



Montgomery County Government

MEMORANDUM

December 3, 1985

TO: County Council

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

SUBJECT: Report of Investigation into the Facts and Circumstances of Four Allegations Relating to the Montgomery County Ethics Commission.

I. AUTHORITY AND ACKNOWLEDGEMENT

1. This investigation was conducted during the period October 24, 1985 through November 20, 1985, by the Council's Office of Legislative Oversight (OLO) under the authority of Chapter 29A, Montgomery County Code, 1984.

2. The specific directive to conduct the investigation was Council Resolution #10-1577, adopted October 24, 1985 (Exhibit A).

3. During the investigation, OLO received full cooperation and assistance from County officials, the Ethics Commission, other principals and legal counsel.

II. MATTERS INVESTIGATED

This investigation was conducted to determine the facts and circumstances relating to the following four allegations:

● Allegation #1: The Ethics Commission has conducted an investigation without first receiving a sworn complaint;

● Allegation #2: The Ethics Commission, with the approval of the County Attorney, requested the Council to concur in the appointment of Special Legal Counsel, and the Council did so concur.

● Allegation #3: Funds have been expended in the payment of Special Legal Counsel, all for a matter on which no sworn complaint has been received; and

●Allegation #4: A member of the Ethics Commission disclosed confidential information.

III. MATTERS NOT TO BE INVESTIGATED

The Council Resolution specifically excludes from the scope of the investigation any matters relating to the issues for which the Ethics Commission appointed a Special Legal Counsel. Those issues concern the substance of an inquiry to the Ethics Commission from a person (or persons) subject to the Ethics Law.

IV. METHODOLOGY AND ORGANIZATION OF REPORT

1. Methodology. This investigation was conducted through personal interviews, review of pertinent laws, and a detailed examination of memoranda, letters and other documents related to the matters under investigation.

2. Organization of the Report. Following a background discussion, each of the four allegations are examined separately to include a discussion of the evidence and specific conclusions. The report's summary discussion begins on page 15, with conclusions and recommendations beginning on page 17.

V. BACKGROUND

1. On October 21, 1985, six members of the County Council interviewed Harold W. Needham, the County Executive's nominee to a four year term as a member of the Ethics Commission. At the time of the interview, Mr. Needham was serving as the Acting Chairman of the Ethics Commission having been appointed to a two year term in October 1983.

2. The interview, conducted in accordance with Council policy, was as a prerequisite to Council action on the confirmation of Mr. Needham. The time and date of the interview was established by Council Member Esther Gelman and published in an October 17, 1985, memorandum to all Council Members from Margaret J. Knill, Council Legislative Analyst.

3. After a general discussion between individual Council Members and Mr. Needham on matters relating to activities of the Ethics Commission and the Ethics Law, the Council President recognized Paul H. Sterling, Jr., a County employee and volunteer Chief of the Wheaton Rescue Squad, who had been informed of the Council meeting by Council Member Gelman. Mr. Sterling, with his attorney present, addressed the members of the Council concerning activities of the Ethics Commission which Mr. Sterling characterized as harassing. There followed an exchange among members of the Council and Mr. Needham concerning issues raised by Mr. Sterling, with emphasis on specific matters concerning Council Member Esther Gelman.

4. As a consequence of information revealed during the October 21, 1985, interview session, the Council directed the Office of Legislative Oversight to investigate the facts and circumstances of three specific allegations concerning activities of the Ethics Commission and one allegation concerning statements by a member of the Commission.

5. The County Ethics Law is Chapter 19A, Montgomery County Code, 1984, as amended. An extract of those sections of the law which are pertinent to the matters under investigation is at Exhibit B.

VI. SPECIFIC ALLEGATIONS, DISCUSSION OF EVIDENCE, AND CONCLUSIONS

1a. Allegation #1. THE ETHICS COMMISSION HAS CONDUCTED AN INVESTIGATION WITHOUT FIRST RECEIVING A SWORN COMPLAINT.

b. Discussion of Evidence.

(1) In early March 1985, the Ethics Commission received from a person (or persons) subject to the Ethics Law the following written request:

"Attached are the minutes of November 15, 1984 for the meeting of the Montgomery County Fire-Rescue Association.

"On page 4, at the very top, is a report by Paul Sterling with regard to actions taken on questions D & E which were on the November ballot, at an elected official's request.

"Can you tell me if such actions fall within the Ethics Commission's jurisdictions, and if so, are they a violation?"

(2) When the above request was discussed with Clyde Sorrell, Senior Assistant County Attorney assigned from the Office of the County Attorney to provide legal services to the Ethics Commission, Mr. Sorrell excused himself from advising the Commission on the matter because of a possible conflict of interest. Mentioned in the above referenced minutes was the name of Council Member Esther Gelman. Because the Charter designates the County Attorney as the legal advisor to the County Council, Mr. Sorrell suggested that it was not appropriate for him or any other Assistant County Attorney to be involved in this matter. The Commission concurred.

(3) Subsequent to receiving the above referenced request, the then Chairman of the Ethics Commission, Russell Brown,* acting without legal counsel, but with the knowledge and approval of the Ethics Commission, sent identical letters on April 18, 1985, to two individuals,

*Mr. Brown resigned from the Ethics Commission on September 26, 1985.

Council Member Esther Gelman and Paul Sterling. He sent identical follow-up letters to the same individuals on May 20, 1985. Both letters to the two individuals stated that an "inquiry" had been received by the Ethics Commission. The latter correspondence of May 20, 1985, quoted the actual request to the Ethics Commission (Exhibit C).

(4) On June 11, 1985, Councilmember Gelman responded to the May 20, 1985, letter, providing the Ethics Commission with her recollection of the circumstances referred to in the inquiry.

(5) Mr. Sterling responded to the Commission's letter of April 18, 1985, with a request for a copy of the inquiry. The Commission quoted the request in its May 20, 1985, letter; however, the person(s) making the request was not identified. Mr. Sterling requested such identification before he would respond to the Commission.

(6) By late June 1985, the Ethics Commission concluded that it had a problem in that certain persons had refused to answer Commission questions and the County Attorney was unable to give the Commission legal advice. The Commission concluded it needed legal counsel to advise the Commission as to its powers and choices in deciding how to proceed with the matter.

(7) On July 2, 1985, the then Chairman of the Ethics Commission, Russell Brown, acting with the approval of the Commission, requested special legal counsel from the County Attorney.

(8) A detailed discussion of the evidence relating to the Ethics Commission retaining legal counsel is presented in Allegation #2 below. For purposes of discussing this allegation, it is significant that the Commission's July 2, 1985 request from Mr. Brown to the County Attorney stated: "In accordance with Section 19A-5(e) of Chapter 19A of the Montgomery County Code, the Montgomery County Ethics Commission requests your approval to retain special legal counsel for the purpose of a confidential investigation." (Exhibit D)

(9) Section 19A-5(e) of the Ethics Law pertains to the Commission's responsibilities regarding complaints (Exhibit B).

(10) The memoranda exchanged among the Commission, the County Attorney and the Council, continued the references to Section 19A-5(e) as the authority for the Commission retaining special legal counsel for the purpose of conducting a confidential investigation.

(11) In response to specific questions by this investigator concerning the references to Section 19A-5(e), Complaints, and the use of the term "confidential investigation," Mr. Brown responded that his citing of Section 19A-5(e) was an error, and that he was not attempting to mislead anyone that a written, sworn complaint had been received. Mr. Brown stated he looked at the law, saw "special legal counsel" under Section 19A-5(e) and cited that section. He stated he later realized "special legal counsel" is mentioned in Section 19A-5(a). Mr. Brown also stated that he put no special meaning to the word "investigation," using

it in the broad sense of gaining information. Finally, Mr. Brown stated that he prepared the memoranda requesting special legal counsel without the benefit of legal advice from Mr. Sorrell or any other person.

(12) In response to similar questions by this investigator concerning the references to Section 19A-5(e) and the term "confidential investigation," all members of the Ethics Commission stated that none of the Commission members noticed or considered the significance of citing the complaints section of the law, (Section 19A-5(e)). Members of Commission stated it accepted the term "confidential investigation" because, it considers all matters handled by the Commission to be confidential.

(13) In response to a series of questions posed by this investigator concerning the conduct of an investigation without a sworn complaint, the Commission, with the advice of Mr. Crow, responded in writing that:

- At the time the Commission requested special legal counsel it did not believe it had a written, sworn complaint.

- At no time did the Commission make an attempt to get a sworn complaint from the person(s) who submitted the original inquiry.

- On September 30, 1985, the Commission considered filing an official complaint on their own, but decided unanimously not to do so because of a lack of sufficient information.

- On October 24, 1985, the Commission considered extending the deadline for filing a complaint and decided unanimously not to do so.

- The Commission does not have a written, sworn complaint concerning the matter it is investigating.

- It is Commission's opinion that it may investigate without a sworn complaint under appropriate circumstances where such an investigation becomes necessary to effectuate policies of the Ethics Law.

(14) After his retention as special legal counsel on July 16, 1985, Alexander Crow, in an August 2, 1985, letter to Paul Sterling requesting information, Mr. Crow uses the word investigation five times, referring to conducting an investigation three of the times (Exhibit E).

c. Conclusions.

(1) The Ethics Commission has conducted an investigation concerning a matter for which it does not have a written, sworn complaint.

(2) The Ethics Commission believes that the Ethics law (Chapter 19A) gives it authority to investigate without a sworn complaint when such an investigation becomes necessary to effectuate policies of the Ethics law.

(3) On at least one occasion, September 30, 1985, the Ethics Commission considered filing an official, sworn complaint, but decided unanimously against doing so for lack of sufficient information.

2a. Allegation #2. THE ETHICS COMMISSION, WITH THE APPROVAL OF THE COUNTY ATTORNEY, REQUESTED THE COUNCIL TO CONCUR IN THE APPOINTMENT OF SPECIAL LEGAL COUNSEL, AND THE COUNCIL DID SO CONCUR.

b. Discussion of Evidence

(1) The County Charter, Section 213, County Attorney, includes two references pertinent to this investigation:

"The County Attorney shall be the chief legal officer of the County, conduct all the law business of the County, be the legal advisor to the Council, and be the legal advisor to the County Executive, all departments, and other instrumentalities of the County government."

"The County Attorney may, with the approval of the Council, temporarily employ special legal counsel to work on problems of an extraordinary nature when the work to be done is of such character or magnitude as to require services in addition to those regularly provided by the County Attorney."

(2) Chapter 19A, Ethics, of the Montgomery County Code includes the following two specific references to the use of special legal counsel by the Ethics Commission (Exhibit B):

"Section 19A-5(a) Membership...The commission shall be assisted in carrying out its responsibility by the county attorney and such staff; including special legal counsel if appropriate, as may be provided for in the appropriation to the commission..."

"Section 19A-5(e) Complaints...These complaints shall be written and under oath, and may be referred to the county attorney, commission staff, or special legal counsel, if appropriate, for investigation and review..."

(3) On July 2, 1985, the then Chairman of the Ethics Commission, Russell Brown, acting with the approval of the Commission, requested the County Attorney, Paul McGuckian, to approve the retention of a special legal counsel. Mr. Brown's specific request stated: "In accordance with Section 19A-5(e) of Chapter 19A of the Montgomery County Code, the Montgomery County Ethics Commission requests your approval to retain special legal counsel for the purpose of a confidential investigation." (Exhibit D.) Section 19A-5(e) pertains to the Commission's responsibilities regarding complaints.

(4) On July 5, 1985, Mr. Brown recommended to Mr. McGuckian a specific attorney to be retained by the Commission as the special legal counsel. Other members of the Ethics Commission testified that they approved of Mr. Brown's recommendation (Exhibit F).

(5) On that same date, July 5, 1985, Clyde Sorrell, acting on the instructions of Mr. McGuckian, forwarded the recommendation to Council President Gudis with a request for Council approval (Exhibit G).

(6) At a July 9, 1985, meeting with Mr. Brown, the Council rejected the attorney the Ethics Commission recommended. However, the Council approved the concept of hiring a special legal counsel and authorized the Council President to approve a subsequent submission by the Commission, as the Council would be on vacation. Council Members Gelman and Scull asked Council President Gudis to inform them of the name of the attorney that the Commission submitted.

(7) Between July 9, 1985 and July 16, 1985, Mr. Brown, with the assistance of Commission member John Whitney, decided to recommend attorney Alexander Crow to be special legal counsel to the Commission. Members of the Ethics Commission approved the selection of Mr. Crow in a telephone poll, and his name and resume were forwarded to Mr. McGuckian on July 16, 1985, with a request that the County Attorney approve his selection (Exhibit H).

(8) On that same day, July 16, 1985, Mr. McGuckian forwarded to Council President Gudis the Commission's request. Mr. McGuckian's request repeated the language Mr. Brown had used: "...pursuant to Section 19A-5(e) of Chapter 19A of the Montgomery County Code [the Commission requests] that I appoint outside counsel for the purpose of a confidential investigation." The request identified Alexander Crow as the attorney to be appointed (Exhibit I).

(9) Later that same day, July 16, 1985, Council President Gudis, under authority approved by the Council on July 9, 1985, concurred with the appointment of Alexander Crow (Exhibit J). Evidence supports that Council Members Scull and Gelman were informed of Council President Gudis' action.

(10) Mr. McGuckian stated that he was not involved in the selection of Alexander Crow as special legal counsel and was not apprised by anyone as to the subject matter for which the Ethics Commission was retaining special legal counsel, other than that the matter involved a particular Council Member. Mr. McGuckian also stated that he was neither solicited by the Ethics Commission for names of potential special legal counsel, nor did he solicit any names for, or suggest any names to the Commission.

(11) Staff Attorney Clyde Sorrell's involvement in the process of retaining special legal counsel was limited to acting on this matter for the County Attorney in his absence, from approximately July 3, 1985 to July 15, 1985.

(12) In response to specific questions by this investigator, the Ethics Commission stated:

- All Commission members were involved in the decision to retain special legal counsel and in the selection of Alexander Crow as the special legal counsel.
- Only Commission members were involved in the decision to use special legal counsel and in the selection of Mr. Crow.
- Within the tenure and knowledge of the present members, the Commission has not previously used special legal counsel.

c. Conclusions.

(1) The decision to retain special legal counsel and the choice of Alexander Crow as special legal counsel were the exclusive actions of the members of the Ethics Commission.

(2) The process of retaining special legal counsel by the Ethics Commission, the County Attorney and the Council complied with the provisions of Section 213 of the Charter.

3a. Allegation #3: FUNDS HAVE BEEN EXPENDED IN THE PAYMENT OF SPECIAL LEGAL COUNSEL, ALL FOR A MATTER ON WHICH NO SWORN COMPLAINT HAS BEEN RECEIVED.

b. Discussion of Evidence.

(1) The County Council, when approving the FY 86 Operating Budget of the Ethics Commission in May 1985, added \$10,000 in operating expenses for contracting outside legal services. The Commission had not requested funds for that purpose in its original FY 86 budget submission.

(2) After receiving the approval of the County Attorney and the concurrence of the County Council to hire Alexander Crow, the Ethics Commission retained Mr. Crow at a fee of \$80.00 per hour to provide special legal services to the Commission.

(3) Mr. Alexander Crow advised the Commission to proceed with an investigation to determine facts and circumstances concerning a matter for which he and the Commission knew there was no sworn complaint.

(4) Per instructions of the County Attorney, Paul McGuckian, Mr. Crow submitted statements for legal services directly to the Ethics Commission as follows:

<u>Date of Service</u>	<u>Period of Service</u>	<u>Total Charges</u>
August 5, 1985	July 1985	\$832.60
September 13, 1985	August 1985	\$510.86
October 7, 1985	September 1985	\$982.40
November 6, 1985	October 1985	\$648.00

(5) A review of the July and August statements indicates that Mr. Crow's legal services included researching the ethics provisions of the County Code, preparing letters, meeting with members of the Commission and Commission staff, corresponding with counsel for one of the individuals, and performing miscellaneous services.

(6) The July and August statement from Mr. Crow were received at the Ethics Commission, verified and approved by the then Chairman, Russell Brown, and approved for payment by the County Attorney's office (Exhibit K). As of November 20, 1985, the September and October statements have been approved by the Acting Chairman, Harold Needham, and are being processed through the Office of County Attorney and Finance Department.

(7) As of November 20, 1985, the County has issued checks to Mr. Crow's firm of Simpson, Simpson and Noble for \$832.60 (check #52840) for services rendered in July, and \$510.86 (check #53526) for services rendered in August, for a total of \$1,343.46. To date, only the check for \$832.60 has been cleared by the bank (Exhibit L).

(8) As discussed earlier in this report, no sworn complaint has been received by the Commission concerning the matter for which Mr. Crow is providing professional legal services to the Commission.

c. Conclusions.

(1) The Ethics Commission has expended funds appropriated by the Council in the FY 86 operating budget for outside legal services to pay for the services of a special legal counsel, Alexander Crow.

(2) The legal services for which Mr. Crow has been paid by the Ethics Commission concerned a matter for which no sworn complaint has been received by the Commission.

4a. Allegation #4: A MEMBER OF THE ETHICS COMMISSION DISCLOSED CONFIDENTIAL INFORMATION.

b. Discussion of Evidence.

(1) On October 21, 1985, at a meeting of the County Council to interview Harold W. Needham, the County Executive's nominee to a four year term on the Ethics Commission, Paul Sterling was recognized by the

Council President; and Mr. Sterling stated to the Council that toward the end of April or the beginning of May, 1985, he had a conversation with Mr. Needham at a Wheaton shopping area. During that conversation Mr. Sterling asked Mr. Needham about some correspondence he had received from the Ethics Commission. Mr. Sterling stated to the Council as follows:

"Mr. Needham sort of chuckled, and said 'Yes, you know what that is all about, don't you.' I said 'No, as a matter of fact I don't.' After that he said, 'Well, they are after Esther Gelman. She can't be doing that kind of stuff. She is an elected official.'"

(2) In response to an invitation by Council President Gudis to comment on Mr. Sterling's statements, and in response to specific questions from Council Members, Mr. Needham stated orally:

"I think Paul [Sterling] misunderstood what was said. I definitely...made the comment again that there has been correspondence...and we should know what it is about. That was basically it. That is as far as it went. There was nothing else, and certainly he had already gotten the correspondence on that, so there was nothing between he and I. I said, 'I am not sure that Esther had done what she did.' That is all I said."

(3) On October 24, and November 1, 1985, in conversations with this investigator, Mr. Needham denied making any statement to Paul Sterling concerning Council Member Gelman.

(4) On October 29, 1985, Paul H. Sterling, Jr., appeared before a Notary Public and acknowledged under oath that he executed a letter to Council President Michael Gudis, dated October 21, 1985, which contains the following paragraph (Exhibit M):

"Toward the end of April or beginning of May, 1985, I saw Mr. Harold Needham at the Wheaton Shopping Center. Mr. Needham, who I came to know through his membership in the Wheaton Lions Club, was collecting donations for a Lions Club activity. I said hello to Mr. Needham and we chatted for a few moments. Knowing that Mr. Needham was a member of the Ethics Commission, I told him that I had recently received some correspondence from the Ethics Commission. Mr. Needham chuckled and said, "You know what that's all about don't you?" I replied, "As a matter of fact I don't!" Mr. Needham then stated, "They are after Esther Gelman, she can't be doing that kind of stuff, she is an elected official!" I then asked Mr. Needham what kind of stuff he was talking about. He did not provide an answer to my question and the conversation ended. I went into the Wheaton Awards and Trophy Shop to take care of some business and have not spoken with him since."

(5) On November 6, 1985, Harold Needham appeared before a Notary Public and executed a sworn statement which contains the following paragraphs (Exhibit N):

"1. During the late afternoon of a day in May, 1985, I was in front of the liquor store and Trophy Shop in the 1100 block of Georgia Avenue, Wheaton, Maryland. It is my recollection, but I am not certain, that these events occurred during the second week of May.

"2. I was at this location collecting money from passersby for a Wheaton Lions Club charity.

"3. I saw Paul Sterling approach. As he approached, we may have exchanged a comment about my fund-raising activity.

"4. It is my recollection that Mr. Sterling then said he had received a communication from the Ethics Commission, and then asked what is it all about.

"5. I told Mr. Sterling I couldn't discuss it with him at this time, but that I hoped he would respond to the communication that we had sent him.

"6. I don't remember Mr. Sterling mentioning Councilmember Esther Gelman's name during our conversation. I did not mention Councilmember Esther Gelman's name during this conversation nor did I comment on her indirectly, because of the confidentiality of the Ethics Commission's activity..."

(6) Thus, as of November 6, 1985, Mr. Sterling and Mr. Needham had each executed sworn statements which are contradictory. Mr. Sterling affirmed that Mr. Needham used Council Member Esther Gelman's name in a conversation with him in connection with a matter before the Ethics Commission. Mr. Needham, while acknowledging a conversation with Mr. Sterling, affirmed that he neither mentioned Council Member Gelman's name during the conversation nor commented on her indirectly.

(7) On November 18, 1985, Mr. Charles Hubush appeared before a Notary Public and executed a sworn statement which contains the following relevant information (Exhibit 0):

"1. On the morning of October 28, 1985, I met with Harold Needham and Candy Schimming, at Ms. Schimming's home, to pick issues relating to the political campaign of a candidate for the Maryland House of Delegates.

"2. Before we started discussing issues, Ms. Schimming asked Mr. Needham to explain why his name was coming up in the papers recently.

"3. Mr. Needham replied that it was nothing. He went on to explain that he had a conversation in front of a trophy shop in Wheaton with a man named Paul, I'm not sure of his last name, who is a police officer and fire chief. This Paul said he had received correspondence from the Ethics Commission and Paul wanted to know what it was all about.

"4. Mr. Needham told us that he told Paul not to worry about it; that the investigation wasn't about 'you guys; the investigation was to get Esther Gelman.'

"5. I asked Mr. Needham what was the "they" he was referring to, knowing that Needham was a member of the Commission. Mr. Needham responded, "the investigation is to get Esther."

"6. Mr. Needham admitted to me that he had told Paul that the investigation was to get Esther. He told me that when he came before the Council for confirmation for his reappointment to the Ethics Commission, Paul showed up with his attorney. Mr. Needham said he didn't know Paul would be there.

"7. Mr. Needham said that Paul made a statement at this confirmation meeting that Needham had told Paul that they were out to get Esther Gelman.

"8. Mr. Needham then said he didn't think Paul would say anything and he didn't think it was any big deal that he told Paul about Esther...

"13. Mr. Needham went on to say words to the effect. "It's my word against his. He is going to say that I told him--and I told him. But I thought it was two men speaking together. I'm going to deny it. It will be my word against his and that will be the end of it."

(8) On November 19, 1985, Ms. Candace Schimming appeared before a Notary Public and executed the following sworn statement (Exhibit P):

"1. On October 28, 1985, there was a morning meeting in my home with Charles Hubush, Harold Needham and myself in attendance. The purpose of the meeting was to discuss issues pertaining to a political candidate we are supporting.

"2. Because of the recent publicity in the newspapers about Mr. Needham, there was some concern among those supporting the candidate as to whether Mr. Needham's participation would have a negative effect on the campaign. So, when the meeting started, I asked Mr. Needham why his name was in the newspapers.

"3. Mr. Needham said that he could not disclose any of the details of what's been going on. But he said there shouldn't be any problem and proceeded to discuss how the Commission had been advised by legal counsel in their proceedings, and that he felt he was not in any kind of violation. He said that if there was a problem he would drop out of the campaign.

"4. During the discussion, Mr. Needham mentioned Mrs. Gelman's name in the context that Mrs. Gelman shouldn't have been surprised that the Commission was investigating her, because she had been sent a questionnaire and filled it out

and sent it back to the Commission. Later in the conversation, he said that she may be surprised the way the investigation turns out. Mr. Needham also said the he didn't think he would be reappointed because someone Mrs. Gelman supported for the Commission wasn't reappointed by the Executive.

"5. Finally, in the context of what the newspapers were saying about Mr. Needham revealing Mrs. Gelman's name, he said that it was this man's word against his that he (Needham) had said anything.

"6. This conversation lasted about 15 minutes, during which time I was getting up, serving coffee and moving about my kitchen. We three then had our meeting about the issues of the campaign and I had to leave with my husband to pick up a new car. When I left, Mr. Needham and Mr. Hubush they were outside my home talking."

(9) In a follow on interview with Mr. Hubush, he added that in the October 28, 1985 meeting in Ms. Schimming's home, Mr. Needham stated that he would probably not be confirmed to serve on the Ethics Commission because someone Mrs. Gelman had wanted earlier to serve on the Commission was not appointed by the County Executive.

(10) The Ethics Law contains the following concerning disclosure of confidential information (Exhibit B):

"Section 19A-10(a). Other than in the discharge of his official duties, an official or employee may not disclose confidential information which he had acquired by reasons of his position which is not available to the public."

(11) Other pertinent provisions of the Ethics Law include (Exhibit B):

●Section 19A-4, Definitions.

"Employee or public employee means any person employed full-or part-time by the County government, or any agency...In addition, "employee" shall include any person elected to, appointed to or employed by any county or agency board, commission or similar entity, whether or not compensated."

●Section 19A-5(e) Complaints.

"...After a complaint is filed and until a final determination by the commission, all actions regarding a complaint shall be treated confidentially."

(12) Concerning the confidentiality of the matter, the former Chairman of the Ethics Commission, Russell Brown, and the current members of the Ethics Commission were asked why correspondence between the Commission and the County Attorney for special legal counsel cited Section 19A-5(e) Complaints, and stated the purpose of the counsel was for a "confidential investigation."

●Mr. Brown testified that citing Section 19A-5(e), the complaints section of the law, was his error for which he is solely responsible; however, he believed that because the matter involved a Council Member, the matter was of sufficient "sensitivity" to require confidentiality.

●In commenting on Russell Brown's citing of Section 19A-5(e), the members of the Ethics Commission stated that they did not notice the significance of citing the complaints section of the law. Had they noticed, they may not have cited that section because they were aware there was no written, sworn complaint. Nonetheless, the members of the Commission believed that the reference to a "confidential" investigation was correct because the members consider everything the Commission does is confidential.

c. Conclusions.

(1) As a member of the Ethics Commission, Mr. Harold Needham, was knowledgeable of an action before the Ethics Commission that concerned Council Member Esther Gelman.

(2) Mr. Harold Needham has acknowledged that matters before the Ethics Commission are treated as confidential; and an action involving a Council Member is of sufficient significance as to require confidentiality.

(3) Paul Sterling has orally and in a written sworn statement testified that during a conversation he and Mr. Needham had in a Wheaton shopping area in late April or early May, Harold Needham mentioned Esther Gelman's name in connection with a matter before the Ethics Commission about which the Commission was seeking information from Mr. Sterling.

(4) Although Harold Needham has acknowledged orally before Council Members that he did use Council Member Esther Gelman's name during a chance encounter with Paul Sterling in a Wheaton shopping area in May 1985, Mr. Needham has in oral statements to this investigator, and in a written sworn statement, denied that he mentioned Council Member Gelman's name and denied commenting on her indirectly during a conversation with Paul Sterling.

(5) Sworn statements from two individuals not related to the matter before the Ethics Commission corroborate the testimony of Paul Sterling that Harold Needham did use Council Member Esther Gelman's name during a conversation with Mr. Sterling regarding a matter before the Ethics Commission.

VII. OTHER MATTERS IDENTIFIED DURING THE INVESTIGATION.

In the course of this investigation, the following matters were identified which, while not within the specific scope of the investigation, are sufficiently important to bring to the attention of the Council for action it may deem appropriate.

(1) Political Activity of a Member of the Ethics Commission. Evidence was presented during the investigation that would indicate that the Acting Chairman of the Ethics Commission, Harold Needham, may be involved in political activities that may be a violation of Section 19A-5(b) of the Ethics Law.

(2) Lack of Written Procedures. Section 19A-5(a) of the Ethics Law directs the Ethics Commission to establish procedures for the conduct of its business. This investigation was unable to obtain from the Commission any written procedures relating to the processing by the Commission of requests for advisory opinions (Section 19A-5(d)) and complaints (Section 19A-5(e)).

(3) Shortcomings in the Ethics Law. Section 19A-2(d) of the Ethics Law states that it is the intention of the County Council that the provisions of the Ethics Law "...in all respects be consistent with, and no less stringent than, the standards and requirements of the Maryland public ethics..." Review of the County's Ethics Law, Chapter 19A, during the course of this investigation revealed several areas which appear not to be consistent with the State Ethics Law; for example, the County Ethics law fails to:

- Require that respondents be provided with a copy of a complaint received by the Commission;
- Authorize the Commission, on its own motion, to issue a complaint;
- Require the Commission to make public advisory opinions after deleting the identity of persons; and
- Provide that the Commission appoint its own legal counsel.

VIII. SUMMARY DISCUSSION

1. Allegations #1, #2 and #3. The first three allegations are closely related because they concern the conduct of a confidential investigation by the Ethics Commission, with the advice and assistance of a special legal counsel, to determine facts which would enable the Commission to respond to a request for information from a person or persons subject to the Ethics Law.

2. Because the documents submitted with the request indicated that one of the individuals involved was a Council Member, the County Attorney was prohibited due to a conflict of interest from providing legal advice to the Commission.

3. The Ethics Commission honored the inquiry and proceeded, without the benefit of legal counsel from the Office of the County Attorney, to request information from Council Member Gelman and Mr. Paul Sterling.

4. On April 18, 1985 and May 20, 1985, the Commission requested detailed information from Council Member Esther Gelman and Paul Sterling.

5. On June 11, 1985, Council Member Gelman responded to the requests, providing the Commission information concerning her knowledge of the facts and circumstances relating to the matter identified in the inquiry.

6. Paul Sterling has refused to provide details until the Commission provides him with a copy of the inquiry, to include the name of the person making the inquiry.

7. By early July 1985, the Commission, acknowledging that it did not have a sworn complaint, concluded that the inquiry was of sufficient significance that it deserved a response from the Commission. However, the Commission also acknowledged that it had two specific problems: persons had refused to answer Commission questions, and the Commission was without legal advice from the County Attorney as to what were its powers and choices in deciding how to proceed.

8. Thus, the Commission decided in early July 1985 to request County Attorney approval and Council concurrence to retain special legal counsel to advise the Commission on its powers and to represent the Commission in ascertaining the facts needed to respond to the inquiry before the Commission.

9. The procedures used to process the request, approval and concurrence for a special legal counsel were in accordance with the Charter and the policies of the Council. However, in submitting the request for County Attorney approval of a special legal counsel, the then Chairman of the Commission, Russell Brown, erroneously cited the wrong section of the Ethics Law. Mr. Brown testified that his July 2, 1985, request to the County attorney citing Section 19A-5(e) rather than Section 19A-5(a) as the authority for retaining special legal counsel was his personal error.

10. Section 19A-5(e) pertains to written, sworn complaints and the use of special legal counsel for the conduct of confidential investigations. Section 19A-5(a) pertains to the use of special legal counsel to assist the Commission in carrying out all of its responsibilities under the law.

11. The error was further compounded when Mr. Brown, in the same July 2, 1985 request to the County Attorney, stated that the special legal counsel would be used "...for the purpose of a confidential investigation." Also, the initial correspondence from the special legal counsel, Alexander Crow, requesting answers to several questions related to the inquiry, stated that Mr. Crow was conducting an investigation three times and used the word "investigation" two additional times.

12. The consequence of Mr. Crow's reference to a confidential investigation in correspondence with the individuals identified in the inquiry was that those individuals concluded that the Ethics Commission was in receipt of a written, sworn complaint; and the individuals believed that they had a right to receive a copy of the sworn complaint.

13. The subsequent revelation that the memoranda concerning with the request, approval and concurrence of special legal counsel cited the complaints section of the law and referred to the conduct of a confidential investigation further supported the assumption that the Commission had received a written, sworn complaint.

14. Allegation #4. The evidence clearly reveals a direct contradiction in the sworn statements of Paul Sterling and Harold Needham. Mr. Sterling swears that Mr. Needham, in a chance encounter, discussed Council Member Esther Gelman in connection with a matter before the Ethics Commission. Mr. Needham acknowledges the chance encounter and conversation with Paul Sterling about a matter before the Ethics Commission, but denies under oath mentioning Esther Gelman's name directly or indirectly.

15. The evidence also reveals that, in an October 21, 1985, oral discussion with six Council Members following Mr. Sterling's allegation, Mr. Needham acknowledged he mentioned Esther Gelman's name.

16. Two individuals have made sworn statements that Mr. Needham admitted he did mention Esther Gelman's name in connection with a matter before the Ethics Commission; admitting to one of the individuals that he intended to deny doing so.

17. Other Matters. There is a strong indication that Mr. Needham may have taken an active part in local politics while a member of the Ethics Commission. In addition to the testimony of Mr. Hubush (Exhibit O) and Ms. Schimming (Exhibit P), the minutes of a June 19, 1985 meeting of the Montgomery County Democratic Central Committee reflect Mr. Needham's participation in local politics (Exhibit Q).

18. The County's Ethics Law (Chapter 19A) became effective in January 1982. When the bill was introduced, the Office of Legislative Oversight (OLO) recommended that OLO evaluate the law after it has been in effect for a reasonable period. Information developed during this investigation suggests that an evaluation of the law is needed.

IX. SUMMARY CONCLUSIONS

1. Regarding Allegation #1:

●The Ethics Commission has conducted an investigation concerning a matter for which it does not have a written, sworn complaint.

●The Ethics Commission believes that the Ethics law (Chapter 19A) gives it authority to investigate without a sworn complaint when such an investigation becomes necessary to effectuate policies of the Ethics law.

2. Regarding Allegation #2:

●The decision to retain special legal counsel and the choice of Alexander Crow as special legal counsel were the decisions of all members of the Ethics Commission.

●The process of retaining special legal counsel by the Ethics Commission, the County Attorney and the Council complied with the provisions of Section 213 of the Charter.

3. Regarding Allegation #3:

●The Ethics Commission has expended funds appropriated by the Council in the FY 86 operating budget for outside legal services to pay for the services of a special legal counsel, Alexander Crow.

●The legal services for which Mr. Crow has been paid by the Ethics Commission concerned a matter for which no sworn complaint has been received by the Commission.

4. Regarding Allegation #4:

●As a member of the Ethics Commission, Harold Needham had knowledge that the matter before the Commission concerning Council Member Esther Gelman was being treated with confidentiality.

●The preponderance of evidence, to include sworn testimony, supports the conclusion that Harold Needham did mention Esther Gelman's name to Paul Sterling in the context of her involvement in a matter before the Ethics Commission.

5. Regarding Other Matters:

●While a member of the Ethics Commission, Harold Needham has taken an active part in local political activities which may be in violation of Section 19A-5(b) of the Ethics Law.

●An evaluation of the Ethics Law, Chapter 19A, should be performed by the Office of Legislative Oversight.

X. RECOMMENDATIONS

1. It is recommended that the County Council approve this report for public release and authorize its distribution to appropriate individuals, groups and agencies for action as warranted.

2. It is further recommended that the County Council direct the Office of Legislative Oversight to include an evaluation of the Ethics Law, Chapter 19A, in the CY1986 OFO Work Program.

AM:csb

Attachments: Exhibits A through Q

Resolution No. 10-1577

Introduced: October 24, 1985

Adopted: October 24, 1985

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: County Council

Subject: Amendment to the CY 1985 Work Program of the Office of
Legislative Oversight

Background

1. On February 5, 1985, the Council adopted Resolution No. 10-1148,
Subject: CY 1985 Work Program of the Office of Legislative Oversight,
which includes a provision that the Office of Legislative Oversight
will be responsive to requests by the County Council for projects in
addition to those listed in the Work Program; and
2. It has been alleged that:
 - the Ethics Commission has conducted an investigation without
first receiving a sworn complaint;
 - the Ethics Commission, with the approval of the County Attorney,
requested the Council to concur in the appointment of Special
Legal Counsel, and the Council did so concur;
 - funds have been expended in the payment of Special Legal Counsel,
all for a matter on which no sworn complaint has been received; and
 - a member of the Ethics Commission disclosed confidential
information.

Action

The County Council for Montgomery County, Maryland approves the following
resolution:

1. The Office of Legislative Oversight will, as an additional project in
its CY 1985 Work Program, and under the authority of Chapter 29A of
the Montgomery County Code, investigate the facts and circumstances of
the above allegations and report its findings to the County Council.
2. This investigation will not include any of the allegations for which
the Special Legal Counsel was appointed.

This is a correct copy of Council action.



Mary A. Edgar, Acting Secretary
County Council

EXHIBIT A

Chapter 19A.

ETHICS.*

Article I. General Provisions.

- § 19A-1. Short title.
- § 19A-2. Legislative findings and statement of policy.
- § 19A-3. Conflicts of law.
- § 19A-4. Definitions.

Article II. Administration.

- § 19A-5. Montgomery County Ethics Commission.
- § 19A-6. Waiver provisions.

Article III. Conflicts of Interest.

- § 19A-7. Participation of officials and employees.
- § 19A-8. Employment restrictions.
- § 19A-9. Use of prestige of office; harassment, improper influence.
- § 19A-10. Disclosure of confidential information; ex parte communications.
- § 19A-11. Solicitation or acceptance of gifts.

Article IV. Financial Disclosure.

- § 19A-12. Persons required to file financial disclosure statements.
- § 19A-13. Statement of financial interest to be filed.
- § 19A-14. Content of statement of financial interests.
- § 19A-15. Interests attributable to filers.

Article V. Lobbying Disclosure.

- § 19A-16. Exemptions from article.
- § 19A-17. Authorization to act.
- § 19A-18. Registration with commission.
- § 19A-19. Compensation not to be contingent.
- § 19A-20. Reports by lobbyist to the commission.
- § 19A-21. Public inspection of registration documents; figures to be made available by the ethics commission; notice to official named in report.

Article VI. Enforcement.

- § 19A-22. Petition for injunctive or other relief; cease and desist orders; voiding official actions.
- § 19A-23. Penalties.

*Charter references—Ethics generally, § 405 et seq.; code of ethics required, § 410.

Cross references—Special rules of ethics for members of county board of appeals, § 2-109; ethics in public service and contracting, § 11B-45 et seq.

MONTGOMERY COUNTY CODE

- § 19A-24. Civil recovery.
- § 19A-25. Termination or other disciplinary action; suspension of compensation.
- § 19A-26. Retention of papers and documents.
- § 19A-27. Removal for failure to file financial disclosure statement.

ARTICLE I. GENERAL PROVISIONS.

Sec. 19A-1. Short title.

This chapter may be cited as the Montgomery County Public Ethics Law. (1983 L.M.C., ch. 1, § 1.)

Sec. 19A-2. Legislative findings and statement of policy.

(a) The county council of Montgomery County, recognizing that our system of representative government is dependent in part upon the people maintaining the highest trust in their public officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained.

(b) It is evident that this confidence and trust is eroded when the conduct of the business of Montgomery County is subject to improper influence and even the appearance of improper influence.

(c) For the purpose of guarding against improper influence, the county council enacts this public ethics law to require public officials and employees to disclose their financial affairs and to set minimum standards for the conduct of county business.

(d) It is the intention of the county council that this chapter, except its provisions for criminal sanctions, be liberally construed to accomplish this purpose, and that these provisions shall in all respects be consistent with, and no less stringent than, the standards and requirements of the Maryland public ethics law, article 40A, of the Maryland Annotated Code. (1983 L.M.C., ch. 1, § 1.)

Sec. 19A-3. Conflicts of law.

Other provisions of law or regulations relating to conflicts of interest, financial disclosure or lobbying disclosure shall apply where the provisions of those laws or regulations are more stringent than this chapter. (1983 L.M.C., ch. 1, § 1.)

Sec. 19A-4. Definitions.

The words used in this chapter shall have their normal accepted meanings except as set forth below:

Agency means any entity such as the revenue authority, housing opportunities commission, Maryland-National Capital Park and Planning Commission, Washington Suburban Transit Commission, Washington Suburban Sanitary Commission, Montgomery College, board of education, Montgomery County Board of License Commissioners, which the Montgomery County Ethics Commission determines is subject to the legislative authority of the county with respect to ethics laws. In addition, fire departments and rescue squads shall be considered agencies for the purposes of this chapter.

Business or business entity means any entity, regardless of form, whether or not operated for profit, including, but not limited to, any corporation, general or limited partnership, sole proprietorship, joint venture, association, firm, institution, trust or foundation.

Commission means the Montgomery County Ethics Commission established pursuant to section 19A-5 of this chapter.

Compensation means any money or thing of value regardless of form received or to be received by any individual covered by this chapter from an employer for services rendered. For the purposes of article V of this chapter, if lobbying is only a portion of a person's employment, "compensation" means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties. For reporting purposes, a prorated amount shall be labeled as such.

Doing business with means:

(1) Being party to or negotiating any one or any combination of sales, purchases, leases, or contracts to, from or with Montgomery County, or any agency, involving consideration of one thousand dollars (\$1,000.00) or more on a cumulative basis during the calendar year for which a required statement is to be filed (as of the awarding or execution of a contract or lease, the total then ascertainable consideration thereby committed to be paid, regardless of the period of time over which such payments are to be made, shall be included); or

(2) Being a registrant in accordance with section 19A-18 of this chapter; or

(3) Being regulated by or otherwise under the authority of the county or an agency.

Employee or public employee means any person employed full- or part-time by the county government, or any agency. Elected and appointed public officials shall be considered public employees for the purposes of this chapter. In addition, "employee" shall include any person elected to, appointed to or employed by any county or agency board, commission or similar entity, whether or not compensated.

Employer means any person paying or agreeing to pay compensation to another person for services rendered.

Financial interest means:

(1) Any source of income, direct or indirect, from which a person has received, within the past three (3) years, or is presently receiving, or in the future is entitled to receive, more than five hundred dollars (\$500.00) per year; or

(2) Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than three (3) percent of a business entity; or

(3) Ownership of any other interest worth more than one thousand dollars (\$1,000.00).

Gift means the transfer of anything of economic value, regardless of the form, without adequate and lawful consideration. Gift does not include the solicitation, acceptance, receipt, or regulation of political campaign contributions regulated in accordance with the provisions of article 33, section 26-1 et seq., Annotated Code of Maryland, or any other provision of state or local law regulating the conduct of elections or the receipt of political campaign contributions. Nor does gift include materials such as books, reports, periodicals or pamphlets which are solely information or of an advertising nature.

Immediate family means spouse and dependent children.

Interest means any legal or equitable economic interest, whether or not subject to an encumbrance or a condition, which was owned or held, in whole or in part, jointly or severally, directly or indirectly. For purposes of section 19A-14 of this chapter, "interest" applies to any interest held at any time during the calendar year for which a required statement is to be filed. "Interest" does not include:

(1) An interest held in the capacity of a personal representative, agent, custodian, fiduciary, or trustee, unless the holder has an equitable interest therein; or

(2) An interest in a time or demand deposit in a financial institution; or

(3) An interest in an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period; or

(4) A common trust fund or a trust which forms part of a pension or profit-sharing plan which has more than twenty-five (25) participants and which has been determined by the Internal Revenue Service to be a qualified trust under sections 401 and 501 of the Internal Revenue Code of 1954.

Lobbying means the performing of any act requiring registration.

Lobbyist means any person who, within the reporting period:

(1) Communicates with one or more officials or employees who are members of a board, commission, authority, or the county council, for the purpose of influencing legislative action of the county or an agency, and for such purposes either incurs expenses of more than three hundred dollars (\$300.00) or receives compensation of more than five hundred dollars (\$500.00), cumulatively. For the purpose of this definition, "legislative action" does not include any matter covered by subsection 19A-10(b), and expenses include, but are not limited to, printing, postage, travel, room, meals, beverages, special events and gifts; or

(2) Communicates with one or more officials or employees for the purpose of influencing executive or administrative action of the county or an agency, and who expends a cumulative value of one hundred dollars (\$100.00) or more on one or more officials or employees in the executive branch or an agency for meals, beverages, special events or gifts for the official or the employee, including, but not limited to, transportation, lodging, provision of services and cash, in connection with or for the purpose of influencing executive action.

Official or public official includes the county executive, members of the county council, the chief administrative officer, the county attorney and the heads of the departments and principal offices of the county and agencies.

Person includes any individual or entity.

Political contribution means contribution as that term is defined in section 1-1 of article 33 of the Annotated Code of Maryland.

Registrant means any person required to register pursuant to section 19A-18 of this chapter.

Relative or relatives means the official's or employee's siblings, parents, grandparents, children and grandchildren, and the spouses of such persons; and, the individual's spouse and spouse's siblings, parents, grandparents, children and grandchildren, and their spouses. (1983 L.M.C., ch. 1, § 1; 1983 L.M.C., ch. 33, § 1.)

ARTICLE II. ADMINISTRATION.

Sec. 19A-5. Montgomery County Ethics Commission.

(a) *Membership.* There is hereby established a Montgomery County Ethics Commission which shall consist of five (5) members appointed by the county executive subject to confirmation of the county council. Not more than three (3) members of the commission shall be of the same political party. All members shall reside in and be qualified voters of the county. Appointments to the commission shall be for staggered four-year terms. A vacancy shall be filled only for the unexpired term. Any member of the commission shall be eligible for reappointment subject to section 2-148 of the Montgomery County Code, as amended. Members of the commission shall not be compensated, but shall be eligible for reimbursement of expenses. The chairperson of the commission shall be selected annually by the commission and the commission shall establish procedures for the conduct of its business. The commission shall be assisted in carrying out its responsibility by the county attorney and such staff; including special legal counsel if appropriate, as may be provided for in the appropriation to the commission. Within the limits of the appropriation process, the ethics commission shall be responsible for establishing its staffing requirements and defining the duties of such staff.

In order to effect staggered terms, the initial appointments to the new five-member ethics commission shall be as follows: Two (2) members shall be appointed to a four-year term, one (1)

member shall be appointed to a three-year term, one (1) member shall be appointed to a two-year term, and one (1) member shall be appointed to a one-year term. Until such time as a new five-member ethics commission is confirmed by the council pursuant to this section, the existing seven-member ethics commission shall continue to serve in its present capacity. Upon such council confirmation, all matters pending before the existing seven-member ethics commission shall be within the jurisdiction of the new five-member ethics commission. All opinions rendered by the existing seven-member ethics commission shall remain in effect unless inconsistent with the ethics law.

(b) *Qualifications of members.* A person is eligible to serve as a member of the commission if the person while serving:

(1) Does not hold any elected or appointed office, is not a candidate for office of the United States, the state, the county or of any political subdivision, or bi-county or multi-county agency or incorporated municipality of the state or in any political party;

(2) Is not an employee of the Montgomery County government or the revenue authority, housing opportunities commission, Maryland-National Capital Park and Planning Commission, Washington Suburban Transit Commission, Washington Suburban Sanitary Commission, Montgomery College, board of education, Montgomery County Board of License Commissioners, or incorporated municipality of the state, or of any political party;

(3) Is not a registrant; and

(4) Does not take an active part in political management or in political campaigns, with the exception of activities limited in scope and effect to federal politics. For the purpose of this provision, the phrase "active part in political management or in political campaigns" means:

a. Those activities described in title 5, Code of Federal Regulations, section 733.111(a)(9), (10) and (11), and section 733.122; and,

b. Taking an active part, as an independent candidate, or in support of an independent candidate, in a partisan election covered by section 733.124;

c. Taking an active part, as a candidate or in support of a candidate, in a nonpartisan election; or,

d. Being politically active in connection with a question such as a constitutional or charter amendment, referendum, county

or municipal ordinance or any other question or issue of a similar character.

(c) *Removal of member.* The county executive, with the approval of the county council, or the county council, with the approval of the county executive, may remove a member of the commission on the grounds of neglect of duty, misconduct in office, a disability rendering the member unable to discharge the powers and duties of the office, or a violation of this article. Where the county executive fails to approve an action by the council to remove a commission member within thirty (30) days of the date of the council's action, the commission member may be removed upon the affirmative vote of five (5) councilmembers. Before initiating the removal of a member from the commission, the county executive or county council shall give the member written notice of the reason for the intended action, and the member shall have an opportunity to reply. Where the county council initiates removal, the county executive shall afford the member an opportunity for a hearing. Where the county executive initiates removal, the county council shall afford the member an opportunity for a hearing.

(d) *Advisory opinions.* The commission shall be the advisory body responsible for interpreting this chapter and advising persons subject to it as to its application. Any official or other person subject to the provisions of this chapter may request of the commission an advisory opinion concerning the application of this chapter. The commission shall respond promptly to these requests, providing interpretations of this chapter based on the facts provided or reasonably available to it. Copies of these interpretations, with the identity of the subject deleted, may be published and otherwise made available to the public by the commission, in accordance with any applicable state or county law regarding public records.

(e) *Complaints.* The commission shall be responsible for hearing and deciding any complaint filed regarding an alleged violation of this chapter by any person. Any person may file with the commission a complaint alleging a violation of any of the provisions of this chapter. These complaints shall be written and under oath, and may be referred to the county attorney, commission staff, or special legal counsel, if appropriate, for investigation and review. If, after receiving an investigative report, the com-

mission determines that there are insufficient facts upon which to base the determination of a violation or determines that no violation has occurred, it may dismiss the complaint. If there is a reasonable basis for believing a violation has occurred, then the subject of the complaint shall be afforded an opportunity for a hearing conducted in accordance with the commission's applicable rules of procedure for actions taken on the record. Any final determination resulting from the hearing shall include findings of fact and conclusions of law. Upon a finding of the violation, the commission may take or direct any enforcement action provided for in accordance with the provisions of this chapter. After a complaint is filed and until a final determination by the commission, all actions regarding a complaint shall be treated confidentially. Hearings shall be closed and conducted in accordance with the requirements of due process. The commission is authorized to issue subpoenas and swear witnesses. A complaint must be filed within six (6) months of the date the alleged violation is said to have occurred.

(f) *Office and staff.* The commission shall be provided sufficient office space, staff and other supportive services to carry out its duties required hereunder.

(g) *Public information program.* The commission shall be responsible for conducting a public information and education program regarding the purpose and implementation of this chapter.

(h) *Forms.* The commission shall provide all financial disclosure and lobbying disclosure forms required by this chapter, shall be responsible for preparation and distribution of these forms and shall maintain, as the official custodian, forms filed under this chapter.

(i) *Opinions of county attorney.* The commission may, by written communication, seek the written opinion of the county attorney on any legal issue which the commission may deem appropriate.

(j) *Rules.* The county ethics commission shall adopt under method (2) of section 2A-15 of this Code reasonable and necessary regulations for the implementation and administration of this chapter.

(k) *Miscellaneous.* The commission may extend deadlines for distribution of forms and for filing provided in this chapter up to six (6) months, for an individual or class of persons, where it finds a deadline provided hereunder creates an unreasonable burden

on the individual or class of persons affected and circumstances warrant such extension. The granting of such extension shall be in writing and made at the sole discretion of the ethics commission. (1983 L.M.C., ch. 1, § 1; 1983 L.M.C., ch. 33, §§ 2, 3, 9; 1984 L.M.C., ch. 24, § 21.)

Editor's note—The second paragraph of subsection (a) is derived from 1983 L.M.C., ch. 33, § 9; such section did not amend the Code, but has been added at the request of county officials.

Cross reference—Boards and commissions generally, § 2-141 et seq.

* * * * *

Sec. 19A-10. Disclosure of confidential information; ex parte communications.

(a) Other than in the discharge of his official duties, an official or employee may not disclose confidential information which he has acquired by reason of his position and which is not available to the public. No employee may use for his own economic benefit or that of another party confidential information which he has acquired by reason of his public position.

(b) No public employee shall consider any ex parte or private communication from any person, whether oral or written, which is or reasonably may be intended to influence unlawfully his or her decision on the merits of any matter where a determination is required by law to be made on a record after opportunity to interested persons for hearing. Any such ex parte or private communication received and considered shall be made part of the public record by the recipient and, if made orally, shall be written down in substance for the purpose of entering it into the record by the recipient. Alternatively, the recipient of such ex parte or private communication may abstain from participating in the decision. This subsection shall not apply to advice rendered by the county attorney, agency counsel, or staff, and shall not apply to advice rendered by appropriate officials or staff of the county or other agencies. (1983 L.M.C., ch. 1, § 1.)



Montgomery County Government

~~CONFIDENTIAL~~

May 20, 1985

Chief Paul Sterling
Wheaton Rescue Squad
11435 Grandview Avenue
Wheaton, Maryland 20902

Dear Chief Sterling:

This is with further reference to my letter of April 18, 1985, concerning the placement of campaign signs.

The inquiry received by the Ethics Commission is as follows:

"Attached are the minutes of November 15, 1984 for the meeting of the Montgomery County Fire-Rescue Association.

On page 4, at the very top, is a report by Paul Sterling with regard to actions taken on questions D & E, which were on the November ballot, at an elected official's request.

Can you tell me if such actions fall within the Ethics Commission's jurisdiction, and if so, are they a violation?"

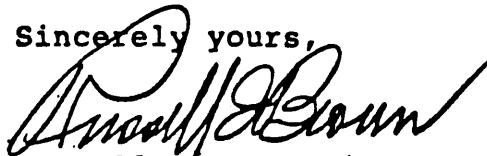
The Ethics Commission cannot form any opinion on the basis of the minutes alone. That is why we are asking what happened. The Commission is not sufficiently informed to prepare a set of specific questions that would be comprehensive enough to elicit all the relevant information. What would be most helpful would be a narrative statement concerning the placement of campaign signs by fire and rescue personnel. The statement should address the questions of whether you or some other person initiated the suggestion that fire and rescue personnel participate in the campaign through the placement of signs or otherwise; how the proposal for their participation was made; whether it was proposed or intended that they identify themselves as firemen or public agents; whether any county officials or superior officers requested subordinates to participate in such campaign processes; whether any public resources, such as automobiles or funds, or

Chief Paul Sterling
May 20, 1985
Page Two

regular work hours, were intended to be used or were in fact used in carrying on the campaign through the placement of signs or otherwise.

Your assistance will be appreciated.

Sincerely yours,



Russell I. Brown
Chairman

RIB/mbs

CC: D. Jefferson
H. Needham
S. Roman
J. Whitney
C. Sorrell

~~CONFIDENTIAL~~



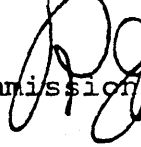
Montgomery County Government

~~CONFIDENTIAL~~

MEMORANDUM

July 2, 1985

TO: Paul McGuckian, County Attorney

FROM: Russell I. Brown, Chairman, Ethics Commission 

SUBJECT: Request for Special Legal Counsel

In accordance with Section 19A-5(e) of Chapter 19A of the Montgomery County Code, the Montgomery County Ethics Commission requests your approval to retain "special legal counsel" for the purpose of a confidential investigation.

Your immediate consideration of this request is appreciated.

cc: D. Jefferson
H. Needham
S. Roman
J. Whitney
C. Sorrell

SIMPSON, SIMPSON AND NOBLE

ATTORNEYS AT LAW

SUITE 805 SUBURBAN BANK BUILDING

255 NORTH WASHINGTON STREET

ROCKVILLE, MARYLAND 20850

MAILING ADDRESS, P. O. BOX 1310

VIVIAN V. SIMPSON

1928-1980 (RETIRED)

JOSEPH B. SIMPSON, JR.

1908-1976 (DECEASED)

JOHN NOBLE

ALEXANDER J. CROW

TELEPHONE
(301) 762-7200

VIVIAN V. SIMPSON
OF COUNSEL

~~CONFIDENTIAL~~

August 2, 1985

Chief Paul H. Sterling, Jr.
Wheaton Volunteer Rescue Squad, Inc.
11435 Grandview Avenue
Wheaton, Maryland 20902

Dear Chief Sterling:

In its July 9, 1985 Council Session, the Montgomery County Council approved my appointment as special legal counsel to the Montgomery County Ethics Commission. Pursuant to Section 19A-5 of the Montgomery County Code (1984 ed.), I am conducting an investigation to determine if there is a reasonable basis for believing that a violation of the Montgomery County Ethics Law has occurred.

This investigation is focused upon the events described in the second paragraph of the first page of the minutes of the October 18, 1984 meeting of the Montgomery County Fire-Rescue Association and the events described in the first paragraph of the fourth page of the minutes of the November 15, 1984 meeting of the Montgomery County Fire-Rescue Association. Copies of these documents, with the relevant passages highlighted, are enclosed.

To aid in the conduct of this investigation, I request that you forward to me a written statement setting out the substance of your knowledge regarding these events. Your statement should include, but not necessarily be limited to, a description of what you know regarding the following: the placement of campaign signs by fire and rescue personnel; the names and duty assignments of fire and rescue personnel participating in this activity; the person or persons who first proposed this activity; how the proposal for the participation of fire and rescue personnel was made; whether it was proposed or intended that the participants identify themselves as firemen or public agents; whether any County officials or superior officers requested or directed that subordinates participate in this activity; and whether any public resources, such as automobiles, funds, or regular work hours, were intended to be used or in fact used in carrying out this activity.

Page 2

The Montgomery County Public Ethics Law authorizes the Ethics Commission to conduct investigations, to issue subpoenas, swear witnesses, and to conduct hearings. Your statement will assist the Ethics Commission in determining whether a hearing should be convened.

Information received from you and others during this investigation will be held in confidence by the Ethics Commission.

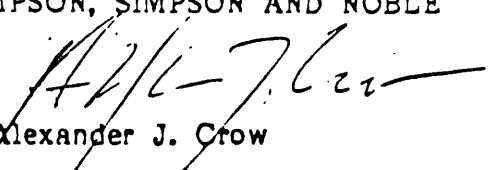
Please advise if you will be unable to respond before August 19, 1985. Copies of this letter are being sent to you by both regular mail and Registered Mail, Return Receipt. Direct your prompt written reply to me at the above address.

Thanking you for your cooperation, I am

Sincerely yours,

SIMPSON, SIMPSON AND NOBLE

By


Alexander J. Crow

AJC/cjd

CC: Ethics Commission



Montgomery County Government

MEMORANDUM

July 5, 1985

TO: Paul McGuckian, County Attorney

FROM: Russell I. Brown, Chairman, Ethics Commission *RI Brown*

SUBJECT: Request for Special Legal Counsel

On July 2, 1985 the Ethics Commission requested your approval to retain "special legal counsel" to perform a confidential investigation. In our phone conversation on July 3, you indicated your willingness to approve our request.

The members of the Ethics Commission, therefore, unanimously recommend the services of Mr. John Harman in consideration of his previous service as a member of the Ethics Commission, his in-depth knowledge of the Ethics law, and his experience with a previous investigation and hearing for the Commission while chairman.

Mr. Harman's fee is normally \$135/hour; however, he has agreed to accept \$110/hour due to the nature of this assignment. Enclosed is a copy of his resume for your review and consideration as well as for use by the County Council.

RIB:bmcn

cc: D. Jefferson
H. Needham
S. Roman
J. Whitney
C. Sorrell
J. Harman

M E M O R A N D U M

July 5, 1985

TO: Michael Gudis, President, County Council
FROM: Paul A. McGuckian, County Attorney
SUBJECT: Appointment of Outside Legal Counsel -
Ethics Commission

The Montgomery County Ethics Commission has requested, pursuant to Section 19A-5(e) of Chapter 19A of the Montgomery County Code, that I appoint outside counsel for the purpose of a confidential investigation.

At my request, the Commission provided me with a name of an attorney they wish me to appoint. The Commission's choice for counsel is John Harmon, Esquire and, pursuant to Section 213 of the Montgomery County Charter, I hereby appoint Mr. Harmon to represent the Commission in this investigation. Mr. Harmon's fee will be at the rate of \$110. per hour. I request the Council's concurrence in this appointment.

cc: Russell I. Brown, Chairman
Ethics Commission



Montgomery County Government

MEMORANDUM

July 16, 1985

TO: Paul McGuckian, County Attorney

FROM: Russell I. Brown, Chairman, Ethics Commission *RIB*

SUBJECT: Retention of Special Legal Counsel

On July 2, 1985 you approved the Ethics Commission's request to retain Special Legal Counsel to perform a confidential investigation. In as much as the County Council rejected our selection of Mr. John Harman, the Ethics Commission now requests your approval of Mr. Alexander Crow as our candidate.

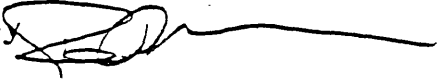
Attached are his letter of interest and resume. We thank you for your immediate attention to this matter.

RIB:bmcn

cc: A. Crow
D. Jefferson
H. Needham
S. Roman
J. Whitney
C. Sorrell

M E M O R A N D U M

July 16, 1985

TO: Michael Gudis, President, County Council
FROM: Paul A. McGuckian, County Attorney 
SUBJECT: Appointment of Outside Legal Counsel -
Ethics Commission

The Montgomery County Ethics Commission has requested, pursuant to Section 19A-5(e) of Chapter 19A of the Montgomery County Code, that I appoint outside counsel for the purpose of a confidential investigation.

At my request, the Commission provided me with a name of an attorney they wish me to appoint. The Commission's choice for counsel is Alexander Crow, Esquire and, pursuant to Section 213 of the Montgomery County Charter, I hereby appoint Mr. Crow to represent the Commission in this investigation. Mr. Crow's fee will be at the rate of \$80. per hour. I request the Council's concurrence in this appointment.

cc: Russell I. Brown, Chairman.
Ethics Commission

EXHIBIT I



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

OFFICE OF THE COUNCIL PRESIDENT

M E M O R A N D U M

July 16, 1985

County Attorney

JUL 16 1985

MONTGOMERY COUNTY, MD

TO: PAUL MCGUCKIAN, COUNTY ATTORNEY

FROM: MICHAEL L. GUDIS, PRESIDENT
MONTGOMERY COUNTY COUNCIL

SUBJECT: APPOINTMENT OF OUTSIDE LEGAL COUNSEL -- ETHICS COMMISSION

I received your memorandum of July 16 regarding the Montgomery County Ethics Commission's request for Outside Legal Counsel.

At the July 9 Council Session, I was given the authority by the County Council to approve the Outside Legal Counsel requested by the Ethics Commission for the purpose of a confidential investigation.

The Montgomery County Council hereby concurs with the appointment of Alexander J. Crow, Esquire as Legal Counsel for the investigation and approves the contract with Mr. Crow.

MLG:bjr

cc: Chairman Russ Brown
MC Ethics Commission

EXHIBIT J

*** GRID K 12 ***

BUD405-12
SYSTEM FISCAL YR = 86
SORT = A
PRINT DETAIL =

MONTGOMERY COUNTY MARYLAND
OPERATING BUDGET REPORT - OPTION R
AS OF 09/30/85
BY DETAIL

PAGE 153

PROCESSED ON 10/04/85

DEPARTMENT 04 ETHICS COMMISSION
AGENCY 0400 ETHICS COMMISSION
ACTIVITY 01 ETHICS COMMISSION

PSEUDO OBJ CODE CODE	FUND	ACCOUNT TITLE	ORIGINAL BUDGET FY86	LATEST BUDGET FY86	THIS MONTH	ACTUAL FYTD	OUTSTANDING ENCUMBRANCES	BALANCE	
SUB-ACT 00									
307165 01	01	SALARIES STAFF	0	0	0	0	0	0	
307165 02	01	SALARIES STAFF	45,600	45,600	1,870	6,885	0	38,715	
307165 03	01	SALARIES STAFF	0	0	0	0	0	0	
307165 04	01	SALARIES STAFF	0	0	0	16	0	16-	
307165 06	01	SALARIES STAFF	0	0	502	694	0	694-	
307165 07	01	SALARIES STAFF	0	0	530	1,217	0	1,217-	
307165 08	01	SALARIES STAFF	0	0	0	0	0	0	
600114 08	01	FRINGE BENEFITS	4,170	4,170	205	621	0	3,549	
307165 09	01	SALARIES STAFF	0	0	0	0	0	0	
600114 09	01	FRINGE BENEFITS	5,710	5,710	365	1,095	0	4,615	
600114 10	01	FRINGE BENEFITS	4,650	4,650	291	881	0	3,769	
		SALARY & WAGES	*	45,600	45,600	2,902	8,812	0	36,788
		FRINGE BENEFITS	*	14,530	14,530	861	2,597	0	11,933
		TOTAL PERSONAL COSTS	*	60,130	60,130	3,763	11,409	0	48,721
307736 12	01	CONTRACTUAL SERVICES	10,000	10,000	833	833	0	9,167	
307751 13	01	COMMUNICATIONS	2,500	2,500	223	432	0	2,068	
307843 15	01	PRINTING & DUPLICATING-OTHER	3,450	3,450	10	45	0	3,405	
307777 21	01	EQUIPMENT MAINTENANCE	0	0	0	1,133	0	1,133-	
307850 35	01	POSTAGE	450	450	8	24	0	426	
307744 36	01	OFFICE SUPPLIES	400	400	69	69	0	331	
307868 38	01	OTHER OPERATING EXPENSES	1,870	1,870	37	180	0	1,690	
		TOTAL OPERATING EXPENSE	*	18,670	18,670	1,180	2,716	0	15,954
307876 67	01	CAPITAL OUTLAY	0	0	0	0	0	0	
		TOTAL CAPITAL OUTLAY	*	0	0	0	0	0	
		SUB-ACT 00 TOTAL	**	78,800	78,800	4,943	14,125	0	64,675
		ACTIVITY 01 TOTAL	***	78,800	78,800	4,943	14,125	0	64,675

*** GRID K 12 ***

BUD405-12
 SYSTEM FISCAL YR = 86 ←
 SORT = A
 PRINT DETAIL =

MONTGOMERY COUNTY MARYLAND
 OPERATING BUDGET REPORT - OPTION R
 AS OF 10/31/85 ←
 BY DETAIL

PAGE 153

PROCESSED ON 11/07/85

DEPARTMENT 04 ETHICS COMMISSION ←
 AGENCY 0400 ETHICS COMMISSION
 ACTIVITY 01 ETHICS COMMISSION

PSEUDO OBJ CODE CODE	FUND	ACCOUNT TITLE	ORIGINAL BUDGET FY86	LATEST BUDGET FY86	THIS MONTH	ACTUAL FYTD	OUTSTANDING ENCUMBRANCES	BALANCE
SUB-ACT 00								
307165 01	01	SALARIES STAFF	0	0	0	0	0	0
307165 02	01	SALARIES STAFF	45,600	45,600	2,530	9,415	0	36,185
307165 03	01	SALARIES STAFF	0	0	0	0	0	0
307165 04	01	SALARIES STAFF	0	0	0	16	0	16-
307165 06	01	SALARIES STAFF	0	0	145	840	0	840-
307165 07	01	SALARIES STAFF	0	0	275	1,492	0	1,492-
307165 08	01	SALARIES STAFF	0	0	0	0	0	0
600114 08	01	FRINGE BENEFITS	4,170	4,170	208	829	0	3,341
307165 09	01	SALARIES STAFF	0	0	0	0	0	0
600114 09	01	FRINGE BENEFITS	5,710	5,710	382	1,478	0	4,232
600114 10	01	FRINGE BENEFITS	4,650	4,650	298	1,179	0	3,471
		SALARY & WAGES *	45,600	45,600	2,950	11,763	0	33,837
		FRINGE BENEFITS *	14,530	14,530	888	3,486	0	11,044
		TOTAL PERSONAL COSTS *	60,130	60,130	3,838	15,249	0	44,881
307736 12	01	CONTRACTUAL SERVICES	10,000	10,000	511	1,343	0	8,657
307751 13	01	COMMUNICATIONS	2,500	2,500	216	648	0	1,852
307843 15	01	PRINTING & DUPLICATING-OTHER	3,450	3,450	159	204	0	3,246
770032 15	01	CENTRAL DUP-PUBLICATIONS	0	0	0	0	0	0
307777 21	01	EQUIPMENT MAINTENANCE	0	0	0	1,133	0	1,133-
307850 35	01	POSTAGE	450	450	16	40	0	410
307744 36	01	OFFICE SUPPLIES	400	400	0	69	0	331
307868 38	01	OTHER OPERATING EXPENSES	1,870	1,870	0	180	0	1,690
		TOTAL OPERATING EXPENSE *	18,670	18,670	902	3,617	0	15,053
307876 67	01	CAPITAL OUTLAY	0	0	0	0	0	0
		TOTAL CAPITAL OUTLAY *	0	0	0	0	0	0
		SUB-ACT 00 TOTAL **	78,800	78,800	4,740	18,866	0	59,934
		ACTIVITY 01 TOTAL ***	78,800	78,800	4,740	18,866	0	59,934

CHECK NUMBER

528420

MONTGOMERY COUNTY, MARYLAND
ROCKVILLE, MD.



09	17	85
MO.	DAY	YR.

PAY EXACTLY *****832 DOLLARS AND

60 CENTS

*****832.60

TO THE ORDER OF:

PAY THIS AMOUNT

VOID IF NOT CASHED
WITHIN 90 DAYS

7-11
520

ALEXANDER J CROW, ESQ
SIMPSON, SIMPSON & NOBLE
255 N WASHINGTON ST
ROCKVILLE MD

20850

AUTHORIZED SIGNATURE

FIRST NATIONAL BANK OF MARYLAND
ROCKVILLE, MD.

⑈ 5 2 8 4 2 0 ⑈ ⑆ 0 5 2 0 0 0 1 1 3 ⑆ 4 0 1 ⑈ 1 9 1 3 7 ⑈

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SE '85 25

PAID
FNB of Md.

7-11

SE '85 25

FOR DEPOSIT ONLY
Credit to account of
Simpson, Simpson and Noble
SIMPSON, SIMPSON AND NOBLE
Attorneys At Law
255 N. Washington Street
P. O. Box 1310
Rockville, Maryland 20850

21 October 1985

The Honorable Michael Gudis, President
Montgomery County Council
Stella Warner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Dear President Gudis:

In April, 1985, I received a letter from the Montgomery County Ethics Commission. The letter, under the signature of the Chairman, was accompanied by photocopies of previous meeting minutes of the Montgomery County Fire-Rescue Association, Inc. The Ethics Commission, in their letter, stated that they had received an "inquiry" regarding the minutes. Specifically, they were asking about certain political activities of the Montgomery County Fire-Rescue Association during October and November, 1984. The Ethics Commission requested that I provide them with an explanation of the minutes. I replied to the Ethics Commission, in writing, stating that I would be most happy to cooperate with them as soon as they provided me with a copy of the alleged inquiry which they received. To date, I have not received a copy of that inquiry.

Toward the end of April or beginning of May, 1985, I saw Mr. Harold Needham at the Wheaton Shopping Center. Mr. Needham, who I came to know through his membership in the Wheaton Lions Club, was collecting donations for a Lions Club activity. I said hello to Mr. Needham and we chatted for a few moments. Knowing that Mr. Needham was a member of the Ethics Commission, I told him that I had recently received some correspondence from the Ethics Commission. Mr. Needham chuckled and said, "You know what that's all about don't you?" I replied, "As a matter of fact I don't!" Mr. Needham then stated, "They are after Esther Gelman, she can't be doing that kind of stuff, she is an elected official!" I then asked Mr. Needham what kind of stuff he was talking about. He did not provide an answer to my question and the conversation ended. I went into the Wheaton Awards and Trophy Shop to take care of some business and have not spoken with him since.

Since April, 1985, I have received several letters from the Ethics Commission. Additionally, I have received a telephone call from the Chairman and am now receiving letters from legal counsel for the Ethics Commission. The Ethics Commission has now sent letters to thirteen other members of the Montgomery County Fire-Rescue Association. We all feel that we are being harassed and have hired legal counsel. We have repeatedly agreed to cooperate with the Ethics Commission just as soon as they provide us with a copy of the alleged inquiry which they received. They have refused to comply with our reasonable request. It is our position that we have done no wrong and we maintain that position. We feel that we are entitled to a copy of the inquiry for two reasons. First, we want to be sure that an inquiry was in fact made and that it was made in accordance with the requirements of the Montgomery County Code. (i.e. signed and sworn complaint.) Secondly, in order to accurately answer the inquiry, we must know exactly what it alleges or asks.

PHS.
EXHIBIT M

The Honorable Michael Gudis, President
Montgomery County Council

Page 2

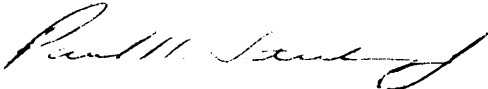
21 October 1985

If what Mr. Needham stated to me in late April or early May, 1985 is true, then I feel that the Ethics Commission should be directed to immediately cease their harassment of me and other members of the Montgomery County Fire-Rescue Association, Inc.

I have intentionally remained silent about Mr. Needham's comment to me. I do not have anything against Mr. Neeham and in fact I feel that he is a true gentleman and an asset to our community. However, I feel that this entire matter has gone far enough and it appears that myself and other members of the Montgomery County Fire-Rescue Association are being used.

Your cooperation in this matter is greatly appreciated.

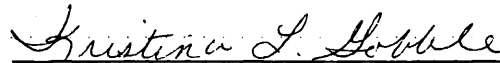
Sincerely yours,



Paul H. Sterling, Jr.
P.O. Box 1963
Wheaton, Maryland 20902

State of Maryland, County of Prince George's, ss.

On this the 29th day of October, 1985, before me, Kristina L. Gobble, the undersigned officer, personally appeared Paul H. Sterling, Jr., known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same for the purposes therein contained. In witness whereof, I hereunto set my hand and official seal.


Notary Public, Maryland

My Commission Expires:

(Seal)

KRISTINA LYNN GOBBLE
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires July 1, 1986

P145

STATEMENT OF HAROLD NEEDHAM

I, Harold Needham, depose and say as follows:

1. During the late afternoon of a day in May, 1985, I was in front of the liquor store and Trophy Shop in the 1100 block of Georgia Avenue, Wheaton, Maryland. It is my recollection, but I am not certain, that these events occurred during the second week of May.

2. I was at this location collecting money from passersby for a Wheaton Lions Club charity.

3. I saw Paul Sterling approach. As he approached, we may have exchanged a comment about my fund-raising activity.

4. It is my recollection that Mr. Sterling then said he had received a communication from the Ethics Commission, and then asked what is it all about.

5. I told Mr. Sterling I couldn't discuss it with him at this time, but that I hoped he would respond to the communication that we had sent him.

6. I don't remember Mr. Sterling mentioning Council Member Esther Gelman's name during our conversation. I did not mention Council Member Esther Gelman's name during this conversation nor did I comment on her indirectly, because of the confidentiality of the Ethics Commission's activity.

7. It is my recollection that after I told Mr. Sterling I could not comment on the communication he had received from the Ethics Commission, he entered the Trophy Shop, and that was the end of our conversation.

I hereby declare and affirm under the penalties of perjury that the matters and facts set forth herein are true and correct to the

best of my knowledge, information and belief.

Harold Needham
Harold Needham

STATE OF MARYLAND:

COUNTY OF MONTGOMERY: to-wit:

Subscribed and sworn to before me, a notary public in the State
and County aforesaid, this 6th day of November, 1985.

Carol J. Dent
Notary Public

My Commission Expires:

July 1, 1986

STATEMENT OF CHARLES HUBUSH

I, Charles Hubush, 14124 Canterbury Lane, Rockville, Maryland, 20853, make the following statement:

1. On the morning of October 28, 1985, I met with Harold Needham and Candy Schimming, at Ms. Schimming's home, to pick issues relating to the political campaign of a candidate for the Maryland House of Delegates.

2. Before we started discussing issues, Ms. Schimming asked Mr. Needham to explain why his name was coming up in the papers recently.

3. Mr. Needham replied that it was nothing. He went on to explain that he had a conversation in front of a trophy shop in Wheaton with a man named Paul, I'm not sure of his last name, who is a police officer and fire chief. This Paul said he had received correspondence from the Ethics Commission and Paul wanted to know what it was all about.

4. Mr. Needham told us that he told Paul not to worry about it; that the investigation wasn't about "you guys; the investigation was to get Esther Gelman."

5. I asked Mr. Needham what was the "they" he was referring to, knowing that Needham was a member of the Commission. Mr. Needham responded, "the investigation is to get Esther."

6. Mr. Needham admitted to me that he had told Paul that the investigation was to get Esther. He told me that when he came before the Council for confirmation for his reappointment to the Ethics Commission, Paul showed up with his attorney. Mr. Needham said he didn't know Paul would be there.

7. Mr. Needham said that Paul made a statement at this confirmation meeting that Needham had told Paul that they were out to get Esther Gelman.

8. Mr. Needham then said he didn't think Paul would say anything and he didn't think it was any big deal that he told Paul about Esther.

9. The meeting between Ms. Schimming, Needham and I was conducted and Ms. Schimming's had to leave to pick up a car. Mr. Needham and I were outside of the house continuing our conversation.

10. Mr. Needham said he had talked to Mansinne, who was authorized by the Council to look into the matter. Mr. Needham said Mansinne had asked him to swear to the fact that he did not make the statement.

11. I then asked Mr. Needham what was the problem with what he did, was it a violation of something? Mr. Needham said that in a sense it was a violation and it was not. Mr. Needham then said, "Why would Mrs. Gelman raise so much hell about the investigation if something wasn't wrong? A lot of people will be surprised when the report comes out." He said, "It is all political."

12. I then asked Mr. Needham if he was going to hurt the campaign we were working on. He said he didn't think so, and if he did he would step down. He said that for the most part it was all over.

13. Mr. Needham went on to say words to the effect. "It's my word against his. He is going to say that I told him--and I told him. But I thought it was two men speaking together. I'm going to deny it. It will be my word against his and that will be the end of it."

14. I was surprised that Needham would talk to me about this matter. I wonder, but I don't know why he told me.

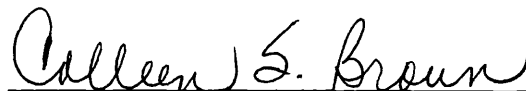
I hereby declare and affirm under the penalties of perjury that the matters and facts set forth herein are true and correct to the best of my knowledge, information and belief.


Charles Hubush

STATE OF MARYLAND:

COUNTY OF MONTGOMERY: to wit:

Subscribed and sworn to before me, a notary public in the State and County aforesaid, this 18th day of November, 1985.


Notary Public

My Commission Expires:

7/1/86

STATEMENT OF CANDACE S. SCHIMMING

I, Candace (Candy) Schimming, 13727 Wagon Way, Silver Spring, Maryland, 20906, make the following statement:

1. On October 28, 1985, there was a morning meeting in my home with Charles Hubush, Harold Needham and myself in attendance. The purpose of the meeting was to discuss issues pertaining to a political candidate we are supporting.

2. Because of the recent publicity in the newspapers about Mr. Needham, there was some concern among those supporting the candidate as to whether Mr. Needham's participation would have a negative effect on the campaign. So, when the meeting started, I asked Mr. Needham why his name was in the newspapers.

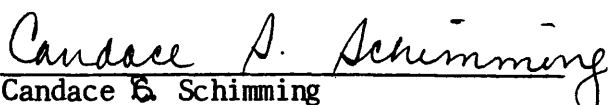
3. Mr. Needham said that he could not disclose any of the details of what's been going on. But he said there shouldn't be any problem and proceeded to discuss how the Commission had been advised by legal counsel in their proceedings, and that he felt he was not in any kind of violation. He said that if there was a problem he would drop out of the campaign.

4. During the discussion, Mr. Needham mentioned Mrs. Gelman's name in the context that Mrs. Gelman shouldn't have been surprised that the Commission was investigating her, because she had been sent a questionnaire and filled it out and sent it back to the Commission. Later in the conversation, he said that she may be surprised the way the investigation turns out. Mr Needham also said that he didn't think he would be reappointed because someone Mrs Gelman supported for the Commission wasn't reappointed by the Executive.

5. Finally, in the context of what the newspapers were saying about Mr. Needham revealing Mrs. Gelman's name, he said that it was this man's word against his that he (Needham) had said anything.

6. This conversation lasted about 15 minutes, during which time I was getting up, serving coffee and moving about my kitchen. We three then had our meeting about the issues of the campaign and I had to leave with my husband to pick up a new car. When I left, Mr. Needham and Mr. Hubush they were outside my home talking.

I hereby declare and affirm under the penalties of perjury that the matters and facts set forth herein are true and correct to the best of my knowledge, information and belief.


Candace S. Schimming
es

STATE OF MARYLAND:

COUNTY OF MONTGOMERY: to wit:

Subscribed and sworn to before me, a notary public in the State and County aforesaid, this 19th day of November, 1985.

Kathleen A. Freedman
Notary Public

My Commission Expires:

7/1/86

MCDCC MINUTES - JUNE 19, 1985

Members present: Barron-Mendelsohn, Bernstein, Black, Billings, Bradford, Ferguson, Getz, Hatchel, Knecht, Kominers, Peacock, Stanley, Tolman, Worsley.

Guests: Phil Olivetti, Sylvia Brown, Ed Marks, Stuart Harvey, Hal Needham, Jorge Lambrinos, Gus Caballero, Mario Marsans, Javier Miyares.

- I. Treasurer's Report: Knecht moved that the written treasurer's report presented be accepted. Seconded by Ferguson. Unanimously approved.
- II. P&F: Colman McCarthy to be guest speaker at the home of Saul Stern on Thursday, June 20, 1985. Bradford reported that \$1990 had been received in dues as of this date.
- III. 1985-85 Dollars Drive: Olivetti and Brown presented a written report to the Committee. The Sept. 11, 1985 Kick-off for Dollars Drive Paul Kirk to be guest. Barron-Mendelsohn to deal with Gus Triantis and arrange details-further details at the next meeting. Moved Barron-Mendelsohn, seconded by Kominers. Unanimously approved.
- IV. Spring Ball: Stanley reported \$4000 profit for the Spring Ball and Ad Book.
- V. Precinct Officials Meeting with County Council: These meetings were fairly well attended with a little over 60 people more or less. The next go-around of meetings will be with Mike Barnes and Charlie Gilchrist. The Chairman, Jay Bernstein, asked that the Minutes reflect thanks to Jan Getz for arranging the meetings and thanks to our hostesses--Laurel Barron-Mendelsohn, Diane Kirchenbauer, and Mary Law Miller.
- VI. Brochure: Stanley asked that we look over and reorder a supply of brochures for the County Fair and the upcoming Dollars Drive. It was moved and seconded that the Committee expend funds not to exceed \$12,000 for the reprinting of this brochure. Unanimously approved.
- VII. Hispanic Democratic Club: Bradford moved that "We recognize the Montgomery County Hispanic Democrats as a Democratic Club within the County in accordance with the Central Committee Guide lines." Seconded by Knecht. Unanimously approved. The Chairperson and Committee members congratulated the members of the Hispanic Club present at the meeting.
- VIII. MCDCC District 19 Vacancy: Ed Marks, Stuart Harvey, Mark Feinroth, Hal Needham were the four applicants. Hal Needham and Stuart Harvey withdrew their applications leaving the contest between Ed Marks and Mark Feinroth. Marks 11 votes, Feinroth 3 votes. There were 2 abstentions. Ed Marks was elected.

- IX. DDLG: Stanley announced that there would be no meeting for the summer. David Williams, program chairman, is working on meetings to start in the fall. Watch News and Notes for starting date.
- X. Family Picnic: Kominers announced that the Family Picnic broke even.
- XI. County Fair: Knecht announced that fair date August 18, 1985 to August 24, 1985. The dates per district are Monday, Aug. 19, District 15; Tuesday, Aug. 20, District 19; Wednesday, Aug. 21, District 16; Thursday, Aug. 22, District 18; Friday, Aug. 23, Districts 14 & 20; Saturday, Aug. 24, District 17.
- XII. Holiday Party: Peacock reported that the date for the Holiday Party will be Friday, December 13, 1985. EMKW President Vic Weissberg and 3C's Rockville Club President, Marge Knecht will meet in late October to organize details.
- XIII. Good Democrat Letter Request: Barron-Mendelsohn moved that a good Democrat letter be sent on behalf of Marga Linotte Heimann in regard to her application to the Montgomery County Commission for Women. Seconded by Hatchel. Unanimously approved.
- XIV. Other Items discussed:
a. Liaison II - October 5 & 6, 1985
Liaison I

b. Salute - Charles Gilchrist

c. MCDCC meeting August 7, 1985
- XV. Good and Welfare: Expression of Sympathy to the family of Gene Morley, Coordinator District 19, who passed away recently was requested.
- XVI. Precinct Organization: Barron-Mendelsohn moved that appropriate resignations and appointments be accepted by the Committee. Seconded by Kominers. Unanimously approved. Copy submitted with minutes and on file in Office.

There being no further business before the Committee it was moved and seconded to adjourn.

Respectfully submitted,
Helen Peacock, Ass't. Secretary