify the debts; as a result, at the investigator's instruction, the debt collection agency ceased collections on all of the consumers' accounts. The OCP investigator also took action to ensure that the debt collection agency removed any negative credit information that had falsely been reported to the credit reporting bureaus.

Retail/Rental

OCP received several complaints from consumers who had problems with a Montgomery County furniture company. The consumers alleged problems ranging from failure to deliver merchandise to defective furniture. The OCP case investigator identified several violations of federal, state, and county laws including the state Merchandise Delivery and Layaway Laws and the Federal Trade Commission Rule regarding warranties. OCP negotiated the settlement of these cases by obtaining the merchant's agreement to correct the violations and restitution of over \$5,000 to the consumers.

Telecommunications/Internet

OCP received a complaint from a consumer who had contacted her cell phone provider and arranged to block downloads on her son's cell phone as her son has a learning disability and had previously incurred exorbitant additional charges resulting from downloads. However, the download block arrangements were not successful, and the consumer received a bill for over \$4,000 in additional charges on her son's cell phone. OCP's telecommunications expert successfully negotiated with the cell phone provider and obtained a full refund for the consumer. The investigator's knowledge of both consumer protection laws and fair debt billing practices was instrumental in enabling OCP to resolve this complaint.

Services

After a water main break, OCP was alarmed to learn of a fly-by-night organization that went door-to-door selling water filtration systems by misrepresenting that the water was unsafe to drink. The unscrupulous scammers targeted the Latino community with this scam.

In order to gain consumers' trust and entry into their homes, the salespeople would misrepresent themselves as Montgomery County officials. Once inside, these individuals would perform "scientific" water tests to mislead the unsuspecting consumers into believing that there were harmful chemicals in the drinking water.

Over the course of the sales presentations, conducted in Spanish, the representatives required the consumers to sign contracts written in English. These contracts obligated the consumer to \$3,000 to \$6,000, including finance charges, for water filtration systems of questionable value.

OCP's bilingual investigator assigned to these cases worked with the Department of Permitting Services (DPS), and identified that the door-to-door salespersons failed to obtain the required licenses for conducting door-to-door sales. OCP was able to locate the California based company, obtain full restitution for the consumers, and enter into multiple binding settlement agreements. OCP issued a bilingual press release to warn all County residents about these deceptive sales practices.

Automotive Sales

OCP received a complaint from a consumer who gave an auto dealer a \$4,000 cash deposit for a BMW SUV. The dealer never delivered the vehicle to the consumer. Upon asking for his money back, the consumer received a refund check that was not honored by the bank. The investigation revealed that the dealer was only licensed as a wholesale dealer, and was prohibited from selling cars to the public. The OCP investigator collaborated with Montgomery County Police Department's Auto Theft Unit because the case appeared to involve criminal charges. A joint field investigation resulted in a meeting with the auto dealer. The OCP investigator successfully negotiated a full refund of \$4,000 to the consumer, and an agreement with the dealer to cease retail automotive sales in Montgomery County.

Moving/Storage

A police officer was moving into Rockville and obtained an estimate for the cost of the move. When the moving company arrived at the consumer's new home, it refused to unload the truck unless the consumer paid an amount four (4) times the amount of the estimate in violation of the Maryland Household Goods Movers Act and the County's Consumer Protection Statute. With his household goods being held hostage, the consumer reluctantly paid the exorbitant fee. The consumer subsequently filed a complaint with OCP and a smalls claims action in District Court. In the small claims action, the mover filed a counter-claim against the consumer. OCP's moving expert successfully executed a settlement agreement with the merchant's attorney and claims adjuster resulting in a refund to the consumer of \$1,275 and an agreement to dismiss pending litigation.

Utilities

A third-party seller of electricity engaged in door-to-door sales practices to entice residents with "guarantees" of lower utility rates in order to convince consumers to switch electricity providers and sign up for 1 or 2 years of electricity service. A consumer filed a complaint with OCP after learning that the "guaranteed savings" was not as represented by the sales pitch. The consumer also complained about being forced to pay an \$820 early termination fee when he attempted to cancel the transaction. OCP further determined that the sales literature, used by the third-party seller, contained misrepresentations regarding the "savings" and the terms and conditions that had the capacity and tendency to mislead consumers. OCP also determined that the sales person was not properly licensed as a door-to-door sales vendor. OCP investigator obtained the electricity seller's agreement to modify its advertising literature and the fine-print contained in its terms and conditions. OCP expanded this investigation to other third-party sellers and issued a press release to educate and alert consumers. The merchant also agreed to terminate the consumer's service contract without penalty.



FILE ONLINE

- └ General Complaint
- └ New Car Warranty Complaint (Lemon Law)
- └ Auto Repair Complaint
- └ New Home Complaint/Guaranty Fund Claim
- └ Landlord/Tenant Complaint
- └ Health Care Complaint

File a Consumer Complaint

If you are a Maryland consumer and have a dispute with a business, or if you live in another state and your dispute involves a transaction that occurred in Maryland, you can file a complaint with the Consumer Protection Division. Through mediation, we will work with you and the business in an effort to reach a mutually agreed-upon resolution to the dispute.



Does your complaint relate to a health care or medical billing dispute? If so, click here to [file a health care complaint](#).

Please note that this office cannot mediate complaints filed by one business against another business.

This page tells you how to file a complaint online. If you would prefer to file your complaint by mail, click here for [instructions for using our printed complaint forms](#).

Note: Consumer complaints submitted to our office will become "public records." Under state law, public records are subject to public records disclosure requests. Under some circumstances, your complaint and related documents may be seen by other people.

Consumer Protection Division

Consumer hotline:
(410) 528-8662
Mon-Fri 9 am-3 pm

Attorney General's
Main Switchboard
Toll-free 1-888-743-0023

Instructions to File a Complaint Online

1. Gather any documents that are relevant to your complaint, such as receipts, contracts, leases, repair orders or sales agreements. You may need to refer to these documents while you are filling out the complaint form and will need to send copies of these documents to our office after you file your complaint (see Step 5)
2. Choose the complaint form from the column at left that best suits your complaint and complete the form online.
3. When you have completed the form, review the information you have entered for accuracy and then click on the "Submit" button. Your complaint will be sent to our office and you will immediately receive a "Complaint Confirmation" on your screen which contains the information you provided along with other important information about how we will handle your complaint. You will not receive an email confirmation.
4. Print the "Complaint Confirmation" page to keep for your records.
5. If you have documents that are relevant to your complaint, mail a copy of those documents along with a copy of the "Complaint Confirmation" page to our office. The address is listed at the bottom of the confirmation page. Please do not send original documents. Unfortunately, we cannot accept electronic attachments, including scanned documents, at this time.

When we receive a copy of your documents and confirmation page we will proceed with processing your complaint. Read the links below for more information about what to expect once we receive your request.

[What happens once you file a complaint?](#)

[How long will it take to resolve your complaint?](#)

[What happens if mediation doesn't resolve your complaint?](#)



DOUGLAS F. GANSLER
Attorney General

KATHERINE WINFREE
Chief Deputy Attorney General

JOHN B. HOWARD, JR.
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

WRITER'S DIRECT DIAL NO.

(410) 576-6557

April 29, 2010

Eric S. Friedman, Director
Montgomery County
Office of Consumer Protection
100 Maryland Avenue, Room 330
Rockville, Maryland 20850-2367

CONSUMER PROTECTION

APR 30 2010

Dear Mr. Friedman:

RECEIVED

I am writing in response to your inquiry about the ability of the Consumer Protection Division of the Office of the Attorney General to provide the services that are currently provided by your Office.

In the past, we have been able to work together to help the citizens of Montgomery County by combating unfair and deceptive trade practices. For example, one of your bilingual investigators provided important assistance to this Office's investigation of a case against Financial Freedom International by assisting us in interviewing Spanish-speaking Montgomery County residents who were victimized by the company. In addition to cooperating in combating illegal practices, through coordinated efforts in Annapolis over the years, we have been able to obtain legislative fixes for problems facing consumers.

The Consumer Protection Division is happy to serve all of the citizens of Maryland, including the citizens of Montgomery County. However, the services that this Office is able to provide in addressing individual consumer complaints differ from those that your Office has traditionally provided. This Office mediates complaints using a cadre of volunteers. The volunteers, under the supervision of a Mediation Unit Supervisor, through correspondence and phone conversations, seek to resolve complaints in a manner that is acceptable to both the consumer and the business. Unlike the complaint handling services provided by your Office, this Office does not conduct face-to-face mediation. We do not have an A.S.E. certified automobile mechanic on staff to address automobile complaints. We do not mediate internal condominium or homeowner association disputes that do not involve potential violations of the Condominium

Page Two
April 29, 2010

Act or the Homeowners Association Act. We cannot visit a consumer's home to examine work performed by a home improvement contractor or look at a consumer's vehicle in connection with an automobile repair dispute. Thus, although we mediate complaints from Montgomery County consumers, we are unable to provide the same services in handling individual complaints that Montgomery County consumers have experienced in dealings with your Office.

I hope that we will be able to continue to work together in the future to assist the citizens of Montgomery County.

Very truly yours,

A handwritten signature in cursive script that reads "William D. Gruhn". The signature is written in black ink and is positioned above the printed name and title.

William D. Gruhn
Chief, Consumer Protection Division

WDG:

Jurisdiction	Vehicle Type	Hookup Fees	Drop Fee	Mileage Fees	Mileage (Maximum)	Storage Fees (Initial)	Storage Fees (Continuing)	Other Fees (specify)/Notes	Application Fee (Licensing)	Source
Montgomery County	Class 1 (under 8,000 GVW)	\$100	\$50	\$4	12	\$10 for first 24 hours	\$25 for following 24 hr periods		Application Fee 1-5 Tow Trucks \$138.00 6-10 Tow Trucks \$219.00 11 or More Tow Trucks \$299.00	
	Class 2 (over 8,000 GVW)	\$160	\$80	\$5		\$15 for first 24 hours	\$30 for following 24 hr periods			
Surrounding Areas										
Arlington County	Vehicles under 7,501 lb	\$115	\$25			\$0 for 1st 24-hr period	\$50 for each subsequent 24 hour period	\$14.3-9		County Manager Website
	Vehicles 7,501 lb or greater	\$250	\$25							
Alexandria (City of)	Motor vehicles 7500 lbs. or less	\$75	\$25			\$0 if retrieved within 1st 24-hr period	\$20.00 per day after initial 24-hr period	After Hours Retrieval Fee - \$10.00 (btwn 7pm and 8am)		City Ordinance 9-13-3 - Link
Anne Arundel County	Vehicles under 10,000 lb	\$300				\$0 until 1st first calendar day AFTER tow	\$25 per day starting first calendar day AFTER tow	Administrative fee (if vehicle is not claimed by next business day): \$25	Application Fee \$100; License Fee \$25 per truck (Dept. of Inspections & Permits) \$12-3-107 & 11-16-205	Police Department Website
	Vehicles 10,001-14,000 lb	\$350								
	Vehicles 14,001 - 19,500 lb	\$500								
Baltimore City	Vehicles East of Charles St	\$260.00				\$0 until 1st 24 hours (City Code Art. 25 Subtitle 22)	\$8 per day as per state law		\$100 - back to owner's credit card	http://www.baltimorecity.gov/Government/Agencies/Department/Transportation/VehicleTowing/TowingFees.aspx
	Vehicles West of Charles St	\$280 (per state law no more than twice the amount permitted for impound)								
Baltimore County	Vehicles up to and including 3/4 Ton Trucks	\$220				\$0 until 12:01 1st calendar day after tow	\$8 per day starting 12:01 1st calendar day after tow	Administrative Fee (if vehicle not claimed within 3 calendar days): \$50.00	Application Fee \$100; License Fee \$150; Renewal Fee \$150	Department of Permits and Development Management
District of Columbia	Vehicles up to 8,000 lb	\$100	\$50	\$3.00 per mile outside DC at owner's request		\$20.00 per 24-hour storage period		Vehicle must be ticketed first		http://dc.gov/DC/Government/Data+&+Transparency/Consumer+Protection/Hot+Topics/What+You+Should+Know+About+Auto+Repair+Shops/Towing+Services
	Vehicles over 8,000 lb (website says "requiring special	\$275	\$50	\$6.00 per mile outside DC at owner's request						DC Code 50-2421.09

11

Jurisdiction	Vehicle Type	Hookup Fees	Drop Fee	Mileage Fees	Mileage (Maximum)	Storage Fees (Initial)	Storage Fees (Continuing)	Other Fees (specify)/Notes	Application Fee (Licensing)	Source
Fairfax County	All motor vehicles	\$50	\$25			\$25.00 per 24-hour storage period		After Hours Retrieval Fee not to exceed \$15.00 (after "normal business hours") County Code 82-5-32		http://library.municode.com/Ind ex.aspx?clientId=10051&stateId=46&stateName=Virginia
Frederick (City of)	Vehicles up to 10,000 lb	\$200	\$75			\$0 for first 24-hour period	\$50 per day after 1st 24-hr period	After 72 hrs \$75 admin fee		http://www.cityoffrederick.com/cms/files/charter/data/
Falls Church (City of)	Vehicles up to 10,000 lb	\$100	\$25			\$0 for 24 hours or less	\$40.00 per day after initial 24-hour period	City Code 26-138		http://library.municode.com/Ind ex.aspx?clientId=14329&stateId=46&stateName=Virginia
Howard County	Vehicles up to 8,000 lb	\$125	\$62.50			\$12.50 for first 12-hour period	\$12.50 for each add'l 12-hr period	Dollying or flatbedding: \$15.00	\$150	www.co.ho.md.us/CA/ca_resp_asstowregistration.htm
	Vehicles over 8,000 lb	\$390	\$195			\$37.50 for first 12-hour period	\$37.50 for each add'l 12-hr period			
Prince George's County	Vehicles up to 10,000 lb	Flat fee (hookup, mileage, and 1st calendar day storage): \$175, drop fee: \$50.00				Up to 18 hours included in flat fee	\$50.00 per day starting 18 hrs after time towed		Annual Fee \$2000 plus \$25 per truck	County Code Sec. 26-142.14
	Vehicles 10,001-26,000 lb	Flat fee (hookup, mileage, and 1st calendar day storage): \$300, drop fee: \$100.00								
Other Jurisdictions										
Long Beach (California)	Vehicles up to 9,000 lb	\$148	\$74	\$6.00 per mile outside city		\$46 per day if less than 20'		after hours release: \$57; impound notification: \$21		Towing & Lein Sales Website
	Vehicles 9,000-26,000 lb	\$176	\$88		\$52 per day if more than 20'					
Broward County (Florida)	Vehicles less than 10,000 lbs	\$100	\$50			\$0 for first 6 hours	\$24 outdoor storage, \$30 indoor storage, for each 24 hour period after 6 hours	Administrative Fees \$30.00 after 24 hours		http://www.broward.org/Permitt ingAndLicensing/Consumer/Pages/locallyregulated.aspx
Palm Beach County (Florida)	Class A	\$115	\$57.50			\$0 for first 6 hours	after 1st 6 hrs \$25.00 daily outdoor storage for vehicles under 20'	After Hours Release: \$35; Possible Admin Fee: \$50 (if vehicle not recovered within 24 hours of police notification); CPI automatic increase in fees	\$600 Bus. Fee; \$150 per vehicle; \$100 for storage inspection; \$24 background fee	www.pbcgov.com/publicsafety/consumeraffairs/towing
	Class B	\$203	\$101.50			\$0 for first 6 hours	after 1st 6 hrs \$35.00 daily outdoor storage for vehicles over 25'			
Portland, Oregon	Class A Vehicle	\$157.25	\$182 (hookup + data service + city service)	\$3.80 per mile	8 miles	\$0 for 1st 4 hrs after completion of tow	after 1st 4 hrs \$25.00 per day (\$35 per day over 20' long)	Data Services Fee \$14.75; City Service Fee \$10.00; after hours release: \$25.00		Management & Finance Website
	Class B Vehicle	\$164.25	\$189.00	\$4.50 per mile	8 miles					

Jurisdiction	Vehicle Type	Hookup Fees	Drop Fee	Mileage Fees	Mileage (Maximum)	Storage Fees (Initial)	Storage Fees (Continuing)	Other Fees (specify)/Notes	Application Fee (Licensing)	Source
Miami Dade County (Florida)	Class A	\$101.00	\$50.50			\$0 for first 6 hours	\$20.00 for daily outdoor storage for vehicles under 20'	Administrative Fee (after 24 hrs) \$30.00, Dolly: \$35.00	\$300; \$100 for each add'l truck; truck decal fee \$50 for each add'l truck	Miami Dade Consumer Protection
	Class B	\$165.00		\$0 for first 6 hours	\$35.00 for daily outdoor storage for vehicles over 25'					
Massachusetts	All motor vehicles	\$90 per tow for up to 5 miles		\$3.00 per mile over 5 miles		\$35.00 per 24-hour storage period		c. 266 § 120D - can't charge more than allowed for police tows		Chapter 159B Section 6B www.mass.gov/Eoca/docs/dte/cm/220cmr272.pdf
Georgia	Vehicles up to 10,000 lb	\$125	\$50			\$0 for 1st 24 hrs	\$15 per day after first 24 hrs	After Hours claim of vehicle - \$25.00	\$300	DOT webpage
	Vehicles 10,001-20,000 lb	\$195	\$100			\$0 for 1st 24 hrs	\$20 per day after first 24 hrs			
Virginia	All motor vehicles	\$125	\$25			\$0 for first 24 hours		\$25 Additional Fee for tows between 7 PM and 8 AM and non-business days		Virginia Code 46.2-1233.1 - Link
Connecticut	Vehicles up to 10,000 lb	\$88.00		\$4.75 per mile in excess of two miles		\$0 for 1st 8 hrs; fee charged for 1 - 12 hrs should be 1/2 amount on file for 24 hr period	Vehicles under 20' in length - \$24.00 per day (5 days or less), \$28.00 per day (over 5 days) in a lighted, fenced, protected outdoor facility	DMV Regs. 14-63-34-37b and 14-261-1	Only licensed dealers or repairers can get a wrecker registration	www.ct.gov/dmv/cwp/view.asp?A=799&Q=245360
	Vehicles 10,001-26,000 lb	\$200/hr (minimum \$200 charge, added in \$50/15 minute increments)		n/a		\$0 for 1st 8 hrs; fee charged for 1 - 12 hrs should be 1/2 amount on file for 24 hr period	Vehicles 20' to 32' in length - \$27.00 per day (5 days or less), \$34.00 per day (over 5 days) in a lighted, fenced, protected outdoor facility			
	Vehicles over 26,000 lbs	\$325/hr (minimum \$200 charge, added \$50/15 minute increments)		n/a		\$0 for 1st 8 hrs	Vehicles over 32' in length - \$30.00 per day (5 days or less), \$40.00 per day (over 5 days) in a lighted, fenced, protected outdoor facility			
New York City	regular tow	towing and 3 days of storage: \$100	\$50			1st 3 days included in hookup	4th day and after: \$10 per day	NYC Admin. Code 19-169.1(a) http://24.97.137.100/nyc/AdCode/Title19C1_19-169_1.asp?zoom_highlight=towing	\$600 per truck	www.nyc.gov/html/dca/html/publications/publications_towing.shtml
KEY										
not updated	updated									
or unconfirmed	updated									

16



OFFICE OF CONSUMER PROTECTION

Isiah Leggett
County Executive

Eric S. Friedman
Director

MEMORANDUM

April 25, 2011

TO: Eric Friedman, Director

FROM: Doug Numbers, Investigator *DWN*
Sharon Margolis, Investigator *SM*

SUBJECT: 2011 Trespass Tow Rate Review & Recommendation

Chapter 30C, Motor Vehicle Towing and Immobilization On Private Property, of the Montgomery County Code provides that the County Executive must establish, by regulation under method (2), the maximum rates that a trespass towing service may charge. In addition, Section 30C-2 provides that the County Executive must review the rates at least every two (2) years. These rates apply to towing services in which the vehicle is towed without the consent of the vehicle owner.

The statute provides that the County Executive must set "fair and reasonable" maximum rates for each of the following acts:

- Attaching the vehicle to the tow truck
- Towing the vehicle to a storage site based upon the distance towed
- Storing the vehicle until it is redeemed
- Any other service needed to safely remove a vehicle
(By statute the fee for releasing a vehicle before towing a vehicle may not exceed 50% of the fee for attaching the vehicle to the tow truck.)

Trespass towing rates were last raised in 2008. Pursuant to Executive Regulation 2-08, the County Executive provided for an overall rate increase of approximately 12% effective September 16, 2008 (Temporary regulations were enacted March 25, 2008). This rate increase resulted in an increase in the average cost of a trespass tow from \$127 to \$142.

Trespass towing rates are divided into three (3) categories: vehicles with a gross weight of 8,000 pounds or less, vehicles with a gross weight of 8,001 to 20,000 pounds, and vehicles over 20,000 pounds.

Executive Regulation 2-08 increased the trespass towing rates as follows:

Passenger Vehicles Less than 8,000 pounds

- Attaching: from \$ 95 to \$100
- Mileage: from \$3.00 to \$4.00 per mile
- Storage: No change from \$10 for the first 24 hours. An increase from \$20 to \$25 for each additional 24 hour period.

Vehicles 8,001 to 20,000 pounds

- Attaching: from \$150 to \$160
- Mileage: from \$4.00 to \$5.00 per mile
- Storage: No change from \$15 for the first 24 hours. An increase from \$30 to \$40 for each additional 24 hour period.

Vehicles over 20,000 pounds – New Category added during 2008 Rate Review

- Attaching: \$320
- Mileage: \$10 per mile
- Storage: \$30 for the first 24 hours & \$80 for each additional 24 hour period

The vast majority of passenger vehicles owned by consumers that are towed without the owner's consent are vehicles that weigh less than 8,000 pounds (this includes mini-vans and sport utility vehicles). In addition, according to our records, 98% of the vehicles towed without the owner's consent are retrieved by the owner within the first 24 hours.

In 2010, the Office of Consumer Protection (OCP) conducted a rate review in which a comprehensive chart was compiled to compare trespass towing fees in ten (10) local jurisdictions: Arlington County, City of Alexandria, Anne Arundel County, Baltimore City, Baltimore County, District of Columbia, Fairfax County, City of Falls Church, Howard County, and Prince George's County. In addition, this chart also compiled information regarding trespass towing fees in eight (8) out of state jurisdictions: Long Beach, California; Broward County, Florida; Palm Beach County, Florida; Portland, Oregon; Miami Dade County, Florida; Massachusetts; Georgia; and Virginia.

Direct rate comparisons with other jurisdictions are limited due to differences in pricing structures. For example, several jurisdictions provide flat rate pricing and do not provide itemized prices for each service component. In addition, some jurisdictions compute storage times differently. Therefore, certain assumptions as to the mileage and length of storage must be used to create typical towing scenarios, based upon behavior in Montgomery County, in order to effectively compare rates.

According to the review conducted by OCP in 2010, the County Executive did not propose any rate changes to the rates enacted in 2008.

In response to a request from Council Vice President **Roger Berliner**, OCP conducted an expedited towing rate review in 2011. This review was initiated earlier than was originally scheduled. Pursuant to this review OCP updated the comprehensive data for the local jurisdictions. (See attached chart.) Based upon this expedited review, OCP is recommending that the County Executive make the following change to the rate schedule:

- Increase the storage charges for the first 24 hours across all 3 weight classes by \$10.00.

This would increase the cost of every tow by \$10 and put the county rates for storage more in line with surrounding jurisdictions.

Under a typical scenario, in which a vehicle weighing up to 8000 lbs is towed without the owner's consent, is brought to a storage site 8 miles away, and is retrieved by the consumer within 24 hours, the total cost of the tow under the current trespass towing rates in Montgomery County is higher than what would be charged for a similar tow in Fairfax, Virginia; Arlington County, Virginia; City of Alexandria, Virginia; Falls Church, Virginia; and Howard County, Maryland. The total cost of the tow would be lower than what would be charged in Prince George's County and the City of Frederick, Maryland. This is illustrated by the chart below:

Jurisdiction	Hookup	Mileage	Storage	Other Fees	Total
Montgomery	\$100	\$32 (8 miles @ \$4 per mile)	\$10		\$142
Fairfax	\$50	\$0	\$25	Additional \$15 if picked up after "normal business hours"	\$75 - \$90
Arlington	\$115	\$0	\$0		\$115
Alexandria	\$75	\$0	\$0		\$75 (\$85 if picked up between 7pm & 8am)
Falls Church	\$100	\$0	\$0		\$100
Howard	\$125	\$0	\$12.50	\$15 additional if used dolly or flatbed	\$137.50
Princes George's	\$175	\$0	\$0		\$175
City of Frederick	\$200	\$0	\$0		\$200

Under the same scenario as above, the proposed changes to the county's rates would result in a total cost of \$152, an increase of approximately 7%. Thus, the total cost of the tow under the proposed trespass towing rates would be higher than what would be charged for a similar tow in Fairfax, Virginia; Arlington County, Virginia; City of Alexandria, Virginia; Falls Church, Virginia; and Howard County, Maryland. The total cost of the tow would still be lower than the charges in Prince George's County and the City of Frederick, Maryland.

Other considerations were also evaluated with regard to this rate review. Trespass towing is only one of several other types of towing services usually offered by towing firms. These towing firms also generally provide the following towing services in Montgomery County:

- Consumer requested tows
- Police requested tows
- Motor Club tows
- County requested tows

In conducting its review, OCP also compiled and compared the rates the towing firms charge for these other types of tows. Rates for these other types of tows are not regulated and are set by the towing firms. Accordingly, these towing rates provide valuable insight and would appear to reflect the towing firm's business expenses, fixed costs, and market competition influences. In addition, to the extent that towing firms assert that trespass towing rates should be increased, the fact that towing firms set their own rates for other types of tows at a rate lower than the rates set by Montgomery County for trespass tows would appear to undercut their claims that the current trespass tow rates are not sufficient for them to cover their costs and make a sufficient profit.

OCP conducted a survey of local tow companies asking how much they would charge a consumer requesting the tow of his or her broken down vehicle. The chart below shows the prices OCP was quoted by 6 local tow companies:

Tow Company	Hookup	Mileage
A	\$80	\$4 per mile
B	\$85	\$4 per mile
C	\$75	\$4.50 per mile
D	\$75	\$4 per mile
E	\$75	\$2 per mile
F	\$85	\$3 per Mile

All of these rates are lower than the current rates set by Montgomery County for trespass tows. It should be noted that all of the tow companies contacted also perform trespass towing in Montgomery County.

Setting "fair and reasonable" rates is a difficult balancing act for a service in which the party paying the rate did not consent to the service and did not have any

opportunity to select the firm that is providing the service. Vehicle owners consistently complain about trespass tows and the high rates under the current schedule. In addition to these rate setting duties, OCP is responsible for receiving and investigating complaints from consumers against towing firms regarding trespass towing services.

Complaints from consumers against trespass towing firms are numerous and generally concern several issues:

- Improper signage
- Inappropriate charges
- Damage and theft claims
- Unsafe conditions and rude behavior
- Use of “spotters”

In addition, the maximum rates set by Montgomery County become the minimum rates. According to our information, no towing firms charge less than the maximum rates set by Montgomery County for trespass tows. The transaction is further complicated by the fact that the property owners, who contract with the towing firm, do not appear to care how much vehicle owners are charged by a towing firm because the property owners are not the party paying these fees.

In conducting these reviews, OCP seeks to identify and examine any trends in the industry. For example, OCP continues to monitor regulatory rate structures in other jurisdictions that have adopted “fixed-rate” pricing rather than itemizing the components of the towing service.

Please let us know if you have any questions or need any further information. Thank you.

RDN/SWM

OCP Provides Service to and Collaboration with other Agencies

(*indicates award winning program)

Police

Financial Crime Section

OCP conducts field investigations, conducts online research, interviews consumer victims, and interacts with Police Detectives regarding the activities of itinerant contractors ("woodchucks"), sellers of counterfeit merchandise ("grey-market"), illegal car sales ("curbstoners"), and other merchants engaged in theft by deception transactions.

Towing

OCP provides information and interacts with Police Sergeants and Officers regarding enforcement issues related to trespass (impound) towing and police requested towing. OCP maintains registration files and background information regarding towing firms.

Pawn Shops

OCP administers the licensing provisions of Chapter 44A regarding secondhand personal property dealers (pawn shops) to facilitate the Police Department's ability to prohibit the sale of, and to recover the loss of, stolen property.

Unlicensed Contractors

OCP conducts field investigations, conducts online research, interviews consumer victims, and interacts with Police Officers in taking enforcement action against unlicensed home improvement contractors going door-to-door. Coordination has resulted in the Police Department being able to confiscate vehicles and equipment being used by illegal merchants.

Online & Academy Training*

OCP developed and produced an online training course to provide legal information to Police officers regarding 8 topics for which the police may initially be called upon when responding to an altercation. This training module includes detailed information about: towing, curbstoners, unlicensed contractors, household moving companies, auto repair, door-to-door sales, street vendors, and refund policy issues. This program received a NACo award. OCP also provides onsite training at the Police Academy and at Police District offices.

<http://polbreeze.mcgov.org/p99304936/>

Phony Police Charities

OCP investigated and took action to alert residents about a phony charity that solicited donations from consumers by misrepresenting that it was a local organization that provided benefits to Montgomery County Police Officers. A joint press conference was held by the County Executive, the Police Department, and OCP. The Police Department refers resident inquiries to OCP.

http://montgomerycountymd.gov/apps/News/press/PR_details.asp?PrID=2536



DEPARTMENT OF POLICE

Isiah Leggett
County Executive

J. Thomas Manger
Chief of Police

MEMORANDUM

April 26, 2011

TO: The Honorable Phil Andrews
Chair, Public Safety Committee
Montgomery County Council

The Honorable Roger Berliner
Council Vice President

The Honorable Marc Elrich
Councilmember

FROM: J. Thomas Manger
Chief of Police

SUBJECT: Office of Consumer Protection

This is to confirm and underscore the importance of the Office of Consumer Protection (OCP) as a valuable partner within the Public Safety cluster of County agencies.

The Police Department collaborates with and relies upon the expertise from the Office of Consumer Protection in several critical areas; their work is vital to our operations, for example:

- Our Financial Crimes Section receives the results of filed investigations by OCP staff regarding unlicensed and itinerant contractors who victimize homeowners by soliciting payments without providing services. These investigations are complete and filled with information necessary to obtain a conviction, many of these "contractors" are transient and involved in other criminal activity.
- Our Pawn Unit relies upon OCP staff to administer the licensing provisions of Chapter 44A, which accordingly enables our office to focus police resources on recovering stolen property and prohibiting the sale of stolen property by pawn shops. We are able to close out numerous burglary and theft reports through pawn-shop records, an impossible task without the licensing of these shops.

Office of the Chief of Police

- Our Abandoned Vehicle Section relies upon OCP staff to administer the licensing provisions of Chapter 30C regarding towing firms. We work closely with OCP staff to address the multitude of problems caused by “predatory-towing practices” in Montgomery County. OCP was instrumental in the passage of new legislation in Annapolis to control predatory towing. My patrol officers also rely on OCP for their expertise in towing rules and regulations, saving our Department countless work hours and overtime.

The budgetary constraints facing Montgomery County require the County Executive and the County Council to make difficult decisions. With all of the investigations and calls for service that my officers handle each day, at times it requires expert assistance to both prevent and investigate many of these calls. Without the OCP we would be forced to make decisions about how we serve the community—with possible negative impacts on the community. Please know the extent to which Montgomery County’s Office of Consumer Protection plays such a vital role in protecting our county. Thank you.

JTM/mam

c: County Councilmembers
Eric Friedman, Director/OCP

State's Attorney

Criminal Prosecution

OCP refers cases to the State's Attorney for criminal prosecution and provides assistance to the State's Attorney's Office in prosecuting these cases. These cases are primarily filed against unlicensed home improvement contractors, illegal car sellers, and sellers of travel services. OCP typically files an "Application for Statement of Charges" with the Court Commissioner to seek a bench or arrest warrant. OCP routinely interviews consumer victims, provides direct testimony, assists elderly victims with transportation to Court, and monitors Court Orders with the Parole and Probation Office. (See attached letter from John McCarthy.)

Financial Crimes

OCP is collaborating with the newly established "Senior Financial Exploitation Prevention Initiative" within the State's Attorney's Office to investigate financial exploitation of seniors and identify cases which appear appropriate for criminal prosecution.

Consumer Education & Outreach

OCP's director and staff participate in public forums with the State's Attorney and staff to provide alerts and information in an effort to help Montgomery County residents avoid financial crimes and scams. (See attached flyers from Holiday Park & Charter House.)



STATE'S ATTORNEY
JOHN J. MCCARTHY

State's Attorney for Montgomery County

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DEPUTY STATE'S ATTORNEYS

LAURA CHASE

JOHN M. MALONEY

May 3, 2010

Mr. Eric Friedman
Director
Office of Consumer Protection
100 Maryland Avenue, Suite 330
Rockville, Maryland 20850

Dear Mr. Friedman:

This is to provide information which may be germane to the current budget deliberations.

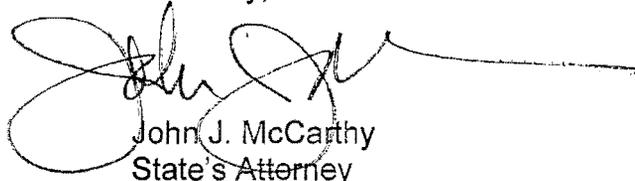
The Montgomery County Office of the State's Attorney works with Investigators from the Office of Consumer Protection (OCP) in prosecuting merchants who have engaged in criminal activity. These cases primarily have involved unlicensed home improvement contractors who have received thousands of dollars from senior citizens and other vulnerable consumers. In addition, these cases have involved travel agents and illegal car sellers.

The investigative efforts of OCP staff have been vitally important in the successful prosecution of these cases. We have been successful in obtaining jail time and restitution for these cases. This has resulted in our ability to help consumers and to send a message to those who might consider committing such crimes.

However, the ability of our office to continue to provide the same level of protection to consumers in Montgomery County would be undermined without the continued assistance from the Office of Consumer Protection. We consider OCP to be a vital resource in this regard.

Please let me know if you need any additional information.

Sincerely,



John J. McCarthy
State's Attorney

Sheriff's Office

Business Eviction Response Team (BERT)*

OCP and the Sheriff's Office have developed a coordinated effort to protect consumers' possessions which would otherwise be lost or stolen as the unintended consequence of a court ordered eviction of a merchant's store. This collaboration consists of a 5 step process in order to safeguard and return valuable goods to consumers. This program received a NACo award.

http://montgomerycountymd.gov/apps/News/press/PR_details.asp?PrID=6638

Fire Rescue Service (FRS)

Sale of Illegal Electrical Products

OCP coordinated enforcement efforts to identify electrical products being sold in Montgomery County which were not certified by a testing laboratory (i.e. "UL"). The Fire Rescue Service and OCP conducted a joint press event to alert consumers to this danger after a fire in an apartment was caused by an electrical extension cord.

http://montgomerycountymd.gov/apps/News/press/PR_details.asp?PrID=4237

Chimney Fires

OCP issues press releases alerting consumers about the dangers of chimney fires and warning consumers about deceptive trade practices by chimney sweeps and repair

firms. http://montgomerycountymd.gov/apps/News/press/PR_details.asp?PrID=698

Sprinkler System Maintenance & Charges

OCP is coordinating efforts with FRS and WSSC regarding misleading and unconscionable prices charged by plumbing firms in providing required inspections and maintenance on sprinkler systems in residential and commercial buildings.

Fire Extinguisher Service Companies

FRS staff consulted with OCP regarding the deceptive business practices of private fire extinguisher services firms that misrepresented themselves to be County employees in attempting to solicit business from restaurants in Montgomery County.

Dept. of Permitting Services (DPS)

License New Home Builders

OCP licenses New Home Builders and administers the Builder's Board of Registration. OCP and DPS collaborate to maintain an online licensing database that enables residents to efficiently determine if a firm is licensed to build new homes in Montgomery County.

Permits for Home Improvement and New Homes

OCP and DPS coordinate efforts to ensure that construction permits are only issued to licensed new home builders and home improvement contractors.

http://montgomerycountymd.gov/apps/News/press/PR_details.asp?PrID=4377

Septic System Deceptive Practices

OCP met with DPS staff regarding deceptive marketing practices in the sale and installation of septic tanks. OCP investigated and entered into a settlement agreement with a septic system firm which was soliciting business pursuant to a State of Maryland grant program for septic tanks.

Warranty Issues Related to Building Code

OCP routinely investigates and resolves new home construction disputes which involve workmanship and contractual issues that may also be related to code enforcement issues. OCP helps to identify needed revisions to building code standards.

Dept. of Housing and Community Affairs (DHCA)

Commission on Common Ownership Communities (CCOC)

OCP serves as staff to the 15 member Commission to investigate, mediate, and resolve disputes between residents and the governing bodies of home owner associations, condominiums, and cooperatives. CCOC serves as an alternative dispute resolution mechanism. It adjudicates disputes and issues Orders. DHCA administers the registration of these common ownership communities and collects the registration fees.

www.montgomerycountymd.gov/ccoc

Mortgage and Foreclosure Scams

OCP and DHCA collaborate to identify and investigate foreclosure rescue scams and deceptive mortgage practices. OCP and DHCA distributed a joint letter to hundreds of faith based organizations to identify homeowners in need of critical information. DHCA and OCP provide online information and conduct public seminars to assist homeowners. OCP's director served on the Governors' foreclosure task force.

Room Rental Disputes

OCP investigates and resolves complaints regarding room rental disputes. DHCA has prepared a brochure regarding room rental disputes, enforces the housing code, and refers room rental disputes to OCP.

Landlord – Tenant Brokers

OCP and DHCA investigators collaborated to assist victims of "predatory lease holders" in which deceptive merchants offered to provide "second-chance" assistance to consumers who were having difficulty renting apartments. These landlord-tenant brokers are not licensed. They rent apartments in their own name and then sub-rent them to consumers with poor credit ratings.

Arbitration for Rehab Loan Construction Disputes

DHCA provides low interest rehabilitation loans to homeowners in need of construction or repairs to their homes. These rehab loan contracts specifically provide that OCP shall serve as the arbitrator to resolve any construction disputes between the homeowners and the contractors.

Housing Fair

OCP participates with other agencies in the annual Housing Fair organized to inform and protect county residents.

Montgomery County Public Schools (MCPS)

Invoice Scams Targeting MC Schools

Several Montgomery County schools received phony invoices from firms purportedly selling copy machine toner and other supplies. MCPS administration forwarded these invoices and email messages to OCP and requested assistance in resolving these deceptive collection practices.

Depts. of Technology Services (DTS) and Finance

Estimated Property Tax Disclosure Calculator*

A new law created a requirement that real estate agents and sellers of residential property fully disclose the amount of taxes the new purchaser may be required to pay in the first year of ownership. The task of administering and enforcing this law was assigned to OCP. DTS and Finance provided technical assistance in building an online estimated property tax disclosure calculator which efficiently allows sellers to comply with these disclosure requirements. This program received a NACo award.

<http://www.montgomerycountymd.gov/apps/OCP/Tax/index.asp>

Cable TV & Internet Service Complaints

The DTS Office of Cable and Communication Services is collaborating with OCP to investigate and resolve a potentially major investigation regarding a cable TV provider and thousands of consumers.

Health & Human Services (HHS) & Housing Opportunity Commission (HOC)

Adult Protective Services

OCP provides technical service to HHS and HOC clients who are receiving welfare avoidance grants to purchase or repair vehicles. Prior to authorizing these purchases or repairs, HHS and HOC instruct their clients to submit the repair estimates and used car sales quotes to OCP's automotive experts. OCP reviews these documents and conducts research (using CarFax reports, and AllData repair manuals) to ensure that each specific repair or purchase is a prudent expenditure. In addition, OCP works with HHS Adult Protective Services to identify vulnerable consumers experiencing a consumer protection problem.

Senior Subcabinet

OCP is participating with other agencies in this ongoing project led by HHS to address the needs of our aging community. OCP is grouped with the Police and Fire Rescue Service to create a Home Security Survey for seniors.

Pepco's Life Support List

OCP is working with HHS to obtain and ascertain the significance of Pepco's list of residents in Montgomery County who are using life support equipment which require electrical power.

Public Information Office (PIO) & Council Information Office

News Release and Press Events

OCP works with PIO to issue numerous press releases and conduct press events to notify consumers of settlement agreements, events, and action taken by OCP, and to warn consumers about consumer protection issues. OCP also provides important information to businesses and consumers in the *Paperless Airplane* newsletter published by PIO.

Cable TV Show

OCP staff participates in an ongoing cable TV show called "*Consumer Compass*" as an outreach tool to educate and inform consumers.

Office of Human Rights

One Stop Housing Fair

OCP provides assistance to the Human Rights Office and participates in the annual Housing Fair to provide training to housing property managers regarding consumer protection issues including towing regulations.

Discrimination in Sales Practices

OCP provided technical assistance to the Human Rights Office with regard to discrimination related to the sale of consumer goods and services. For example, OCP provided assistance to the Human Rights Office in drafting a press release on action taken regarding the sales practices of dry cleaning stores that were charging women more than men to clean similar items.

Commission for Women

Domestic Worker Contracts

A new law was enacted which requires employers of certain domestic workers to negotiate and offer a written contract that discloses specific information regarding job conditions and benefits. The law also prohibits retaliation against a domestic worker who requests a written contract, attempts to enforce the terms of a contract, or files a complaint or participates in an investigation of a complaint. The task of administering this new law and creating model employment contracts in 3 different languages was assigned to OCP. Information prepared by the Commission for Women was used to comply with this new law.

<http://www.montgomerycountymd.gov/ocptmpl.asp?url=/content/ocp/domestic/index.asp>

Office of Community Partnerships

Immigration Scams Initiative

OCP served as a member of a multi-agency task force organized by the County Executive's Office of Community Partnerships and Latino Liaison to address an increasing number of scams targeting immigrants in Montgomery County. OCP investigated alleged illegal marketing practices by financial service companies which prey on vulnerable consumers. OCP provided technical assistance in developing and promoting an "Anti-Notario" consumer education outreach program.

Regional Service Centers

Investigate Deceptive Practices

OCP investigates and responds to reports of deceptive trade practices pursuant to requests and information from the Regional Service Centers. For example, OCP investigated an “affinity award scam” which targeted businesses in Bethesda. OCP issued a press release to the business community after this issue was reported to OCP by the Bethesda-Chevy Chase Regional Service Center.

http://montgomerycountymd.gov/apps/News/press/PR_details.asp?PrID=4865

Consumer Outreach Events

OCP provides staffing, information, and assistance to the Regional Service Centers to educate residents about potential scams and to notify residents about County services. For example, OCP participated in “shredding” events in which consumers were encouraged to shred old financial documents to avoid being the victims of Identity Theft.

County Attorney’s Office

Lawsuits, Civil Citations, and Special Counsel

OCP staff issue Civil Citations and develop cases for lawsuits against merchants for violating Montgomery County’s consumer protection laws. OCP investigates these cases and is represented in Court by the Office of the County Attorney. OCP researches and provides draft revisions to the Office of the County Attorney regarding county statutes related to consumer protection. In addition, OCP’s energy consultant now also serves as Special Counsel with the Office of the County Attorney to represent Montgomery County in cases before the Maryland Public Service Commission.

Department of Environmental Protection (DEP)

Home Energy Performance Audits

OCP enforces the utility cost disclosure requirements which sellers have when selling homes. These requirements are in conjunction with the disclosure of energy information provided by DEP. Sellers of single family homes and condominiums which are individually metered for electricity and/or natural gas are required to disclose certain usage and cost information when selling their homes. OCP provides information to assist sellers in complying with these requirements and is responsible for monitoring compliance.

Public Libraries

Conduct Consumer Education Seminars

OCP conducts public forums at the Rockville Library with expert panels regarding a variety of topics including mortgage, foreclosure, and financial issues.

Display Consumer Information

OCP showcases consumer information in the display cases at the Rockville Library to educate consumers. OCP distribute consumer education and OCP’s Annual Reports through the library branches.

Circuit Court

Business Licenses

OCP works with the business licenses office of the Circuit Court to ensure that unscrupulous merchants are not able to misuse Court business licenses and mislead consumers by circumventing specific licensing requirements. OCP distributes its office

brochure through the Circuit and District Courts, and OCP also provided assistance to the Circuit Court to inform residents about jury duty.

County Council Members

Constituent Services

OCP provides prompt and efficient services related to a myriad of consumer protection issues to constituents referred to OCP by all Council Members. OCP staff provides a “*don’t-fall-through-the-cracks*” approach in responding to Council constituents in a helpful and non-bureaucratic manner. In addition, OCP coordinates public forums with Council Members to educate and inform residents.

http://montgomerycountymd.gov/apps/News/press/PR_details.asp?PrID=7338

Responsive to New Duties

OCP provides a remarkable ability to accept and successfully perform new administrative responsibilities in response to a variety of legislative initiatives enacted by the County Council. OCP is recognized and frequently serves as the “*can-do*” agency to which the County Council assigns new laws. For example: Estimated Property Tax Disclosures (Bill #24-07), Domestic Workers Contracts (Bill #2-08), Energy & Environmental Advocacy (Bill # 35-07).

State and Federal Agencies

Referrals to Other Agencies

OCP routinely refers cases to other state and federal law enforcement agencies after conducting investigations. OCP often makes referrals to and collaborates with the following agencies:

- Maryland Attorney General
- Department of Labor Licensing and Regulation (DLLR)
- Federal Bureau of Investigation (FBI)
- U.S. Postal Inspector
- Federal Trade Commission (FTC)
- Consumer Financial Protection Bureau (CFPB)
- Maryland Public Service Commission
- Maryland Office of the People’s Counsel
- Maryland Comptroller

Information Request from 4-7-2011 Public Safety Committee Worksession
Provide an explanation as to why the portion of the CCOC fee that was earmarked for consumer education was not used for its specified purpose.

Executive Regulation 12-09AM, sent to Council for approval on November 3, 2009, revised the annual registration fee schedule for Common Ownership Communities. The regulation increased the per unit annual common ownership community registration fee from \$2.25 to \$3.00. Regulation 12-09 would have increased the fee to \$2.75; upon consideration by the Public Safety Committee, the Committee recommended increasing the fee an additional \$.25 to support educational outreach. The regulation did not authorize additional appropriation authority for these expenses in the OCP budget.

In April 2010, Council staff requested an update on the status of the monies, an estimated additional \$30,000 generated by the \$.25 fee increase. Council staff was informed that the County Executive's FY11 Recommended Budget did not include funding for educational outreach. The FY11 fiscal situation required that the Office of Consumer Protection provide cuts to help close the projected gap, so it could not consider an expansion of services. While OCP implemented the fee increase per the regulation, the FY11 Council Approved budget did not include increased appropriation for educational outreach.

For FY12, due to the continuing fiscal constraints, the County Executive's FY12 Recommended Budget did not include funding for educational outreach and OCP was again unable to expand services in this area. The resources generated by this fee have been used to fund and maintain services in the General Fund, including the Office of Consumer Protection. OCP has worked to hold the CCOC program harmless while reducing expenditures and positions in its consumer protection program. Since FY07, the CCOC program has maintained its 1.9 WYs, while the rest of the department experienced a decrease from 21.4 to 13.6 WYs, and that's the case again in FY12.

Figure 1: COC Restricted Fund

	FY08 Actual	FY09 Actual	FY10 Actual	FY11 Actual	FY12 Projected	FY13 Projected
Revenue				Actual		
Fees	281,091	283,925	376,885	400,312	400,500	410,513
Miscellaneous	4,403		811	1,400	-	-
Total	285,494	283,925	377,696	401,712	400,500	410,513
Expenditures				Projected		
Personnel	271,304	275,155	267,938	299,520	311,501	323,961
Operating	23,938	16,340	12,904	24,110	24,592	25,084
Sub-Total	295,242	291,495	280,842	323,630	336,093	349,045
Indirect	34,076	35,440	44,772	50,050	52,052	54,134
Total	329,318	326,935	325,614	373,680	388,145	403,179

*Per Budget Resolution 16-1373 (item 64), "for FY2010 and FY2011 only, this resolution authorizes the use of cumulative net revenues in excess of expenditures from Landlord-Tenant Affairs and Common Ownership Communities fees for general operating purposes. The Director of Finance must include all available net revenues from these funds in the General Fund unrestricted fund balance."

COMMISSION ON COMMON OWNERSHIP COMMUNITIES COUNTYWIDE EDUCATIONAL PROJECT

PURPOSE: To provide information on managing common ownership communities and the rights and responsibilities of members of those communities by using a combination of live seminars, printed materials and videos with copies provided to all public libraries so that the information is readily available on demand.

COST: Approximately \$30,000. (We are considering subcontracting much of the work and will consider putting a proposal out for bids.)

CONTENT:

Seminars

We propose conducting 10 to 12 seminars, lasting 3 to 5 hours each, at a cost of \$1500 per seminar (including video recording of event, handouts and space rentals) on the following topics (some seminars might include more than one topic):

1. What members need to know, and how they can participate in their associations;
2. Basics of common ownership communities;
3. Creating budgets, reserves and assessments;
4. Holding proper meetings and elections;
5. Communications (newsletters, websites, etc.);
6. Drafting and enforcing rules, settling disputes;
7. Risk management;
8. Collecting assessments;
9. Architectural control;
10. Leadership training;
11. Managing the managers;
12. Bids and contracts;
13. Federal lending rules for condominiums; and financial assistance

Total: \$15,000

We will consider charging nominal fees for attendance at the seminars—lower for members, slightly higher for board members (whose fees might be defrayed by their associations)—to help defray costs and ensure attendance.

Publications

We propose to print, in bulk, copies of existing publications on Meetings, Assessments, Architectural Control, and essential laws. We also propose to create and

print new material on how to prepare for a CCOC hearing and on how to buy a home in a common ownership community.

Total: \$5,000

Reference Material

We propose to provide essential reference material to every County library. This will include hard copies of CCOC's *Manual and Resource Guide*, copies of instructional videos and materials from the seminars, and selected material purchased from the Community Associations Institute. There are 20 libraries; we estimate the cost of supplying the reference materials to them to be approximately \$500 per library. This will include the costs of editing seminar videos and making digital copies.

Total: \$10,000

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of Finance must include all available net revenues from these funds in the General Fund unrestricted fund balance."

- Consider the use of inter-agency memorandums of understanding or contracts in order to minimize any negative impacts on employees whose functions are shifted; and
- Provide an implementation timeline that completes the consolidation outlined above in time for the FY 2011 “spring” recreation program season.

62. This resolution appropriates funds by personnel cost and operating expense. Included in the operating expense appropriations for the Department of Environmental Protection, Department of General Services, Department of Technology Services, and the Department of Liquor Control are appropriations that are to be spent to purchase items that would previously have been appropriated as capital outlay. These appropriations must be spent for the purchase of capital outlay.

Environmental Protection – Disposal Operating Activity	\$2,349,600
Environmental Protection – Stormwater Facility Maintenance	28,000
Fire and Rescue Services	26,100
General Services – Motorpool Fund	1,181,250
General Services – Central Duplicating	208,250
Police	48,000
Technology Services	120,300
Liquor Control – Operating Activity	105,650

63. This resolution appropriates \$230,280,040 to the Montgomery County Police Department. This appropriation includes funds for a July 2010 recruit class that will begin with 36 police recruits. The Department must not reduce this number of recruits in order to accrue lapse or to achieve other budgetary savings.

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64. For FY 2010 and FY 2011 only, this resolution authorizes the use of cumulative net revenues in excess of expenditures from Landlord-Tenant Affairs and Common Ownership Communities fees for general operating purposes. The Director of Finance must include all available net revenues from these funds in the General Fund unrestricted fund balance.

65. Appropriations made in this resolution are predicated on the following fund transfers being made in FY 2010. Accordingly, this resolution authorizes the Director of Finance to transfer all available FY 2010 net resources from these tax supported special funds to

PS COMMITTEE #2
April 7, 2011

Worksession

MEMORANDUM

April 5, 2011

TO: Public Safety Committee

FROM: Susan J. Farag, Legislative Analyst *SJF*

SUBJECT: **Worksession: FY12 Operating Budget
Office of Consumer Protection**

Those expected for this worksession:

Eric Friedman, Director, Office of Consumer Protection (OCP)
Marsha Carter, OCP
Melissa King, Office of Management and Budget (OMB)

Major Issue: The FY12 CE Recommended Budget abolishes an Investigator III position, following a multi-year trend where staffing has been reduced more than 33% since FY07. This additional staff reduction may significantly impact service delivery. Please see discussion below.

The Executive's recommendation for the Office of Consumer Protection is attached at ©1-5.

Overview

For FY12, the Executive recommends total expenditures of \$1,948,320 for the Office of Consumer Protection, a 6.3% reduction from the FY11 approved budget.

	FY10 Actual	FY11 Approved	FY12 Rec.	% Change FY11-FY12
Expenditures:				
General Fund	\$2,376,469	\$2,079,200	\$1,948,320	-6.3%
Grant Fund				
TOTAL Expenditures	\$2,376,469	\$2,079,200	\$1,948,320	-6.3%
Positions:				
Full-time	19	16	15	-6.2%
Part-time	0	0	0	0.0%
TOTAL Positions	19	16	15	0.0%
WORKYEARS	18.5	14.7	14.5	-1.4%

The FY12 CE recommendation is a net decrease of \$130,880. This decrease comes from four changes with service impacts, for a savings of \$135,920, as well as the following identified same services adjustments:

IDENTIFIED SAME SERVICE ADJUSTMENTS:	
Increase Cost: Restore Personnel Costs - Furloughs	\$30,360
Increase Cost: Restore lapse of PAA	\$11,430
Technical Adj: Additional Personnel Costs Due to Staff Reclass.	\$9,400
Increase Cost: Annualization of FY11 Personnel Costs	\$3,270
Increase Cost: Printing and Mail Adjustment	\$1,690
Increase Cost: Retirement Adjustment	\$1,170
Increase Cost: Help Desk - Desk Side Support	\$60
Total Increases:	\$57,380
Decrease Cost: Cell phone line charges	(\$3,040)
Decrease Cost: Professional Services	(\$21,060)
Decrease Cost: Group Insurance Adjustment	(\$28,240)
Total Reductions:	(\$52,340)
NET SAME SERVICES ADJUSTMENT TOTAL:	\$5,040

FY12 Expenditure Issues

Personnel Complement

Personnel costs comprise 89.7% of OCP's FY12 recommended budget, for 15 full-time positions and no part-time positions. The CE FY12 recommended budget abolishes one Investigator III position, for a total workyear reduction of 0.2 workyears. This follows a multi-year trend, as staff within OCP has been reduced by more than 33% since FY07. This is illustrated in the chart below.

OCP Personnel Changes FY07 to FY12

	FY07 Actual	FY08 Actual	FY09 Actual	FY10 Actual	FY11 Approved	FY12 Rec.	Net Change FY07-12	% Change FY07-12
Positions:								
Full-time	23	22	21	19	16	15	-8	-34.78%
Part-time	1	1	1	0	0	0	-1	-100.00%
TOTAL Positions	24	23	22	19	16	15	-8	-33.33%
WORKYEARS	23.3	22.3	21.3	18.5	14.7	14.5	-8.8	-37.77%

Last year, Council staff noted that the abolishment of three full-time positions left no room for any future staff reductions without compromising service delivery to County residents. Over the past three fiscal years, seven positions have been abolished, all but one of which was filled. The staff reductions have required the redistribution of workloads to other investigators, managers, and in some cases, the OCP Director.

OCP Positions Abolished through Budget Process

Fiscal Year	Positions	Vacant
FY09	Investigator III	
	Principal Admin. Aide	
FY10	Investigator III	
	Senior Admin. Aide	
FY10 Savings Plan	Program Specialist	Yes
FY11	Investigator III	
	Manager III (MLS)	

While this workload redistribution has been feasible in the past, *Council staff advises that those incumbents at risk of being laid off in FY12 have highly specialized experience and/or training that is invaluable to the consumer protection function.* In the past, the loss of investigators has meant that more generalized cases were redistributed. While this has had a direct impact on the timeliness of case resolution, it has not constrained OCP's ability to continue to provide assistance in highly technical cases. Without certain in-house subject matter experts, fewer cases will be resolved by OCP and will possibly end up in the court system for resolution.

Specialized Subject Matter Expertise: OCP investigates and resolves complaints regarding most types of consumer transactions, including car repair and sales, home construction, and credit and financial transactions. Many of these complaints involve issues that are highly technical in nature, and OCP investigators are assigned certain cases based on their subject matter expertise. Currently, OCP has one investigator with expertise in the home construction industry: roofing, plumbing, electrical, carpentry, etc. This investigator handles the majority of new home construction and home improvement complaints. One investigator (an attorney) specializes in automotive loan and leasing documents, auto repossession cases, and mortgage/foreclosure cases. Another investigator is an ASE certified auto mechanic, who handles auto repair complaints. The loss of any of these investigators with specialized knowledge would significantly impact OCP's ability to assist County residents with consumer

complaints. For example, OCP currently has one lawsuit in Circuit Court involving a plumbing complaint. The loss of the investigator with building contractor and trade experience could hinder a successful outcome of this suit. In addition, without the technical expertise to successfully resolve certain types of cases, more County residents will likely take issues to court, increasing judicial caseloads.

Increased Scope of Work: Also noted in last year's budget analysis, OCP has been given other duties over the past several years. In addition to its core consumer protection functions of investigation/reconciliation, law enforcement, and consumer education, it is responsible for staffing the Commission on Common Ownership Communities (CCOC) and licensing various professions. In recent years, it also has been given the added responsibilities of overseeing domestic workers model contracts (Bill 32-08), energy and environmental advocacy, including Pepco issues (Bill 35-07 and Bill 35-01), development tax district disclosure (Bill 36-07), and property tax disclosure (Bill 24-07).

Since 2008, OCP has been working with our County agencies regarding energy and environmental issues, to advocate for the County's interests in obtaining the lowest possible utility rates, and to assist consumers with information regarding utility usage and costs. OCP is also authorized to employ consultants and technical advisors to carry out these new duties. In October 2010, the Council confirmed OCP's consultant to serve as Special Counsel to represent the interests of the County before the State Public Service Commission. OCP (along with the Department of Environmental Protection and the Office of Emergency Management and Homeland Security) also serves as staff to the Executive's Pepco Work Group.

In order to provide these services, one OCP investigator has been tasked with providing research and support services to the Work Group, monitoring numerous related cases before the PSC and various bills before the General Assembly. The investigator's complaint caseload and other duties were reassigned to other OCP investigators to enable the investigator to work exclusively on Pepco issues, in excess of 40 hours per week. In addition, the Director participates in Work Group meetings and provides support on PSC cases, public forums, and pending legislation. The Director spends about 10 to 12 hours each week on Pepco related issues.

Customer Satisfaction Data: In FY09, CountyStat provided a baseline report on OCP customer satisfaction and performance measures. The OCP customer satisfaction rating has two components: (1) the manner in which the customer's case was handled; and (2) the outcome of the customer's case. The headline measures also look at the average time in workdays it takes to investigate and close a written complaint. In FY09, customer satisfaction for the manner in which the case was handled was 2.9 (on a 4.0 scale). The customer's satisfaction rating for the case outcome was 2.6. These ratings have steadily improved over the past two fiscal years to 3.6 and 3.3 respectively.

The number of workdays needed to investigate and close a case is also an important indicator about how the staffing losses have impacted OCP's performance. In FY09, the goal was to close an average of 87.5% of cases within 64 workdays. OCP has, on average, closed 73% of all cases within this time frame.

FY12 Revenue Issues

FY12 revenues for OCP are calculated based on civil citations, new home builder licenses, and consumer affairs business licenses. Revenues for new home builder licenses and consumer affairs business licenses have dropped in the past year due to the recession. The information is summarized below.

FY12 Revenue Summary

Category	Actual FY10	Approved FY11	Rec. FY12	\$ Change FY11-FY12	% Change FY11-FY12
Civil Citations	886	1,000	1,000	\$0	0%
New Home Builder Licenses	\$133,198	\$200,000	\$134,000	-\$66,000	-33%
Consumer Affairs Business Licenses	\$54,647	\$69,200	\$55,000	-14,200	-21%
Total General Fund Revenues	\$188,731	\$270,200	\$190,000	-\$80,200	-30%

Council Staff Recommendation

Council staff recommends adding \$128,420 to the Reconciliation List to restore the Investigator III position. Over the past few years, the abolishment of investigator positions has led to redistributed and increased caseloads for remaining staff. While this reduction of investigative staff has resulted in longer case resolution times, it has not significantly impacted the wide range of cases that OCP can effectively resolve. The abolishment of another Investigator III position in FY12, however, will result in the loss of an incumbent with subject matter expertise that is not easily replaced or assumed by other investigators on staff. While OCP will still be charged with investigating and resolving all consumer complaints, it will not have the technical expertise to do so as effectively as before.

Council staff recommends approval of the rest of the FY12 Operating Budget for OCP as submitted by the Executive.

<u>This packet contains</u>	©
Recommended FY12 Operating Budget	1-5
FY11 Organizational Chart	6
Office of Consumer Protection Brochure	7-8
News Release – <i>Newly Formed Pepco Work Group</i> (10/04/2010)	9-11
OCP Energy and Environmental Advocacy	12-13
Energy and Environmental Advocacy OCP Annual Report (FY09)	14-17
“Consumers in Montgomery County have team of determined volunteers on their side,” <i>Washington Post</i> (February 5, 2011)	18-21

Consumer Protection

MISSION STATEMENT

The mission of the Office of Consumer Protection (OCP) is to enforce consumer protection laws prohibiting unfair and deceptive business acts or practices to ensure a fair marketplace for consumers and businesses. Activities include complaint resolution, law enforcement, education, legislation, advocacy, and outreach to vulnerable consumers.

BUDGET OVERVIEW

The total recommended FY12 Operating Budget for the Office of Consumer Protection is \$1,948,320, a decrease of \$130,880 or 6.3 percent from the FY11 Approved Budget of \$2,079,200. Personnel Costs comprise 89.7 percent of the budget for 15 full-time positions for 14.5 workyears. Operating Expenses account for the remaining 10.3 percent of the FY12 budget.

LINKAGE TO COUNTY RESULT AREAS

While this program area supports all eight of the County Result Areas, the following are emphasized:

- ❖ **A Responsive, Accountable County Government**
- ❖ **Strong and Vibrant Economy**
- ❖ **Vital Living for All of Our Residents**

DEPARTMENT PERFORMANCE MEASURES

Performance measures for this department are included below, with multi-program measures displayed at the front of this section and program-specific measures shown with the relevant program. The FY11 estimates incorporate the effect of the FY11 savings plan. FY12 and FY13 targets assume the recommended FY12 budget and FY13 funding for comparable service levels.

ACCOMPLISHMENTS AND INITIATIVES

- ❖ **OCP collaborated with the State Motor Vehicles Administration to take legal action against a used car seller who sold vehicles to which the seller did not have title. Many consumers paid thousands of dollars to purchase used vehicles without receiving title to these vehicles. Civil and criminal charges were filed in Court.**
- ❖ **OCP investigated the home air-duct cleaning industry and participated in a hidden-camera TV exposé into the deceptive practices occurring in this industry. OCP collaborated with the office of the State Comptroller regarding possible sales tax violations and entered into a Settlement Agreement with a local company which agreed to change its business practices and provided thousands of dollars in refunds to Montgomery County consumers. An industry-wide investigation was conducted into the direct mail marketing of numerous air-duct cleaning firms.**
- ❖ **OCP continues to collaborate with local law schools, colleges, and universities to recruit qualified volunteers to assist OCP's various programs. In FY10, OCP volunteers contributed over 2,600 work hours enabling OCP to leverage its ability to be productive. Volunteer hours are equivalent to over 1.0 full-time staff hours. This resource will continue to be utilized in FY11 and FY12.**
- ❖ **OCP reached an agreement with a local electricity provider regarding misleading advertisements following an investigation of the marketing of electricity by third-party sellers.**
- ❖ **OCP's Advisory Committee hosted and conducted a public forum to address car buying and car ownership issues in a changing economy. County Executive Isiah Leggett and Maryland Attorney General Doug Gansler participated in this event, which was moderated by a Washington Post columnist, and presentations were made by state and federal agency representatives.**
- ❖ **OCP revised its model automotive invoice to comply with updates in the law and to keep abreast of current industry practice.**
- ❖ **OCP's Director was appointed by the Governor to the State's Collection Agency Licensing Board, joining industry representatives and other consumer advocates.**



❖ **Productivity Improvements**

- OCP retained the services of an energy expert to serve as a consultant in promoting the County's energy and environmental advocacy position at the state level. As a result, OCP has intervened and filed comments with Maryland Public Service Commission regarding cases directly related to electricity issues affecting consumers in Montgomery County.
- OCP has changed its way of doing business by relying on electronic communication for correspondence, licensing, board-related business, and consumer outreach thereby reducing its paper usage by 50%, decreasing response time, and increasing its target audience.
- OCP enhanced its case management and complaint tracking system by improving "Case Notes," "Documentation" and reporting features. This enabled investigators and supervisors to avoid duplication of effort, be better able to respond to inquiries, and improve management of investigative benchmarks.

PROGRAM CONTACTS

Contact Marsha Carter of the Office of Consumer Protection at 240.777.3686 or Melissa King of the Office of Management and Budget at 240.777.2624 for more information regarding this department's operating budget.

PROGRAM DESCRIPTIONS

Consumer Protection

The OCP receives and investigates complaints and initiates its own investigations of deceptive or unfair trade practices against consumers. Staff resolves disputes between consumers and merchants, identifies violations of County, State, and Federal consumer protection laws, and makes referrals to other agencies when appropriate. Complaint categories include automotive sales/repairs, new home construction, home improvement repairs, predatory financial practices, credit and collection practices, telemarketing, and retail sales.

The OCP issues subpoenas to compel the production of documents or compel the attendance of witnesses. The office is authorized to hold hearings, administer oaths, and issue civil citations for violations of consumer protection laws. Special investigations are conducted and may result in Settlement Agreements or abatement orders, or in transmitting cases to the Office of the County Attorney for appropriate legal action. Investigators initiate charges for criminal prosecutions by the Office of the State's Attorney, and investigators also testify in court as expert witnesses. In addition, the Office engages in consumer advocacy by testifying before County, State, and Federal legislative bodies and by drafting new legislation to protect consumers.

The OCP develops and conducts consumer education programs. The Office issues press releases through the Office of Public Information, holds press conferences, and publishes consumer brochures; staff responds to requests for information regarding consumer protection rights and remedies. Staff makes presentations at schools; community, business and civic group meetings; and frequently appear on television and radio news programs. The Office maintains a webpage containing consumer protection information, a record of the number of complaints received against merchants, and consumer alerts. Outreach efforts include initiatives to better address the needs of vulnerable consumers, underserved communities, and residents with limited English proficiency. The office also works with the Advisory Committee on Consumer Protection.

The OCP is responsible for licensing or registering automobile repair and towing businesses; new homebuilders; radio, television and electrical appliance repair shops; and secondhand personal property dealers.

Program Performance Measures	Actual FY09	Actual FY10	Estimated FY11	Target FY12	Target FY13
Restitution received as a percent of restitution asked for by the consumer ¹	72%	73%	85%	85%	85%
Average Office of Consumer Protection (OCP) customer satisfaction rating - Manner in which the customer's case was handled (1-4 scale)	2.9	3.0	3.2	3.5	3.5
Average OCP customer satisfaction rating - Outcome of the customer's case (1-4 scale)	2.6	2.8	2.9	3.0	3.0
Average time in workdays to investigate and close a written complaint: (<\$100)	40	64	64	64	64
Average time in workdays to investigate and close a written complaint: (\$101 - \$1,000)	53	64	64	64	64
Average time in workdays to investigate and close a written complaint: (\$1,001 - \$5,000)	55	64	64	64	64
Average time in work days to investigate and close a written complaint (>\$5,000)	68	64	64	64	64
Average time in workdays to investigate and close a written complaint: (\$NA)	41	64	64	64	64



	Actual FY09	Actual FY10	Estimated FY11	Target FY12	Target FY13
Media Coverage - Percent of news releases receiving media coverage, including print news, television and radio	60%	65%	65%	65%	65%
Media Coverage - Number of times media outlets, including print news, television and radio, seek out OCP's expertise	10	20	24	24	24
Percent of OCP-initiated consumer protection cases closed that are resolved by OCP	73%	72%	72%	72%	72%

¹ All Actual FY2009 statistics are based on data from 1/1/09 to 6/30/09

<i>FY12 Recommended Changes</i>	Expenditures	WYs
FY11 Approved	1,825,770	12.8
Increase Cost: Restore Personnel Costs - Furloughs	30,360	0.5
Increase Cost: Restore lapse of Principal Administrative Aide position	11,430	0.3
Technical Adj: Additional personnel costs due to staff reclassification/promotions	9,400	0.0
Increase Cost: Annualization of FY11 Personnel Costs	3,270	0.0
Reduce: Cental Duplication	-1,000	0.0
Reduce: Other Miscellaneous Office Expenses	-2,500	0.0
Decrease Cost: Cellular phone line charges	-3,040	0.0
Reduce: Computer Equipment	-4,000	0.0
Decrease Cost: Professional services	-21,060	0.0
Reduce: Abolish Investigator III position	-128,420	-1.0
Miscellaneous adjustments, including restoration of employee furloughs, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	-14,270	0.0
FY12 CE Recommended	1,705,940	12.6

Commission on Common Ownership Communities

The OCP serves as staff to the Commission on Common Ownership Communities. This Commission serves as an alternative dispute resolution mechanism to mediate and arbitrate certain disputes between the governing bodies of homeowner associations, condominium associations, and cooperatives, and the individuals living within these common ownership communities. The Commission also provides education to governing bodies of common ownership communities and their residents and acts as an advocate for their interests.

<i>Program Performance Measures</i>	Actual FY09	Actual FY10	Estimated FY11	Target FY12	Target FY13
Percent of Commission on Common Ownership Communities (CCOC) cases resolved prior to a hearing			65%	65%	65%

<i>FY12 Recommended Changes</i>	Expenditures	WYs
FY11 Approved	253,430	1.9
Miscellaneous adjustments, including restoration of employee furloughs, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	-11,050	0.0
FY12 CE Recommended	242,380	1.9

BUDGET SUMMARY

	Actual FY10	Budget FY11	Estimated FY11	Recommended FY12	% Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	1,636,999	1,287,520	1,311,570	1,240,990	-3.6%
Employee Benefits	650,180	560,570	544,990	506,070	-9.7%
County General Fund Personnel Costs	2,287,179	1,848,090	1,856,560	1,747,060	-5.5%
Operating Expenses	89,290	231,110	133,270	201,260	-12.9%
Capital Outlay	0	0	0	0	—
County General Fund Expenditures	2,376,469	2,079,200	1,989,830	1,948,320	-6.3%
PERSONNEL					
Full-Time	19	16	16	15	-6.2%
Part-Time	0	0	0	0	—
Workyears	18.5	14.7	14.7	14.5	-1.4%
REVENUES					
Common Ownership Comm. Fees	0	0	0	405,500	—
Civil Citations	886	1,000	1,000	1,000	—
New Home Builder License	133,198	200,000	134,000	134,000	-33.0%
Consumer Affairs Business Licenses	54,647	69,200	55,000	55,000	-20.5%
County General Fund Revenues	188,731	270,200	190,000	595,500	120.4%

FY12 RECOMMENDED CHANGES

	Expenditures	WYs
COUNTY GENERAL FUND		
FY11 ORIGINAL APPROPRIATION	2,079,200	14.7
Changes (with service impacts)		
Reduce: Cental Duplication [Consumer Protection]	-1,000	0.0
Reduce: Other Miscellaneous Office Expenses [Consumer Protection]	-2,500	0.0
Reduce: Computer Equipment [Consumer Protection]	-4,000	0.0
Reduce: Abolish Investigator III position [Consumer Protection]	-128,420	-1.0
Other Adjustments (with no service impacts)		
Increase Cost: Restore Personnel Costs - Furloughs [Consumer Protection]	30,360	0.5
Increase Cost: Restore lapse of Principal Administrative Aide position [Consumer Protection]	11,430	0.3
Technical Adj: Additional personnel costs due to staff reclassification/promotions [Consumer Protection]	9,400	0.0
Increase Cost: Annualization of FY11 Personnel Costs [Consumer Protection]	3,270	0.0
Increase Cost: Printing and Mail Adjustment	1,690	0.0
Increase Cost: Retirement Adjustment	1,170	0.0
Increase Cost: Help Desk - Desk Side Support	60	0.0
Decrease Cost: Cellular phone line charges [Consumer Protection]	-3,040	0.0
Decrease Cost: Professional services [Consumer Protection]	-21,060	0.0
Decrease Cost: Group Insurance Adjustment	-28,240	0.0
FY12 RECOMMENDED:	1,948,320	14.5

PROGRAM SUMMARY

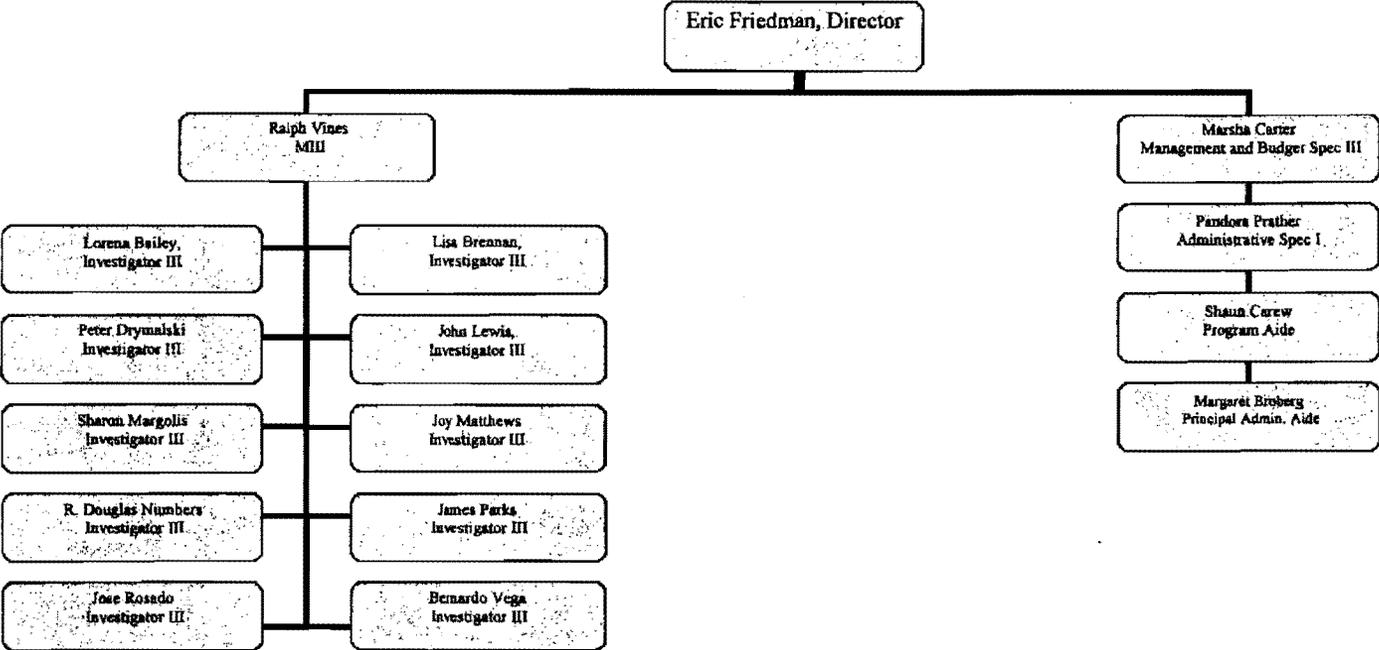
Program Name	FY11 Approved		FY12 Recommended	
	Expenditures	WYs	Expenditures	WYs
Consumer Protection	1,825,770	12.8	1,705,940	12.6
Commission on Common Ownership Communities	253,430	1.9	242,380	1.9
Total	2,079,200	14.7	1,948,320	14.5



FUTURE FISCAL IMPACTS

Title	CE REC.					
	FY12	FY13	FY14	(S000's)		
	FY15	FY16	FY17			
<i>This table is intended to present significant future fiscal impacts of the department's programs.</i>						
COUNTY GENERAL FUND						
Expenditures						
FY12 Recommended	1,948	1,948	1,948	1,948	1,948	1,948
No inflation or compensation change is included in outyear projections.						
Subtotal Expenditures	1,948	1,948	1,948	1,948	1,948	1,948

OFFICE OF CONSUMER PROTECTION



9

67

Helpful Agencies & Resources

Maryland Attorney General's Office,
Consumer Protection Division
www.oag.state.md.us/consumer
410-528-8662
1-888-743-0023

Maryland Department of Labor, Licensing, & Regulation
*Licenses professional and financial merchants including
home improvement contractors*
www.dlfr.state.md.us
410-230-6001
1-888-218-5925

Federal Trade Commission
www.ftc.gov
202-326-2222

Washington Consumers' CHECKBOOK Magazine
*Non-profit organization issues ratings on local businesses
and is available in public libraries.*
www.checkbook.org
1-800-213-7283

Consumer Reports
*Non-profit organization tests and reports on products
and services and is available in public libraries.*
www.consumerreports.org

Consumer World
Consumer news and information.
www.consumerworld.org

Maryland Consumer Rights Coalition
Non-profit grassroots consumer organization.
www.marylandconsumers.org
410-528-1591

Montgomery County—Landlord/Tenant Complaints
www.montgomerycountymd.gov/dhca
240-777-3609

Montgomery County—Cable TV Complaints
www.montgomerycountymd.gov/cable
240-773-2288

Better Business Bureau
www.dc.bbb.org
202-393-8000

Montgomery County
Office of Consumer Protection
100 Maryland Avenue
Suite #330
Rockville, MD 20850

Telephone:
240-777-3636

FAX:
240-777-3768

Web page:
[www.montgomerycountymd.gov/
consumer](http://www.montgomerycountymd.gov/consumer)

Email Address:
ConsumerProtection@
montgomerycountymd.gov

Anonymous Consumer Tip Line:
240-777-3681



Isiah Leggett
County Executive



Ensuring Integrity
in our Marketplace



Ensuring
Integrity
in our
Marketplace



The Office of Consumer Protection (OCP) is the Montgomery County agency responsible for enforcing consumer protection laws prohibiting unfair and deceptive business acts to ensure a fair marketplace for consumers and businesses. The office was established in 1971.

Complaints

OCP investigates and resolves thousands of consumer complaints regarding automotive sales and repairs, new home construction, home improvements, credit and financial issues, retail sales, internet services, and most other consumer transactions.

Law Enforcement

OCP issues civil citations and subpoenas, executes settlement agreements, conducts administrative hearings, and initiates legal action through the County Attorney. OCP works with agencies that prosecute criminal cases.

Education and Outreach

OCP provides pre-purchase information on its web page including the number of complaints filed against each merchant. OCP issues news releases, email alerts, and provides speakers to community organizations. Investigators are available for consultation by telephone, email, and in person.

Advocacy & Legislation

OCP testifies on consumer related bills and collaborates with other offices to enact new legislation in our rapidly changing marketplace.

Licensing

OCP licenses automotive repair facilities, towing companies, new home builders, appliance repair firms, and pawn shops & consignment shops.

OCP is also responsible for the following programs:

Commission on Common Ownership Communities

OCP serves as staff to the Commission on Common Ownership Communities which handles disputes between residents and their condominium or homeowner associations.

Energy and Environmental Advocacy

OCP works with other County agencies to advocate for the County's interests in obtaining the lowest possible utility rates consistent with environmental stewardship. OCP assists home sellers and buyers obtain information about utility usage and costs.

Domestic Workers

OCP administers a program requiring employers to negotiate and offer written contracts disclosing information about job conditions and benefits to certain workers employed in their homes. A model contract and resource information are available on OCP's web page.

Property Tax Disclosures

OCP administers several laws concerning the proper disclosure and advertising of estimated property taxes and charges to ensure that home purchasers do not receive misleading information. An online tax calculator is provided on OCP's web page.

New Home Sales Contracts

OCP enforces several laws related to the sale of new homes.

OCP receives assistance from the following groups:

Advisory Committee on Consumer Protection

Provides advice to OCP in carrying out its duties and functions. Members are appointed by the County Executive and confirmed by the County Council.

Builder's Board of Registration

Provides recommendations to OCP in reviewing license applications for new home builders. Members are appointed by the County Executive and confirmed by the County Council.

If You Have a Consumer Problem

First, explain your concerns directly to the merchant. If that does not work, contact OCP to file a complaint. A complaint form can be found on OCP's web page. Be sure to provide a copy of all related documentation when you file the complaint.

OCP Staff

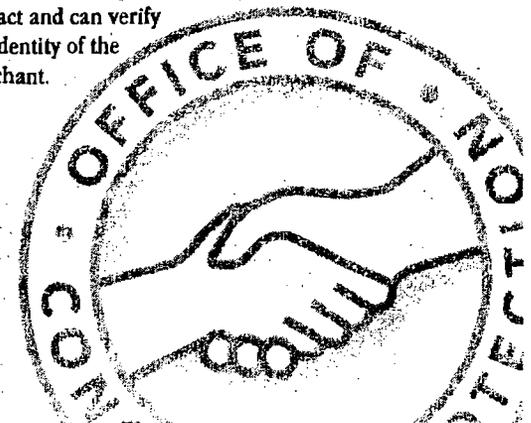
OCP's investigators have expertise in many areas. Our dedicated staff includes automotive experts, Spanish speakers, attorneys, and volunteers. We are here to be of service to you.

OCP in the News

OCP's outreach and consumer education efforts are enhanced by media coverage regarding our activities. Staff frequently appear on local television and radio news programs, and are frequently quoted in local newspapers and magazines. Our staff have been quoted in national news publications such as the *New York Times*, *The Wall Street Journal*, *Business Week*, and *US News & World Report*. Staff have also appeared on national television news programs such as *DateLine*, *Good Morning America*, *Prime Time Live*, *The Today Show*, and *48 Hours*. Links to media coverage are provided on our web page.

Consumer Tips

- Read all contracts and sales receipts carefully before you sign, and make sure to keep a copy. Do not sign blank documents.
- Never provide personal information over the telephone or computer unless you initiated the contact and can verify the identity of the merchant.





MONTGOMERY COUNTY, MARYLAND

News Release

For Immediate Release: 10/4/2010

Newly Formed Pepco Work Group to Study Causes of and Solutions for Utility's Frequent Outages and Their Duration; Leggett Announces Members of Work Group Headed by Retired Lockheed Martin CEO Norman Augustine

Responding to residents' increasing frustrations with Pepco's response and overall performance during several severe weather emergencies this year and to help assure reliable electricity for the County, Montgomery County Executive Ike Leggett today announced the names of residents selected to serve on the new Pepco Work Group. The group will identify and investigate causes for the frequent electricity outages and their duration.

Leggett said "It is incredibly important that we do not go through again what we experienced in February and July and August. While Pepco may be focused on these individual storms, we can't afford to stop there. We have to figure out why Pepco power outages occur regularly, on even the nicest of days, threatening life, inconveniencing families, and costing our businesses millions."

The group's work plan will consist of four parts:

- 1) Identify and investigate the causes for frequent outages and the duration of the outages in the Montgomery County portion of the Pepco service area;
- 2) Investigate and review Pepco's historic comparative position to other utilities regarding service stability and reliability;
- 3) Report the group's findings; and
- 4) Recommend improvements that will result in "best in class" utility service.

Among the issues to be addressed are:

- 1) Adequacy of Pepco's preventative maintenance and tree trimming programs;
- 2) Pepco's infrastructure and determining its contribution to the frequency of the outages;
- 3) Pepco's contracting and operational procedures and practices for bringing in mutual aid and other contractual resources to bear in emergency situations;
- 4) Adequacy of Pepco's communications systems for notifying and hearing from the public during major emergencies.
- 5) Adequacy of Pepco's staffing to respond to normal maintenance activities, as well as to major emergencies.

9

52

6) The contribution of non-field causes to unreliable service (e.g., a rate structure that does not incentivize preventative maintenance; the absence of possible rate credits and other reparations to customers for damages caused, the lack of threat of payment of fines to the Public Service Commission); and

7) Adequacy of coordinating activities with the County during major emergency conditions.

The group is expected to submit a final report, with recommendations, within the next three to six months.

Leggett said he was "enormously pleased at how many residents were willing to roll up their sleeves and offer their perspectives and time to help assure reliable electricity for our County."

The Pepco Work Group will be chaired by Norman R. Augustine, retired CEO of Lockheed Martin and Montgomery County resident, whose numerous leadership positions include having served as Under Secretary of the Army, Chairman and Principal Officer of the American Red Cross and President of the Boy Scouts of America. He also received the National Medal of Technology from the President of the United States and is a five-time recipient of the Distinguished Service Medal, the Department of Defense's highest civilian decoration. Augustine has been cited for his "ability to cut through complex issues quickly" and to be able to "bring diverse groups of people together to focus on getting results."

"I'm especially pleased that we have someone of Norman Augustine's caliber heading the group," Leggett said. "Given his results-oriented background and the credentials of the group as a whole, I know their final report will present some viable options for solutions to the issue at hand."

Members of the group are:

- Gerald Fitzpatrick, National Institute of Standards and Smart Grid expert who serves on the Federal Smart Grid Task Force.
- Michal Ilana Freedhoff, staff member on the House Energy and Commerce Commission;
- Keith Haller, communications expert;
- Scott Hempling, executive director of the National Regulatory Research Institute;
- Brian Lang, representing the development and property management industries;
- Carmen Larsen, co-chair, Latin American Advisory Group;
- Steve Richter, electric utility industry consultant;
- Debbie Robins of Century Distributors, Inc. representing large employers;
- Arthur Slesinger, representing County civic associations;
- Scott Ullery, Rockville City Manager representing County municipalities; and

10

53

- Jim Young of Marriott International representing the hospitality industry.

###

Release ID: 10-406

Media Contact: Patrick Lacefield 240-777-6507

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11

54

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Energy and Environmental Advocacy



Pictured above from left: County Executive Isiah Leggett, Congressman Chris Van Hollen, and Council Vice President Roger Berliner

In 2008, Council Vice President Roger Berliner was the lead sponsor of seven environmental bills that the County Executive and the County Council enacted which combined to form one of the nation's foremost global warming programs by a County government.

Montgomery County Executive Isiah Leggett also established a County Sustainability Working Group which developed a Climate Action Plan to reduce greenhouse gas emissions by 80 percent by 2050. The climate action plan includes 58 actionable recommendations covering seven areas: renewable energy; residential building energy efficiency; commercial, multi-family and public building energy efficiency; transportation; forestry and agriculture; long-term planning and education and outreach.

In addition to enforcing consumer protection laws prohibiting unfair and deceptive business acts and practices, OCP has two specific roles in the area of Energy and Environmental Advocacy:

1. Collaborate with other County Agencies to advocate for the County's interests in obtaining the lowest possible utility rates consistent with environmental stewardship. (Energy and Environmental Advocacy)
2. Assist home sellers and buyers to obtain information about home energy efficiency improvements and energy costs by administering a law which requires home sellers to disclose this information when they sell a single-family home. (Energy Performance Audits).

The information on these pages is designed to provide information regarding these two new mandates. Please see the "tabs" on the top menu bar.

12

55

[Click here](#) for a copy of our Energy and Environmental Advocacy Annual Report for Fiscal Year 2009.

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13

56

**Energy and Environmental Advocacy
Office of Consumer Protection
Annual Report
Fiscal Year 2009**

Legislation was enacted in FY09 which created a new role and duties for the Office of Consumer Protection (OCP) in the area of energy and environmental advocacy.

Council Vice-President Roger Berliner was the lead sponsor of several environmental bills including Bill #35-07, Consumer Protection – Energy and Environmental Advocacy, and Bill #31-07, Real Property – Energy Performance. These bills established the following additional mandates for OCP:

- Work with other County agencies to advocate for the County's interests in obtaining the lowest possible utility rates consistent with environmental stewardship.
- Assist home sellers and buyers to obtain information about utility usage and costs.

Start-Up

OCP's first challenges were to become familiar with the subject matter, coordinate our efforts with other agencies, and establish operating procedures. During this first year OCP staff:

- Attended meetings of Montgomery County's Sustainability Working Group.
- Identified and consulted with environmental and legal experts.
- Coordinated activities with Montgomery County's Department of Environmental Protection (DEP).
- Reached out to and met with the Executive Director and Deputy General Counsel of the Maryland Public Service Commission (PSC).
- Reached out to and met with staff at the Maryland Office of the People's Counsel (OPC).
- Reached out to and consulted with other environmental organizations including AARP, MaryPIRG, and the DC Office of the People's Counsel.

14

57

- Established procedures with Montgomery County's Office of the County Attorney to intervene and submit testimony to the Public Service Commission.
- Attended an on-site demonstration of "smart grid" technology in a residential home in Montgomery County.
- Participated in the EmPOWER Maryland General Awareness Campaign Working Group convened by the Public Service Commission.

Maryland Public Service Commission

Given OCP's limited resources, it was important to review the extensive docket maintained by the Public Service Commission (PSC) and to identify those cases in which OCP's actions in intervening and providing testimony would be the most effective and productive.

OCP attended PSC hearings and provided written or oral testimony regarding the following cases:

1. EmPOWER Maryland Energy Act of 2008 (EmPOWER Maryland)

Allegheny Power (Case # 9153)
Baltimore Gas and Electric Company (BGE) (Case # 9154)
Potomac Electric Power Company (PEPCO) (Case #9155)

Collectively, these cases are designed to establish energy and demand reduction goals in Maryland of 15% by 2015. The three electric companies that provide service in Montgomery County filed energy efficiency, conservation, and demand response programs with the PSC pursuant to these EmPOWER Maryland cases.

OCP commented on several issues in these cases in response to the proposals provided by each utility company. OCP's comments to the PSC included:

- Asserting OCP's interest in ensuring that the overall long term rate impacts of their proposed programs were of benefit to Montgomery County consumers.
- Requesting that the PSC pursue a fair and equitable distribution of costs and benefits of the programs.

- Recommending that there be opportunities for benefits to local governments and public buildings.
- Highlighting the County's Climate Protection goal.
- Seeking coordination between local jurisdictions in Maryland and with the Maryland Energy Administration (MEA) to ensure program success.

2. In the Matter of the Allocation of Money in the Maryland Strategic Energy Investment Fund Pursuant to Section 9-20B-05(G)(2) of the State Government Article, *Annotated Code of Maryland* (Case #9166)

This case concerns the PSC's allocation of money into the Maryland Strategic Energy Investment Fund (SEIF). This is a fund that was created from the proceeds of the auction of carbon allowances under the Regional Greenhouse Gas Initiative (RGGI). A percentage of the money in this fund is allocated to offset electricity rates of residential customers. OCP's comments to the PSC addressed consumer education efforts and included:

- Highlighting potential confusion regarding "credits" and "surcharges."
- Recommending how best to inform consumers of any changes on their bills.

3. Smart Grid/Advanced Metering Infrastructure (AMI) (Case #9207)

OCP provided written comments and attended a PSC administrative meeting regarding PEPCO's Smart Grid proposals. Promotion of Smart Grid technologies by utilities serving Montgomery County was one of the recommendations made in the Climate Protection Plan issued by the Sustainability Working Group. A "Smart Grid" is an advanced transmission and delivery system that uses digital technology to save energy and reduce costs. In our comments, OCP encouraged PEPCO to maximize the use of funds available under the American Recovery and Reinvestment Act. The Department of Energy (DOE) announced that the maximum individual awards available under the Smart Grid Investment Grant Program would be increased from \$20 million to \$200 million and that the maximum for Smart Grid Demonstration Projects would be increased from \$40 million to \$100 million.

Home Utility Usage and Costs

Bill # 31-07, Real Property – Energy Performance, requires that home sellers provide an energy cost and consumption history along with information on the benefits of home energy and energy-efficient improvements. OCP worked closely with the Department of Environmental Protection (DEP) and the Greater Capital Area Association of Realtors (GCAAR) to create disclosure information for sellers and buyers of residential homes. The substantive language for an Executive Regulation was agreed upon to ensure that residential sellers and their agents know how to comply with this new law.

OCP participated in a meeting organized by Council Vice President Roger Berliner with several utility providers in Montgomery County to ensure that the statutorily required utility usage and cost information is easily available. OCP has compiled information for a Frequently Asked Questions (FAQ's) section on its webpage, and is in the final stages of adding additional resource information and links for sellers and buyers.

Summary

During this first full fiscal year, OCP has made significant progress in collaborating with the various stakeholders in this arena. OCP has taken steps to ensure that it has "a seat at the table" and is an active participant in the field of energy and environmental advocacy. OCP revised its office brochure to reflect this and other new duties assigned to the office.

The County legislation which created these new programs for OCP to administer recognized the highly specialized and technical nature of the work, and specifically authorized OCP to employ consultants and technical advisors. During the initial year of operation, OCP was able to identify and benefit from the advice and assistance of those with expertise in the area of energy and environmental issues. Continued success of this program will be directly dependent upon sufficient funding for expert assistance.

Montgomery County Office of Consumer Protection
100 Maryland Avenue; Suite #330
Rockville, MD 20850
(240) 777-3636
www.montgomerycountymd.gov/consumer



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17

60

The Washington Post

Consumers in Montgomery County have team of determined volunteers on their side

By Michael Laris
Washington Post Staff Writer
Saturday, February 5, 2011; 10:04 PM

When Stella Gonsalves realized her husband, Alen, paid \$1,400 for a new thermostat, she had a simple question: "Why did you do that?"

Alen had an answer, however embarrassing.

He thought the touch-screen programmable model must be something special. With their energy bills rising last winter - and without stopping to Google the real price of \$120 - he trusted the technician who showed up at their home north of Silver Spring.

Calls of protest to the installer went nowhere. Last February, Stella Gonsalves filed a complaint with Montgomery County's Office of Consumer Protection, seeking \$1,000 back. Months passed with no resolution, and she gave up. Then, while she was traveling in India in July, she heard from David Lesser.

Lesser had been general counsel for Riggs Bank and for the Ryland Group, a major home builder. But that summer the Bethesda lawyer had begun fighting rip-offs for fun - and for free - as part of a squad of consumer protection volunteers working for a Montgomery government squeezed by bad budget times. "He was really working hard on it," Gonsalves said. "It was as if it was his

money."

Joining Lesser are a retired Secret Service administrator, an Argentine intellectual-property-rights lawyer, a onetime deputy attorney general in New Jersey and a former federal librarian, all working pro bono to buttress a consumer protection staff that has shrunk by a third in recent years and now totals 16 people. Working with investigators, more than a dozen volunteers sort through case details, take calls from the duped, nudge merchants, and, in Lesser's case, negotiate intricate settlement agreements and track down wily window repairmen.

"He has that fire in the belly. You can't find that always," said Eric Friedman, the office's director, who for decades has sustained a quiet outrage at the procession of petty and profound scams, frauds and financial

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18

621

The Washington Post

Consumers in Montgomery County have team of determined volunteers on their side

trickery that pervade the American marketplace.

Friedman joined the Montgomery office in 1980 after volunteering with consumer protection investigators in New York City. Even before the latest budget squeeze, he allowed his unpaid help to take on important jobs. That openness, combined with the bureaucratic savvy and legal chops of the local workforce, has offered a remarkable opportunity for ordinary citizens to try their hands at crusading government work.

Janet Bacot stepped out of her life as a law partner more than a decade ago to raise her three girls. Now her youngest is 10, and Bacot shows up for her job in the county council office building two mornings a week. She and another volunteer did investigative legwork for a rare lawsuit filed by Montgomery last month.

The county alleges that All State Plumbing, Heating & Cooling Inc. and its principal, Wayne E. Garrity Sr., engaged in "wrongful, fraudulent, deceptive, and unconscionable practices." According to the suit, All State routinely charged homeowners \$100 to \$150 for a permit to install a water heater - then didn't bother getting the permits (which cost about \$60.) Without a permit, heaters aren't inspected, raising safety concerns, officials said.

Garrity would not address the accusation of fraud, saying he has yet to see the suit. "Permits were pulled, and everything's been inspected," Garrity said. "To the best of my knowledge, like I said, everything's been done."

Not so, said Friedman: All State has done many more installations in Montgomery than Garrity has acknowledged, and many still have not been inspected. "He only took action after being caught," Friedman said. Drawing on Montgomery's findings, the Washington Suburban Sanitary Commission issued All State more than \$20,000 in citations for failing to obtain permits and inspections, according to the WSSC. Similar issues have also been found in Prince George's County, a WSSC spokesman said.

To help investigators build the case in Montgomery, Bacot and another volunteer

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19

62

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Consumers in Montgomery County have team of determined volunteers on their side

tracked down homeowners and persuaded them to hunt for long-forgotten water heater receipts. It was familiar work, reminiscent of her previous life, when Bacot investigated work accidents and the misuse of pesticides.

"I was shocked by the plumbing case," Bacot said. "He was essentially inflating the cost of doing business by a hundred and fifty bucks. It was like a tax."

Bacot is happy to be back, even if it's taken time adjusting to years of workplace evolution. She had volunteered at her daughters' schools, but this feels different.

"I love it. . . . I feel like I'm growing. I feel like I'm truly engaged when I'm there," Bacot said. "In my house, it's my job. It's work. I feel like I should put that in quotes. But it's work. I never said that when I volunteered at school. It was never 'mommy's job.' It was 'helping.' "

David Lesser was hooked by the \$1,400 thermostat.

It was his first real case, but he has since seen the pattern repeat itself. Even the most sophisticated people can fall for bad deals.

Lesser's background in corporate acquisitions - and his marriage to a professional mediator - have helped him "figure out what the crucial issues are and get to the nub of where everybody's pressure points are," he said.

He'll sit on both sides in a room until they write up an agreement. Often, merchants are happy to hear from a reasonable voice. Not all consumers are totally reasonable.

Relentlessness also doesn't hurt. One elderly Chevy Chase couple prepaid a glass repairman \$365 to replace a storm window last April. But he still hasn't shown up. Lesser reached the repairman on his cell, but he has since stopped answering. Now Lesser leaves messages. "I'm just calling to let you know that I'm still after you," he says.

"That's under his craw, I know it is," said John Lewis, a county investigator who works closely with Lesser, even when the volunteer is living in Florida for part of the year. Lesser churns through his county work from there.

The thermostat case was clear-cut, Lesser said. He found the same model online for

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20

63

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about \$120. The technician also changed a filter and suggested replacing a nearby pipe, though her husband declined to have that done, according to Stella Gonsalves. The work took maybe an hour, she said.

Even assuming an astronomical profit margin, the \$1,400 bill from S.L. Johnson Plumbing and Heating "was just totally over the top," Lesser said.

Lesser took his concerns to company head Samuel Johnson. County officials had also learned another important detail. The firm has an ongoing contract with Montgomery's housing agency, the Housing Opportunities Commission, which some officials thought offered additional motivation to resolve the case. The company has done \$163,000 in business with the commission since December 2009, officials said.

Johnson agreed to give the Gonsalves's \$1,000 back.

But the check bounced, Lesser said. He kept pressing Johnson, and the payment finally went through, complete with the banking fee Gonsalves had incurred.

"We're here to please our customers. Whether the customer's right, the customer's right," Johnson said. "If we return money in a certain situation, it doesn't always mean we agree with what the customer's saying. We

wanted to resolve the matter. This type of thing happens in business all the time."

A spokeswoman for the housing commission said contracting officials have had the usual give and take with Johnson over occasional invoices, but "they do not stand out compared to other contractors."

Lesser said his cases are often "nothing huge and nothing earth-shattering." But they're satisfying. As a corporate lawyer, "you're not exactly representing the little guy. This is much more about representing the little guy."

Staff researcher Magda Jean-Louis contributed to this report.

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21

64