

**MEMORANDUM**

May 24, 2011

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: **Action:** Expedited Bill 5-11, Office of Human Rights - Human Rights Commission - Reorganization



**Government Operations and Fiscal Policy Committee/Health and Human Services recommendation:** disapprove the Bill.

Expedited Bill 5-11, Office of Human Rights - Human Rights Commission - Reorganization, sponsored by the Council President at the request of the County Executive, was introduced on March 8, 2011. A public hearing was held on March 29. Joint Government Operations and Fiscal Policy and Health and Human Services Committee worksessions were held on April 27 and May 5.

Expedited Bill 5-11 would reduce the jurisdiction of the Human Rights Commission and provide for the disposition of certain cases currently pending before the Office of Human Rights and the Human Rights Commission.

**Background**

In its report to the Council dated January 31, 2011, the Organizational Reform Commission (ORC), in **Recommendation #4**, recommended the County reorganize the Human Rights Commission and eliminate the Office of Human Rights.

The full text of the recommendation is below.

- a) **Human Rights Commission (HRC) – Current Budget - \$1,738,400** – The work of the HRC in striving to eliminate discrimination, prejudice, intolerance and bigotry serves a vital function. A broad cross-section of federal, state and County laws protect human rights, and County citizens have access to federal and state channels to specifically address those rights covered under federal and state laws. Recent analysis indicates only a few complaints of human rights violations have been filed regarding rights protected only at the County level.
- ***The ORC recommends that the Council and Executive move the adjudicatory role of the Human Rights Commission to the state and federal governments, with the creation of a Human Rights Ombudsman in the office of the County Attorney to guide citizens to the appropriate authority and provide advice on options available for relief.***

## **Executive's Response**

In a memorandum to the Council President dated February 21, 2011, the Executive responded to each of the 28 recommendations in the ORC report (©8-9). The Executive supported this recommendation with conditions as follows:

### **4. Reorganize the Human Rights Commission and eliminate the office.**

County Executive's Position: Support with Conditions

I support the ORC recommendations regarding the reorganization of the Human Rights Commission. My FY12 Recommended Operating Budget will address this reorganization, but in order to retain the unique and vital work that this Commission provides, it will be necessary to retain some staffing for the Commission. This recommendation requires implementing legislation which I will forward to the Council.

On March 1, 2011, the Executive forwarded a Bill to the Council, for its consideration, reorganizing the Human Rights Commission. See ©10-11. The Bill submitted by the Executive differs from the ORC recommendation because it does not eliminate the Office of Human Rights. The Bill would reduce the caseload for the Office by requiring the Office to investigate, conciliate, and adjudicate before the Commission a case alleging only discriminatory acts that do not violate State or Federal law. If a complainant alleges a discriminatory act that also violates State or Federal law, the Office would advise the complainant of the right to file the complaint with the Maryland Commission on Human Relations, the Federal Equal Employment Opportunity Commission, or the appropriate Maryland Circuit Court.

Discriminatory acts that violate County law only include discrimination on the basis of presence of children, family responsibilities, source of income, ancestry, and gender identity. In addition, State and Federal employment discrimination laws cover employers with 15 or more employees. The County Human Rights Law covers all employers in the County without regard to number of employees. A chart showing the various groups protected under Federal, State, and County anti-discrimination laws is at ©15.

The ORC recommendation would transfer the investigation and adjudication of all cases to the Maryland Commission on Human Relations, the Federal Equal Employment Opportunity Commission, or the appropriate Maryland Circuit Court and eliminate the Office of Human Rights. Under the ORC recommendation, the Commission on Human Rights would remain as an advisory body with limited staff support.

## **Public Hearing**

There were 18 speakers at the public hearing on March 29, 2011. Assistant CAO Fariba Kassiri testified in support of the Bill on behalf of the Executive (©16-17). The 17 other speakers opposed the Bill, including representatives of the Commission on Human Rights (©18), the Montgomery County Committee on Hate/Violence (©19-21), NAACP (©22-23), Alpha Phi Alpha Fraternity (©24-26), National Association of Human Rights Workers (©27), Montgomery County Muslim Council (©28-29), and the Maryland Commission on Human Relations (©30-

31). Odessa Shannon (©32-33), Ruby Rubens (©34-35), Former Delegate Saqib Ali (©36), Gwen D'Souza (©37-38), Terry Vann (©39), Richard Allen (©40-41), Henry Montes (©42-44), and Alan Banov (©45-47) testified as individuals and submitted written testimony.

Many of the speakers argued that the extra caseload on the Maryland Commission on Human Relations (MCHR) and the EEOC would further increase the time these agencies take to handle discrimination complaints. Surprisingly, the Chair of the MCHR asked the Council to reject the Bill because the State of Maryland could not afford to provide sufficient staffing for his agency to handle additional cases from Montgomery County residents. Another common theme was the difficulty some residents might have traveling to Baltimore to file a claim with the MCHR or the EEOC. Many of the speakers argued that the Bill would be a step back from the County's long history of promoting civil rights. None of the speakers suggested areas in the Executive's FY12 Recommended Budget that could be reduced to make up for the loss of the projected \$1.27 million savings from the Bill.

### **Worksessions**

The joint Government Operations and Fiscal Policy and Health and Human Services Committee reviewed this Bill at worksessions on April 27 and May 5. The joint Committee recommended (5-0) to disapprove the Bill and keep the HRC jurisdiction to enforce discrimination claims alleging a violation of State or Federal law in addition to the County Human Rights Law. The joint Committee also recommended keeping the HRC as a separate office with a separate appropriation, but approved the Executive's plan to reduce staffing.

### **Issues**

#### **1. What is the fiscal and economic impact of the Bill?**

The OMB Fiscal Impact Statement projects \$1.27 million savings in FY12 from the Bill. Projected savings in FY13 and beyond would increase to \$1.4 million. See ©12-14. All of the savings would come from eliminating all positions in the Office of Human Rights except the Director, 4 investigators, and a Manager III in FY12. The Office currently has 17 positions. As the current caseload is eliminated, the Manager III and 2 of the investigators would be eliminated during FY12 or FY13. The reduction in staff is directly attributed to reducing the agency's enforcement jurisdiction and eliminating responsibility for testing of housing providers.

**The Joint Committee recommended (5-0) to keep the HRC as a separate office with a separate appropriation, but approved the Executive's alternative plan to reduce staffing. The Joint Committee placed \$362,640 on the reconciliation list to pay for additional enforcement staff to handle cases alleging violations of State and Federal laws.**

## **2. Would the Bill leave Montgomery County residents without a reasonable remedy for a discrimination claim?**

As of March 15, 2011, HRC reported a pending caseload of 428 cases.<sup>1</sup> See ©48. HRC reported that 173 of these cases are within the exclusive jurisdiction of HRC and would continue to be enforced by HRC under the Bill. The remaining 60% of pending cases are subject to the jurisdiction of State and Federal agencies. Employment discrimination cases make up 78% of the current caseload. HRC reports that they receive, on average, 200 new cases each year. HRC was unable to report the average number of cases closed each year.

HRC investigates cases, offers mediation services, and provides an adjudicatory hearing<sup>2</sup> for cases where it finds probable cause after investigation. HRC was unable to provide actual statistics for the percentage of cases where they found no probable cause. However, HRC estimated that approximately 5% of the complaints investigated result in a finding of probable cause based upon the statistics published by the EEOC. See answer 7 of the OCE follow-up questions at ©52. Hearings may be conducted by one of the hearing examiners in the Council's Office of Zoning and Administrative Hearings or by a Case Review Board made up of 3 Human Rights Commissioners. The Commission can award damages and attorney's fees to a prevailing party. The final administrative decision is subject to judicial review on the record in the Circuit Court.

Many of the witnesses at the public hearing pointed out that the MCHR and EEOC offices are in Baltimore. Although a trip to Baltimore is ultimately necessary to file with MCHR, a complaint can be started online. A complaint filed with the MCHR must be investigated by the Executive Director. If the Executive Director finds probable cause to believe the law was violated and conciliation is unsuccessful, the parties can elect to have an administrative hearing before a hearing examiner to determine liability and, if necessary, award damages and attorney's fees. Either party can elect to have the case tried in the Circuit Court instead of an administrative hearing. The MCHR General Counsel will prosecute the case before either the agency or the circuit court on behalf of the complainant. A complaint filed with the EEOC is investigated by the agency. The EEOC will make a finding of probable cause or no probable cause. The EEOC offers mediation. Although the EEOC can file suit on behalf of a complainant, this is unusual. Regardless of the result of the EEOC investigation, the agency will issue the complainant a right to sue letter authorizing a suit in State or Federal Court.

Md. State Gov't Article §20-1202 authorizes a person subjected to a discriminatory act prohibited by the Montgomery County Human Rights Law to file an original action in the Montgomery County Circuit Court in Rockville. The plaintiff is entitled to a jury trial and the Circuit Court can award damages and attorney's fees. A complainant may file suit in the Circuit Court no sooner than 45 days after filing a complaint with HRC and no later than 2 years after the alleged discriminatory act took place. A complainant may file suit within this timeline even if the HRC is in the process of investigating the claim. A Circuit Court suit will stop the HRC investigation.

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<sup>1</sup> HRC includes cases where the agency's decision is on appeal in the Courts as "pending" cases even though the agency has completed its work. See answer 6 to OCE follow-up questions at ©52.

<sup>2</sup> HRC was unable to provide statistics on how many cases went to hearing over the last 5 years, but estimated that approximately 12 cases are heard each year. See answer 8 to OCE follow-up questions at ©52.

A prevailing plaintiff under any of these options is entitled to attorney's fees and costs. A plaintiff is automatically entitled to attorney's fees and costs if he or she prevails in court or obtains a settlement from the defendant. The Court will award attorney's fees based upon an hourly rate and the time worked by the attorney. If the parties are unable to settle on the appropriate amount of attorney's fees, the court will make the final decision after a hearing. A plaintiff is entitled to additional attorney's fees for the attorney's time spent litigating over the amount of attorney's fees. Attorney's fees can often be more than the judgment or settlement obtained by the plaintiff. Costs include filing fees and deposition costs. The statutory right to attorney's fees makes it possible for a plaintiff with a good case to obtain an attorney to investigate and prosecute the case without paying for all of the attorney's time on an hourly basis as the case progresses. Attorneys who specialize in handling plaintiff discrimination cases judge the potential merits of a case before accepting the work because the likelihood of getting paid is significantly diminished if the case has no merit. Although there are always exceptions in practice, a plaintiff with a meritorious case can find a competent attorney. In fact, the most likely reason for a plaintiff having difficulty finding an attorney under this system is a lack of merit in the case.

Filing a case in State or Federal Court has two advantages for a plaintiff over an administrative hearing before the HRC. First, the plaintiff is entitled to extensive discovery in court through interrogatories, requests for production of documents, and depositions. This discovery significantly enhances the ability to obtain sufficient evidence at trial. Second, the case can be tried before a jury. Prior to the Civil Rights Act of 1991, Title VII cases in Federal Court were tried before a judge. Since Congress authorized jury trials and compensatory damages in discrimination cases, the number of cases filed and the verdicts awarded has exploded.

The Bill would limit HRC enforcement jurisdiction to cases alleging discrimination in violation of County law that is not covered by State or Federal law. HRC provides a significant public service through its enforcement of State and Federal law. However, a complainant would continue to have several reasonable alternative remedies for these cases if the Bill is enacted.

### **3. Should the Council enact the Bill?**

The HRC investigation, mediation, and adjudicatory functions are valuable services to County residents. However, the continuation of this service must be balanced against the County's need to provide other important services that are not duplicated by the State or Federal Government.

The Organizational Reform Commission recommended eliminating the Office of Human Rights and directing all discrimination complaints to the MCHR, the EEOC, or to the Circuit Court. Complaints alleging a violation unique to County law would have to be filed in the Circuit Court. The Bill makes a reasonable compromise by retaining HRC jurisdiction over cases alleging a violation unique to County law and eliminating jurisdiction over claims that also violate State or Federal law. OMB estimates that this Bill would save \$1.27 million each year. This would be a structural change that can help reduce the County's structural budget deficit. Although HRC does not have accurate statistics on the number of cases where the Director found probable cause each year, HRC estimated that they found probable cause in 5% of the 200 complaints received each year, or 10. Based upon HRC's estimate that 60% of its pending cases

allege State or Federal claims, the Bill would force approximately 6 of these 10 complainants to use an alternative State or Federal remedy each year.

The testimony in opposition to the Bill at the public hearing was impressive. Many community and civil rights leaders made strong arguments for retaining HRC jurisdiction over complaints alleging discrimination in violation of State or Federal law. However, none of the speakers pointed to another area of the Executive’s Recommended FY12 Budget that should be reduced to make up for the \$1.27 million savings lost by not enacting the Bill. The testimony from the Chair of the MCHR opposing the Bill because the State of Maryland could not afford to handle additional discrimination complaints from Montgomery County was especially frustrating. **Joint Committee recommendation (5-0): providing enforcement of claims alleging a violation of State or Federal laws is important enough to provide funding. The joint Committee recommended disapproval of the Bill. The Committee did recommend eliminating staffing for non-enforcement functions and thereby realized most of the savings that the Bill would create.**

**4. Should the Office of Human Rights be combined into the Office of Community Engagement?**

The Executive proposed creating a single appropriation in the budget for the Office of Human Rights, the Office of the Commission for Women, the Office of Community Partnerships, and the Regional Service Centers. **Joint Committee recommendation (5-0): do not place the HRC into the single appropriation for the Community Engagement Cluster because their function is unique.**

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Expedited Bill No. 5-11  
Concerning: Office of Human Rights -  
Human Rights Commission -  
Reorganization  
Revised: March 7, 2011 Draft No. 3  
Introduced: March 8, 2011  
Expires: September 8, 2012  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: \_\_\_\_\_  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the Request of the County Executive

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**AN EXPEDITED ACT** to:

- (1) revise the jurisdiction of the Human Rights Commission;
- (2) provide for the disposition of certain cases currently pending before the Office of Human Rights and the Human Rights Commission; and
- (3) generally amend County law related to the Human Rights Commission and the County's Human Rights law.

By amending

Montgomery County Code  
Chapter 27, Human Rights and Civil Liberties  
Sections 27-2, 27-4, 27-5, 27-7, and 27-26A

By adding

Montgomery County Code  
Chapter 27, Human Rights and Civil Liberties  
Section 27-4A

<b>Boldface</b>	Heading or a defined term.
<u>Underlining</u>	Added to existing law by original bill.
[Single boldface brackets]	Deleted from existing law by original bill.
<u>Double underlining</u>	Added by amendment.
[[Double boldface brackets]]	Deleted from existing law or the bill by amendment.
* * *	Existing law unaffected by bill.

*The County Council for Montgomery County, Maryland, approves the following act:*



28 resolve, or conciliate the complaint if the complaint alleges a  
29 violation of this article that is subject to the jurisdiction of the  
30 Commission under Section 27-4A(b).

31 \* \* \*

32 **27-4A. Commission jurisdiction.**

33 The Commission must handle any complaint for violation of the County’s  
34 human rights laws under this Chapter as follows:

35 (a) For a complaint that alleges a discriminatory act that is also prohibited  
36 under State or Federal law, the Commission must:

37 (1) advise the complainant of the right to file, after 45 days, a legal  
38 action in the appropriate State court under Section 20-1202 of  
39 the State Government Article of the Maryland Code;

40 (2) advise the complainant of the right to file the complaint with  
41 the applicable State or Federal agency;

42 (3) notify the complainant that the Commission will take no further  
43 action with respect to the resolution of the complaint; and

44 (4) provide the complainant with any other appropriate information  
45 concerning a potential resolution of the complaint.

46 (b) For a complaint that only alleges discriminatory acts that are not  
47 prohibited by State or Federal law, the Commission must:

48 (1) advise the complainant of the right to file, after 45 days, a legal  
49 action in the appropriate State court under Section 20-1202 of  
50 the State Government Article of the Maryland Code; and

51 (2) process the complaint to resolution under this article.

52 **27-5. Duties generally.**

53 (a) The Commission must:

54 \* \* \*

55 (9) Subject to Section 27-4A, [Initiate] handle, initiate, and receive  
 56 complaints of discrimination, prejudice, intolerance, and  
 57 bigotry from any person or group because of race, color, sex,  
 58 age, marital status, religious creed, ancestry, national origin,  
 59 disability, sexual orientation, gender identity, genetic status,  
 60 presence of children, family responsibilities or source of  
 61 income, that deprives that person or group of equal rights,  
 62 protection, or opportunity in employment, real estate, and  
 63 public accommodation. The Commission must:

64 \* \* \*

65 **27-7. Administration and enforcement.**

66 (a) *Filing complaints.* Any person subjected to a discriminatory act or  
 67 practice in violation of this Article or any group or person seeking to  
 68 enforce this Article may file with the Director a written complaint,  
 69 sworn to or affirmed under the penalties of perjury, that must state:

- 70 (1) the particulars of the alleged violation;
- 71 (2) the name and address of the person alleged to have committed  
 72 the violation; and
- 73 (3) any other information required by law or regulation.

74 A complaint must allege facts under oath to state a violation of this  
 75 Article.

76 \* \* \*

77 **27-26A. Coordination of fair housing activities.**

78 The [director] County Executive must assign a person or department to  
 79 coordinate the activities of all County departments, offices, and agencies to prevent  
 80 discrimination in housing and test compliance with housing discrimination laws.

81 The [director] assigned person or department must designate a staff member at an

82 appropriate managerial level as the County’s fair housing coordinator. After  
83 consulting appropriate County officials and private citizens, the [Commission]  
84 assigned person or department must:

85 \* \* \*

86 **Sec. 2. Transition**

87 This Act does not invalidate any action taken by the Office of Human Rights  
88 before this Act takes effect. This Act takes precedence over any provision in  
89 existing regulations that is in conflict with this Act.

90 Any case pending before the Commission at the time this Act takes effect  
91 must be adjudicated by the Commission under the provisions of Chapter 27 in  
92 effect on June 30, 2011.

93 Any case pending before the Office of Human Rights for investigation and  
94 conciliation at the time this Act takes effect must be handled as follows:

95 (a) For a case that alleges a discriminatory act that is also prohibited by  
96 State or Federal law:

97 (1) if the applicable statute of limitations for filing a lawsuit will  
98 not have expired as of January 1, 2012, the Director must  
99 advise the complainant to transfer the matter to the appropriate  
100 State or Federal agency or to file a legal action in a court of  
101 competent jurisdiction;

102 (2) if the applicable statute of limitations for filing a lawsuit will  
103 expire before January 1, 2012, the Director must complete the  
104 processing of the complaint in accordance with the provisions  
105 of Chapter 27 in effect before the amendments made by this Act  
106 and the Commission must adjudicate the complaint.

107 (b) Except for a case provided for under subsection (a), a case that the  
108 Commission retains jurisdiction over under Section 27-4A(b) must be

109 processed under the provisions of this Act.

110 **Sec. 3. Expedited Effective Date.**

111 The Council declares that this legislation is necessary for the immediate  
112 protection of the public interest. This Act takes effect on July 1, 2011.

113 *Approved:*

114

115

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116 Valerie Ervin, President, County Council Date

117 *Approved:*

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120 Isiah Leggett, County Executive Date

121 *This is a correct copy of Council action.*

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123

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124 Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Expedited Bill 5-11

Office of Human Rights – Human Rights Commission - Reorganization

- DESCRIPTION:** The Bill would amend the Human Rights Law to modify the jurisdiction of the Human Rights Commission. The Commission would retain the authority to hear and decide matters involving areas of discrimination that are not within the jurisdiction of State and Federal agencies. The Office of Human Rights would continue to investigate and conciliate complaints over which the Commission would retain jurisdiction. The Commission would handle all complaints so that a person would retain the right to file a legal action in state court under state law. The Commission would refer those complaints over which the Commission would not retain jurisdiction to federal or State agencies or advise that suit be filed.
- PROBLEM:** The County Human Rights law covers a number of areas that are duplicative of State and Federal authority. Performing these duplicate functions leads to a significant expense on the part of the County. The current budget shortfall requires significant reductions, and eliminating this duplication of effort will aid in that effort.
- GOALS AND OBJECTIVES:** Modify the authority of the Human Rights Commission to preserve the Commission's jurisdiction over matters that are unique to County law, while reducing the overall budget for the operation of the Commission.
- COORDINATION:** Human Rights Commission and Office of the County Attorney.
- FISCAL IMPACT:** To be requested.
- ECONOMIC IMPACT:** To be requested.
- EVALUATION:** To be requested.
- EXPERIENCE ELSEWHERE:** Not applicable.
- SOURCE OF INFORMATION:** Fariba Kassiri, Assistant Chief Administrative Officer  
Erin J. Ashbarry, Office of the County Attorney
- APPLICATION WITHIN MUNICIPALITIES:** Not applicable.
- PENALTIES:** Not Applicable.



OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

## MEMORANDUM

February 21, 2011

TO: Valerie Ervin, President, County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Organizational Reform Commission Recommendations

This memorandum provides the County Council with my recommendations regarding the final report of the Organizational Reform Commission (ORC) which was released on January 31, 2011. I am deeply grateful to all of the ORC members, who were very generous in volunteering their time and expertise and spent hundreds of hours in developing the report. As the attached materials indicate, I am supportive of most of the ORC recommendations and urge the Council to approve the recommendations as outlined in my attached response.

The Commission has acknowledged that implementing its recommendations will be difficult, time consuming and complex. However, this is not a sufficient justification for failing to undertake the implementation effort. In addition, the controversy and opposition that some of these recommendations have engendered are also not alone a basis for rejecting the recommendations. Challenging the status quo will always provoke opposition from entrenched interests and those not willing to undertake necessary changes. At a time when we have requested that our residents shoulder increases in taxes (i.e. the energy, telephone and property taxes) and we have reduced several important public safety and safety net services, and reduced funding for education, we owe it to the taxpayers of this County to undertake the arduous task of further restructuring our government in order to achieve every possible efficiency and savings. Furthermore, my Fiscal Year 2012 Recommended Operating Budget is very likely to include additional reductions to many vital programs and services. To ignore possible long-term savings at this critical time would be a disservice to our taxpayers.

I realize that a majority of the County Council has already indicated that at this time they do not support State legislation that would enable the Council to merge Park Police and County Police if it later chose to do so. This legislation is a necessary first step in implementing one of the most prominent recommendations of the ORC -- i.e.,

Valerie Ervin, President, County Council  
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a merger of the Maryland-National Capital Park and Planning Commission (M-NCPPC) Park Police with the County Police Department.<sup>1</sup> The Council's recent action was not taken in the context of the broader ORC report, this recommendation and the upcoming March 15<sup>th</sup> budget recommendations. Unfortunately, the Council will have to make extremely difficult decisions in the FY12 budget deliberations, including reductions to services and programs, cuts in staffing levels, and possibly significant changes to pay and benefits for County employees. As I stated at the time that the Council discussed the proposed State legislation, I do not believe it was prudent for the Council to reject that potential merger, and the savings and efficiencies that would arise from that merger, before it fully evaluates all of the implications of that decision in the context of all of the issues that relate to the FY12 operating budget.

I respectfully urge you to comprehensively evaluate the ORC recommendations along with my recommendations and the implications for the FY 12 budget and beyond. My staff and I stand ready to work with you to ensure that the efficiency and effectiveness of County Government is maximized.

#### Attachments

#### copies:

Organizational Reform Commission Members  
Stephen B. Farber, County Council Staff Director  
Christopher S. Barclay, President, Board of Education  
Dr. Jerry D. Weast, Superintendent, Montgomery County Public School  
Jerry Robinson, Acting Executive Director, Housing Opportunities Commission  
Francoise Carrier, Chair, Montgomery County Planning Board  
DeRionne P. Pollard, Ph.D., President, Montgomery College  
Jerry N. Johnson, General Manager/CEO, Washington Suburban Sanitary Commission  
Executive Branch Department and Office Directors  
Fariba Kassiri, Assistant Chief Administrative Officer  
Jennifer Hughes, Special Assistant to the County Executive

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<sup>1</sup> MC/PG 112-11 - Maryland-National Capital Park and Planning Commission-County Police Authority, Metropolitan District Tax, and Transfer of Property



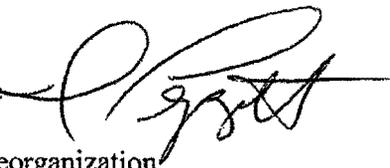
OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

MEMORANDUM

March 1, 2011

Isiah Leggett  
County Executive

TO: Valerie Ervin, President  
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Human Rights Commission - Reorganization

I am forwarding to the Council, for its consideration, legislation that re-orientes the focus of the County's Human Rights law by eliminating the duplication of effort that currently exists between the enforcement functions of the County's Office of Human Rights and the Commission on Human Rights and comparable enforcement functions of Maryland and federal human rights agencies. I have reached the difficult decision to recommend this legislation only because of the urgent need to reduce County expenditures to help close the projected \$300 million gap for the FY12 budget.

The Montgomery County Organizational Reform Commission (ORC) recommended that the adjudicatory role of the Human Rights Commission be moved to the state and federal governments. I have concluded that the ORC recommendation goes too far, and have recommended legislation that I believe strikes an appropriate balance in preserving the rights of County residents under the County's Human Rights law with the need to reduce County expenditures.

The attached legislation changes the authority of the Human Rights Commission to adjudicate only those cases that allege a violation of the County's Human Rights law that are unique to Montgomery County. The Office of Human Rights will investigate and attempt to conciliate those cases that assert an act of discrimination that is unique to Montgomery County under the County's Human Rights law. Since the number of cases that will be handled by the Office of Human Rights will be greatly reduced, the size of the office may be reduced, which should provide the County with a reduction in expenditures.

For complaints that allege a discriminatory act that is also prohibited under state or federal law, the Commission must handle the complaint by advising the complainant of the right to file a legal action in state court under the state human rights law or to file a complaint with the applicable state or federal enforcement agency. A complainant will retain the right to

Valerie Ervin, President  
March 1, 2011  
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enforce all aspects of the County's Human Rights law, including provisions that prohibit acts of discrimination that are not unique to the County, through the state court system.

I have long been, and continue to be, in full support of the County's Human Rights law. Nevertheless, the urgent need to reduce County expenditures has led me to conclude that it is necessary to make these painful revisions to the mission of the Human Rights Commission. I believe this legislation strikes the appropriate balance in preserving the rights of County residents under the County's Human Rights law with the need to reduce County expenditures.

IL:tjs

Attachment



OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett  
County Executive

Joseph F. Beach  
Director

MEMORANDUM

March 29, 2011

TO: Valerie Ervin, President, County Council

FROM: Joseph F. Beach, Director

SUBJECT: Bill 04-11, Commission for Women - Reorganization  
Bill 05-11, Office of Human Rights - Human Rights Commission - Reorganization

The purpose of this memorandum is to transmit a fiscal and economic impact statement to the Council on the subject legislation.

**LEGISLATION SUMMARY**

Bill 04-11 would eliminate the Office of the Commission for Women, reallocate certain functions of the Office and provide staff support for the Commission for Women, and generally amend the law concerning the Commission for Women.

Bill 05-11 changes the authority of the Human Rights Commission to adjudicate only those cases that allege a violation of the County's Human Rights law that are unique to Montgomery County. The Office of Human Rights will investigate and attempt to conciliate those cases that assert an act of discrimination that is unique to Montgomery County under the County's Human Rights law. Since the number of cases that will be handled by the Office of Human Rights will be greatly reduced, the size of the office may be reduced, which should provide the County with a reduction in expenditures. For complaints that allege a discriminatory act that is also prohibited under state or federal law, the Commission must handle the complaint by advising the complainant of the right to file a legal action in state court under the state human rights law or to file a complaint with the applicable state or federal enforcement agency. A complainant will retain the right to enforce all aspects of the County's Human Rights law, including provisions that prohibit acts of discrimination that are not unique to the County, through the state court system

**FISCAL SUMMARY**

The fiscal impact of the subject legislation is shown below for both the Office of the Commission for Women and the Office of Human Rights.

Bill 4-11 would eliminate the Office of the Commission for Women, but would require that the Chief Administrative Officer (CAO) designate appropriate staff to support the Commission. The chart below shows the savings from the elimination of the Office, but shows the resources that may be required to continue to support the Commission. Continued support for the Commission could be at

Office of the Director

Valerie Ervin, President, County Council  
 March 29, 2011  
 Page 2

varying levels based on the needs of the Commission, the judgment of the CAO as to the level of support that was appropriate, and available resources. The analysis below assumes that ongoing support would be provided through a Manager I position and an Administrative Specialist I (grade 18).

	FY12	FY13	FY14	FY15	FY16	FY17	Total
<b>Eliminate Office of Commission for Women</b>							
Personnel Costs	(\$787,730)						
Operating Expense	(\$81,880)						
	(\$869,610)	(\$869,610)	(\$869,610)	(\$869,610)	(\$869,610)	(\$869,610)	(\$5,217,660)
<b>Retain Support for the Commission (as required under proposed MCC 27-28(e))</b>							
Manager I (1.0 WY)	\$203,840	\$203,840	\$203,840	\$203,840	\$203,840	\$203,840	\$1,223,040
Administrative Specialist (1.0 WY)	\$68,890	\$68,890	\$68,890	\$68,890	\$68,890	\$68,890	\$413,340
Operating Expenses	\$10,250	\$10,250	\$10,250	\$10,250	\$10,250	\$10,250	\$61,500
Total	\$282,980	\$282,980	\$282,980	\$282,980	\$282,980	\$282,980	\$1,697,880
<b>Net Fiscal Impact</b>	<b>(\$586,630)</b>	<b>(\$586,630)</b>	<b>(\$586,630)</b>	<b>(\$586,630)</b>	<b>(\$586,630)</b>	<b>(\$586,630)</b>	<b>(\$3,519,780)</b>

Bill 5-11 would not eliminate the Office of Human Rights, but would reduce the caseload for the Office by requiring the Office to investigate, conciliate, and adjudicate before the Commission a case alleging only discriminatory acts that do not violate State or Federal law. The fiscal impact shown below replicates the recommendation in the County Executive's Recommended Budget in that all positions in the Office of Human Rights are eliminated with the exception of the Director, a Manager III, and four investigators. Of the four investigators retained, two will serve for 12 months and continue with the Office for FY13-17 and two will serve for six months. The Manager III will serve for four months and will be abolished on 11/1/11.

	FY12	FY13**	FY14	FY15	FY16	FY17	Total
<b>Office of Human Rights*</b>	<b>(\$1,271,480)</b>	<b>(\$1,406,360)</b>	<b>(\$1,406,360)</b>	<b>(\$1,406,360)</b>	<b>(\$1,406,360)</b>	<b>(\$1,406,360)</b>	<b>(\$8,303,280)</b>
Personnel Costs	(\$1,143,250)						
Operating Expense	(\$128,230)						
* Reduction in personnel and related resources if focus of Office was shifted to only investigate, conciliate, and adjudicate before the Commission a case alleging only discriminatory acts that do not violate State or Federal law.							
** Savings increase in FY13-17 because two investigator positions and a Manager III position are retained for part of FY12, but abolished during the fiscal year. The additional savings are reflected in FY13-17.							

The subject legislation would support the County Executive's proposal to consolidate the Office of the Commission for Women and the Office of Human Rights with the five Regional Services Center, the Office of Community Partnerships (currently in the Offices of the County Executive), and the Recreation Department's Gilchrist Center and create the Office of Community Engagement. This multi-department reorganization will streamline operations of the affected departments and provide greater coordination in the County's efforts to reach out and engage the local community in solving public problems. As the chart below indicates, this reorganization will result in ongoing savings estimated at \$2.8 million annually and cumulative savings of nearly \$17.5 million over six years.

Valerie Ervin, President, County Council  
 March 29, 2011  
 Page 3

	FY12	FY13	FY14	FY15	FY16	FY17	Total
<b>Regional Services Center</b>	<b>(\$815,390)</b>	<b>(\$815,390)</b>	<b>(\$815,390)</b>	<b>(\$815,390)</b>	<b>(\$815,390)</b>	<b>(\$815,390)</b>	<b>(\$4,892,340)</b>
Personnel Costs	(\$696,060)						
Operating Expense	(\$119,330)						
<b>Office of Human Rights*</b>	<b>(\$1,271,480)</b>	<b>(\$1,406,360)</b>	<b>(\$1,406,360)</b>	<b>(\$1,406,360)</b>	<b>(\$1,406,360)</b>	<b>(\$1,406,360)</b>	<b>(\$8,303,280)</b>
Personnel Costs	(\$1,143,250)						
Operating Expense	(\$128,230)						
<b>Office of Commission for Women</b>	<b>(\$586,630)</b>	<b>(\$586,630)</b>	<b>(\$586,630)</b>	<b>(\$586,630)</b>	<b>(\$586,630)</b>	<b>(\$586,630)</b>	<b>(\$3,519,780)</b>
Personnel Costs	(\$63,650)						
Operating Expense	(\$522,980)						
<b>Office of Community Partnership</b>	<b>(\$119,070)</b>	<b>(\$119,070)</b>	<b>(\$119,070)</b>	<b>(\$119,070)</b>	<b>(\$119,070)</b>	<b>(\$119,070)</b>	<b>(\$714,420)</b>
Personnel Costs	(\$84,070)						
Operating Expense	(\$35,000)						
<b>Grand Total</b>	<b>(\$2,792,570)</b>	<b>(\$2,927,450)</b>	<b>(\$2,927,450)</b>	<b>(\$2,927,450)</b>	<b>(\$2,927,450)</b>	<b>(\$2,927,450)</b>	<b>(\$17,429,820)</b>
Personnel Costs	(\$1,987,030)						
Operating Expense	(\$805,540)						

Note: Projections assume no growth in salaries or benefit costs FY13-17 and that abolished positions are not reinstated  
 \* Savings increase in FY13-17 because investigator positions and a Manager III position are retained for part of FY12, but abolished during the fiscal year. The additional savings are reflected in FY13-17.

The following contributed to and concurred with this analysis: Beryl Feinberg and Philip Weeda of the Office of Management and Budget and Fariba Kassiri of the Offices of the County Executive.

JFB:pw

- c: Kathleen Boucher, Assistant Chief Administrative Officer
- Fariba Kassiri, Assistant Chief Administrative Officer
- Lisa Austin, Offices of the County Executive
- Beryl Feinberg, Office of Management and Budget
- Brady Goldsmith, Office of Management and Budget
- John Cuff, Office of Management and Budget
- Philip Weeda, Office of Management and Budget

## Anti-Discrimination Provisions in Federal, State, and Montgomery County Law

Protected Group	Federal <sup>1</sup>	State <sup>2</sup>	County <sup>3</sup>
Age	✓	✓	✓
Disability	✓	✓	✓
Genetic Information	✓	✓	✓
National Origin	✓	✓	✓
Race	✓	✓	✓
Color	✓	✓	✓
Religion	✓	✓	✓
Sex	✓	✓	✓
Marital Status		✓	✓
Sexual Orientation		✓	✓
Presence of Children			✓
Family Responsibilities			✓
Source of Income			✓
Gender Identity			✓
Ancestry			✓

<sup>1</sup> Title VII of the Civil Rights Act of 1964 covers employers with 15 or more employees.

<sup>2</sup> The Maryland employment discrimination law covers employees with 15 or more employees.

<sup>3</sup> The County Human Rights law covers all County employers with any number of employees.

**Expedited Bill 5-11  
Office of Human Rights, Human Rights Commission – Reorganization**

**Public Hearing**

**March 29, 2011**

Good evening. My name is Fariba Kassiri. I am an Assistant Chief Administrative Officer with the Office of the County Executive and I am testifying tonight on behalf of the County Executive in support of Bill 5-11.

This bill re-orientes the focus of the County’s human rights law by eliminating the duplication of effort that currently exists between the enforcement functions of the County’s Office of Human Rights and the Commission on Human Rights and comparable enforcement functions of Maryland and federal human rights agencies. The County Executive made the difficult decision to recommend this legislation only because of the urgent need to reduce County expenditures to help close the projected \$300 million gap for the FY12 budget.

As background for this bill, it is important to note that the current functions of the Office of Human Rights include: (1) receipt, investigation, and conciliation of complaints that allege intimidation or discrimination in housing, commercial real estate, employment, and public accommodation in violation of County, State, or federal law; (2) public relations, outreach and education; and (3) monitoring the County’s Fair Housing law.

The Organizational Reform Commission (ORC) recommended that the adjudicatory role of the Human Rights Commission be moved to the State and federal governments. The County Executive concluded that the ORC recommendation went too far, and recommended the bill before you because he wanted to strike an appropriate balance between preserving the rights of County residents under the County’s human rights law and the need to reduce County expenditures.

Bill 5-11 narrows the jurisdiction of the Human Rights Commission to those cases that allege the types of discrimination that are unique to the County’s human rights law, as opposed to the Commission’s current jurisdiction, which includes cases alleging discrimination prohibited by County, State or Federal law. For clarity, the following is a list of discriminatory acts whose prohibition is unique to the County:

- (1) discrimination on the basis of family responsibilities in employment, housing or commercial real estate;
- (2) discrimination on the basis of gender identity in employment, housing, commercial real estate or public accommodations;
- (3) discrimination on the basis of source of income in housing or commercial real estate;
- (4) discrimination on the basis of age where the complainant is less than 40 years old in employment, housing, commercial real estate, or public accommodation;
- (5) discrimination in employment by employers with less than 15 employees (on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, sexual

orientation, gender identity, family responsibilities, or genetic status);  
(6) discrimination in commercial real estate on the basis of race, color, religious creed, ancestry, national origin, sex, marital status, disability, presence of children, family responsibilities, sexual orientation, gender identity, or age; and  
(7) alleged acts of intimidation against any person on the basis of race, religion, national origin, disability, sexual orientation, or gender identity.

The Office of Human Rights (at the direction of the Human Rights Commission) will continue to investigate and attempt to conciliate these types of cases.

For complaints that allege a discriminatory act that is also prohibited under State or federal law, the Commission will handle the complaint by advising the complainant of the right to file a legal action in State Circuit Court under the State human rights law or to file a complaint with the applicable State or federal enforcement agency. A complainant will retain the right to enforce all aspects of the County's human rights law, including provisions that prohibit acts of discrimination that are not unique to the County, through the State court system.

Under the bill, the Office of Human Rights will continue to have public relations, outreach and education functions. However, under the County Executive's FY12 recommended budget, the office will have access to a larger pool of resources within the Office of Community Engagement for the efficient handling of these functions.

The bill transfers responsibility for monitoring the County's fair housing law to DHCA, which would continue to forward the Fair Housing Testing Report to the Human Rights Commission for action. If appropriate, the Commission would file a formal complaint with the Office of Human Rights based on the testing report.

Because the Office of Human Rights will handle significantly fewer cases under this bill and its outreach, education, and back-office functions will be collaboratively handled by staff in the Office of Community Engagement, the size of the office has been reduced in the County Executive's recommended FY12 budget. This reduction results in a savings of \$1.2 million, which is part of the total \$2.8 million savings that is achieved by creation of the Office of Community Engagement.

The Office of Human Rights would continue to report to the Office of County Executive.

The County Executive has been, and continues to be, in full support of the County's human rights law. Nevertheless, the urgent need to reduce County expenditures led him to conclude that it is necessary to make these painful revisions to the mission of the Human Rights Commission. He believes that this legislation strikes the appropriate balance between preserving the rights of County residents and reducing County expenditures.

I look forward to working with the Council as it considers this legislation.

Thank you.

**Montgomery County Council Public Hearing - Bill 5-11, March 29, 2011**

Oral Testimony of Betsy Jett, representing the Montgomery County Human Rights Commission

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As the largest County in the State of Maryland and the most diverse, Montgomery County serves as a leader and role model on issues of both local and national importance. We believe the County's continued commitment to human rights should be clear and unequivocal.

The Commission urges the Council to:

- **reject proposed amendments to the County Code that would narrow its jurisdiction, and**
- **commit to an organizational structure and budget that enables the Commission and the Office of Human Rights to effectively carry out all of their duties as described in Chapter 27.**

In the interest of time, I will refer you to our written testimony for an expanded discussion that clarifies important points relevant to tonight's topic. I hope you will read it; it is critical to understanding the adverse consequences that will most certainly result from the proposed legislation.

**The Commission is very concerned about the likely negative impact of narrowing its jurisdiction.**

While it is true that, legally, many of our cases could be handled by State or Federal government, practically, the barriers to filing will make it extremely difficult for residents to exercise their rights.

- Travel to Baltimore will be a hardship each time a complainant has to appear. The round trip is 2 or more hours by car and up to 5 or 6 hours by public transportation.
- Then there is the very long wait before their case is even processed. The State tells us their systems could be crippled by the addition of Montgomery County's workload.
- Some complainants mistrust big government and will chose not to exercise their rights.
- Differences in our federal, state and local laws could lead to significantly different financial outcomes in the awarding of damages, relief, and civil penalties.
- In the end, many complainants will give up before they even try. Legitimate complaints will go unheard and unresolved.
- Montgomery County could become the place where those who violate the human rights of others know they can get away with it.

**In addition, we are concerned about the impact of eliminating the Office and shifting its responsibilities to the new "Office of Community Engagement"**

- The Commission appreciates the synergies that may be created by housing many offices under one roof. However, we are concerned about losing the focus on human rights as an important responsibility of government.
- And we are concerned about access to scarce resources in an organization with such a broad mandate.
- We are concerned about the perception that the Office has been demoted and devalued, and that the County has less commitment to human rights than it used to.
- The term "community engagement" falls short in representing many of the activities that will be included under the umbrella of this new entity. If the Council adopts this option, we strongly recommend that it be named the "**Office of Human Rights and Community Engagement**".

It is not by accident that this County is such a great place to live for such a diverse population. The Office of Human Rights and the Commission have worked hard over the last 50 years to make that happen. Let us not throw that away now, at a time when we desperately need to protect and preserve the human rights of our residents. Look around you. These people are here for one reason - in hopes that they can live, work and do business with dignity in Montgomery County and be treated fairly. They deserve it. This Council cannot afford to let them down. The cost is too great, even in these economically challenging times.

Thank you.

Good evening and thank you for this opportunity to speak about an important piece of legislation before the Council: Expedited Bill 5-11. My name is David Vignolo and I am the current chair of the Montgomery County Committee on Hate/Violence. On behalf of the citizens who serve with me on this Committee, and your constituents whom we serve, I am here to speak **against** passage of Expedited Bill 5-11, Reorganization of the Office of Human Rights - Human Rights Commission – as recommended by the Organizational Reform Commission and, with certain modifications, the County Executive.

Chapter 27 of the Montgomery County Code states that “The County Council finds that discrimination because of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, genetic status, presence of children, family responsibilities, source of income, sexual orientation, or gender identity adversely affects the health, welfare, peace, and safety of the community. Persons subject to discrimination suffer unemployment and under employment resulting in low family income, overcrowded housing, poor health conditions, antisocial behavior, poverty, and lack of hope, injuring the public welfare, placing a burden upon the public treasury to ameliorate the conditions thus produced and creating conditions which endanger the public peace and order.” Further, the County Council was clear when it included these additional words in the County Code – “The prohibitions in this article are substantially similar, but not necessarily identical, to prohibitions in federal and state law. The intent is to assure that a complaint filed under this article may proceed more promptly than possible under either federal or state law.”

Bill 5-11 would amend the Human Rights Law to modify the jurisdiction of the Human Rights Commission. Under this bill, the Commission would refer those complaints over which the Commission would not retain jurisdiction to federal or State agencies or advise that a suit be filed. If a complainant alleged a discriminatory act that also violated State or Federal law, the Office of Human Rights

would have to advise the complainant of the right to file the complaint with the Maryland Commission on Human Relations, the Federal Equal Employment Opportunity Commission, or the appropriate Maryland Circuit Court. The Committee on Hate/Violence has significant concerns with this approach.

The mission of the Maryland Commission on Human Relations is to ensure equal opportunity to all through the enforcement of Maryland's laws against discrimination in employment, housing, and public accommodations; to provide educational and outreach services related to the provisions of this law; and to promote and improve human relations in Maryland. The closest field office to Montgomery County is the main office in Baltimore. We believe that requiring those who might seek redress under the law – likely to also be the most vulnerable in our community and with limited resources – to possibly have to travel to Baltimore is onerous and could be enough of a reason for some to decide to forego the investigation and adjudication of their complaint.

In some cases, the complainant might be referred to the U.S. Equal Employment Opportunity Commission (EEOC). Our Committee has a concern that because the EEOC's responsibilities and workload have generally been increasing over the years, your constituents might not be served well if they are referred to this federal agency. In 1964, when the EEOC was established, it was responsible for investigating employment discrimination charges relating to race, color, religion, sex, or national origin. Since that time, the EEOC has become responsible for administering additional laws such as the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, the Equal Employment Act of 1972, Section 501 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, and the Civil Rights Act of 1991. In addition to general concerns about EEOC's ability to fulfill its increased responsibilities and greater workload, the U.S. Government Accountability Office –as well as many civil rights organizations --have raised specific concerns about EEOC's operations. These concerns include

the increasing time it takes EEOC to investigate and process charges, the increasing inventory of charges awaiting investigation, and the adequacy of investigations; the high proportion of “no cause” findings, that is, determinations that the evidence does not sufficiently support the discrimination charge; and the limited number of litigation actions and systemic investigations initiated by the EEOC.

The Committee on Hate/Violence, which is currently administratively supported by the professional and dedicated staff of the Office of Human Rights, shares the County Executive’s concern with the projected \$300 million gap for the FY12 budget. However, we fail to see how changing the authority of the Human Rights Commission so that it may only adjudicate those cases that allege a violation of the County’s Human Rights law that are unique to Montgomery County will greatly reduce the number of cases. We are concerned that an Office of Human Rights, reduced in size but yet still required to continue to investigate and attempt to conciliate those cases that assert an act of discrimination that is unique to Montgomery County under the County’s Human Rights law, will be able to sufficiently serve the citizens well, at a time when they are likely most in need of County resources. Finally, we would advocate that rather than a reduction in personnel, significant cost savings could be achieved through continued improvements in technologies and processes so that cases are more efficiently investigated. We believe the OHR has made significant advances in these areas over the past several years and is poised to do more. For these reasons, the Committee on Hate/Violence respectfully urges the County Council to reject Expedited Bill 5-11 and continue to stand with those in our community who are the most vulnerable of our neighbors and in the most need of our protection and support during difficult times in their lives. Thank you.

NAACP Testimony at County Council Public Hearing

On

Bill 5-11, Human Rights Commission

President Ervin and Council members, I am Paul L. Vance, President of the Montgomery County Branch, NAACP. On behalf of the Executive Committee and the 1200 branch members, I am here to publically express our opposition to, and great disappointment in bill 5-11 which proposes to dismantle the Human Rights Commission/ Office of Human Rights.

As you know, the NAACP is a strong advocate of human rights and has fought for more than 102 years to protect those rights. The Montgomery County Branch for \_\_\_\_ years has worked hand-in-hand with the county to support and ensure compliance with civil and human rights laws. We have worked to encourage equity in planning and implementation of policies to avoid discrimination. Our officers and members are committed to ensuring that no regression occurs in the currently available human rights protections for the residents of Montgomery County. The County and its public servants along with community groups, help to maintain the county's reputation for diversity and tolerance of different cultures and beliefs. The passage of bill 5-11 would surely have a negative impact on the progress that our county and its residents have made over several decades.

We recommend that the law enforcement function be retained in the Office of Human Rights, to ensure compliance that is untainted by its employer/employee relationship with another department.

We add our concern for those victims of discrimination not covered by state or federal laws. These residents would be deprived of their civil rights by not having full legal redress of their complaints.

We fully understand the fiscal crisis the county is facing, however, we cannot afford to sacrifice human rights for the sake of budget constraints and organizational reform. Given the size and diversity of this county, we urge you to protect the county's reputation for fairness and strong civil rights policies. To actually do so, or appear to eliminate local access to legal redress from discrimination in housing, employment and public accommodations would truly be a travesty and a miscarriage of justice. The state too is experiencing cut-backs and is not equipped to handle Montgomery County cases. They are already required to handle cases for other counties who do not have human rights offices. County residents also deserve better than to be thrown into the backlog at the federal level.

Thanks you for the opportunity to come before you on an issue so important to the residents of Montgomery County.

Council President Valerie Ervin, ladies and gentlemen of the Montgomery County Council, my name is Russell C. Campbell, Sr., and I am representing the 150 men of the Iota Upsilon Lambda Chapter of Alpha Phi Alpha Fraternity in Montgomery County. We are here to appeal to you to reject the County Executive's recommendations to eliminate the Office of Human Right and reject the attempt to reduce the effectiveness of the Human Rights Commission by legislation. We fully recognize these are difficult budgetary times and feel that Montgomery County must address these shortcomings. However, we vehemently oppose the recommendations submitted by the County Executive's Office pertaining to Human Rights. The Iota Upsilon Lambda Chapter of Alpha Phi Alpha Fraternity feels that sacrificing the very office that has enhanced the quality of life in Montgomery County, will-impact the lives of our residence who have, for over 50 years, depended on the protections the Commission and the Office of Human Rights have provided.

Historically, the men of the Alpha Phi Alpha Fraternity have been the vanguard of Human Rights in our Country, State and County. Dr. Martin Luther King, Jr was an Alpha, Supreme Court Justice Thurgood Marshall, was an Alpha, Whitney Young of the National Urban League was an Alpha, W.E.B. Dubois , one of the Founders of the NAACP was an Alpha. Here in Montgomery County three past Presidents of the Montgomery County Chapter of the NAACP, George Sealy, Roscoe Nix and Handley Norment were all Alphas as well as the current President Paul Vance. Henry Williams, the President of the Southern Christian Leadership Conference is an Alpha. These men committed their lives to be an unremitting advocate of human and civil rights making our County a beacon, shining the light of fairness upon all residents of our county.

However, the struggle for Civil Rights and Human Rights in our County did not come easily. Beginning with the demonstrations in the 1960s at

Glen Echo Park, resulting in the creation of the Human Rights Commission and the Office of Human Rights--- a symbiotic relationship between the two was formed. This relationship enables both to function effectively as watch dogs defending our residents from all forms of prejudice, discrimination and disparaging treatment. .

Your sitting here before us tonight was made possible because of the climate created by and the protection afforded by these entities. Fifty years ago there were no African Americans on this council, there were no Hispanic Americans, there were no Jewish Americans sitting on the Council. This only evolved because of the foundation laid by those men and women who fought to make this happen. Council members, we look to you to be that unremitting advocate for those who cannot fend for themselves.

Montgomery County Planning Director Rollin Stanley said, "Those places in American that are attractive to new people are places that will prosper". He was speaking of the growth in Montgomery reflected in the 2010 US Census. We implore you to find the resources to invest in our people, our seniors who seek our help, our young people who see our vision, our rich diversity who have come from all over the globe for the promise of a better life. This is a great place to live, but, Montgomery County is great because of the greatness of our institutions. Council members do not be the instrument that negates that force for the promise of living with dignity.

In closing I am reminded of a song written by James Weldon Johnson called "Lift every voice and sing". His enriching directive is assuredly one of the mainstays of the song's mastery and endurance. Notwithstanding, he tells us that we must persist-we must remain vigilant "...til victory is won." Council President Ervin, the victory is not won; Mr. Leventhal, you must be that voice to protect those who cannot protect themselves. Mr Riemer, you must provide hope to the hopeless; Mr. Berliner, Ms Navarro, Mr. Andrews, Mr. Elrich, Ms Floreen, we are looking to all of you, the great members of this

deliberative body, to provide that protection to those who live and work in Montgomery County. We ask you to reject the recommendation to eliminate the Office of Human Right and reject the attempt to reduce the effectiveness of the Human Rights Commission by legislation. .

Thank you for your consideration



## NATIONAL ASSOCIATION OF HUMAN RIGHTS WORKERS

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### BILL 5-11E ON THE REORGANIZATION OF THE OFFICE OF HUMAN RIGHTS

My name is Michael Fordham Dennis and I am the Atlantic Region Vice President of the National Association of Human Rights Workers. I deliver this statement opposing Bill 5-11E on behalf of the National Association of Human Rights Workers, Barbara Shannon-Banister, Ph.D., President. The National Association of Human Rights Workers is an organization founded in 1947 to provide education, training, certification and professional development to its members.

This is the second time we have written to Montgomery County officials on the reorganization of the Office of Human Rights. We wrote in February 2011 to oppose the recommendation of the ORC to dismantle the Office and we appear now to oppose Bill 5-11E which would significantly modify the law enforcement duties of the Office of Human Rights.

The human rights enforcement effort in the United States of America stands on a tripod: federal enforcement (EEOC, HUD), state enforcement (MCHR) and local enforcement (MCOHR). The principle here is that each level of government will accept responsibility for the complaints that occur in its own jurisdiction. Even the funding for the federal and state civil rights law enforcement agencies is based on the assumption that local civil rights law enforcement agencies will receive, process and resolve complaints in their respective jurisdictions. If any one of the legs of this tripod is removed the enforcement effort will collapse. Bill 5-11E proposes to refer most of the complaints received by the Office of Human Rights to either federal or state agencies or to state court, three entities that are already over-burdened, under-funded and ill-prepared to accept the additional work. Bill 5-11E is a declaration of war against people who have experienced discrimination in Montgomery County because it will lengthen significantly the investigation and resolution time for discrimination complaints. We ask why the human rights law enforcement effort is selected for such differential treatment? Why is the enforcement of the basic rights to live, work and find housing being compromised?

There are some people who believe the existence of federal, state and local human rights enforcement agencies provides a duplicate process for injured persons to file multiple complaints and receive multiple remedies. This is an unsubstantiated belief because the enforcement agencies have formal and informal agreements to prevent duplicate processing. Complainants have the right to file multiple complaints to protect their procedural rights but the human rights law enforcement agencies control the investigations in order to protect their own scarce resources and to prevent harassment. If a complainant files suit in court the human rights law enforcement agencies generally cease their administrative process.

We presume there will be a significant reduction of the staff of the Office of Human Rights if Bill 5-11E becomes law. This reduction will probably eliminate any local human rights education and technical assistance presence in Montgomery County. The closest state and federal human rights law enforcement agencies (EEOC & MCHR) are located in Baltimore MD. The HUD regional office is actually located in Philadelphia PA. If you believe, as we do, that an important part of human rights law enforcement is public education, then you cannot fail to note that the deferral of complaints and the reduction of staff will virtually eliminate any proactive human rights law education in Montgomery County MD.

We ask you to vote against this bill and maintain the dedication to human rights law enforcement that has been the trademark of Montgomery County MD for the last 50 years.

Respectfully submitted, Michael Fordham Dennis, MPA, PHRW  
Vice President, Atlantic Region, National Association of Human Rights Workers  
March 29, 2011.

Visit our Website at [www.nahrw.org](http://www.nahrw.org)

The nation's only professional Human Rights Association-Founded in 1947  
Publisher of the JOURNAL OF INTERGROUP RELATIONS



# Montgomery County Muslim Council

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**Bill 5-11, Office of Human Rights –  
Human Rights Commission Reorganization  
Public Hearing March 29<sup>th</sup>  
Statement by Khalid Chaudhry  
President Montgomery County Muslim Council**

**Board of Directors:**

Madame Council President and Honorable Council Members

*Chair*  
Aquilur Rahman

My name is Khalid Chaudhry and I am President of the Montgomery County Muslim Council (MCMC) which is a grass-root organization promoting involvement by all residents of Montgomery County in the political process. In addition, our sister organization, the Montgomery County Muslim Foundation (MCMF) does charitable and social work for the needy in our county.

*Vice Chair*  
Mumin Barre

*Directors*  
Saqib Ali  
Walid Hafiz  
Mimi Hassenein  
Dr. Naheed Khan  
Shafiq Khan  
Dr. Anwar Masood

I very much appreciate being given the opportunity to comment today on behalf our members and of other Montgomery County residents on the recommendations of the Organizational Reform Commission (ORC) to abolish the Office of Human Rights and reorganize the human rights functions.

**Executive Council:**

*President*  
Khalid Chaudhry

For the residents of Montgomery County, the Office of Human Rights provides visible and tangible evidence that the Montgomery County Government is committed to the protection of human rights. Due to widespread public fear and misperceptions regarding Muslim culture, religion, and beliefs, the Muslim population is vulnerable to discrimination. The recent Congressional hearing of Representative Peter King and programs such as "Unwelcome: The Muslim Next Door" which aired on Sunday on CNN highlight these concerns.

*Vice-President*  
Syed Hafeez

*Treasurer*  
Omar Dadi

We are very fortunate to be living in Montgomery County which has a reputation for diversity and tolerance of different cultures and beliefs. However, we believe that this would be severely undermined if the ORC recommendation is approved by you, the Montgomery County Council. Without the County Office of Human Rights, Montgomery County residents would have nowhere else in the county to confront actions of discrimination.

We are also concerned with the reform commission's recommendation to combine the Committee on Hate/Violence with the Office of Community Partnerships. This action would send a signal not only to Muslim residents, but to all minority groups that the Montgomery County Government does not actively support vigilance and action against acts of hate violence within our county. We think these recommendations of the reform commission show a lack of appreciation and understanding for what some ethnic communities face.

I would like to use the remainder of my time to make three important points.

Firstly, the County Office of Human Rights was established nearly 50 years ago and was the first of its kind in the entire nation. This rich history and legacy and the essential and excellent work of the Office over decades should be not lightly dismantled. It will not be easy to rebuild this legacy and capability once it is lost.

Secondly, the assumption that the State office will be able to take up the work done by the County Office of Human rights is naïve in my humble opinion. The State office is already overburdened and slows in its response. Further what happens if the State Government decides to cut back and pass the buck to the Federal office?

Thirdly, it is very difficult and daunting for residents of our county to have to go to Annapolis, Baltimore or Hagerstown to the state office. Those who need to use the services of the County Human Rights office generally do not have the transport, or the means or the time to do. Going to the County office is a much more friendly and easy proposition for them.

In conclusion, on behalf of all Montgomery County Residents, I urge you the Montgomery County Council, not to make any cuts to the Office of Human Rights and keep intact with the current structure so that the important services provided by this office to its residents can continue.

Thank You.

Norman I. Gelman

7904 Turncrest Drive, Potomac, Md. 20854  
email:normangelman@verizon.net

Testimony Before Montgomery County Council, March 29, 2011

My name is Norman Gelman. I am here this evening as chairman of the Maryland Commission on Human Relations to explain why changing the status and jurisdiction of the county's human relations commission would damage residents of Montgomery County and every other jurisdiction in the State.

The March 1 memo from the County Executive to Ms. Ervin cites the Organizational Reform Commission's recommendation that – and I quote – “the adjudicatory role of the Human Rights Commission be moved to the state and federal governments.”

I am sorry to have to tell you that the Organizational Reform Commission failed to do its homework. If they'd bothered to ask, we could have told them that we do not have the capacity to absorb the cases that this legislation would offload onto our docket. Although I cannot speak for the EEOC or any other federal agency, our staff believes that the federal government is also overburdened.

You have on file a memorandum I sent you from Henry Ford, our executive director, addressed to the County Executive. I urge you to read it. He makes some points I do not have time to cover.

You probably know it but let me emphasize what's involved here. Our Agency enforces the law against discrimination in employment, housing and public accommodations based on race, religion, gender, ethnicity, disability, sexual orientation, etc.,. Discrimination is unlawful but it is also ugly and it harms individual people. Your constituents. I assume there is not a single member of this Council who wants to countenance discrimination. But that would be the effect if this legislation is approved. Why? Because justice delayed is justice denied.

Montgomery County is not the only jurisdiction with budget problems. Our agency has suffered substantial reductions in funds and staff over the past several years. As a result, it now takes us about 18 months to complete an investigation of complaints of discrimination in employment, housing or public accommodations and to make a decision on whether further action is warranted by the evidence. Our staff is working as fast as it can and we keep falling further and further behind. We've reported this fact to the Governor and to the State Legislature, and we deeply regret the trend, but it is only going to get worse..

Our Agency took in 717 cases in FY 2010. You'll have to ask the Montgomery County group exactly how many cases we'd inherit because we can't tell that for sure from the numbers shown in their annual report. But, whatever the number is, we can't do their work. We believe that with the addition of Montgomery County complaints to our existing workload the 18 months it now takes to complete a case would likely become 24 months or more.

Two years to investigate a complaint and decide if there's enough evidence to go to trial? Is that the right thing to do to your constituents? Is it the right thing to do to citizens of Easton and Salisbury and Frederick and Cumberland and Hagerstown and St, Charles and Havre de Grace? I don't think so. But that's what will happen if this legislation is approved.

I urge you to defeat this legislation for the sake of victims of discrimination in Montgomery County and all over the state. They don't deserve to suffer the delays that will be caused if the bill passes. Our Commission can't help solve Montgomery County's budget problem. But Montgomery County can make our problems and the problems of people in Maryland suffering discrimination significantly worse than they already are.

**Testimony on Bill 5-11  
Human Rights Commission Reorganization  
March 29, 2011  
Odessa M. Shannon**

**Ms. Ervin, Members of the Council:**

I come before you with the **unique experience** of having served as the **Senior Service Executive National Program Director** responsible for investigations and operations in **all of the then 48 EEOC field offices across the country**. I also had oversight of all **Fair Employment Practices Agencies** with which the EEOC had work-sharing agreements. More recently, I retired as the **Director of the County's Office of Human Rights**, which was acknowledged **one of the most outstanding in the country** because of its' high standards for conducting investigations and demonstrated high quality of work.

This background is offered in support of my personal knowledge that the premise stated in the March 1 cover letter justifying Bill 5-11, , quote, "duplication of effort", misstates the facts as I understand them.

"Duplication of effort" does **not** exist between the enforcement functions of the Office of Human Rights and those of federal and state agencies. There is only duplication of mission; **that is, to protect the civil rights of individuals.**

**The EEOC enforces the following laws:** Title VII of the Civil Rights Act of 1964 as amended; Equal Pay Act of 1963; Age Discrimination in Employment Act of 1967; Title I of the Americans with Disabilities Act of 1990; Sections 501 and 505 of the Rehabilitation Act of 1973; and the Genetic Information Nondiscrimination Act of 2008.

**HUD enforces the following laws:** The Federal Fair Housing Act of 1968 as amended; Section 504 of the Rehabilitation Act of 1973; Title VI of the Civil Rights Act of 1975 and Title II of the Americans with Disabilities Act.

**The Maryland Human Rights Commission enforces the anti-discrimination laws in Article 49B of the Maryland Code.**

**The Montgomery County Office of Human Rights enforces the anti-discrimination laws embodied in Chapter 27 of the Montgomery County Code.**

Each of these entities has additions, limitations and restrictions not present in the others.

The Montgomery County Office of Human Rights is well positioned to carry out its' responsibilities under the current law. . The proposed legislation, and the current

**budget recommendation that the Office of Human Rights be part of an "Office of Community Engagement", however, do not recognize that the Office of Human Rights does not "engage the community" in the sense of the Commission for Women, the Gilchrist Center and the Regional Services Centers. Rather it is the county's civil rights law-enforcement office with powers to levy fines, issue right to sue letters and mandate other remedies, including back pay and reinstatement in jobs. The proposed recommendations nearly take us back to the time when the Human Rights Commission consisted of volunteers who heard and sought to settle cases. There was only one staff person, the Executive Director. There were no professional staff, no enforcement powers, and no ability to levy fines or offer other forms of relief. All settlements were voluntary, with no penalties or follow-up. (Please note that settlement, conciliation and mediation are still a valued part of the current investigative process).**

**Even more disturbing, the proposed legislation would send all charge bases covered by the federal and state laws back to those entities and keep only bases unique to the county. This would mean that cases relating to race, color, religion, sex, national origin, disability, age, familial status, and genetic information would not be investigated by the county, but would become part of the huge federal and state backlogs, subjecting our residents to extraordinary waiting times for charge resolution. While greater protections have been added to the county's laws, the bases covered by federal law are the CORE of civil rights protection. Under the current proposal, the OHR becomes nothing more than a referral agency for these CORE bases. It could only take charges related to ancestry, marital status, sexual orientation, presence of children and source of income (housing only). This debilitating change to the mission and operation of OHR would be comparable to sending the automobile away and keeping the tires.**

**I am well aware of the fiscal situation in the county. But for a county of nearly a million people of diverse backgrounds to gut an agency that addresses their rights is nothing short of a travesty.**

**As to the very real and serious budgetary concerns, I have previously forwarded suggestions to address this issue, including renaming OHR The Office of Civil Rights to better describe its' legislative mandate, and moving some of the programs not directly related to law enforcement elsewhere. I suggest this with great reluctance because all have been nationally recognized. I would be happy to discuss these suggestions further during Committee meetings, should you so desire.**

**Thank you for your attention.**

March 29, 2011

Testimony to Montgomery County Council

On

Bill # 5-11, Human Rights Commission

Good evening Council President Ervin and Council members

My name is Ruby A. Rubens, and I am here this evening as a county resident of forty three years. I would like to quickly take you back to the fall of 1967. At that time my husband and I were considering homeownership as we relocated to take a federal appointment. As we looked around DC area jurisdictions, we were surprised to encounter numerous racial barriers. Remember this was just prior the 1968 Fair Housing Act. Although we did encounter some such obstacles in Montgomery County, we were immediately referred to one of the watchdog organizations in the county, Suburban Maryland fair Housing( SMFH) ... and were told that Montgomery County already had laws on the books to protect victims of discrimination and that this was a progressive county where we could feel welcomed. We found that Montgomery County was among a short list of jurisdictions that had strong public policy of civil and human rights in Chapter 27 of the county code. For me this created an atmosphere that permitted me to become actively engaged as a housing tester with SMFH, enter the real estate market to integrate the professional realtor pool, and later become the County's first fair Housing Coordinator. In each of these endeavors I saw first-hand the devastating impact that discrimination can have on families.

I want this same protection today for families who are victims of discrimination in employment , housing and public accommodations. I am fully aware that we are experiencing a serious budget shortfall and that the entire nation is experiencing a severe economic downturn. Unfortunately, It is times like these that we see an increase in discriminatory practices, especially in employment. Jobs are at a premium and the competition is steep for the few jobs that are

available. Unfortunately this breeds an environment where personal bias can be exhibited without much oversight. It is times like this that we need more, not less, enforcement of human rights laws to ensure compliance. As we live and value the diverse county we have become, we must invest in the future to preserve this diversity in a manner that protects all of our citizens.

I strongly oppose this bill which would dismantle the Office of Human Rights . To approve this bill would in effect reverse all the progress that has been made over the past fifty years. The message sent to the community and those seeking to come here is that we do not value human rights. It is common knowledge that the state is not equipped to handle additional cases and the federal agencies have tremendous backlogs. Neither the state nor federal agencies has the authority to process cases protected only at the county level. To state that these are only a few cases indicates a total disregard for the rights of those "few" individuals and families who are among the most vulnerable. We send a message that they don't count.

I would urge the Council to keep in place the law enforcement arm of the Human Rights Commission. This would continue with the Office having the responsibility of investigating and resolving cases of discrimination and the Commission as the review and appeals board. It should remain a stand-alone agency and especially not merged with other county departments as it is charged with handling cases involving county employees as well as others. The Fair Housing Coordinator position and the Interagency Fair Housing Coordinating Group functions could and should be returned to the DHCA, where it was originally placed.

The community relations and outreach functions of the Commission are the only other functions that I could see being assigned to other county agencies.

I urge you to make every effort to find the funds to retain the office of Human Rights. I appreciate the opportunity to address you on such an important issue.

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**Testimony in Opposition to Bill 5-11,  
Human Rights Commission Reorganization  
Public Hearing March 29<sup>th</sup>, 2011**

**Saqib Ali**

12504 Degas Court, North Potomac, MD 20878

Phone: 240-812-9671

Email: saqib.ali.75@gmail.com

Good Evening, Madame Council President and Honorable Council Members:

Thank you for the opportunity to present my views on the proposal to abolish the Office of Human Rights and to reorganize its functions.

**What the Office of Human Rights does:**

The OHR was established by law to help avoid and conciliate intergroup friction and to enforce human rights laws. Rights protected under the law cover employment, public accommodations, housing, and commercial real estate.

The Commissioners of Human Rights are men and women who are broadly representative of the diverse population of the County. Three members of the Commission serve on the Case Review Board which handles appeals and hearings for discrimination complaints.

The OHR investigates incidents of hate/violence and complaints of discrimination. Victims of hate/violence crimes can seek compensation for replacement of property through the County's Partnership Fund, administered by the Office of Human Rights.

**Why the Office of Human Rights is so vital:**

The OHR provides a mechanism to help enforce laws that establish the principle of equal rights. By definition, the people that are most in need of this type of enforcement are those that are most vulnerable. Indigents, undocumented immigrants, the homeless, racial & religious minorities, domestic servants, etc. To my knowledge, there is no other county organization that focuses exclusively on these important and most needy populations.

**Why I hope the Office of Human Rights is not eliminated/re-organized:**

I am doubtful that a re-organized OHR will be able to carry out its function to the same level it is today. There is bound to be a drop-off in level of service no matter what anyone says.

I know the County Council is wrestling with a difficult budget challenge which will require very tough decisions. I would respectfully submit that protecting the OHR should be one of our highest priorities. I would respectfully urge members of the Council to do everything reasonable within your powers to maintain the OHR in its current form.

Thank you for your consideration of my remarks.

# SOUZA

Law Office, LLC

March 29, 2011

Re: **Expedited Bill 5-11**, Office of Human Rights - Human Rights Commission

Statement of Gwen W. D'Souza, Esq., Aspen Hill, owner of D'Souza Law Office, LLC,  
Bethesda

Council members:

My name is Gwen D'Souza. I am a citizen of Montgomery County. I have been volunteer mediator at the Office of Human Rights since 2000. I subsequently began a practice as an Employment Lawyer in Montgomery County.

Expedited Bill 5-11 as proposed limits the investigation activities of the Office of Human Rights to those complaints, which are unique to Montgomery County.

The Bill provides --For Complaints that allege a discriminatory act that is also prohibited under state or federal law, the Commission must handle the complaint by advising the complainant of the right to file a legal action in state court under the state human rights law or to file a complaint with the applicable state or federal enforcement agency.

I am glad to note that the legislation as proposed is much more limited than the broad changes recommended by the Organizational Reform Commission. The legislations provide that the Office of Human Rights will not be eliminated. More importantly, it provides that the Office of Human Rights will continue to accept complaints. This is the minimum that the citizens of Montgomery County deserve.

However, in reviewing the memorandum to the County Council, there appears to be a misunderstanding about the duplication of efforts with state and federal agencies. As for the EEOC, currently, there is a work sharing agreement between the EEOC and the Office of Human Rights. Under this agreement, the Office of Human Rights has accepted cases, which are cross-filed with the EEOC, but are investigated by the Office of Human Rights for itself and for the EEOC. Therefore, while there may be a duplication of authority to investigate certain matters, there is no duplication of efforts.

If this bill is enacted, the Office of Human Rights will only investigate cases, in which the employer has less than 15 employees or the protected class is presence of children, family responsibilities, source of income, gender identity, or ancestry. All other cases will not be investigated by the County. Instead the County may advise the complainant of the right to file the complaint with the EEOC or the State Commission of Human Relations.

Having practiced in the area of employment law extensively, however, for over ten years, I expect that little to no investigation will be performed by these other agencies. While the

# SOUZA

Law Office, LLC

Maryland Commission on Human Relations enforces a similar statute, the Commission has expressly stated repeatedly that it does not have the budget or the staff to investigate any portion of new cases a year from Montgomery County. I have attached a copy of the Letter from the Maryland Commission on Human Relations to the County Executive for your review. Similarly,

I expect the EEOC will likely not investigate these cases. I expect it will likely continue its practice to issue right-to-sue letters, without any investigation, as it does in the majority of its cases.

I am concerned that this legislation may not provide a sufficient remedy for the many small employers or many of the unemployed citizens of Montgomery County. These entities bringing or facing claims of age, disability, national origin, race, color, religion, sex, marital status, sexual orientation, and genetic discrimination, will likely go to court with limited intervention by any agency.

While I understand the need for long-term savings to the County, I urge you to consider the importance of our community's long-term goal to promote a diverse society providing equal opportunities for employment, real estate, and public accommodation as well. I urge you to vote against this bill.

Thank you, Councilmembers.

County Council Remarks by Terry Vann  
March 29, 2011

My name is Terry Vann. In my former life, I was an attorney specializing in employment law. Now I volunteer with County Office of Human Rights (OHR), the Maryland Commission on Human Relations and the EEOC as a mediator of cases involving all types of discrimination. You have a very difficult task in making budget cuts and in determining priorities and consequences, but any decisions you make should be **informed** decisions, based on **correct** factual information and you should be aware of the **consequences**. Unfortunately, the information upon which the recommendations are based is insufficient, confusing and misleading.

The basic premise of the recommendations is that most of what the County Office of Human Rights does is unnecessary because it duplicates State and Federal jurisdiction and therefore, the consequences of eliminating County efforts to fight discrimination in those cases would be minimal. Nothing could be further from the truth. The Director of the Maryland Commission has informed you that although there is overlapping jurisdiction, the state Commission and our county OHR and Human Rights Commission have worked for many years in a cooperative arrangement whereby they carefully monitor each others' caseloads to insure that they **don't** duplicate the efforts of the other. The same is true with respect to the federal civil rights agencies. The Director of the State Commission adds that if the recommendations are adopted, the results of the increased caseload on the state would be **catastrophic** because the State is not in a position to take on any additional complaints from Montgomery County, and to add any portion of the county's cases will increase the average completion time for an investigation from 1 to 2 years or more. Additionally, the recommendation would impose a severe hardship on these alleged victims of discrimination by requiring vulnerable and possibly disabled Montgomery County claimants to travel to Baltimore to file complaints and to talk with State investigators. I fear that many will not be able to pursue their remedies.

Aside from the impracticality of shifting the burden of dealing with discrimination to the State, the recommendations call into question the core values of our county. If the recommendations are adopted, here are some examples of situations for which there would be no recourse in Montgomery County.

- An African American woman is refused service at a restaurant and is told "we don't serve your kind here."
- A salesman who uses a wheelchair is fired because the company wants a healthier image.
- Latinos in a construction company are subject to harassment because of their foreign accent or skin color.
- A 50 year old man is fired because he is too old.
- A woman is refused employment because she might get pregnant.

There are of course more subtle forms of discrimination but I listed the obvious ones. In all of those situations, the County would be powerless to enforce its antidiscrimination laws. We would say, "You have to go to Baltimore. Maybe the State can help you." Or we could say that it's too bad that you don't live or work in PG, Howard or Frederick County, where they **do** enforce antidiscrimination laws. Does this reflect the values of Montgomery County? I sure hope not. Expressions that the County is committed to eradicating discrimination ring hollow when the consequences of adopting the recommendation would be (1) to make it easier to discriminate in the County and (2) to make it extremely difficult for claimants to pursue their rights. I urge you to continue to protect the civil rights of our residents and to continue to fund the Montgomery County Office of Human Rights, which is a model of commitment and efficiency for State and the Nation. Thank you for your consideration.

**Statement of Richard W. Allen on Expedited Bill 5-11,  
Office of Human Rights-Human Rights Commission-Reorganization**

Richard W. Allen  
9427 Gentle Circle  
Montgomery Village, MD 20886  
9301) 990-1548

Good evening, ladies and gentlemen of the Montgomery County Council. My name is Richard W. Allen and as a resident of Montgomery County, a equal opportunity professional, and person concerned about maintaining civil rights services here within Montgomery County, MD, I speak in opposition to Bill 5-11, Office of Human Rights-Human Relations Commission-Reorganization.

First, I must acknowledge the reality of our current serious fiscal deficit and crisis, in the cost of and operation of Montgomery County governmental units. However, the real question facing us squarely is: Will half a loaf of Montgomery County Office of Human Rights personnel, resources, and a volunteer Commission, provide our County's residents with the necessary civil rights enforcement services, diversity educational/outreach services, and fair housing services? From my perspective, the answer is clearly, **No**.

It is good that County Executive Ike Leggett acknowledges the "unique and vital work" and civil rights enforcement "staffing" personnel needs of the Montgomery County Office of Human Rights and Commission. However, County Executive Ike Leggett's proposal, to reorganize the Office of Human Rights staffing to "investigate, conciliate, and adjudicate" before the Commission, Complaints whose alleged discriminatory acts **do not** violate state or federal laws, is unfortunately, short-sighted. The County Executive's legislation involves significant budgetary-paring down and eliminating of Office of Human Rights personnel, in the provision of civil rights enforcement services and community ethnic/religious educational outreach/uplift activities. In the words of my only son, Mr. William Anthony Allen, "Dad, this is not good for the people".

If enacted as proposed within this legislation, the Office of Human Rights would docket, investigate, and resolve, solely, Complaints based on the Montgomery County "protected classes" of discrimination based on presence of children (housing), family responsibilities, source of income (housing), ancestry, and gender identity. Recommendation #4 of the Montgomery County Organizational Reform Commission (ORC), supported by and County Executive Ike Leggett, would "transfer" all civil rights enforcement functions and responsibilities, involving the "protected classes" of race, color, sex, age, marital status, religious creed, national origin, and disability, to the Maryland Commission on Human Relations, the federal Equal Employment Opportunity Commission, the U.S, Department of Housing and Urban Development, other federal agencies, and the appropriate Maryland Circuit Court.

Cited as the "problem" within the Legislative Request Report of Expedited Bill 5-11, is the statement, "the County Human Rights Law covers a large number of areas that are

(2.)

duplicative of state and federal law, leading to significant expense on the part of the County”.

My professional work experience in both equal housing opportunity, equal employment opportunity, and in workforce diversity programs, has enabled me to see the **tangible value** of local, state, and federal civil rights agencies, **working in tandem** through dual-Complaint-filing systems, to fight the problems of housing discrimination and employment discrimination.

Mr. Henry B. Ford, Executive Director, Maryland Commission on Human Relations, within a March 2, 2011 letter to County Executive Ike Leggett, talked about the significant cuts in civil rights personnel, fiscal budgets, and high Complaint levels that his agency and the federal EEOC are currently going through. His letter also indicates that “citizens of Montgomery County as well as the entire state would suffer”.

Finally, how would the proposed legislative changes affect Montgomery County’s receipt of HUD Community Development Block Grants? Remember, there is a contractual duty on the part of the recipient to “affirmatively further fair housing”. Based on my work and community group experiences, I have reason to believe that People with disabilities, women, ethnic and religious minorities, older employees, and others, gain from a Office of Human Rights and Commission, staffed with the necessary resources. As we approach a population of almost one million people within Montgomery County, the most diverse County in the state of Maryland, in this upcoming 51<sup>st</sup> year of this governmental entity, we need this agency at full strength, more than ever.

Therefore, I urge the Montgomery County Council to reject the adaptation of Bill 5-11-Office of Human Rights-Human Rights Commission-Reorganization. Thanks.

**Testimony before the Montgomery County Council Concerning  
Changes Noted in Bill 5-11 and the Report of the County  
Organizational Reform Commission Affecting the County Human  
Rights Commission and the County Office of Human Rights in FY 2012  
March 29, 2011**

Good evening, my name is Henry Montes and for this hearing I identify myself as a County resident and advocate for the Latino community in the County. Let me start my testimony by thanking the County Council for having these hearings and allowing me to testify this evening. This evening I would like to share with the County Council members why it is important to the quality of life in the County to maintain and support, without new legislation, the ongoing work of the County Human Rights Commission and its collaborator for social justice, the County Office of Human Rights.

My understanding of the recommendation of the County Organizational Reform Commission in relation to these two County entities and the thrust of Bill 5-11 will be to restrict their jurisdiction over human rights responsibilities to those areas that cannot be dealt with by state or federal authorities. Ostensibly doing this change will allow for the reduction of duplication of adjudication efforts for human rights complaints filed with the County Office of Human Rights and somehow save the County money in the process. Although I understand the logic of this approach, the reality of how individual complaints are started, how they are processed and how they are eventually resolved, is not as clean-cut a process as is being considered by the separation of responsibilities noted in the in the ORC report nor in this Bill.

Please consider that the state and federal levels draw complaints and other actions from a much larger universe of potential complainants and so, just getting our Montgomery County residents' complaints considered becomes a much larger competitive process for time and being a priority. Next those at the state and federal levels dealing with such cases do not really know what is going on in the County in terms of nuances of relationships among populations. Nor are they familiar with the public discourse of societal issues that affect our County cases, e.g. immigrants and immigration issues. At the federal level this is even more distant in terms of being responsive for focusing on our County issues. Furthermore, resources are tight all over, and my understanding is that the State of Maryland Human Rights operation would have a very difficult time being responsive to the added cases that would come from the changes suggested in the Bill. Not knowing for certain, but being a retired federal employee and from past knowledge of the work of the federal Equal Employment Opportunity Commission, its case load is also over the top and getting its attention would be difficult.

It makes sense, then, to ensure that our County residents get the benefit of all we can do to ensure their human rights are protected by keeping our cases close to home. Let's not change something that is not broken, namely, the dedicated service performed by committed volunteers of the Human Rights Commission and the hard-working staff of the Office of Human Rights who are watching out for our most vulnerable residents.

With the growth of our Latino populations and other populations of color in the County and anti-immigrant sentiments that are few but seem to be growing, we must not abandon

the one mechanism we have to probe social injustices that unfortunately occur all too often. As the Latino community grows larger and stronger, it will likely need the services of the County Human Rights Commission and its operational arm, the County Office of Human Rights even more. Changing the dynamic in the County from one of vulnerable people having a place to go to address problems of job discrimination, social intimidation, unfairness in housing and uncertainty of rights to having them needing to go to a distant place to get these resolved, will create greater problems than the perceived need of reducing a \$1.5 million dollar budget in the County.

Therefore, I ask you to consider the present and future needs of vulnerable peoples in the County who rely on a County home voice to support and protect their rights and that you not make changes, through any Bill, to the authorities and jurisdictions covered by the current County Human Rights Commission and its operational partner, the County Office of Human Rights.

Thank you for your attention to my testimony.

Respectfully submitted,



J. Henry Montes  
Montgomery County Latino Community Advocate  
301-762-1103

## ALAN BANOV AND ASSOCIATES

ALAN BANOV

Admitted in Maryland and the District of Columbia

March 28, 2011

RE: EXPEDITED BILL 5-11- Office of Human Rights - Human Rights Commission

Statement of Alan Banov, Esq., Kensington, owner of Alan Banov and Associates, Silver Spring

I have a small law firm in Silver Spring and have been a County resident since 1974. I have practiced employment law for over 30 years and during that period I have represented many employees and ex-employees in discrimination cases before the Montgomery County Office of Human Rights and within the last couple of years litigated a very complex retaliation case before the County Human Rights Commission (*Anissa Harris v. Hampden Lane LLC*, Case No. REH-03982). Since 1996 I have also served as a volunteer mediator for the MCOHR and have mediated dozens and dozens of discrimination cases, most of them successfully.

I am also a member of the Maryland Employment Lawyers Association and drafted its correspondence opposing the abolishment of the Office of Human rights and the Commission.

I appreciate that the County Executive does not fully adopt the recommendations of the Montgomery County Organizational Reform Commission (ORC) with respect to the Commission and MCOHR. However, even Mr. Leggett's more limited approach will still deprive County residents of important rights to seek remedies for alleged discrimination in their employment, public accommodations, and real estate transactions.

Here's why:

1. The County law protects those who work for an employer with fewer than 15 employees (while neither EEOC nor the State Commission will investigate charges against employers with fewer than 15 employees). This enables many more complainants to obtain administrative relief for illegal discrimination or reprisal.

2. The local statute protects classes not covered by other federal or state laws, specifically "marital status" (covered by state law, but not Title VII), "sexual orientation" (not covered by Title VII), "genetic status" (similar to the Federal Genetic Information Nondiscrimination Act of 2008, but not identical), "presence of children" (not covered by Title VII or the state law), and "source of income" (not covered by Title VII or state law). As stated by Russell Campbell, Sr., the current Chair of the Commission, in his letter to Mr. Leggett of February 17.

- Unlike Montgomery County, the state and federal governments do not afford protection to persons who are financially or legally responsible for the support and care of persons regardless of the number or age of any dependent person.
- Unlike Montgomery County, the state and federal governments do not afford protection against discrimination based on a person's actual or perceived gender.

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Cases do arise under these unique provisions. Of the 449 discrimination complaints filed with MCOHR in FY2008, 2 alleged sexual orientation, 1 involved marital status, 2 involved presence of children, 24 involved source of income, and 6 involved family responsibilities. See MCOHR's FY2008 Report.

3. The filing time for discrimination cases in Montgomery County is one year, twice the time allowed by the state and 65 days longer than the limitations period to file with EEOC. This is important because it may take complainants time to discover discrimination and then to file complaints, with or without a lawyer.

4. The Montgomery County law has broader anti-reprisal provisions than does its federal counterpart. Thus, the Human Rights Law not only prohibits retaliation against persons for opposing discrimination on the job and participating in administrative complaints before MCOHR. The County law also makes it unlawful to engage in the following acts:

- (2) **assist in, compel, or coerce** any discriminatory practice prohibited under this division;
- (3) **obstruct or prevent enforcement or compliance** with this division; or
- (4) **attempt directly or indirectly to commit** any discriminatory practice prohibited under this division.

Montgomery County, Md. Code § 27-19(c) (emphasis added). See also Section 27-9(a) ("Any person subjected to an act of discrimination **or intimidation** under this article may pursue a civil action under Maryland law.").

5. Remedies under the statute (at least in court) may be broader than those in other statutes (federal laws limit compensatory and punitive damages to \$50,000 to \$300,000, depending on the size of the employer).

6. OHR is physically accessible to many who (1) cannot travel to the federal or state offices in Baltimore and (2) who, for various reasons (including lack of literacy and English proficiency) are more likely to file at the OHR.

7. Some victims of discrimination obtain relief at the administrative level through the OHR who, for numerous reasons (including cost) would never be able to pursue a claim in court. In fact, many cases settle in mediation at MCOHR, thereby eliminating the need for the parties to engage in administrative or judicial litigation. (In FY2008, for example, MCOHR referred 38 cases to mediation, and 16, or 42%, settled in mediation.)

8. The absence of a local administrative agency will increase the number of filings in circuit court and thereby increase the costs not only for the parties, but also for the courts.

9. Most complainants before the MCOHR simply cannot litigate cases in court, either because they cannot afford an attorney or because the case simply warrants some modest consideration, which they could obtain in mediation.

Banov Statement to County Council  
Re: EXPEDITED BILL 5-11  
March 28, 2011  
Page 3

10. Administrative proceedings before the Commission are less formal than court cases. While representation by a discrimination lawyer will certainly enhance the complainant's opportunity for success, Commission proceedings do not require legal representation as much as court cases do.

In his February 17 letter to Mr. Leggett, Mr. Campbell aptly expressed the need to retain both MCOHR and the Commission for protecting human rights in the County when he stated:

The Human Rights Commission and the Office of Human Rights have a symbiotic relationship. The Office provides support services for the Commission, while the Commission provides support for the objectives of the Office, including Case Review Board panels that review cases on appeal after they have been investigated through the Office of Human Rights (Mont. County Code Sec. 27-2).

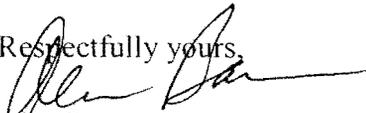
Mr. Leggett's proposal would save a negligible amount of money –in fact, I am not aware of any estimate of how much money it would save. It would be a proverbial drop in the ocean of a huge \$4.35 billion budget!

However, the changes would render a considerable cost to those in the County who want to complain of discrimination on the job, in public accommodations, or in real estate transactions. Indeed, I wonder if the abolition of MCOHR and/or the Commission will encourage County employers generally to disregard legal impediments to discrimination.

We hope that you and your Council members will reject that position and oppose abolition of either the Commission or MCOHR.

Thank you very much for your cooperation.

Respectfully yours,



Alan Banov

**SUMMARY OF  
MONTGOMERY COUNTY OFFICE OF HUMAN RIGHTS  
COMBINED CASE STATUS REPORT AS OF 03/15/2011**

Average Number of New Cases Filed: 200/year    Average Number of Cases Closed: TBD

- 428 Total number of existing/pending cases (2002 to 3/15/2011)
- 173 Total number of existing/pending cases that are within MC-OHR's jurisdiction, but not eligible to go to EEOC or MD-HRC or cases for which complainant cannot file in Circuit Court after January 1, 2012.
- 122 Total number of existing/pending cases that are within MC-OHR's jurisdiction after removing cases barred by statute of limitations at EEOC and MD-HRC (approx. 28% of the total number of pending cases.)
- 133 Total number of existing/pending cases that are within MC-OHR's jurisdiction, and eligible to go to MC-OHR or EEOC

**Case Status:**

- 19 Intake pending receipt of signed complaint ~ (if/when signed, will be assigned to investigators)
- 23 Assigned to Investigation—currently in Mediation Process ~ (work to be completed by mediators)
- 163 Investigation in Progress ~ (work to be completed by Investigators)
- 97 Cases in Management Review ~ (work to be completed by Compliance Manger )
- 57 In Management Post Determination Process ~ (work to be completed by Compliance Director )
- 41 In Management Referral, Conciliation, Case Review Board, or Hearing (CCH) ~ (work to be completed by Director)
- 28 In Special Review & Analysis in connection with CCH ~ (work to be completed by Director and/or Investigators)

**Cases Type:**

- 334 Employment (78%)
- 53 Housing (12%)  
Total number of pending cases filed by the Human Rights Commission on the basis of housing testing: 6 (1.4%)
- 21 Public Accommodation (5%)
- 20 Intimidation (5%)

MC-OHR Existing Pending Cases Case type & Year filed	N/A	prior to 2002	2003	2004	2005	2006	2007	2008	2009	2010	2011 as of 3/15/11	Total
Employment	8	4	1	3	7	4	16	54	89	129	19	334
Intimidation										20		20
Public Accommodation			1			1	4	2	3	8	2	21
Real Estate/Housing		2			2		2	4	16	26	1	53
<b>Total</b>	<b>8</b>	<b>6</b>	<b>2</b>	<b>3</b>	<b>9</b>	<b>5</b>	<b>22</b>	<b>60</b>	<b>108</b>	<b>183</b>	<b>22</b>	<b>428</b>

\$57,000 Revenue from EEOC contracts (for FY12)

\$337,500 Proceeds to the complainants from Conciliations and Mediation Settlements

87

Other MD-HRC 2010 annual report: <http://www.mchr.state.md.us/AnnualReports.html>  
Examples Howard County 2010 annual report: [http://www.co.ho.md.us/HR/HR\\_HomePage.htm](http://www.co.ho.md.us/HR/HR_HomePage.htm)

## OFFICE OF COMMUNITY ENGAGEMENT FOLLOW-UP QUESTIONS AND ANSWERS

### 1. Functions of each office:

- The answers to the questions I sent earlier did not include a description of the functions of the Office of Community Partnerships.  
*Please see Attachment A.*
- Clarify how the services provided by the 5 Regional Service Center differ.  
*Please see Attachment B.*
- What services are housing in each of the 5 Regional Service Centers that are not provided by RSC staff?

#### BCC Regional Services Center (BCCRSC)

*Bethesda-Chevy Chase Regional Services Center is housed here.*

*Bethesda Urban District Manager is housed here.*

*Non-profit - Senior Vital Living Center.*

*Non-profit - Wonders Child Care Center.*

*Non-profit Partnerships at BCCRSC (These non-profits serve BCC residents at the BCCRSC, but do not have dedicated office space): computer rehab and classes for seniors through volunteers, continuing education classes for seniors via partnership with Washington Oasis, senior exercise classes via partnership with Suburban Hospital.*

#### East County Regional Services Center (ECRSC)

*East County Regional Services Center is housed here.*

*Health and Human Services (HHS) - People's Community Wellness Clinic – primary health care for low-income uninsured residents.*

*HHS Contractor - Mobile Med – acute healthcare for low-income uninsured residents.*

*HHS - One Staff person housed in RSC office space from the African American Health Initiative.*

*Police - East County Police Substation.*

*Non-profit Partnerships at ECRSC (These non-profits serve East County residents regularly at the ECRSC, but do not have dedicated office space): AARP Free Tax Preparation; Pro Bono legal Clinic; Montgomery College Spanish classes; Maryland procurement Technical Assistance program for Small Businesses; HIV Prevention and Counseling (GapBuster Learning Center); ESOL classes by the Literacy Council of Montgomery County; Manna Food; and the Small Business Development Center for small business counseling*

Silver Spring Civic Center Building (SSCB)

*Silver Spring Regional Services Center (SSRSC) and the Silver Spring Urban district (SSUD) are housed in the SSCB.*

*Community Use of Public Facilities (CUPF) scheduler is housed in the SSCB. In FY12, a Building Manager and one additional building space related person will be housed in the SSCB.*

*Department of General Services (DGS) – SSCB building maintenance staff  
Office of Community Partnerships (OCP) – An AmeriCorps intern shared by OCP and the SSRSC.*

*Round House Theatre uses the basement level of the Silver Spring Civic Building (with a separate entrance) for their consolidated administrative offices, some rehearsals, and classes.*

*There are no direct service providers in the facility.*

Mid-County Regional Services Center (MCRSC)

*Mid-county Regional Services Center is housed here.*

*Wheaton Urban District is housed here.*

*DGS – Wheaton Redevelopment.*

*HHS – Community Action Agency.*

*HHS – Women’s Cancer Control Program.*

*HHS – Adult Behavioral Health.*

*Department of Recreation (REC) - Gilchrist Center (FY12, part of OCE).*

*HHS Contractor - Proyecto Salud.*

*Non-profit - Mid-County United Ministries.*

*Non-profit - Conflict Resolution Center.*

Upcounty Regional Services Center (UCRSC)

*Upcounty Regional Services Center is housed here.*

*Department of Economic Development (DED) - Montgomery Works.*

*DGS/Facilities Division – Area Property Manager.*

*OCP - Gilchrist Center.*

*Community Use of Public Facilities.*

*Health & Human Services*

*Services Eligibility Unit; Income Support Programs; Public Health; Housing Stabilization Services; Emergency Services; Child Welfare; Dental program*

*Office of Human Resources – County Employees’ training rooms.*

*Department of Housing and Community Affairs (DHCA) contractor - Foreclosure*

*Assistance Counseling (HIP contract with DHCA).*

*Non-profit - Peppertree Childrens Center.*

*HHS Contractor - GUIDE Youth Services.*

*MCPS - Training and Organizational Development.*

*MCPS - Transportation Division.*

2. I am still not sure how we will articulate in my staff memo the benefits of OCE that could not otherwise happen with the existing structure, particularly with regards to collaboration so it would be helpful to have you put something in writing.

*Please see Attachment C for the County Code definitions of the County's "Principal Departments/Offices" and "Non-Principal Offices". The County Executive's main goal is to achieve the following objectives without eliminating or creating a new Principal or Non-Principal Office. The proposed Office of Community Engagement fulfills County Executive's following policy, budgetary and operational objectives.*

**County Executive Objectives to Achieve:**

1. *Produce Long-Term Savings ~ \$2.8M*
  2. *Increase collaboration and partnerships among County departments and offices.*
  3. *Create a better organized community outreach approach in order to have a more effective and efficient response to population and demographic changes.*
  4. *Create a more unified and comprehensive approach for engaging the community in order to maximize the use of County and community resources to address community/residents' needs.*
  5. *Reduce the budget impacts to community, by focusing on community/residents' needs and target resource reductions where it would have the least negative impact to County residents, from both the "size" and "vulnerability" perspectives.*
  6. *Maintain the stand-alone and non-principal office status of "Office of Human Rights."*
  7. *Maintain the stand-alone and non-principal office status of "Commission for Women."*
  8. *Maintain and require the same level of competency, knowledge, and skill-sets required for each of the lead positions in these impacted units.*
3. How could the Council be assured that resources would not be shifted among functions in a way that would be inconsistent with the Council's priorities?

*As in the past, we will work collaboratively with the County Council on all resource/budget related matters/needs. Please note that the functions provided by the OHR and CFW are in the County Code, therefore reducing and/or shifting of their dedicated staff resources (as submitted in FY12 budget) away from these offices will not be possible.*

4. What specific steps will you take to ensure the MOU is followed and to improve communication between OCE and Council offices?
  - a) *Add a Council specific "performance exception" goal to FY12 Performance Plan of the following directors: Ken Hartman, Joy Nurmi, Natalie Cantor, Reemberto Rodriguez, Cathy Matthews, and Bruce Adams.*
  - b) *By June 30<sup>th</sup> of each year, prior to finalizing the past performance reviews and the next year's performance expectations, seek Council members' input/comments for inclusion in final ratings and next year's performance expectations.*
  - c) *Offer a quarterly update meeting of all RSC directors and Bruce Adams with the Council designees and/or with Council members.*
  - d) *On a yearly basis, the CAO, or on his behalf, a designated ACAO, will meet one-on-one with Council Members and/or their designee to discuss issues and, if needed, amend/modify the MOU.*

5. Which events will the County offer or support in FY12 and which office will be responsible? What is the cost of each event?

*Please see Attachment D.*

6. Can you explain why HRC still has 47 pending cases that were filed before 2008, including 6 cases filed before 2002?

*Forty-one of these cases are cases where (1) the OHR's Director's determination is being reviewed by the Human Rights Commission (which may involve an administrative hearing) or (2) the Human Rights Commission's decision is on appeal to Circuit Court. Until the Commission issues its decision and any appeals are concluded, the case is shown as "pending" by OHR, even though OHR's work on the case is done.*

*The remaining 6 cases that are more than 3 years old are outside of the expected inventory life span but can be explained by lack of tracking and transition during periods of significant staff turnover.*

7. What % of cases over the last 5 years has the Office of Human Rights investigation found no reasonable cause? Please break this down by type of case.

*Consistent with the numbers from EEOC, a significant percentage of MCOHR cases are resolved without finding a violation of the anti-discrimination laws. As indicated on EEOC website, based on total number of 73,058 cases received last year, 3,794 or 5% resulted in a probable cause finding. Also 7,024 EEOC cases resulted in a settlement (amicable resolution where there may or may not have been some exposure in litigation).*

8. How many cases has the Human Rights Commission decided after a hearing each year for the past 5 years? How many of these cases were heard by the Hearing Examiners? Please break these statistics down by type of case.

*At present, there are 24 cases pending or in review by the HRC or through a public hearing. In addition, 10 cases are in line for conciliation - the stage before the hearing - most of which will go to public hearing.*

*With respect to cases in the last 5 years, the OHR's case management system cannot provide the precise statistical breakdown sought by this question. OHR could generate the information through a case by case file review for the last 5 years, but the time required for such a review would be extensive. But it is safe to say that, in the past 5 years, approximately 12 cases have been reviewed through the Commission and/or the hearing examiner.*

## Attachment A

### Office of Community Partnerships – Core Functions

**Mission:** The mission of the Office of Community Partnerships is to strengthen relationships between government and the residents it serves, with special focus on underserved and emerging communities and our neighbors in need. The OCP serves as a bridge builder between the County government and community organizations serving the residents of Montgomery County, working across the barriers of race, ethnicity, income, and religion that too often diminish communities. OCP's mission is to carry out the County's commitment to build a larger policy table with participation by a more diverse range and greater number of residents.

#### **Core Function #1: Issue Coordination**

##### **Engage & Empower Ethnic Communities**

###### **Activities:**

- Inform, engage, and empower ethnic communities through e-communications and outreach.
- Lead effort to strengthen network of welcoming services of Gilchrist Center
- Lead County's language access program.
- Support development of a more culturally competent County government.
- Staff County Executive's ethnic advisory groups and Committee for Ethnic Affairs.
- Support World of Montgomery Festival, Montgomery County Sister Cities program, and County's ethnic heritage events and programs.

###### **Outcome Measure:**

- Broaden participation of ethnic communities in civic life of the County

#### **Core Function #2: Strengthen Capacity of Nonprofit Sector and Faith Community**

###### **Activities:**

- Partner with Nonprofit Montgomery to promote collaboration of County government with nonprofit sector and to strengthen nonprofit sector
- Work with Community Foundation's Nonprofit Advancement Fund to strengthen the capacity of ethnic serving nonprofits
- Work to strengthen capacity of faith community to serve our neighbors in need
- Promote volunteerism and community service
- Partner with Corporate Volunteer Council, Companies for Causes, and others to strengthen nonprofit sector

###### **Outcome Measures:**

- Increase number of residents in need served by nonprofit and faith organizations

**Core Function #3: Strengthen County's Culture of Giving and Serving**

**Activities:**

- Connect individuals and organizations to volunteer opportunities through 1-800 data base.
- Support Student Service Learning program for MCPS students.
- RSVP program and Senior Fellow collaborate to promote civic engagement of Seniors.
- Promote Days of Service (MLK Day, Earth Month, Community Service Day).
- Partner with Community Foundation, Corporate Volunteer Council, Companies for Causes, Nonprofit Montgomery, and others to strengthen culture of giving and serving.
- Lead County's annual Employee Giving Campaign.

**Outcome Measure:**

- Increase number of volunteers and measurable impact of community service.

## Attachment B

### Regional Services Centers – Core Functions

#### Core Function #1: Issue Coordination

Manage communication with stakeholder groups/participate in internal policy making:

##### BCC

- Urban District Noise Bill
- Restaurant windows regulation
- White Flint development/public amenities plan

##### East County

- Bus shelter illumination coordination with DOT/Clear Channel
- Urban District Noise Bill
- Code Enforcement Bills
- Dances for Profit/Go Gos

##### Silver Spring

- Urban District Noise Bill
- Restaurant windows regulation
- Completion of Silver Spring Redevelopment Plan
- Development of Long Branch Sector Plan and the Langley Park Sector Plan
- Various 'edge issues' with DC and Prince George County

##### Upcounty

- Noise bill
- Code enforcement legislation
- Restaurant windows regulation
- Great Seneca Science Corridor Plan
- Smart Growth Initiative Implementation Group (Webb Tract, County Service Park, etc.)
- Germantown Employment Sector Plan
- Shady Grove Sector Plan
- Clarksburg Infrastructure Working Group
- Airstrip in Ag Reserve
- Budget forums
- Independence Day celebration

**Develop and manage strategic approaches to address community concerns (partnerships, meetings, action plans, news releases, etc.) and monitor issue to resolution**

Upcounty

- North County Depot project – Clarksburg community, DGS, DEP, DOT, OMB, Planning
- Clinic protests – Police, Executive Terrace Business Association
- Zoroastrian Temple – Boyds Civic Association
- JSS Hindu Temple – Laytonsville community, Planning, DEP, DPS
- Global Mission Church – Planning, Frederick County
- Black Hill Trail Renovation Project – Parks, Waters Landing Association
- Jack Schore Tennis Facility – DPS, SoccerPlex, Parks
- Clarksburg parking issues – community, FRS, Planning, CAO
- Southlake/Horizon Run Community-building Project – CE, DHCA, Police, DOT

East County

- IDA Sector Meeting Partnership between ECRSC and Third District police – Bi-monthly crime trends/prevention meetings with residents, apartment managers, and businesses.
- Burtonsville Revitalization – Giant lease/Burtonsville Crossing vacancies.
- Create non-profit partnerships at East County Regional Services Center to provide free services to East County residents:
  - Tax preparation.
  - ESOL Classes.
  - HIV Prevention, testing and counseling.
  - Pro Bono Legal Clinic.
  - Manna Food.
  - Mobile Med.
  - Small Business Development Center – free counseling for federal contracts.
  - Spanish Classes.
  - Street Outreach Network.
  - WeGreen environmental education.

**Design public relations efforts tailored to the type of event and the participants attending.**

Mid-County

- E-mails, web and utilization of established networks.
- Identify and prepare issue areas for Advisory Board(s); do preliminary research and arrange subject matter experts.

**Lead discussions/negotiations concerning future public amenities and programs:**

BCC

- Trillium – artist studio agreements
- White Flint Urban District
- Bethesda Metro arts project

East County

- Burtonsville Giant/Burtonsville Crossing
- Third District Police Station
- Station 37 – new Calverton Fire Station
- Pedestrian Safety improvements in Fairland, Burtonsville, Cloverly
- Negotiate with Adventist re: free site for Fire Station in Calverton area

Silver Spring

- (Soon to be) old library site
- (Soon to be) old 3rd Police Precinct building
- Progress Place (homeless services) relocation
- Fillmore
- Transit Station
- New Library

**Enhance/build partnerships by participating in local boards and committees (Participation may include, among other tasks, helping determine agenda and invitees, manage new member recruitment process, and provide policy guidance for decision making process):**

BCC

- WMCCAB
- Bethesda Green – Board members
- Glen Echo Partnership – Board Member
- Woodmont Triangle Action Group
- White Flint Steering Committee
- Bethesda A & E Board
- Bethesda Transportation Solutions
- North Bethesda TMD
- Friendship Heights TMD
- BCC Chamber of Commerce
- Potomac Chamber of Commerce
- Rockville Chamber of Commerce

Silver Spring

- Silver Spring Citizens Advisory Board (SSCAB)
- Urban District Advisory Committee
- Arts & Entertainment Advisory Committee
- Neighborhood Committee of SSCAB
- Commercial and Economic Development Committee of SSCAB
- Transportation and Pedestrian Safety Committee of SSCAB
- Silver Spring Transportation Management District
- Chamber of Commerce Government Relations Committee
- Silver Spring Town Center Inc Board of Directors
- Silver Spring Green Advisory Group
- Silver Spring Senior Village Start-Up Group
- Silver Spring Apartment Managers Start-Up Group
- Weed & Seed Advisory Group
- Countywide Pedestrian Safety Committee
- Downcounty Latino Group

Upcounty

- Upcounty Citizens Advisory Board
- Board of Trustees, BlackRock Center for the Arts
- Gaithersburg-Germantown Chamber of Commerce
- Poolesville Area Chamber of Commerce
- Clarksburg Chamber of Commerce
- Gaithersburg City's Senior Center Task Force

East County

- East County Citizens Advisory Board
- East County Youth Advisory Board
- Silver Spring Chamber of Commerce
- East County Apartment Managers Group

**Core Function #2: Community Outreach**

**Maintain close and regular communication with Community leaders:**

BCC

- Direct communication.
- Participation in stakeholder meetings.
- Email blasts to stakeholder leaders for urgent/timely information – Partner with police.
- Twice weekly electronic newsletter to 2000 subscribers.
- Twice monthly “open houses” with members of the community.

East County

- Bi-monthly electronic newsletter to 3300 East County residents.
- Weekly Crime Reports/Alerts to 800 East County residents.
- IDA Sector Meeting Partnership with Third District police – Meetings and Crime Prevention.
- Bi-annual Apartment Manager meetings to connect them with County Departments.
- Attending Civic Association Meetings.
- Participation in stakeholder meetings: Labquest/SS Chamber.
- Leadership Forums with Community/Faith/Business Leaders/Business owners.

Mid-County

- Monitor policy/legislative changes which may affect communities and groups; notify those stakeholders and advise them how/when to advocate effectively.
- Strategize with departments as to whom they need to reach out; how to reach out; when to reach out and who are absolutely “critical players.”

Silver Spring

- Extensive formal and informal direct communication
- Participation in ad-hoc meetings and gatherings
- Review and send pertinent e-blasts to focus customer base
- Informal once a month gathering with members of the community

Upcounty

- Direct communication
- Participation in stakeholder meetings
- Email blasts to stakeholder leaders for urgent/timely information

**Assist Departments with outreach:**

BCC

- Assist with targeted emails.
- Facilitate public meetings.
- Direct communication with stakeholders.
- Examples: Facilitated Bradley Boulevard sidewalk meeting. Restaurant window regulations meeting with HHS.

East County

- Assist with targeted emails.
- Advertise Department (library, recreation, DEP, etc.) and Park & Planning meetings/activities/programs via newsletter and special notices to 3,300 East County residents.
- Facilitate public meetings.
- Direct communication with stakeholders.
- Examples: Third District Police Station siting/Burtonsville Revitalization.

Silver Spring

- Strategize regarding efficient and effective outreach.
- Assist with targeted e-mails.
- Help facilitate public meetings.
- Direct communications with stakeholders.

Upcounty

(Darnestown crime, facility site selection process, Healthy Montgomery focus groups, North Potomac Recreation Center, Montgomery Village transit hub, Animal Shelter site selection, Mid-County Corridor Study, Corridor Cities Transitway, master plan reviews, etc.) with:

- Targeted emails.
- Facilitate public meetings.
- Direct communications with stakeholders.
- Arrange small meetings of key stakeholders with department representatives.

**Core Function #3: Regional Knowledge**

**Expert knowledge and familiarity of local communities, leaders and issues:**

BCC

Extensive work with departments – DOT, DGS, Corrections, Police, Recreation and others on regional needs and issues.

Upcounty

Extensive work with departments and agencies (DOT, DGS, DHCA, DEP, Planning, Parks, Recreation, Collaboration Council, Police, FRS, Corrections, MCPS, CAO):

- Facility site selection (Travilah fire station, 6D station, 5D station renovation, North County Depot).
- Collaboration Council – Clemente Afterschool Program.
- Code enforcement legislation.
- Allegheny Power's PATH project.
- Relocation of Clarksburg school bus depot.
- Skate parks in Germantown and Damascus.
- Extensive work with Citizen Advisory Board and other local committees on local issues and resolution of community concerns.

East County

- Assist Park & Planning with outreach/issue identification on East County Science Center Master Plan and Burtonsville Neighborhood Plan.
- Assist Recreation Department in identifying community members for Art Advisory Board for new Recreation Center.

Mid-County

- Serve as an “early warning system” to county colleagues based on understanding community/group issue areas and leadership styles as to whether policies and programs fall short or need to be re-tooled; recommend policy and/or legislative changes.
- Through many scheduled and unscheduled meetings each week with individuals and groups provide up-to-date information pertinent to the group’s needs. Many groups have me on their monthly agendas to perform this function.

Silver Spring

- Provide expert knowledge to county agencies, potential developers, and community.
- Work extensively with department on local impact of their work.
- Broker and negotiate resolution to many issues before they become impediments.

Upcounty

Maintain expert knowledge of region and community dynamics to assist community; and mediate disputes:

- SoccerPlex /Schore Tennis.
- Montgomery Countryside Alliance.
- DHCA’s Germantown Neighborhood Focused Assistance Program.
- Recreation facility planning.
- Seneca Cluster Community Partnership/Police.
- JSS Spiritual Mission Temple project / Laytonsville community.
- Zoroastrian Temple project / Boyds Civic Association.
- Giant Food expansion project.
- Wegman development project.

**Core Function #4: Response to Community Needs/Concerns**

**Extensive coordination and referral of stakeholder issues and concerns to County agencies for resolution.**

BCC

- Chevy Chase West Traffic concerns.
- Randolph Hills housing code issues.
- Bethesda Metro task force.

East County

- Burtonsville Revitalization.
- Lighting in Briggs Chaney.
- Castle Boulevard area.
- Community concerns following Castle Boulevard murder.

Silver Spring

- Provide hands on, on the ground resolution to countless issues ranging from complicated resident concerns to business owners inquires.

Upcounty

Identification of potential issues, extensive coordination of resources, public I&R, and referral of stakeholder concerns:

- Interim Gaithersburg Library – brokered partnership of Public Libraries and Lakeforest Mall.
- Foreclosure counseling – extensive coordination with Housing Initiative Partnership and DHCA.
- Montgomery Works – initiated and coordinated move from Lakeforest Mall to URSC.
- Initiated and managed skate park project in Germantown, and assisted Police with one in Damascus.
- Town of Poolesville on recreation center project.
- Develop strategy for Keep Germantown Moving community-engagement plan.
- Facilitate community education and coordination for potential “Villages.”

East County

Create partnerships at East County Regional Services Center to provide free services to EC residents:

- Tax preparation.
- ESOL Classes.
- HIV Prevention, testing and counseling.
- Pro Bono Legal Clinic.
- Manna Food.
- Mobile Med.
- Small Business Development Center – free counseling for federal contracts.
- Spanish Classes.
- Street Outreach Network.
- WeGreen environmental education.

Work with East County Citizens Advisory Board regarding concerns:

- Burtonsville Revitalization/Vacancies in Burtonsville Crossing.
- Dino Drive Safety Issues.
- Code Enforcement problems in neighborhoods.
- Religious Institutions in residential areas.
- Pedestrian Safety.
- IDA Sector Public safety meetings with police and community members.

**OTHER**

BCC

Manage BCCRSC as “Civic Space” – coordinate needs of users, establish and nurture partnerships for services, promote space.

Manage Bethesda Urban District through partnerships with local stakeholders, organizations, and county agencies.

Establish and maintain partnerships for emerging community needs. Examples: facilitate creation of “Villages.” Work with community leaders to build stakeholder association “capacity.”

Work with Partners on special projects: example Bethesda homeless meters, WiFi at Glen Echo Park.

Mediate disputes between community groups: example Glen Echo Park and Adventure Theatre.

East County

Work with Partners on special projects, such as the Roadside Solicitation Task Force.

Silver Spring

Policy Guidance to Silver Spring Civic Building and Veterans Plaza, including but not being limited to:

- Negotiate agreements, contracts, and MOUs for the functioning of the facility.
- Provide on-site policy resolution to issues related to operations and management.
- Coordinate major events with critical partners.
- Ensure the facility meets its mission as a spark for community engagement.

Upcounty

Manage Upcounty RSC as civic space – promote small events, promote and coordinate inter-agency relations among tenant agencies, establish partnerships among service groups.

**Montgomery County Government\*****Principal Departments/Offices - County Code Section 1A-201**

- 1 County Executive
- 2 Chief Administrative Officer
- 3 Consumer Protection
- 4 Correction and Rehabilitation
- 5 County Attorney
- 6 Economic Development
- 7 Environmental Protection
- 8 Finance
- 9 Fire and Rescue Services
- 10 General Services
- 11 Health and Human Services
- 12 Housing and Community Affairs
- 13 Human Resources
- 14 Intergovernmental Relations
- 15 Liquor Control
- 16 Management and Budget
- 17 Permitting Services
- 18 Police
- 19 Public Information
- 20 Public Libraries
- 21 Recreation
- 22 Technology Services
- 23 Transportation

## Supervision of departments and principal offices – Section 1A-202

- (a) Each department and principal office is under the immediate direction of the head of the department or principal offices including any department or office employee holding a position in the Executive Branch designated by law as a non-merit position.
- (b) Departments and principal offices are also subject to the general supervision of the County Executive and the Chief Administrative Officer.
- (c) Heads of departments and principal offices appoint the merit system employees of the departments and principal offices.

**Non-Principal Offices - County Code Section 1A-203**

- 1 Office of the Commission for Women
- 2 Office of Community Use of Public Facilities
- 3 Office of Emergency Management and Homeland Security
- 4 Office of Human Rights

## Supervision of offices and appointment of heads – Section 1A-204

Each office established under section 1A-203(a) is under the supervision of an Executive Director who is appointed by the Chief Administrative Officer. Each Executive Director is a merit system employee.

**Other Budget Units**

- 1 Board of Investment Trustees
- 2 Regional Services Centers

## RSCs/OCP/CFW/Human Rights/Recreation Events

## Attachment D

Community Events	RSC BCC*	RSC EC	RSC MC	RSC SS	RSC UC	OCP	CFW	Human Rights	Recreation	Gilchrist Center	FY 11 Budget	Proposed FY12 Budget	Source of Funds	Comments
Community Service Day						X					\$5,000/ CEX	\$5,000/OCE budget	General Fund	funding augmented by private sector donations
Biennial Human Rights Hall of Fame								X			\$0/ OHR	\$7,570/OCE Budget	General Fund	Held every other year
Human Rights Youth Camp								X			\$TBD / OHR	OCE Budget	General Fund	Spring and Fall of each year
Independence Day Celebration					X				FY12		\$50,570 / RSC	OCE Budget	General Fund	RSC FY11; Recreation FY12
Independence Day Celebration			X						FY12		\$48,800/ RSC	W-UD & GF	General Fund	RSC FY11; Recreation FY12
Jazz Festival				X					FY12		\$110,000 / SS-UD	\$100,000 / Recreation (SSUD funds)	SS-UD	RSC FY11; Recreation FY12; funding augmented by private sector donations
MLK Day of Service & Celebration						X					\$2,500 / CEX	\$2,500/OCE budget	General Fund	funding augmented by private sector donations
One Stop Fair Housing Seminar								X			\$TBD	OCE budget	TBD	Spring and Fall
Summer Concerts (Mid-County)			X						FY12		\$30,000 / W-UD	\$30,000 / W-UD	W-UD	In partnership w/DHCA
Swing Summer Concert Series				X					FY12		\$30,000 / SSUD	\$15,000 / Contribution from Discovery Communications	SS-UD Budget	funding augmented by private sector donations
Taste of Wheaton			X						FY12		\$50,000 / W-UD	\$50,000 / W-UD	W-UD	RSC FY11; Recreation FY12
Thanksgiving Day Parade				X					FY12		\$40,000/ SSUD	\$45,000/ SSUD	SS Urban District	
Women's Legislative Briefing							X				\$0 / CFW	OCE budget	General Fund	Solicit sponsorships and charge attendee fees

## RSCs/OCP/CFW/Human Rights/Recreation Events

### Attachment D

Community Events	RSC BCC*	RSC EC	RSC MC	RSC SS	RSC UC	OCP	CFW	Human Rights	Recreation	Gilchrist Center	FY 11 Budget	Proposed FY12 Budget	Source of Funds	Comments
World of Montgomery Festival						X					\$2,500 / CEX	\$2,500/OCE budget	General Fund	funding augmented by private sector donations

\* BCC RSC does not organize events. However, BCC RSC is involved in many community activities through partnerships.

**RSCs/OHR/CFW/OCP organizes the following events through partnerships of varying degrees:**

- Arab American Heritage Month
- Asian Pacific American Heritage Month
- Black History Month
- Hispanic/Latino Heritage Month
- Native American Heritage Month
- SILVERDOCS
- National Night Out
- Magical Montgomery
- Historical Foundation Annual Event
- 1st Night Celebration
- Civil Rights Educational Civil Rights Tour
- Black History Conversations with Montgomery County Libraries, Lincoln Park Foundation
- Fenton Street Market
- Silver Spring and Mid-County Farmer's Markets
- Juneteenth Celebration
- Community Forums