



Montgomery County Government

MEMORANDUM

August 31, 1981

TO: County Council

FROM: Andrew Mansinne, Jr., Director, Office of Legislative Oversight

SUBJECT: Office of Legislative Oversight Memorandum Report: An Evaluation of Revised Merit Employee Grievance Procedures

1. Purpose. To provide the Council an evaluation of the revised merit employee grievance procedures as outlined in Administrative Procedure (AP) 4-4, Grievance Procedures, effective August 15, 1980.

2. Background. When the Council approved Bill #5-80, transferring Employee Relations to the Office of Personnel, it provided for automatic termination of the Bill's provisions "...as of the first day after January 31, 1981, unless the County Council, by resolution, provides for extension of the termination date to either a time certain or unspecified date." (See TAB A for copy of Bill #5-80).

The Bill did not specify what must be accomplished for the Bill's provisions to be extended. However, a review of the worksessions and Council discussions relating to the transfer indicates that, as a minimum, the Council expected the following:

--Initiation of a Quarterly Report to the Council which would set forth the County's goals on Equal Employment/Affirmative Action, assess where it stands at the time of the report, and detail what is being done to meet those goals;

--Information on the activities of the two minority affairs coordinators;

--Information on miscellaneous employee matters, e.g. the feasibility of an employee attitude survey, progress on improving the Employee Performance Evaluation System, publishing names of recipients of outstanding increments and promotions, and other aspects relating to the implementation of the merit system law; and

--A report on the newly revised employee grievance procedure.

On December 3, 1980, the Chief Administrative Officer provided the Council with the first Quarterly Personnel Report for the period July 1, 1980 to September 30, 1980; and in January 1981 provided information on the activities of the two minority affairs coordinators. Quarterly

Reports have continued to be published, with the latest (for the period April 1, 1981 to June 30, 1981) published on August 19, 1981. At TAB B is an extract of this latest report showing a summary of grievances for FY 81.

The Office of Legislative Oversight prepared a memorandum report on January 16, 1981, which evaluated the recently revised merit employee grievance procedures. Some of the report's summary/conclusions were as follows:

--The revised grievance procedures and their administration by the Employee Relations Section of the Office of Personnel were a marked improvement over the previous procedures and administration.

--Practically all employees who submitted a formal grievance felt that there was a stigma connected with being a grievant. Many felt their supervisors looked upon a grievance as a complaint against the supervisor's management abilities.

--Employees felt that submitting a grievance adversely impacts on management actions relating to the employees performance; e.g. performance evaluation, service increment and promotion.

--This evaluation seemed to indicate that an employee with a legitimate problem or complaint must face some hard choices: attempt to informally discuss the problem with the supervisor and maybe get no action; file a formal grievance and suffer the stigma (real or imagined) of such an action; or live with the problem. It appears that the latter two choices are the ones most often selected.

On January 27, 1981, the Council adopted Resolution #9-1117 (TAB C) which extended the provisions of Bill #5-80 to September 30, 1981. The resolution directed the Office of Legislative Oversight to continue evaluating the merit employee grievance procedure and report to the Council on the effectiveness of these procedures prior to September 30, 1981. The resolution requested the County Executive to provide comments/recommendations to the Council prior to September 30, 1981, on two issues raised by employees: establishing an ombudsman and changing the name of Employee Relations.

3. Report Objective and Methodology. This report continues the evaluation of the revised merit employee grievance procedures, as contained in Administrative Procedure 4-4, Grievance Procedures. The evaluation included: a) continued examination of the August 1, 1980, AP 4-4, Grievance Procedures as they are administered by the Office of Employee Relations; b) analysis of some proposed changes AP 4-4 as circulated in July 1981; and c) conduct of personal interviews with employees who had submitted grievances under the AP 4-4.

4. General Observations and Comments. As noted in the OLO report of January 16, 1981, the revised grievance procedures as administered by the Employee Relations Section of the Office of Personnel is a marked improvement over previous procedures and administration. Personnel interviews endorse the revised procedures over the old and highlight the following specific improvements:

--Timely processing and resolution;

--Professionalism, helpfulness, and objectivity of the Employee Relations staff (a specific comment on staff objectivity is discussed below); and

--Professionalism, objectivity and thoroughness of the special investigators and fact finders.

5. Specific Observations and Comments.

--Recommended changes to AP 4-4. Most of the changes to AP 4-4 recommended in the OLO Report of January 16, 1981, have been included in a proposed revision to the AP which was circulated in July 1981. One recommended change, however, was not included in the proposed revision. The OLO report recommended that a time limit for the fact finder to submit written recommendations to the Chief Administrative Officer be specified. Every action by the employee and management has a time limit except for the fact finder to submit written recommendations. This appears to be an unnecessary inconsistency.

--Follow-through on resolved grievances. The Personnel Office considers a case resolved when a mutually agreed solution is reached anywhere in the grievance process or when the CAO renders a decision. However, the grievant feels the grievance is resolved or settled when the action or actions mutually agreed to are actually accomplished. Employee interviews continue to reveal instances where the employee has waited long periods of time for the resolved solution to be implemented. There is apparently a need within Employee Relations for a procedure to follow through and verify that actions generated in a resolved grievance are, in fact, accomplished.

--Objectivity of Employee Relations Staff. As stated above, interviews with employees who have submitted grievances generally consider the Employee Relations staff to be professional, helpful and objective. However, there is one recurring criticism which reflects on the objectivity of the staff. That criticism concerns the changing role of the staff person as the grievance proceeds through the various steps. When an employee first submits a grievance, an Employee Relations staff person interviews the employee in a neutral and helpful manner, and makes a determination as to the type of grievance and the grievability of the issue. The staff person does not make any decisions as to the merits of the grievance.

However, by the time the grievance has progressed to the step where a fact finder is used (for Tracks I, II and IV), the role of the Employee Relations staff person has changed significantly. When the employee comes before the fact finder with the grievance, the Employee Relations staff person is the one who presents the case for management as its advocate in the hearing. The result of this "role change" has been to confuse the employee and give the grievant a feeling of having been deceived.

--Employee Relations and Labor Relations. Also reflecting on the issue of staff objectivity is the dual mission of the Employee Relations Section. The Employee Relations staff has the responsibility for processing employee grievances and for representing management in labor relations issues with unions and employee organizations. I believe that as labor relations functions increase employees will find the distinction between the two functions to be indefinite.

--Need to resolve complaints informally. The Office of Legislative Oversight memorandum report of January 16, 1981, highlighted the need to resolve legitimate problems and differences through direct, informal communication between the employee and management. The revised grievance procedures have greatly improved on previous procedures to formally process and resolve merit employee grievances. However, the new procedures have done little to encourage informal resolution. This issue is discussed in some detail in the final report of the Merit System Review Commission. An extract of that Commission's report on grievance procedures is attached at TAB D.

6. Summary/Conclusions.

--The revised procedures to formally process grievances are a marked improvement over the previous procedures and administration and, with some minor changes outlined above, should be continued.

--While acknowledging the improved efficiency of these new procedures, the result has been the almost total reliance on formal grievance resolution with little attention devoted to developing the attitudes and skills to settle employee concerns before they escalate into formal grievances.

--Practically all interviewed employees felt that filing a grievance will have an adverse effect on their relationship with management.

--This evaluator believes that the administration recognizes that an effort must be made to improve management-employee relations. To this end, the County Executive recently constituted a Resources

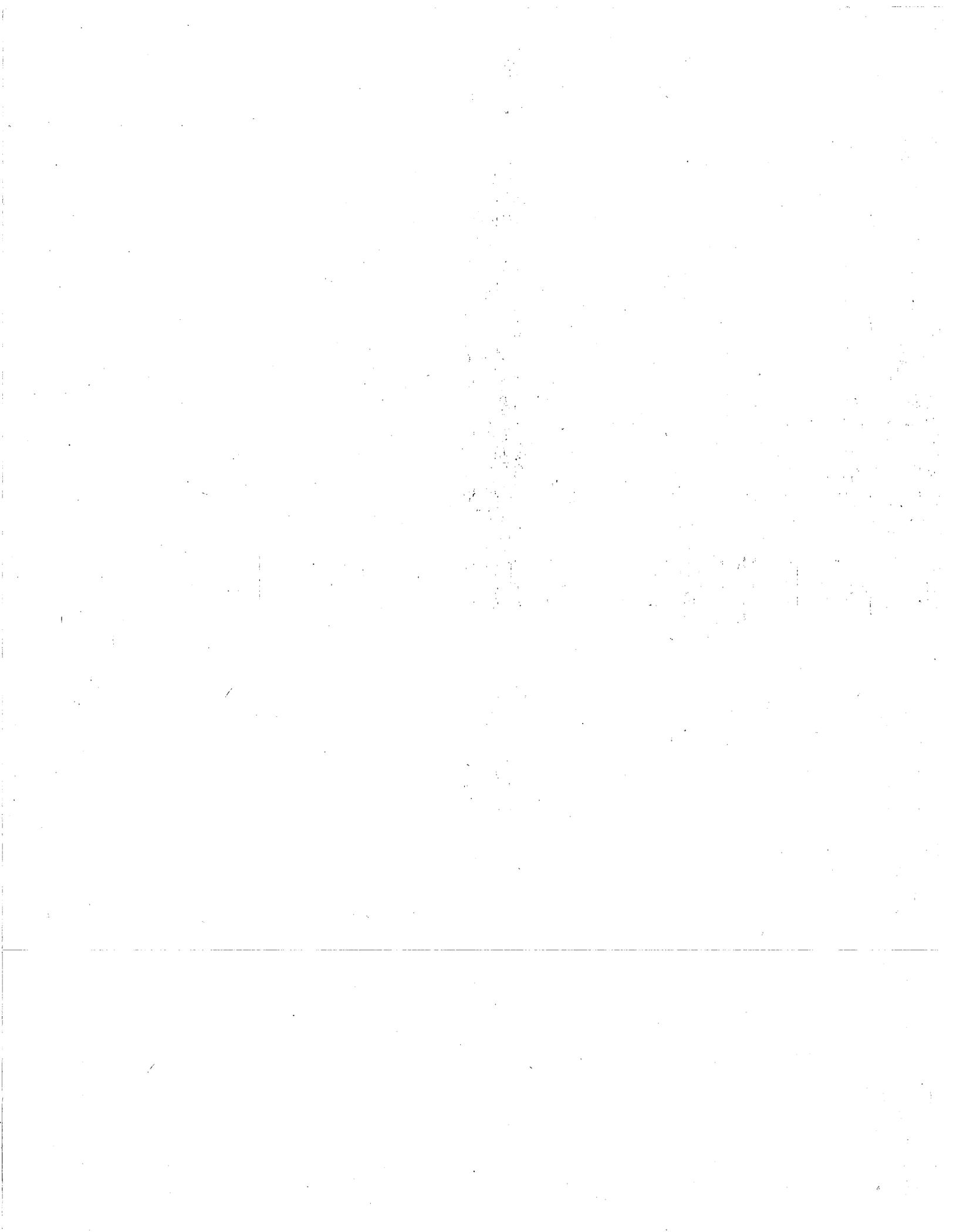
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Management Team with one of its missions being to create a management development program. I would expect that any management development program would concentrate on improving management techniques and skills in informally solving employee problems.

AM:cls

Attachments

cc: Robert Wilson, Chief Administrative Officer
Clinton Hilliard, Director, Personnel Office
Jacqueline Rogers, Director, Office of Management and Budget
Gerald Moser, Executive Secretary, Merit System Protection Board
Robert Kendal, Assistant Chief Administrative Officer
Jim Torgeson, Employee Relations
Robert McDonnell, Council Staff Director



BILL NO. 5-80

Introduced: February 12, 1980
Enacted: July 1, 1980
Executive: July 7, 1980
Effective: July 7, 1980

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

February Legislative Session 1980

Chapter 1

Laws of Montgomery County, 1981

AN EMERGENCY ACT to amend Chapter 2, title, "Administration," of the Montgomery County Code 1972, as amended, by repealing and reenacting with amendments Section 2-25, title, "Functions of Office of the Chief Administrative Officer," to amend the functions relating to employee relations by repealing and reenacting with amendments Section 2-64I, title, "Generally," of Division 15, title "Office of Personnel," to add functions relating to employee relations; to provide for the termination of these amendments upon certain conditions; and to provide for the transfer of certain functions upon certain conditions.

Be It Enacted by the County Council for Montgomery County, Maryland, that -

Sec. 1. Section 2-25, title "Composition and functions of Office of the Chief Administrative Officer," of Division 1, title, "Generally," of Article III, title, "Executive Branch" of Chapter 2, title "Administration" of the Montgomery County Code 1972, as amended, is hereby repealed and reenacted with amendments to read as follows:

Section 2-25. Functions of Office of the Chief Administrative Officer.

The Office of the Chief Administrative Officer shall be composed of the Chief Administrative Officer and such other personnel as may be provided for in the operating budget.

Pursuant to the Charter of Montgomery County, Maryland, the Office of the Chief Administrative Officer shall:

(1) Supervise and coordinate all Executive Branch departments, offices, and agencies.

(2) Coordinate management review and decision-making on issues, policies, programs, plans, budgets, regulations, and similar matters.

TAB A

(3) Establish general operating policies, provide direction, and manage change and conflict.

(4) Advise the County Executive on all administrative matters.

(5) Represent the Executive Branch with other governments, organizations, and community groups.

(6) Provide general administration and supervision of the County's centralized purchasing system.

(7) With the assistance of the Director of Personnel and under the direction of the County Executive, administer the County Merit System as required by the Charter, the laws and regulations of the County, and other applicable laws, rules and regulations.

(8) Provide supervision of the County's civil defense program, including the preparation and implementation of emergency and disaster plans conducted by the Office of Civil Defense and Emergency Planning, established in accordance with Article 16A of the Annotated Code of Maryland, within the Office of the Chief Administrative Officer.

(9) Administer various policies, procedures, and systems as assigned.

(10) Provide staff assistance to the County Executive and to various permanent and ad hoc bodies.

(11) Carry out other functions and activities as are or may hereinafter be provided for by the Charter, by law, or by the County Executive.

(12) Provide administrative support to the County's Criminal Justice Coordinating Commission and provide coordination with the courts and related agencies.

(13) Provide regional program coordination through community service centers and related activities.

(14) Coordinate the community use of schools for purposes other than education.

(15) Direct the Equal Employment Opportunity Program.

(16) Direct the County Employee Complaint/Grievance Procedures.

Sec. 2. Section 2-64I, title "Generally" of Division 15, title "Office of Personnel," of Article III, title "Executive Branch" of Chapter 2, title "Administration" of the Montgomery County Code 1972, as amended, is hereby repealed and reenacted with amendments as follows:

Division 15. Office of Personnel

Section 2-64I. Generally.

There is hereby established as a principal office of the Executive Branch an Office of Personnel under the immediate direction of a director who shall be appointed by the County Executive subject to confirmation by the County Council. The Personnel Office shall have the following functions:

- (a) Under the administration of the Chief Administrative Officer, supervise the County Merit System in accordance with the County Charter, local, state and federal laws, rules and regulations.
- (b) Assist all appointing authorities in the implementation of merit system Charter provisions and the regulations of the Personnel Board.
- (c) Assist the County Executive in the development and administration of a career service and in the administration of a comprehensive management personnel program.
- (d) Provide cooperative personnel services to political subdivisions of Montgomery County or agencies supported in whole or in part by taxes levied by the County Council and to the Montgomery County Revenue Authority.
- (e) Perform related duties as assigned.
- (f) Develop and administer the Equal Employment Opportunity Program, unless this responsibility is transferred to the Office of the Chief Administrative Officer in accordance with the termination provision of Chapter 1, Section 5 of the 1981 Laws of Montgomery County.
- (g) Administer the County Employee Complaint/Grievance Procedures.

Sec. 3. Severability.

The provisions of this Act are severable and if any provision, sentence, clause, section, word or part thereof is held illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, words or parts of the Act or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Act would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section, word or part had not been included therein, and if the person or circumstances to which the Act or any part thereof is inapplicable had been specifically exempted therefrom.

Sec. 4. Effective Date.

The Council hereby declares that an emergency exists and that this legislation is necessary for the immediate protection of public health and safety. Therefore, this Act shall take effect on the date on which it becomes law.

Sec. 5. Termination

The provisions of this law may not be enforced and shall be of no effect as of the first day after January 31, 1981 unless the County Council, by resolution, provides for extension of the termination date to either a time certain or unspecified date. Upon termination in the manner provided by this section, Sections 2-25 and 2-64I, as they existed immediately prior to the effective date of this law, shall be reinstated.

Approved:

Scott Foster July 2, 1980
President, Montgomery County Council Date

Approved:

Charles W. Gold July 7, 1980
County Executive Date

ATTEST:

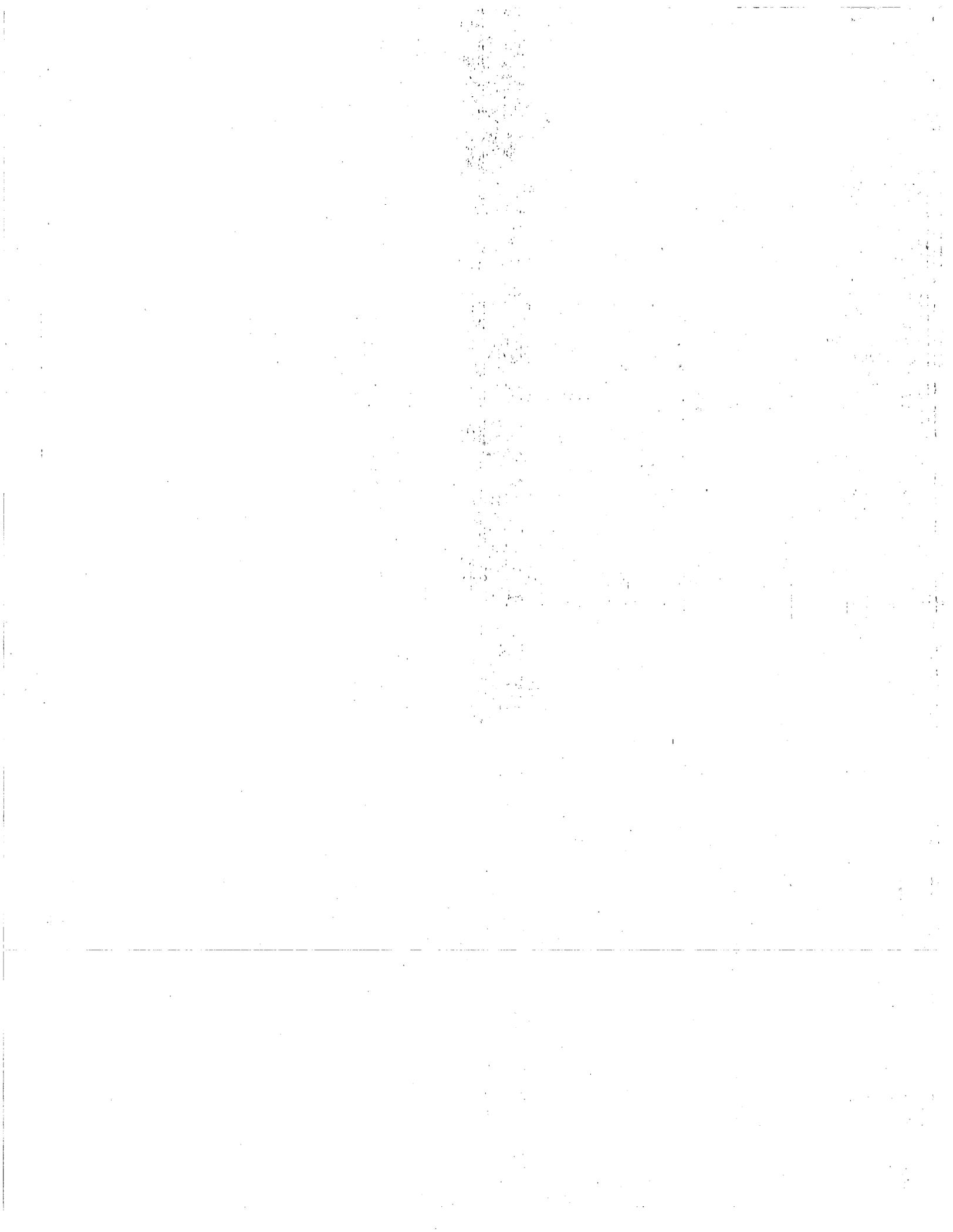
Kathleen P. ... July 7, 1980
Deputy Secretary of the County Council Date

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PART II

GRIEVANCES

- | | |
|--|---------|
| A. Summary | Page B1 |
| B. Detailed Data on Grievances
filed from August 14, 1980
to June 30, 1981 | Page B3 |



SUMMARY OF GRIEVANCES FILED

AUGUST, 1980 - JULY, 1981

The attached grievance report reviews the status of grievances filed by Montgomery County Merit System employees for the period August 15, 1980 through July 1, 1981. The following is a summary of data shown on that report.

I. NUMBER OF GRIEVANCES FILED BY QUARTER

<u>FIRST AUG-SEPT</u>	<u>SECOND OCT-DEC</u>	<u>THIRD JAN-MAR</u>	<u>FOURTH APR-JUNE</u>
19	39	66	35

II. GRIEVANCES FILED

	<u>PERCENT</u>	<u>NUMBER</u>
Procedural	36	58
Disciplinary	4	6
Open Door	52	83
Discrimination	8	12
	<u>100%</u>	<u>159</u>

III. GRADE LEVELS

A review of the grades of those filing grievances indicates that the average grade is 14, the lowest grade 3, the highest grade 32, the median being grade 10.

IV. SEX/ETHNICITY

	<u>PERCENT</u>	<u>NUMBER</u>
Male/White	52	82
Male/Black	25	39
Male/Hispanic	1	2
Female/White	11	17
Female/Black	4	7
Group Grievance	7	12
	<u>100%</u>	<u>159</u>

V. GRIEVANCES CLOSED, RESOLVED OF PENDING

	<u>PERCENT</u>	<u>NUMBER</u>
Pending Employee Action	3	5
Pending Department Level	7	11
Resolved Department Level	20	31
Pending Personnel Director	3	5
Resolved Personnel Director	8	13
Pending S.I./F.F.	6	10
Resolved CAO	8	13
Pending Merit Board	0	0
Resolved Merit Board	16	25
*Closed/Denied	25	40
Pending Court Decision	4	6
	<u>100%</u>	<u>159</u>

*Grievances in this category may have been closed for any of the following reasons: untimely, not grievable, employee left County service.

(11)

ANALYSIS

There was a significant decrease in the number of grievances filed in the third (66) to the fourth (35) quarter. This did not, however, alter a trend noted last quarter of a shift in the types of grievances filed. In the fourth quarter, forty percent of the complaints were procedural, and forty-five percent were open door. These quarterly percentages are contrasted with fiscal year total which reflect thirty-six percent filed as procedural and fifty-two percent as open door.

A review of the FY 81 Approved Personnel Complement indicates that the Police, Health, Transportation, Library and Liquor Departments had the largest personnel/work year requirement in the government. There exists some correlation between the size of the department and the number of grievances departments were required to process during FY 81. The Departments of Transportation, Police, Health, Liquor and Office of Landlord/Tenant Affairs processed the largest number (in a descending order of magnitude) of grievances in FY 81.

During this quarter, the Personnel Office surveyed special investigators (attachment) regarding their experiences in the operation of the open door track. Of the seventeen who responded, approximately eighty percent found training, time limits, and assistance from the Personnel Office to be adequate. The same number were satisfied with the cooperation received from the grievant and witnesses during the investigation.

Modifications to Administrative Procedure 4-4 referred to in the previous quarter have been submitted to departments and employee organizations for review and comment.

* Social Services was not included because most grievances were processed under State procedures.

PERSONNEL OFFICE QUARTERLY GRIEVANCE REPORT

(R) - RESOLVED
(C) - CLOSED

CHIEF ADMINISTRATIVE OFFICER

DEPARTMENT	TRACK	GRADE	SEX/ETHNICITY	DEPARTMENT RESOLUTION	PERSONNEL	RECOMMENDATION BY		MÉRIT SYSTEM PROTECTION BOARD
						SPEC. INVESTIGATOR (SI)	FACT-FINDER (FF)	
						AGENCY-EMPLOYEE	AGENCY-EMPLOYEE	AGENCY-EMPLOYEE
<u>ANIMAL CONTROL</u>								
09/19/80	Open Door	17	M/W	(R) 11/7/80				
11/17/80	Procedural	17	M/W					SUSTAINED
<u>CORRECTIONS</u>								
03/24/81	Open Door	18	M/W	Pending				
04/14/81	Procedural	16	M/W	(R) 5/12/81		S.I. PENDING		
06/02/81	Open Door	16	M/B					
<u>COUNTY ATTORNEY</u>								
06/08/81	Open Door	32	M/W			S.I. Pending		
<u>ENVIRONMENTAL</u>								
11/25/80	Procedural	26	M/W			F.F. X	X	SUSTAINED
05/11/81	Open Door	GROUP	GROUP	(R) 5/20/81				
05/08/81	Procedural	26	M/W		Pending			
05/27/81	Procedural	22	M/W	Pending				
05/27/81	Procedural	19	M/W	Pending				
06/02/81	Procedural	17	M/W	Pending				
<u>FACILITIES</u>								
09/18/80	Open Door	17	M/W	(R) 10/28/80				
11/21/80	Procedural	12	M/W		(C) 1/5/81			
11/13/80	Procedural	11	M/B			F.F. X	X	SUSTAINED
01/26/81	Discrim.	11	M/W			F.F. X	X	
01/30/81	Discrim.	8	M/W		(C) 3/13/81			
06/18/81	Procedural	8	M/B		Pending			
06/22/81	Open Door	32	M/W			S.I. Pending		
06/30/81	Procedural	12	F/W		Pending			

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PERSONNEL OFFICE QUARTERLY GRIEVANCE REPORT

CHIEF ADMINISTRATIVE OFFICER

DEPARTMENT	TRACK	GRADE	SEX/ETHNICITY	DEPARTMENT RESOLUTION	PERSONNEL	RECOMMENDATION BY		MERIT SYSTEM PROTECTION BOARD	
						SPEC. INVESTIGATOR (SI)	FACT-FINDER (FF)		CAO DECISION
						AGENCY-EMPLOYEE	AGENCY-EMPLOYEE	AGENCY-EMPLOYEE	
<u>FAMILY RESOURCES</u>									
10/30/80	Open Door	20	F/W	(R) 12/19/80					
05/15/81	Open Door	23	M/W			S.I. Pending			
<u>HEALTH</u>									
08/14/80	Open Door	GROUP	GROUP	(R) 9/10/80					
08/15/80	Open Door	21	F/B	(R) 9/18/80					
09/05/80	Discrim.	21	F/B	(R) 9/18/80					
09/12/80	Procedura	18	F/B	(R) 10/10/80					
10/02/80	Open Door	23	F/W						
10/22/80	Discrim.	16	M/B		CLOSED -- HANDLED BY CAO OFFICE				
10/20/80	Open Door	18	F/W		(R) 1/8/81	S.I. X	X		
01/01/81	Open Door	GROUP	GROUP	(R) 2/13/81					
01/06/81	Open Door	7	F/W		R) 2/27/81				
05/27/81	Procedura	18	F/B	(R) 6/23/81					
06/15/81	Open Door	16	F/W	(R) 7/14/81					
06/12/81	Open Door	16	M/W		Pending				
06/19/81	Open Door	18	M/W		Pending				
06/24/81	Procedura	GROUP	GROUP		Pending				
<u>LANDLORD/TENANT</u>									
09/12/80	Open Door	19	M/W			S.I. X	X	SUSTAINED	
10/16/80	Discrim.	17	F/W			F.F. CONTINUED			
11/06/80	Procedura	17	M/W		(C)11/17/80				
11/10/80	Open Door	19	M/W			S.I. X	X	SUSTAINED	
12/04/80	Open Door	19	M/W		(C)12/22/80				
12/08/80	Open Door	19	M/W			S.I. X	X		
12/15/80	Open Door	19	M/W						
01/23/81	Procedura	19	M/W			S.I. X	X		
01/26/81	Open Door	29	M/W		(R) 5/4/81				

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PERSONNEL OFFICE QUARTERLY GRIEVANCE REPORT

CHIEF ADMINISTRATIVE OFFICER

DEPARTMENT	TRACK	GRADE	SEX/ETHNICITY	DEPARTMENT RESOLUTION	PERSONNEL	RECOMMENDATION BY SPEC. INVESTIGATOR (SI) FACT-FINDER (FF)		CAO DECISION		MERIT SYSTEM PROTECTION BOARD
						AGENCY-EMPLOYEE	AGENCY-EMPLOYEE	AGENCY-EMPLOYEE	AGENCY-EMPLOYEE	
<u>LIBRARY</u>										
10/01/80	Procedural	10	F/W		R) 12/8/80					
09/24/80	Open Door	3	M/W	(R) 12/03/80						
12/30/80	Procedural	11	F/W		C) 3/16/81					
04/22/81	Open Door	18	F/W		C) 5/6/81					
<u>LIQUOR</u>										
09/03/80	Open Door	18	M/W				S.I. X		X	
01/09/81	Open Door	GROUP	GROUP				S.I. X		X	SUSTAINED
01/21/81	Procedural	14	M/W		(C) 3/2/81			X		
01/21/81	Open Door	14	M/W		(C) 3/2/81					
01/12/81	Procedural	20	M/W		Denied not timely	2/15/81				
01/18/81	Procedural	GROUP	GROUP							
03/19/81	Open Door	GROUP	GROUP	(R) 4/3/81			F.F. X		X	
03/12/81	Procedural	14	M/W							
06/11/81	Open Door	8	M/B	Pending			F.F. X		X	
06/30/81	Discipl.	14	M/W		Pending					
<u>OMB</u>										
09/02/80	Open Door	23	M/B	(R) 10/28/80						
12/01/80	Open Door	21	F/W	(R) 1/16/81						
<u>PERSONNEL</u>										
10/09/80	Procedural	9	M/W	(R) 10/24/80						
02/20/81	Open Door	11	F/B	(R) 2/24/81						
<u>POLICE</u>										
09/18/80	Open Door	13	F/W				S.I. X		X	
09/26/80	Procedural	21	M/W				F.F. X		X	
10/07/80	Discrim.	19	M/W				F.F. X		X	
10/22/80	Open Door	15	F/W		(C) 12/10/80					SUSTAINED

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PERSONNEL OFFICE QUARTERLY GRIEVANCE REPORT

CHIEF ADMINISTRATIVE OFFICER

DEPARTMENT
POLICE CONTINUED

TRACK

GRADE

SEX/ETHNICITY

DEPARTMENT RESOLUTION

PERSONNEL

RECOMMENDATION BY
SPEC. INVESTIGATOR (SI)
FACT-FINDER (FF)

CAO DECISION

MERIT SYSTEM PROTECTION BOARD

AGENCY-EMPLOYEE

AGENCY-EMPLOYEE

AGENCY-EMPLOYEE

DEPARTMENT	TRACK	GRADE	SEX/ETHNICITY	DEPARTMENT RESOLUTION	PERSONNEL	RECOMMENDATION BY SPEC. INVESTIGATOR (SI) FACT-FINDER (FF)	CAO DECISION	MERIT SYSTEM PROTECTION BOARD
					<u>AGENCY-EMPLOYEE</u>	<u>AGENCY-EMPLOYEE</u>	<u>AGENCY-EMPLOYEE</u>	<u>AGENCY-EMPLOYEE</u>
03/01/81	Procedural	17	M/W	Pending Court	Decision			
03/09/81	Procedural	18	M/W	Pending Court	Decision			
11/06/80	Procedural	11	F/B	(R) 12/1/80				
12/10/80	Open Door	GROUP	GROUP		R)2/18/81			
01/06/81	Procedural	17	M/W			F.F. X	X	SUSTAINED
01/12/81	Discrim.	18	M/B		R)2/5/81			
01/22/81	Open Door	17	M/W		C)3/9/81			
01/17/81	Open Door	GROUP	GROUP			S.I. X	X	SUSTAINED
02/24/81	Open Door	21	M/W		Denied 3/23/81			SUSTAINED
03/01/81	Open Door	21	M/W			S.I. PENDING		
03/09/81	Procedural	18	M/W	Pending Court	Decision			
03/10/81	Procedural	18	M/W	Pending Court	Decision			
03/09/81	Procedural	18	M/W	Pending Court	Decision			
03/16/81	Open Door	17	M/W	(R) 5/1/81				
03/09/81	Procedural	11	M/W	Pending				
03/18/81	Procedural	18	M/W		Pending			
03/25/81	Open Door	17	M/W			S.I. X	X	
03/09/81	Procedural	21	M/W	Pending Court	Decision			
03/24/81	Procedural	17	M/W			F.F. PENDING		
04/29/81	Discrim.	18	M/W			Pending		
04/22/81	Procedural	10	F/W			F.F. PENDING		
05/08/81	Open Door	18	M/W	(R) 5/26/81				
<u>SHERIFF</u>								
10/22/81	Open Door	10	M/B		(C) 12/10/80			
03/05/81	Procedural	15	M/W	(R) 3/16/81				
04/17/81	Procedural	15	F/W		(C) 6/19/81			
<u>SOCIAL SERVICES</u>								
10/13/81	Procedural	7	F/W			F.F. X	X	SUSTAINED
<u>TRANSPORTATION</u>								
08/19/80	Disciplin.	8	M/B	CONCILIATION AGREEMENT REACHED			9/10/80	

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PERSONNEL OFFICE QUARTERLY GRIEVANCE REPORT

CHIEF ADMINISTRATIVE OFFICER

DEPARTMENT	TRACK	GRADE	SEX/ETHNICITY	DEPARTMENT RESOLUTION	PERSONNEL		RECOMMENDATION BY SPEC. INVESTIGATOR (SI) FACT-FINDER (FF)		CAO DECISION		MERIT SYSTEM PROTECTION BOARD
					AGENCY-EMPLOYEE	AGENCY-EMPLOYEE	AGENCY-EMPLOYEE	AGENCY-EMPLOYEE	AGENCY-EMPLOYEE		
1/17/81	Procedural	10	M/W	(R) 2/25/81							
1/26/81	Discip.	9	M/W								
1/01/81	Open Door	9	M/W		(C) 6/30/81		F.F. X		X		
1/26/81	Open Door	19	M/W		(C) 2/24/81						
2/01/81	Open Door	14	M/W		(C) 3/17/81	Employee Resigned	3/9/81				
2/06/81	Procedural	14	M/W		(C) 3/17/81	Employee Resigned	3/9/81				
2/11/81	Discrim.	19	M/W	(R) 2/26/81							
2/18/81	Open Door	10	M/W	(R) 2/23/81							
2/17/81	Procedural	10	M/W		(C) 7/6/81	Employee Withdrew Grievance					
2/22/81	Procedural	8	M/W		(C) 6/3/81	Employee Withdrew Grievance					
2/27/81	Procedural	14	M/W		(C) 4/30/81						
3/01/81	Procedural	10	M/B		CONCILIATION AGREEMENT REACHED						
3/01/81	Open Door	10	M/B				S. I. Pending				
3/02/81	Procedural	GROUP	GROUP		Pending						
3/11/81	Procedural	10	M/H		(C) 4/27/81						
3/19/81	Discrim.	8	M/B		(R) 4/29/81						
3/10/81	Open Door	10	M/B		(C) 7/1/81						
3/31/81	Procedural	19	M/W	(R) 5/12/81							
4/01/81	Open Door	Group	Group		Denied Not timely	4/27/81					
4/17/81	Disciplin.	19	M/W	(R) 4/27/81							
5/13/81	Disciplin.	19	M/W				F.F. Pending				
5/15/81	Procedural	10	M/B		(c)5/28/81						
6/05/81	Procedural	Group	Group	Pending							
6/16/81	Discrim.	10	M/B	Pending							
6/08/81	Open Door	10	M/B	Pending							
06/15/81	Open Door	10	M/B	Pending							
6/08/81	Open Door	10	M/B		Denied 6/22/81						
06/22/81	Procedural	GROUP	GROUP		Denied 7/8/81						
06/19/81	Open Door	11	M/W	Pending							
03/01/81	Procedural	10	M/B		(C) 5/12/81						

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PERSONNEL OFFICE QUARTERLY GRIEVANCE REPORT

CHIEF ADMINISTRATIVE OFFICER

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DEPARTMENT	TRACK	GRADE	SEX/ETHNICITY	DEPARTMENT RESOLUTION	PERSONNEL	RECOMMENDATION BY SPEC. INVESTIGATOR (SI) FACT-FINDER (FF)		CAO DECISION	MERIT SYSTEM PROTECTION BOARD
						AGENCY-EMPLOYEE	AGENCY-EMPLOYEE	AGENCY-EMPLOYEE	AGENCY-EMPLOYEE
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6/08/81	Open Door	10	M/B	Pending					
6/15/81	Open Door	10	M/B	Pending					
6/08/81	Open Door	10	M/B		Denied 6/22/81				
06/22/81	Procedural	GROUP	GROUP		Denied 7/8/81				
06/19/81	Open Door	11	M/W	Pending					
03/01/81	Procedural	10	M/B		(C) 5/12/81				

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Introduced: January 27, 1981
Adopted: January 27, 1981

COUNTY COUNCIL

FOR MONTGOMERY COUNTY, MARYLAND

Subject: Extension of the Termination Date of Bill No. 5-80

WHEREAS, Bill No. 5-80, enacted on July 1, 1980, stipulates that the provisions of that law may not be enforced and shall be of no effect as of the first day after January 31, 1981, unless the County Council, by resolution, provides for extension of the termination date to either a time certain or unspecified date; and

WHEREAS, the County Council, on January 19, 1981, met in worksession on the extension of Bill 5-80, received a series of reports from the Executive branch, a report from the Office of Legislative Oversight and an oral report from a County employee on creating an ombudsman, and voted to extend the termination date of the provisions of the law so as to further evaluate the functions of the Employee Relations and receive comments on the concept of an ombudsman.

NOW, THEREFORE, BE IT RESOLVED by the County Council for Montgomery County, Maryland, that -

1. The termination date of Bill No. 5-80 is extended until September 30, 1981, subject to such further extensions as the County Council by resolution may deem appropriate; and

2. The provisions of Bill No. 5-80 may not be enforced and shall be of no effect as of the first day after September 30, 1981, unless the County Council, by resolution, provides for extension of the termination date to either a time certain or unspecified date,

BE IT FURTHER RESOLVED that the Office of Legislative Oversight will continue to evaluate the merit employee grievance procedure and report to the Council on the effectiveness of these procedures prior to September 30, 1981.

BE IT FURTHER RESOLVED that the County Executive is requested to provide comments/recommendations to the County Council prior to September 30, 1981 on the two issues raised by employees: establishing an ombudsman and changing the name of Employee Relations.

ATTEST:

A True Copy.



Anna P. Spates, Secretary
of the County Council for
Montgomery County, Maryland

This is an extract from the Merit System Review Commission's Final Report, Chapter VII, "Fair Treatment and Protection of Employees."

Grievance Procedure. Employee responses to survey questions in a specific subject matter area can be interpreted most accurately when considered within the context of an overall environment. In Montgomery County, that context is represented by the fact that a substantial majority of employees think the County is a good place to work and are content with their jobs. Nonetheless, when 18 of 84 employees interviewed said they have used the grievance procedure, and nearly half of the total number of employees interviewed indicated they would be concerned about possible retaliation if they filed a grievance, these statistics are hardly a source of pride.

During the last five years, however, more than 100 appeals a year have reached the Merit System Protection Board. This relatively high volume of grievance and appeal activity is probably less indicative of serious problems than of failure to stress the importance of resolving complaints informally before they become formal grievances. This point will be covered later in more detail.

In connection with the introduction of the new grievance procedure in August 1980, the Personnel Office made extensive efforts to provide the necessary orientation to all concerned. Seven training sessions were conducted for supervisors and employee briefings were provided at 12 locations throughout the County. Copies of the procedure, forms and filing instructions were distributed in large quantities. These orientation efforts were not conspicuously successful, primarily because the training was not mandatory and many supervisors did not attend or encourage attendance by their subordinates. Many employees not only did not get the training but did not even know it was available. It must be conceded, however, that the large number of employees who have never filed a grievance and do not contemplate ever filing one have little incentive to familiarize themselves with a detailed and complicated grievance procedure.

There appears to be general agreement that the new grievance procedure will prove to be a marked improvement from the standpoint of precise guidelines, speed of processing, and assurance of fair treatment. The Commission's review affirms the fact that the procedure does reflect a desire on the part of management to guarantee due process to the grievant. Nevertheless, there are a number of areas in which the Commission believes that significant improvement is possible. Principal among these are the following:

--The procedure is so complex that even those who study it may not understand it fully. For example, it is not clear what purpose is served by having a variety of tracks and a variety of similar but not identical time limits (e.g. calendar days vs. work days).

--While an employee is not required to go to the expense of hiring a lawyer, the complexity of the procedure suggests that it might be imprudent not to. The procedure even requires that a "fact finder" be an experienced attorney, at considerable expense to the County. The necessity for this is by no means clear. Professional arbitrators referred from a roster maintained by the Federal Mediation and Conciliation Service and by the American Arbitration Association have had to meet no such qualification requirement.

--The new grievance procedure does not address the need for the Personnel Office and the Merit System Protection Board to reach an understanding on ground rules relating to admissible evidence and privileged information. On at least one occasion, the Board threatened use of a subpoena to force the Personnel Office to release what the Board considered pertinent evidence. Each side to this difference of opinion had a plausible justification for its point of view, but compromise is feasible. An effort should be made to arrive at a general agreement that will minimize the possibility of disputes over individual cases.

--Most important of all, neither the grievance procedure, itself, nor supervisor training on the subject gives meaningful recognition to the importance of trying to resolve a complaint informally before it becomes a grievance. Little appears to have been done to impress the supervisor that a complaint is something he or she is supposed to handle before it leads to a confrontation and an adversary relationship, not something to be casually referred to the Personnel Office or some higher level of management. A supervisor training unit and/or a guidance pamphlet should be provided to assist supervisors in carrying out this responsibility. In addition, not enough consideration has been given to the use of third-party mediation before the formal grievance machinery is resorted to.

--Inadvertently, the tight time limits in the existing grievance procedure work to discourage efforts at informal resolution. The procedure should make it clear that the time devoted to such efforts does not count in the determination of whether or not a time limit has been met.

The Commission does not think it appropriate to recommend exact, literal changes in the grievance procedure. Every organization has its own unique structure and relationships which must be taken into account in the preparation of its written policies and directives. It is suggested, however, that a simple, effective grievance procedure ought to have such characteristics as the following:

--Maximum genuine effort to dispose of a complaint at the supervisory level before it becomes a formal grievance. The employee should have the option of requesting the assistance of a mediator or conciliator, a respected individual who has no involvement in the case and can be relied upon to behave in a neutral, objective fashion. One effective method is to have such a person gather the facts by talking separately with the complainant and with the supervisor, and then, after a brief

"cooling-off" period, meet with them together in an effort to reach a mutually satisfactory understanding. He would not be an advocate for either side and would not make any decisions or write any reports. Only if he failed would a case move into the formal grievance channel. The County should consider designating one or more such persons in each geographical area so that any employee with a problem could seek assistance in trying to work it out with his or her supervisor.

--First step of formal grievance--to Department Head. The employee states the problem in writing in own words and indicates the specific relief being sought.

--Second step--appeal to County Executive or designated representative, who holds hearing.

--Final step--appeal to Merit System Protection Board. A viable alternative, at the option of the employee, could be binding arbitration, paid for jointly by the grievant and the County.

--All hearings would be informal, with a minimum of legalistic procedure. Management and the grievant would each tell its story. Each could call witnesses and each would have an opportunity to challenge the other. The hearing officer, preferably one person, would take a liberal view as to what testimony was pertinent but would decide when he had heard enough.

--No written material would be considered except what was introduced into the formal record at the hearing. Both parties would have an opportunity to examine it and respond. No secret files could be referred to or considered and no anonymous letters would be admissible.

--The grievant could be represented by any person of his choice. Some employers give a grievant the option of using as his/her advocate an official designated to serve employees in that capacity. There would be no attorneys on either side unless the grievant elected to employ one.

--Administrative leave would be granted employees serving as witnesses or representatives for time spent at hearings.

--Only those involved in the case would be present at a hearing. A grievance hearing is not a trial and not a public forum.

--Any hearing held by the Merit System Protection Board would permit reargument of the case, but would not permit admission of new evidence to the record.

--A written decision would normally be rendered within 30 days after a hearing. The vast majority of grievance cases do not require prolonged investigation, long-drawn-out hearings, or lengthy deliberation on the part of the person or persons reviewing the decision. The written decision would state clearly and specifically the findings and conclusions upon which it was based.

--Finally, time should not be wasted in determining what is or is not grievable. It is less costly in the long run to treat almost any complaint as being admissible under the grievance procedure. Subject matter not considered appropriate for grievances should be clearly identified in advance. Most common among such subjects are: classification appeals, which are best handled through technical channels, and performance appraisal appeals, which should be confined to the supervisor line unless an appraisal results in an adverse action, or the supervisor is alleged to have disregarded prescribed procedures.

Recommendations. Develop a simpler, less costly grievance procedure that places primary emphasis upon positive efforts to resolve complaints informally before they become formal grievances.

Provide supervisors with specific training and/or a guidance pamphlet to assist them in carrying out their responsibility for dealing with employee complaints.
